

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 DECEMBER, 1983

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Tuesday the 6th December, 1983, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammitt - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
The Hon D Hull QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

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

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon Brian Traynor, Financial and Development Secretary, took the Oath of Allegiance.

HON CHIEF MINISTER:

Mr Speaker, Sir, I would like on behalf of the Government and on behalf of all Members, which I am sure will be echoed by the Members opposite, to give a warm welcome to Mr Traynor and to wish him well and hope that his not easy task, to which he has come now, will be a successful one.

HON G T RESTANO:

Mr Speaker, on behalf of the Opposition, I would also like to extend a warm welcome to Mr Traynor. He does come at a very difficult period in the life of Gibraltar: there is the Dockyard problem; the partial opening of the frontier, a very difficult time and I do wish him every success in his work ahead.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, may I thank the Chief Minister and the Hon Mr Restano for those words of welcome. I am very conscious of the difficult times and the problems facing Gibraltar and I only hope that I can play my part in seeking the way through some of those problems, and be of service to the community as a whole. I note that today is in fact St Nicholas' day, the 6th of December - I am sure Hon Members are well aware of this - who of course is known popularly as Santa Claus because of the generosity he showed towards children and gifts which he gave away. This is probably not an activity normally associated with the Financial and Development Secretary, who is used to laying supplementary estimates and taking money from those who perhaps feel they are poor rather than rich. But, St Nicholas did various other things: he rescued virgins in distress, which activity was seen quite a lot in the early days of the Church I gather, and also he worked many miracles. I am reliably informed that that is something which is certainly expected of the Financial and Development Secretary and I hope, Mr Speaker, that I live up to expectations.

MR SPEAKER:

May I join the Chief Minister and the acting Leader of the Opposition for the words of welcome. I feel sure that we will benefit by the contributions made by the Hon Financial and Development Secretary, and that he will enjoy the thrust of debate, as other Financial Secretaries have done. So, welcome to the House.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th October, 1983, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Charities Ordinance Report for 1982.
- (2) The Postal Voting Procedure (Amendment) Rules, 1983.
- (3) The Principal Auditor's Report on the accounts of the Gibraltar Broadcasting Corporation for the year ended 31st March, 1983, together with the comments of the Acting Chairman of GBC thereon.

Ordered to lie.

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

The Gibraltar Registrar of Buildings Societies
Annual Report, 1982.

Ordered to lie.

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

The Traffic (Taxi Fares) (Amendment) (No 2)
Regulations, 1983.

Ordered to lie.

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

- (1) The Employment Survey Report - April, 1983.
- (2) The Employment Injuries Insurance (Benefit) (Amendment) Regulations, 1983.
- (3) The Employment Injuries Insurance (Claims and Payments) (Amendment) Regulations, 1983.
- (4) The Social Insurance (Benefit) (Amendment) Regulations, 1983.
- (5) The Social Insurance (Contributions) (Amendment) Regulations, 1983.
- (6) The Social Insurance (Overlapping Benefits) (Amendment) Regulations, 1983.
- (7) The Social Insurance (Voluntary Contributors) (Amendment) Regulations, 1983.

- (8) The Family Allowances (Qualifications) (Amendment) Regulations, 1983.
- (9) The Non-Contributory Social Insurance (Unemployment Benefits) (Amendment) Regulations, 1983.
- (10) The Non-Contributory Social Insurance (Retirement Pension) (Amendment) Regulations, 1983.
- (11) The Housing Associations Regulations, 1983.

Ordered to lie.

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

- (1) Supplementary Estimates Consolidated Fund (No 3 of 1983/84).
- (2) Supplementary Estimates Improvement and Development Fund (No 3 of 1983/84).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 11 of 1982/83).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 3 of 1983/84).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 4 of 1983/84).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1983/84).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.35 pm.

The House resumed at 6.00 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon and Learned Chief Minister, the Hon the Minister for Economic Development and Trade, the Hon the Minister for Housing, Labour and Social Security and the Hon and Learned the Attorney-General have given notice that they wish to make statements. I will therefore now call on the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

Thank you, Mr Speaker, this is a very short statement. In reply to Question No. 382 of 1983, I think this came from the Hon and Gallant Member, I said that I had given instructions for a memorandum to be prepared on the subject of Gibraltar's participation in elections to the European Parliament and that, once I had considered this, I would consult with Members of the Opposition. I added that I hoped it would be possible for me to approach the Opposition not later than the end of November and that we should consult Lord Bethell who, as Chairman of the Gibraltar in Europe Representation Group, has taken an interest in this matter in the past and who would be in a good position to advise.

The House will wish to know that the memorandum has now been prepared. I will be considering it within the next few days and will then invite Hon Members opposite to a meeting to discuss it as soon as possible.

MR SPEAKER:

I will now call on the Hon the Minister for Economic Development and Trade.

HON A J CANEPA:

Mr Speaker, in my reply to the motion moved by the Hon J Bossano during the last meeting of the House on the question of reducing the minimum qualifying service for entitlement to an occupational pension for Government industrial workers, I undertook to report back to the House once the financial and other implications resulting from a reduction of the minimum qualifying service from twenty to ten years had been completed.

I am happy to say that I am in a position to report back to the House now.

The effects of implementing the proposed amendment to the Pension Legislation have now been fully examined, having regard to all the points made in my reply to the motion, particularly the financial implications.

I am pleased to report that Government has accepted in principle the policy of bringing about an improvement in pension benefits for a sector of its employees who at present are at a disadvantage, thus removing the discrepancy between white collar and industrial workers.

However, in conceding the claim the Government would wish to examine with the Staff Side other areas of the Pension Legislation in order to minimise the financial and other effects.

Government has for some time now been considering the need to revise the existing Pensions Legislation in order to standardise pension benefits for all its employees. It therefore considers that, in accepting the principle of lowering the minimum qualifying service for industrial employees from twenty to ten years, this should be linked to a review of the Pensions Legislation under which all industrial workers and non-industrial staff would be brought together under the umbrella of a unified pension scheme.

Pension
The proposed Unified/Scheme would provide, inter alia, that:

- (i) the minimum qualifying service be 10 years;
- (ii) the maximum reckonable service be 40 years;
- (iii) the pension constant consist of 1/80 of pensionable pay for each year of service;
- (iv) gratuity on retirement consist of three times the annual pension;
- (v) gratuity on resignation continue as provided by the existing Pension Regulation 27;
- (vi) part-time service become pensionable;
- (vii) normal retiring age be 60 years with the exception of those grades governed by existing legislation (ie Police, Fire Brigade, Prison, etc)
- (viii) freezing of pension increases be removed;
- (ix) the Widows' and Orphans' Pension Scheme be incorporated into the new Pensions Legislation and extended to cover all employees, provided an option is exercised by all those who do not at present fall under its provisions;
- (x) extension of service beyond the age of 60 be allowed up to the age of 65 only in exceptional cases, in accordance with regulations to be established on grounds of public interest or hardship to be determined by the application of a "breadline formula";

- (xi) existing pension rights be reserved for officers in post on the date of introduction of the new scheme, and that such officers be allowed to exercise an option to convert to the new schemes;
- (xii) enhancement of service on retirement on medical grounds should continue to attract additional years of service;
- (xiii) facilities be given for the purchase of added years of reckonable service; and
- (xiv) the re-employment of a pensioner be subject to abatement of salary.

Sir, the Unified Pension Scheme described above is expected to produce the following results:-

- (i) non-pensionable officers with between 20 and 33 years service would opt to retain their present conditions and retire at 65 as their present retirement benefits would be slightly higher than those they would earn under the proposed scheme;
- (ii) all those non-pensionable officers with over 10 years service who will not have completed 20 years service under the present scheme by the time they reach the age of 65 would opt for the new scheme and derive pension benefits to which they would not otherwise be entitled;
- (iii) all those non-pensionable officers with over 38 years service by the time they reach the age of 65 would opt to join the new scheme as their benefits on retirement at 60 with 33 years service would be slightly higher;
- (iv) all new entrants to the new pensions scheme who would have been classified as non-pensionable officers would become eligible to slightly higher benefits on retirement but this would be greatly offset by the substantial savings in the retirement benefits of those new entrants who would have been classified as permanent and pensionable officers;
- (v) the majority of permanent and pensionable officers in post on the date of the introduction of the scheme would opt to retain their present conditions. The Government's liability in respect of their pension benefits would therefore remain unchanged; and
- (vi) retiring age for non-pensionable officers would progressively be brought down from 65 to 60, thereby creating opportunities for relieving unemployment within industrial grades.

Mr Speaker, the cost of implementing, on its own, the lowering of the minimum qualifying service for industrial employees now in post is estimated at £770,000 spread out over the next sixteen years. This figure is based on a life expectancy of 75 years and is calculated on data obtained in September, 1982. It would also represent for the future a recurrent long term liability which if not offset by savings in other areas, might prove impossible to sustain in difficult financial circumstances.

Government therefore considers that, in order to accede to the lowering of the minimum qualifying service as proposed, this must necessarily form part of a general streamlining of the Pensions Legislation, and we intend to undertake this in conjunction with the Staff Associations.

HON J BOSSANO:

I am not sure that I welcome it, Mr Speaker. I was merely asking the Government to introduce pensions after ten years' service. However, I take it that all I can do at this stage is in fact to ask questions for clarification, is that right?

MR SPEAKER:

That is correct.

HON J BOSSANO:

Is the Hon Member aware that the pension scheme that he has outlined follows quite closely the provisions of the UK Departments Gibraltar Pension Scheme?

HON A J CANEPA:

Yes, Sir.

HON J BOSSANO:

And is he aware that there the qualifying period is seven years?

HON A J CANEPA:

Yes, Sir.

HON J BOSSANO:

Doesn't he think that he cannot be giving very much away if he is taking in exchange for giving ten years practically everything that there is in another scheme introduced in 1980 which gives the same benefits and only requires seven years service to qualify? If the Hon Member has gone along the road of

following the UK Departments why is it that he has stuck to the ten years and not introduced a seven years as they have got?

HON A J CANEPA:

Mr Speaker, when consideration was being given by the Government to the introduction of a new scheme, between 1980 and 1982, we considered - when a view was formulated on the matter - that the financial implications on the introduction of such a scheme in respect of which minimum qualifying service would have been seven years, would have been unsustainable at the time when they were being considered. Events had already overtaken us with respect to the announced closure of the Dockyard, and the uncertainty was such that we could not consider that we could proceed along that particular road. But let me tell the Hon Member that there were many other provisions in that scheme, which I have not outlined here this evening, which had serious financial implications. So, the exercise that we have been involved with rather more recently has been to try to trim down the provisions of a new scheme to the extent that we are able to in order to make it manageable within financial terms. That is why I have made the policy statement that I have made, and that is why we would hope to enter into negotiations with the Staff Associations broadly speaking within these parameters. Merely to lower qualifying service from twenty to ten years would have the serious financial implications that I have outlined. Having regard to a scheme which we were working on in the past, which was based on the Ministry of Defence scheme, we have narrowed the parameters of that scheme to try and bring something which we think might be of interest to Staff Associations which will reduce the overall costs as between the figures that I have quoted and as between the savings that the Government as an employer, will obtain from other areas in which the benefits would perhaps not be as attractive as they are under the present scheme, for instance, the provision that each year of service should be 1/40 as against 1/33 as is the case now; the provision in respect of gratuity which is now 2 and 1/12 of the salary, whereas under the proposed scheme they would be 3 times the pension. These will provide savings for the Government which will offset the overall costs. So that has been our objective, to try and make it manageable within financial terms.

HON J BOSSANO:

Is it not true, Mr Speaker, that the Government initiated discussions with the unions a very considerable time ago, and they brought an expert out from UK, and then nothing more was heard about the revision? I welcome the fact that the Hon Member has come back so quickly with an answer, but is it not the fact that the whole thing was dead - and has been dead for years - and all of a sudden the Government seems to have a clearcut policy with a very comprehensive list of things in it?

HON A J CANEPA:

The Hon Member is right up to a point, and not up to another point. We did have a Mr McNeill who spent a great deal of time in Gibraltar and who carried out extensive consultations with, I would imagine, all the Staff Associations who have negotiating rights for employees of the Government. He produced a scheme, which was submitted to Council of Ministers. At the time, we felt that we liked the scheme in principle but it had to be put on ice. So, what I have done now has been to dust this off the shelves, and ask the officials who are concerned in the Establishment Division with these matters to try and produce something that we can wear and we would hope that Staff Associations could go along with, having regard to the desirability at this point, of maximising employment opportunities. What we do not want is to give notice to people and have elderly people out on the street without a pension. If by being able to afford a pension for those people we are able to sugar the pill and create job opportunities for others in the new circumstances in which we are going to be faced, I would imagine that that would be of interest to people in Gibraltar as a whole - including Staff Associations - and I hope that it can be viewed in that manner.

MR SPEAKER:

We must not debate.

HON W T SCOTT:

Mr Speaker, might I ask the Hon Minister, am I to take it that under paragraph 7(1) the minimum qualifying service be ten years and there is no further qualification given to that, that the ten years can be served in sections or need it be continuous?

HON A J CANEPA:

Perhaps one should explain that it is ten years continuous service.

HON W T SCOTT:

So in effect, an industrial employee might well be under Government employment for something like twenty years but in three distinct period of, let us say, six, six and eight years, in which case he would not qualify at all.

HON A J CANEPA:

Yes, not only wouldn't he qualify at all but the qualifying service must be served immediately prior to reaching retirement age. It is no good taking employment with the Gibraltar Government at the age of twenty, leaving at the age of thirty,

with a gratuity at the time, but expecting to get a pension, because that will not be the case. In fact, one of the advantages of the previous scheme that the Hon Mr Bossano made reference to was the question of transferability, which will not happen here.

MR SPEAKER:

I will now call on the Minister for Housing, Labour and Social Security.

HON MAJOR F J DELLIPIANI:

The Government will be asking His Excellency the Governor to promulgate the 1 January, 1984, as the effective date for the Matrimonial Causes Ordinance.

In this connection the Government have considered the setting up of a Marriage Counselling Service as part of the Family Care Unit of the Department for which I am responsible. However, the Roman Catholic Church is already taking steps to set up this service itself. They are at the moment recruiting trainees for counselling and the service will be in full swing by April next year.

This service will be available to all denominations in Gibraltar and it has been agreed that it will work in close liaison with the Family Care Unit.

In these circumstances, the Government does not propose to set up a service of its own, but will provide a measure of assistance to the organisation being set up by the Roman Catholic Church. The Church has asked Government to provide them with premises for the purpose so that they can operate from a neutral venue and Government have agreed to this in principle although a location has not yet been selected. In the meantime they will carry on with their counselling from premises at Church House.

Government has already agreed to give them support in in-service training, training of Tutor, office equipment, etc.

I am sure that I am expressing the sentiments of the House when I say that we all believe that a good family home forms the backbone of society.

It, therefore, only remains for me to wish the Marriage Counselling Service every success in the future.

HON P J ISOLA:

May I ask the Minister what financial involvement does the Government propose? Is it going to give financial support to ensure that the Marriage Counselling Service gets off to a good and speedy start, as fast as the Matrimonial Causes Ordinance?

HON MAJOR F J DELLIPIANI:

Mr Speaker, first of all, the Church wants a neutral venue so that it can cater for all denominations, because marriage counselling is done on a social basis and not on a religious basis. So, that will be partly financing of the location. Secondly, we are not providing financial support in in-service training because to be counsellor you have to do a number of hours of training every year to carry on your qualification as counsellor, so we will be providing money for that service. The third thing is that at the moment we are lucky we have a marriage counsellor tutor in Gibraltar, who is a lady. But, she might be leaving. We will also pay for the tutor to be trained so that they can work locally; plus we will be providing the office equipment once we have established the location, such as an answering service telephone, office cabinets, furniture, etc.

HON W T SCOTT:

Mr Speaker, while not wanting of the Minister too much at this embryonic stage of this particular council, am I to understand that the initiative of the Roman Catholic Church in starting this council does not preclude - and in fact will include - members of other religious denominations within that council? Otherwise, I can perhaps see a danger, where a member of a religion not of the Roman Catholic religion or in fact even an atheist or an agnostic, might not use the good services of such a council?

HON MAJOR F J DELLIPIANI:

The Catholic Church and the Church of England are in very close contact with each other on this particular service.

HON W T SCOTT:

Mr Speaker, if I may, I am obviously aware of what my Church is doing about it, I was not referring to that; I was referring perhaps to members of other religious denominations or agnostics or atheists.

HON MAJOR F J DELLIPIANI:

The service is open, it is a social service where religion is not used as the basis of counselling.

HON P J ISOLA:

May I say, Sir, that although we wish the Marriage Counselling Service every success in the future - we associate ourselves entirely with these remarks - I think it is a bit unfortunate that in the same statement that the Minister is announcing the implementation of the Matrimonial Causes Ordinance he should also be saying that the Government believes that a good family home forms the backbone of society.

MR SPEAKER:

No, Mr Isola, I am sorry. I will now call on the Hon and Learned the Attorney-General to make his statement.

HON ATTORNEY-GENERAL:

Mr Speaker, at the last meeting of the House I undertook to report on the RYCA Court action. Hon Members will recall that at that meeting I had said that in relation to the early part of the Government's claim, which is for an account during a period between December, 1974, and February, 1978, there was the possibility of a defence of limitation. The period concerned is from December, 1974, until April, 1976.

I am not yet in a position to give a definitive account. I am for the moment constrained as to how far I can go into this matter because it is sub judice, but I do want to say this: that it is possible that the Government may be able to go back into the period in question. It also may be possible to establish whether or not money could have been owing by way of an overpayment during that period. But I must also say that it is possible that loss could accrue to the Government because of the limitation during that period. That is what I wanted to bring to the attention of the House.

At present there is a process of discovery and inspection of documents in progress and there is a total time limit of 49 days from the 14 November, 1983, for this.

The matter will be the subject of a Treasury Minute. Members will appreciate that I am personally concerned to resolve this particular aspect of the matter as quickly as possible.

The House recessed at 7.30 pm.

WEDNESDAY THE 7TH DECEMBER, 1983

The House resumed at 10.40 am.

BILLS

FIRST AND SECOND READINGS

THE LANDLORD AND TENANT ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to regulate the relationship between landlord and tenant and for matters relating thereto be read a first time.

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

SECOND READING

HON M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, as the title of this Bill says, it is to regulate the relationship between landlord and tenant and the way the Bill has been framed has been basically to take account of all the recommendations of the Select Committee, with a number of amendments which the Government considers should be made to that report. Basically, the whole aim of the Bill is to give a more equitable and more just relationship between landlord and tenant. Sometimes the Bill may be considered to be weighed in favour of the tenant, sometimes it may be considered to be weighed in favour of the landlord. It is obvious that where you have - as you have with landlord and tenant - two diametrically opposed holds, you are not going to get a Bill which is going to be satisfactory to everybody. I think I can give an example of that insofar that Action for Housing seem to evince the idea that every piece of property in Gibraltar should be rent controlled; whereas the landlord says, if every piece of property is rent controlled then you are stifling development, there is no possibility of a landlord getting a reasonable return for the investment he makes. Sir, this Bill basically tries to strike a reasonably happy mean between these two conflicting wishes of these two diametrically opposed types of persons. Sir, there will be a number of amendments brought at Committee Stage to this Bill. I will try and mention some of those amendments as I go through the Bill itself, but they will be tabled in the House, hopefully this afternoon, so that Members have ample time to consider these amendments before we actually get to the Committee Stage. I will go, as a layman, through the Bill taking some of the salient clauses but I leave the more technical aspects to a later intervention by my Colleague on my left, who is looking at it more with the legal viewpoint and, of course, we also have the benefit of the legal capabilities of the Hon Attorney-General. The first point about this Bill comes right at the beginning which says that it will come into operation on a date to be appointed by the Governor as notified in the Gazette. This will mean that there should be, as there must, certain transitional clauses and one of the transitional clauses - which is very important - will be the question of the moratorium which is due to expire at the end of January. An amendment will be made to the Bill which will be to propose that the moratorium be continued until a Rent Assessor has been appointed and other necessary steps can be taken to bring the Bill into force. So it does not mean that everything collapses at the end of January, but will carry on until the Bill itself becomes promulgated into law, and its actual date of operation is stated. Sir, the initial part of the Bill, Clause 2, gives the different interpretations. Clause 3 is a specific interpretation of who is a tenant. This gives the opportunity, as the Select Committee had suggested, and as the Government has amended, that the tenant should include his spouse and a son or daughter, and if there is no spouse, then it should be a

member of the family who has been living with the tenant for a period of time, which is stated to be some eighteen months. Clause 4, Sir, is a Clause under which in those certain instances in which a piece of property is owned by the Crown, but is leased to a private person, who then lets it out to various tenants, and although the Crown itself is not specifically bound by this Bill, in the instance where it is leased to a tenant, who then leases to other tenants, then those other tenants will be protected. It will therefore be reasonable to see that in those Crown properties which have been leased to private individuals for further leasing, then those private individuals will have full protection of the Bill. There is a small amendment, Sir, which will come in in Clause 5. We have actually stated 'the Surveyor and Planning Secretary', of course, this gentleman now has a new nomenclature, he is the Director of Crown Lands. I think I can move on through the next Clauses which are, as one might call, functional clauses, they are stating that there should be a Rent Assessor and what his powers are in the Rent Tribunal, to Clause 10 which brings in the question of domestic premises. The basic idea stated in this Clause is that all property erected on or before the 1st January, 1945, shall be covered by this law and shall be rent restricted property. I think it might be advantageous at this point to state that the aim of the Bill is to produce four types of property. The first type of property will be property built before 1945, whether it is let furnished or unfurnished. That will be a rent restricted type of property. If it is let unfurnished, then the rent will be the statutory rent as shown in Schedule 1. If it is let furnished, it will be exactly the same statutory rent, with a provision for the furniture provided, at an amortisation rate for that furniture of one-eighth of its value per annum. This, I think, to some extent, makes the situation that has been asked for by Action for Housing in which a Schedule of minimum furniture should be provided as really unnecessary. The position is going to be that, if you have a piece of property whose unfurnished rent, shall we say, as an example, is £10 per week, if it is let furnished and the person puts in the minimum of furniture, he is going to get the minimum of extra on his rent because the amortisation is going to be on that very minimum of furniture. If a lot of furniture is provided, then the landlord can charge a larger amount of rent on the proper scheduled rates. So, it is not an essential when you say: "I am letting this as a piece of furnished property", to state specifically the items that must be there. If the landlord wishes to put a lot of furniture in, he can charge a higher figure, if he puts a minimum of furniture, he will only be able to charge the minimum figure. The second type of property will be property which was built between 1945 and 1954 and which is let unfurnished. That type of property will be free of all restrictions. The third type of property is property built between 1945 and 1954 which is being let furnished. This will have a restriction on the actual rent that can be charged, this restriction being what the court considers to be a reasonable figure for such furnished accommodation. The last type of property will be

any property built post-1954, whether let furnished or unfurnished. That will be completely free of all types of restriction. So for recent property and for any new property that is built today or tomorrow or in the near future, it can be seen that there will be no restriction on it. This is the way the Bill can be taken as not stifling development. Under Clause 11, a most important amendment has to be brought in, which I think was something mentioned by the Hon Leader of the Opposition when he spoke on the actual report of the Select Committee. This amendment will specifically refer to Clause 2B in which we said that the Rent Assessor may, where the landlord has made substantial repairs, allow an increase on one occasion of up to 40%. The amendment will bring in that the repairs carried out to the dwellinghouse any time before the 1st January, 1986, must be other than in the pursuance of an abatement order. It is only right that if you have had to do repairs because of an abatement order you should not have the privilege of getting an increase of rent. This will take in the very valuable and very valid suggestion of the Hon Leader of the Opposition. I think the next Clause I would like to refer to is Clause 14. This is the Clause that we are putting in under which where a tenant sublets, he must give 50% of what he obtains from the sublet to the landlord. Clause 15, again, will have an amendment. This is the equivalent of the old Clause 7A and the amendment will say that the Rent Assessor's increase of the rent can be a rent which has been agreed between the landlord and the tenant mutually. Of course, the Rent Assessor will have the final right of deciding whether that rent which has been mutually agreed has really been mutually agreed or is perhaps, in his opinion, one that has been forced on the tenant by the landlord. An instance of this is that should the statutory rent be a figure of £X and the landlord and tenant go to the Rent Assessor and say: "We have made a mutual agreement and it is going to be £10X", the Rent Assessor may consider that £10X seems to be exorbitant. It might be that the tenant, in his desire to be able to obtain the property, has accepted a much higher figure than is reasonable and the Rent Assessor will have the final say in what it should be. One of the positions throughout the Bill has been the question of where infringements have actually taken place and penalties have been stated. In many instances it is felt that the figure of £100 penalty in the Bill is not adequate and it is Government's intention to bring in amendments that in many instances the penalty should be very substantially increased. One of the positions for such a substantial increase will be Clause 16, where a landlord fails to put aside the share of the rent that he receives into a Sinking Fund. If the amount to be put into such a Sinking Fund runs into several hundreds or even thousands of pounds, it seems invidious that if he does not do it he only pays the penalty of £100; he would be far better off paying the penalty than actually putting the money into the Sinking Fund. Therefore, it is going to be an amendment that that fine should be very substantially increased; and it will also apply to each time that he is taken to Court for failing to comply with the proper regulations. One of the points of this Sinking Fund is that the landlord will be permitted to use the interest from the

Sinking Fund for his own purpose without any let or hindrance. Clause 17 states the conditions under which increases of rent can be made. Clause 18 is the question of where justifiably a landlord wishes to terminate a tenancy: the Courts can give the ruling that alternative suitable accommodation must be made. The same also applies in the instance where a landlord wishes to get the tenant out of the property for temporary repairs. In such an instance the Bill will state that the fact that the tenant has moved elsewhere for a temporary period does not destroy his actual tenancy of the original property to which he would return after the repairs have been made. Clause 22 deals with the specific ways in which de-control can actually be carried out. An amendment will be brought to back-date the structural alterations or other specific alterations to the property to 1945, but there will be limitations on this. Clause 23 refers to the question of subletting. Subletting will not be permitted unless the landlord gives permission but such permission should not be unreasonably withheld. Clause 25 gives protection for that subtenant. Clause 26 is a very important one, which states that should for some reason the tenant give up a tenancy, if he has a subtenant then that subtenant should have the first option to taking over the new tenancy. This is a measure of protection for subtenants, which has not appertained hitherto, and which the Select Committee considered was a most important improvement. Under Clause 27, conditions are given for tenancies. One of the important innovations in this is that the landlord will have to insure the dwelling-house against loss or damage by fire. It also states that the tenant shall be responsible for all internal repairs other than electrical fixtures. That will be something that will devolve upon the landlord to keep it to a state of good repair. Clause 29 states that rent books must be kept and a rent book should be produced to the Rent Assessor should it be required. In the rent book, all the particulars of the tenancy will be put so that both the tenant and the Rent Assessor at any time can see the whole conditions of the tenancy. This is something that has been asked for for many years by many different entities and the Select Committee considered this was something that should be recommended. Clause 33, which to a great extent is a continuation of what was in the original Bill, emphasises more strongly that it shall be illegal to demand premium for granting a tenancy. This is something which has been done in the past, basically, clandestinely because from what the Select Committee was given to understand, landlords would demand a premium to be paid in cash in small notes, so that no trace of it could be found. As it has been in the law and as it will be in the new law, then I think the onus would be on tenants - where a premium is being demanded - to resist that demand and if necessary to take the necessary action against the landlord by going to Court and stating that a premium has been forced upon him. Where a premium has been forced upon him and has been paid, then it will be up to the Courts to decide whether that premium should be paid back. Part IV, Sir, deals with business premises. As was stated in the report of the Select Committee, the basic intention that

the Select Committee felt the Bill should show was that there should be a greater protection for tenants of business premises rather than a specific agreement as to the amounts that should be paid as rent. Therefore, as far as the amounts to be paid as rents are concerned, this can be done in two ways: either by mutual agreement by landlord and tenant; or, if such mutual agreement cannot be obtained, by application to the Court. The Court in this, as it will be throughout the whole of Part IV, should be the Supreme Court. The Supreme Court will have the benefit of the advice of the Rent Assessor who will be available as an expert witness. There have been claims by tenants that hitherto the only expert witnesses that have been available to the Courts have, in the tenant's opinion, been somewhat biased on the side of the landlord's - possibly because they were estate agents or what have you. But with the Rent Assessor there, this will give the opportunity of a completely impartial expert witness available to the Courts to give whatever assistance can be done. It will be an essential that the landlord or tenant must give the Rent Assessor any information that he would require. Under Clause 47, the order for a grant of a new tenancy by the Court, there will be an amendment at the end stating: "save as hereafter provided". This will be the subject of an amendment under which the tenant, if he has failed to make the request within the specific two months or four months period, will have another opportunity. At Clause 48, Sir, there is a very important amendment that has to be brought in. This appears in subsection 2A, in which the word 'after' in the third line should be completely changed; it should have read 'before'. The intention was that any landlord, if he wants to make a request to take a property for his own use, must have had the property five years before the period. This was an error which was inadvertently put in. Clause 51 states that a new tenancy should be for a period of not less than five years, and an amendment will be brought in stating that it should be for a term of not less than five years and not more than fourteen years. Government feels that some upper limit should also be brought in, rather than just leave the lower limit by itself. The question that I mentioned on Clause 47 will specifically apply to Clause 56, where there is the extension of time. One of the innovations that has been made is that the landlord must give fourteen days notice before the date of termination, a further copy of the notice, to the tenant. Very often, it has occurred in the past that the landlord has sent through the first notice and the tenant - for some reason best known to himself - ignored it and then the time has elapsed and he is not able to make a notice. He must be given a reminder by the landlord. A further amendment will be made that the Court may, in its discretion, grant the landlord or tenant an extension of time for taking out a summons under this part rather than for giving any notice. Many of the other Clauses are specifically similar to Clauses that were in the original Ordinance, but the next Clause I would like to refer to is Clause 68, the question of an assignment. Very often a tenant wishes to assign his lease to a third party and the Bill suggests that basically the landlord shall not unreasonably withhold his consent. However, the landlord may

withhold his consent under certain conditions, especially where the new tenant wishes to carry out some completely different type of business. One example might be if the landlord lets a piece of property to a tenant for a retail shop, and that tenant wishes to assign to somebody else who is going to put a bar in those premises. Then the landlord could reasonably withhold his consent. When there is an assignment agreed by the landlord it is usual that the tenant - on making an assignment - receives a certain premium from the incoming tenant. In the past, there have been instances under which landlords have said: "Fair enough, I will agree to this assignment if you give me X thousand pounds". Well, that has always been a rather arbitrary situation and what the Bill suggests is that the equivalent of two years of the annual rental should be paid to the landlord immediately before the assignment. This, of course, will be the current rental. Another provision in the Bill, under Clause 75, will be the action of the Court in granting a new tenancy. They will be able to make the rents payable under a new tenancy retrospective to such time as the previous lease actually terminated. What has happened in the past is that sometimes tenants, because of reasons best known to themselves, have been obstructive in obtaining a new tenancy - or even in application to Court - in the hope that a reasonable period of time will go by under which they would pay the old rent. Then, the new rent would come in after such a period. Well, the Court will have the powers to make the rent payable recoverable to the date of the termination of the formal lease, if they so think fit. One of the consequential clauses on the actual need for landlords to build up a Sinking Fund is that monies paid into this Sinking Fund may be free of income tax. Clause 81 will amend the Income Tax Ordinance to allow this to be done. As I said earlier, I think Clause 82 will be amended to allow the moratorium to continue until the Bill comes into force. With regard to the Schedules, the First Schedule actually states what is the statutory rent. Where it talks of a square being 100 square feet measured in such a manner and excluding such areas as may be prescribed, this measurement will be the same regulations as ascertained with the previous law. In the instance where, in Clause 2, there is a question of a bathroom having been provided, the onus will be on the landlord to prove that the bathroom has been provided earlier than the period of five years mentioned to get the lower rates. A very important number of amendments are to be made in the Fifth Schedule, which refers to where a landlord wishes to take back the premises either for development or because he wishes it for his own use. In such an instance, it is necessary that he should pay compensation to the tenant if he does not offer the tenant alternative premises. We have had representations on the tentative figures that I gave in the House of Assembly on the Select Committee Report, and we have considered these representations. To some extent, they were very valid. The main amendments that will be brought under Clause 5 will be that the net annual value of the demised premises, which of course should be the current net annual value, may be either the net annual value or 5/6 of the

current rent, whichever is the greater. It has been put to us that there are certain places in Gibraltar where a very high rent is being paid but the rates valuator has made a considerably lower figure for rating purposes than the normal figure which is 5/6 of the rent. I think we all know the area to which I am referring, where rents are very high but I understand the rates are lower. So an amendment will be brought that the multiplier should be either the current net annual value or 5/6 of the current rent, whichever is the greater. The multiplier figure itself will be increased. It has been represented that the tentative figures that I have put forward were rather low when they were considered against the figures that are used by banks and other entities when they are taking the value of a property for mortgage purposes. Therefore, the multiplier figure will be a higher figure rising from four times the net annual value or what have you, if it is not more than five years, to twelve times if it is over twenty years. At the same time, the period of additional notice - and I stress this is additional notice over and above the normal six months that must be given - will also in one instance be increased. All in all, Sir, this Bill will give a new picture to the relations between landlord and tenant. They are, as I say, and as the Hon Mr Lodo mentioned in his intervention on the Select Committee Report, based on equity and justice. I think that the new Bill, with the amendments, will provide a reasonably fair basis for relations between landlord and tenant and I therefore, commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I would like to take up the Minister for Public Works and the Chairman of the Select Committee, on his last few words on equity and justice. I think that if there is to be equity and justice in a Bill of this nature, and of the importance of it to all sections of the community, then one of the essential principles that should be followed is the good old democratic principle that plenty of time should be given for Hon Members of this House to consider the Bill in detail. Certainly, the Committee Stage of the Bill should not be taken during the sitting of this present House if we are going to talk about equity and justice. I wrote to the Hon and Learned Attorney-General about three or four weeks ago asking him that this Bill should be sent to Members of the Opposition well ahead of the meeting of the House. The only notice we have had, Mr Speaker, is the minimum notice required by Standing Order No. 30: "Printed copies of the Bill shall be sent by the Clerk to every Member seven days at least, prior to the First Reading thereon". That is all we have had, the least, for a Bill that has 80-odd Clauses - and we talk of equity and justice. Equity and justice also demand, Mr Speaker, that the

Bill should have been published. Again, the minimum requirements have been followed through; the Bill has been published in the Gazette, I presume it has, immediately before the meeting - which is last Thursday's Gazette, four days notice. I think the Standing Orders require that the Bill be published in the Gazette just before the House. So, you can see, Mr Speaker, that in trying to achieve equity and justice, the Government have given Members on this side of the House the minimum notice required. They told Members of this House that the Committee Stage was going to be taken at this Meeting and as far as the public is concerned, as far as Action for Housing is concerned, as far as landlords are concerned, as far as tenants of business premises are concerned, if they did not buy their Gazette on Thursday, they have been given four days in which to approach or lobby Members of this House. It is not equity and justice to follow that procedure, whatever the political requirements of the Government to push this legislation through any old how. It is impossible, Mr Speaker, to check this Bill against the Bill that was put alongside the Select Committee Report and against the Bill that was promulgated by the Government in July, 1981. This Bill has all the makings of a hastily drafted Bill, printed quickly - before the Meeting of the House - to achieve the time limits required. In other words, after I don't know how many years of consideration, we are now going to be rushed through a Landlord and Tenant Bill, Mr Speaker, which is very imperfect, and it is admitted to be imperfect by the Mover, who has been telling us of the various amendments that are going to be put before the House, notice of which we have not yet had - and we are going to have this afternoon - so we can be bamboozled into passing this Bill tomorrow. That is not democracy, Mr Speaker, that is rubber stamping Government decision, put hastily into a Bill, pushed before this House. I do not know what attitude we can adopt, we do not want to abrogate our responsibilities in the Landlord and Tenant Bill but it is absolutely impossible, Mr Speaker, for Members on this side of the House to give the consideration that a Bill of this nature has, especially, as at the same time that we got this Bill we got six other Bills on Tuesday all with the minimum length of notice - all because there were some political requirements to have the Bills at the meeting of this House on the 6th December. We get the Agenda of the House ten days before. I think that for the first time, Mr Speaker, we did not have a single Bill with the Agenda that was to be considered at this meeting of the House. Not only that, Mr Speaker, we did not even have the supplementary provision that was going to be sought from this House, again, for the first time ever, I think, by the Financial and Development Secretary. We got that a couple of days later. I am sure the Clerk of the House and you, Mr Speaker, will be able to confirm the supplementary provision that the Government was seeking from this House, which has always come with the Agenda, did not come with the Agenda this time. It was not ready either. How can we consider a meeting? The other thing that surprises me, Mr Speaker, is that the Hon and Learned Attorney-General does not explain to the House what the Bill is all about. I am very grateful to the Minister for Public Works for going through just parts of the Bill but there are a

lot of things that have been left completely in the air. Let me give one example, Mr Speaker: this policy decision of the Government to overrule the decision of the recommendation of the Select Committee, that you could only get possession of business premises if you provided alternative accommodation. The Government thought differently on this matter, and decided that there should be a right of landlords to recover possession of business premises on payment of compensation. This is a very controversial issue, to say the least. Members have been given a letter - I got it myself yesterday - from tenants of business premises protesting at these provisions. People have different views; a proper view can only be formulated after discussion. But let me say that, if the landlord is to get the right to obtain possession of the premises on the grounds that he wanted it for himself, there is a tremendous need to define landlords. The problems of this section have been, apart from tenants being evicted by landlords, that there have been sales of shares in companies which gets a landlord who pays for a property round the need of having to prove that he has been for five years owner of the property. By buying the shares of the company, he may buy a company that has held the property for twenty years; and by paying an extortionate price, possibly, for the shares of this company, he is no longer caught: he just pays the compensation. So all that has been done is putting the price up of getting possession of business premises. What I am saying is that once you allow premises to be obtained on the grounds that the landlord wants it for himself, there is a need to put restrictions so that this five year rule that a landlord must have been the owner of the premises for five years is a genuine one and that the beneficial owner is in fact the owner.

HON J B PEREZ:

If the Hon Member will give way. Surely, that same argument applies in cases of tenants who purchase a company which runs a business. That company may have been trading for twenty years. So, that tenant will get the benefit of the provisions in the Schedule both as to notice and to compensation.

HON P J ISOLA:

Yes, it is absolutely true, Mr Speaker, and that should not be so either. That is why I am saying that the Bill is inadequate. I am grateful to the Minister for bringing me that point but one thing does not cancel the other. Unfortunately, the tenant is probably taking advantage of it, is getting a lot of money freely, and the landlord is being unfairly done by. The landlord who is going to do this act is probably playing unfairly by a tenant who has been there a long time. The question is this: once you decide that there should be equity and justice, you must put in the Bill the provisions that will allow for that. I have taken this particular aspect of the matter because it is something new. All that is being done is to put in compensation clauses - which are now going to be changed - but not to tackle the root of the evil and that is whether possibly either the landlord or the tenant are taking unfair advantage of the legal position.

HON CHIEF MINISTER:

Would the Hon Member give way? I want to raise two points. First of all, on the latter one, that is not provided in the Bill recommended by the Select Committee and if it wasn't we are in the same position as we were if we had accepted the Select Committee's Report. I do not know, I am posing the question which one ought to look at. I would like to say just one word - because I would not like to lose the opportunity to speak on the merits of the Bill - on the question of timing, if I may, because I think that as Leader of the House I ought to explain. First of all, I agree that the time given was the time provided by Standing Orders. There were difficulties about printing and other problems which I need not go into myself, but they were not done deliberately to deprive Members opposite from time. Secondly, the Bill in itself is based on the Bill of the Select Committee which has been two years dealing with the problem, and they are only amendments to it. So, the bulk of it comes from the Select Committee's Report where Members of both sides of the House were represented. Thirdly, we had a full debate on this at the last meeting of the House, where indications were given of the thinking of the Government. Fourthly, the Committee Stage could well be taken much later in this meeting. There was no political convenience about having the next meeting, Friday or next week, whenever it is. The point is that the meeting of the 7th of December was decided when we last met, which was I think on the 18th of October and it is normal to have a meeting of the House reasonably before Christmas.

HON P J ISOLA:

It was November, only two weeks before the end of the month.

HON CHIEF MINISTER:

The 8th of November was a short meeting because that was the tail end of the meeting which started on the 18th of October. The last formal meeting was on the 18th of October and we adjourned for two short matters which were then dealt with in November. The meeting at this time of the year is regular, that is the point I am trying to make and there is no question of political convenience at all. The other meeting was too long and it was made into two branches. How far we go in this meeting will depend on the convenience and the time available and also of the convenience of the Members opposite to the extent that they can be met - as I have always done. I have other means by which we can make the most of the time in this meeting, by not proceeding with other rather heavy legislation which we can leave till the next meeting, such as the Sex Discrimination and things like that. But I may say I have put the Sex Discrimination Bill in the Agenda because we are under pressure from International Organisations - by which we are bound - that we must do something about this, and we have been under pressure for a long time. Thank you for the Hon Member giving way.

HON P J ISOLA:

Well, I don't know, when there is a direction to introduce legislation like sex discrimination, that is produced immediately and for something that really affects landlords and tenants in Gibraltar we get what is really minimum notice. That is the point that I wish to make. I think the rule should be that all the Bills that are going to be considered by the House should go out with the Agenda and not brought in hastily at the last minute. I am making the complaint today, Mr Speaker, because I think that you can agree by looking at your records that, during the last two or three years, what was an exception, in other words, to bring a Bill with very short notice, the suspension of Standing Orders and so forth, over the last three years has gradually become an accepted practice. On this side of the House we have been, I think, very good about it; we have been agreeing to short notice, we have been agreeing to the suspension of Standing Orders, we have understood the pressures on the Government. But what has happened as a result is that we have been taken advantage of, Mr Speaker. I mean, to get six Bills or seven Bills just seven days that Standing Orders require, that we should get a Landlord and Tenant Bill in that time, is not in accordance with principles of equity and justice and certainly not in accordance with principles of democracy. I just cannot see how the Government can suggest that this Bill should go for its Committee Stage and Third Reading with a Bill that has engendered so much controversy without giving an opportunity, for those who have been making representations, to examine the Bill itself clause by clause. That is what it should have; and also examine all the amendments that we do not know about but which are going to come, for the House to take a balanced view on it. Otherwise, Mr Speaker, I can guarantee that there will be a Landlord and Tenant (Amendment) Bill within two months of this Bill becoming law. I have no doubt about it. I have not, unfortunately, had the time, for other reasons, Mr Speaker, of going through it clause by clause because by sending it on Tuesday I did not receive it myself unfortunately until two days ago and it is impossible to go through it. But, by looking quickly through it - as the Minister was looking at the Bill - I can see that there is going to be a need for many more amendments than the one that the Minister has referred to. I think that it is wrong that, after waiting for two years since the moratorium was first put on, we should be rushing through a Bill of this importance without giving people an opportunity to look at the Bill as it actually comes out and to see whether in fact it is what the Landlord and Tenant Committee recommended. Mr Speaker, Section 3 of the Bill, the definition of a family: "In this Ordinance, unless the context otherwise requires, the tenant includes" - and then it has got - "the widow or widower of a tenant" - and it says - "the member of the tenant's family", because this Bill presumably repeals all previous Landlord and Tenant Bills. Then you go, who is the member of the tenant's family, and you are told that "sons or daughters of the tenant", and then you are told it also means that "where there are no such sons or daughters of school age, any other member of the family who has so lived with the tenant". So we are told that

a member of the family means a son and daughter and then we are told that if there is no son or daughter, any other member of the family. Well, what is the family? How do you define family? Then you go to subsection 3 and you see that a member of a tenant's family means anybody or any one of those members who is determined by unanimous agreement in writing between all of those members of the family. But what family? We are told the family is son or daughter or any other member of the family as defined in Section 2 and 3. I go to Sections 2 and 3 and all I see is any other member of the family when all the members agreed should be in. Well, what is family? That is the most important definition that is left out that should be put in. It should not be son or daughter, it should be nephew, niece, grandson, grand-daughter as in the English definition in the legislation. In England even a common law wife or a common law husband is also protected and that is the sort of protection there should be. I think there is a need to bring back the definition of family that exists in one of the Landlord and Tenant Ordinances that we are now repealing. I do not know which one it is, because there have been so many Ordinances but there is one between 1970 and 1983 that changed the definition of family. I am afraid that this is a very poor definition of family - just a son or a daughter. What I have found, in my experience, is that people have been thrown out of a house because the tenant has gone and got married or left or died and he leaves a brother and a sister and a sister-in-law and they are all thrown out. Those are the people we want to protect, I would have thought.

HON J B PEREZ:

Isn't the point covered in subsection 2 of Section 3? It says "where there are no such sons or daughters of full age at the date of the tenant's death, any other member of the family". So it is completely wide.

MR SPEAKER:

What he is saying is that he is not clear what the 'family' means.

HON P J ISOLA:

What we want is a definition of what a family is.

HON ATTORNEY-GENERAL:

If the Hon Leader of the Opposition will give way. He is not reading the whole of the definition. It is not any other member of the family, it is any other member of the family who meets the residential qualifications. It is not a circular definition. It is saying that there are two kinds of people who are members of the family. One are sons and daughters, and the other category is other members of the family who have a

residential qualification. The technique is that it is allowing an expression to have its ordinary common meaning in the statute. It is not only a common technique, it is also a very good one I think. One only defines matters when there is a need to.

HON P J ISOLA:

Yes, I appreciate that, but if we are going to say that English law applies, then say what a family means in England. There have been all sorts of judicial decisions. But what I thought the Select Committee said was, we want a sensible Bill written in the Queen's English which everybody can understand. We agreed but we said that that is an impossibility but still, if the Select Committee thought it and the Hon and Learned Attorney-General thinks it, fine. But what is a family? We are told that the expression "a member of the family" means son or daughter. Why say son or daughter? Why not just say the expression "family" means family, full stop?

HON ATTORNEY-GENERAL:

Mr Speaker, I don't want to interrupt the Hon Member on a matter which may be said at Committee Stage but there is a difference. The fact that it is a son or daughter makes the material difference. Certain consequences follow when there is a son or daughter but if there is no son or daughter, other consequences follow.

HON P J ISOLA:

Yes, Mr Speaker, but let me go to this business of eighteen months, which was brought out as something good. That is something bad too. Under the old law a member of the family who lived with a tenant just for six months was protected, now he has got to live eighteen months.

HON CHIEF MINISTER:

With respect, he was not.

HON P J ISOLA:

Family, defined in the previous law far more widely than it is in this one, included members of a family - by an amending Ordinance which I came across by chance, an Ordinance in our statute book which now disappears - in the same way that it had been defined in the English legislation. This is something that ought to be looked at. But, of course, if we are going to pass a Bill Second Stage, Committee Stage tomorrow, bang out, there is going to be a need for an amending Bill from the Hon and Learned Attorney-General. Mr Speaker, on the question of the protection that is being given, we think that the eighteen months period should be reduced to six months and we will so move. In the case, for example, of an elderly

person, somebody may have to give up a flat for which he is paying a lot of rent to go and live with an elderly aunt or an elderly grandmother to look after her. To say he must have been living eighteen months before he can acquire a right seems to us to be inordinately long.

HON CHIEF MINISTER:

That was one of the recommendations of the Select Committee.

HON P J ISOLA:

Yes, I know, but until we see the actual Bill we do not know what is going to come out in the wash. So, as I have said, there is a need for the definition of family. The point, I don't think has been brought in, under Part I of the Act, is the question of protection for second generations. Has there been provision for that made? Again, I would ask the Hon and Learned Attorney-General when we are talking of a second generation, are we talking of the second generation from now or are we talking of the second generation from the time the Landlord and Tenant Ordinance was passed?

HON CHIEF MINISTER:

From now.

HON P J ISOLA:

Then we are going to give protection to two generations from now. So, no doubt a future legislation will be able to extend that protection in thirty or forty years' time. That we agree with, the impression I had before was that the second generation protection only came from then. Mr Speaker, the question of the statutory Sinking Fund. There is a need, I think, for an amendment unless the intention of the Government is that the landlord should pay into the Sinking Fund two years at 33% from the time it was first let, which could be 1940, it could be 1909, and thereafter 15%. If you look at Section 16(2), Mr Speaker, it says that "the landlord shall pay one third of the recoverable rent received by him from the letting of the dwelling house, during the first two years after it is first let, and thereafter 15%". Well, all houses will have been let. If it is since after it is first let this could take us back to 1900. Mr Speaker, so it should really be during the first two years from the commencement of this Ordinance or from the time it is first let. I think that is an important amendment that should be brought into this Bill unless, perhaps, Government wanted a Sinking Fund to be set up immediately with a lot of money in it.

HON CHIEF MINISTER:

That was also envisaged in the Select Committee's Report. The only thing that has been altered is the sum, the actual contents is exactly the same as in the Select Committee's Report. I am sure it is looking to the future and not to the past.

HON P J ISOLA:

Yes, that is what the Select Committee says but that is not what the law necessarily says. That is why there is a need to look at this Bill very carefully and we have not had the opportunity to do so. There is no provision, I notice - still on private accommodation - under which in pre-1945 accommodation the landlord and tenant can together agree the sale of the flat to the tenant. I think that is a pity. If the situation arises where a tenant would like to buy his flat from the landlord, it should not be a criminal offence for the landlord to sell it to him, if it is by agreement. I would have thought there was a lot to be said about allowing that situation, it should not be illegal or an offence. This Bill seeks to protect the tenant so if the tenant does not want to buy, that is fine, he does not have to buy. Mr Speaker, there is another problem that is not dealt with in the landlord and tenant relationship in Part I and that is the question of empty accommodation. No, not Section 7A which has been brought back in again. In the case of business premises, if you have empty accommodation, you can be rated on the value the valuator decides to give. Should consideration not have been given in respect of Part I - and I think this has been the subject of representations of Action for Housing - under which, if flats are kept empty, there should be some sort of penal provision in respect of rates, twice the rateable value or something like that, to ensure that as much accommodation as possible is, in fact, taken up.

HON J B PEREZ:

On a matter of clarification, Mr Speaker, because I intend to reply to some of the points. Was the Hon Leader of the Opposition asking for confirmation or for somebody to point out where the equivalent of the old Section 7A is in the Bill?

HON P J ISOLA:

No, I know that, thank you. A landlord might say: "Well, I am not interested in letting my house at all even with the Rent Assessor or whatever". Should we not discourage landlords from keeping or holding empty accommodation? I think that was a recommendation I read, and I think that a good point was made. It could be done by a penal provision in respect of rates that they should pay. Can I go, Mr Speaker, to Section 27? I think that there is a need to clarify this question of insurance of dwelling houses because I do not know whether the Government is putting the responsibility on the landlord to, in fact, insure the contents of the flats as well, against fire.

HON K K FEATHERSTONE:

It says the dwelling-houses, it does not say the contents.

HON P J ISOLA:

I know it does not say contents. Mr Speaker, but what would normally happen, I would imagine, is that the landlord who has five flats in the building insures the building against loss by fire. He does the building. If he insures the flat or anybody insures the flat, usually the policy includes contents. I think that that should be made clear because if it is the intention of the landlord to insure the contents of the flat in an amount so be it, but if it is not the intention, it should be excluded. Otherwise you will get a fire where the tenant will believe that it was the landlord's obligation to insure. I would like to ask, now that I am on that section, maintaining all electrical fixtures in good repair - the landlord's responsibility. Does that mean replacing bulbs that are fused or things like that? I would like more explanations on that. Then, what is an interior fixture and fitting? Are you talking of interior fixtures known in law as landlord's fixtures or are you talking of landlord's and tenant's fixtures? Although this is being done in simple English, unfortunately, simple English has also been interpreted by the Courts and 'fixtures' means landlord's and tenant's fixtures. So is the landlord to maintain the tenant's fixtures as well as what is known as landlord's fixtures? Equally, Mr Speaker, for fittings that requires clarification by an amendment. The provision for rent books is, I don't think, a new provision to the law and it is a very good idea but I am sure that there are going to be a lot of landlords and tenants before the Courts for not maintaining a rent book. But that is something that we would obviously go along with. It is a desirable aim and let us see whether it is in fact kept up. On the question of controlled accommodation, the Select Committee made a recommendation that all accommodation built before 1954 should become controlled. The Government has now decided that the control should only extend to property built before 1945. I am not quite clear, Mr Speaker, why if you justify an advance from 1940 to 1945 as being reasonable, it is not reasonable to justify an advance from 1940 to 1954. I would welcome some information on that because this does, Mr Speaker, alter the picture rather dramatically from what the Select Committee recommended. Mr Speaker, I would also refer to the Rent Tribunal composition, which I think is the same as in the Select Committee Report. I think that having seven people in the Rent Tribunal, Mr Speaker, although I know there is provision for a quorum of a lesser amount, committing the time of seven people to decide whether a particular flat should be upgraded or downgraded is a practical impossibility in terms of time, cost-consciousness and cost-effectiveness in Gibraltar. The Government does not have seven people who can spend - and they are going to have to spend very long periods of time on these cases for no remuneration. Again, I would say here that, although it is the Government's policy not to pay people who serve on committees, I hope that in the Rent Tribunal they are

going to pay the people for attendances as judges - because that is what they would become in the Rent Tribunal. Otherwise, it would not work, Mr Speaker. The Government has had problems with the industrial tribunal, and think of the few cases they have had in the industrial tribunal and the problems they have had in getting cases to trial. What would be the position, Mr Speaker, when you have almost 1000 applications for the Rent Tribunal? I predict figures of that order, with an Action for Housing that appears to be very active judging from all the letters they write to us and everything else. The Rent Tribunal's work is going to be very heavy as indeed that of the Rent Assessor. Mr Speaker, has there been any advertising for the post of Rent Assessor yet? I notice the Minister, when moving his motion on the Second Reading, said that the law will not come into effect until a Rent Assessor is appointed. Well, I think that is something that should have gone out for advertising, Mr Speaker, ever since the Government announced its decision on the Report of the Select Committee.

HON J B PEREZ:

But the Bill may have been thrown out.

HON P J ISOLA:

The Hon Member knows perfectly well that nothing that is brought by the Government is thrown out in this House. That does not arise from any affection on our part to the Government, it arises from the simple mathematics of the situation where the Government has eight Members plus the Financial Secretary and Attorney-General to prop them up whenever one or two of their Members may be absent from the House, Mr Speaker. It is very alarming to find that there has been no statement made by the Minister as to who is the Rent Assessor, what are the qualifications they are seeking, what is the sort of salary they are going to have to pay them.

HON M K FEATHERSTONE:

It is all being looked at.

HON P J ISOLA:

Lots of things are being looked at, Mr Speaker, but the Bill is going to pass into law. I am concerned about that, Mr Speaker. I would now like to go to the Rent Tribunal clauses under which it says that there are going to be seven people appointed to the Rent Tribunal and a quorum is going to be any uneven number of Members not being fewer than three. This, Mr Speaker, is unusual in any administrative tribunal and I say it for this reason. If three people can decide a question, then you get the possibility of a situation that four people are not going to be there who hold different views to those three. Presumably it is going to be a balanced tribunal, representative of

interests or whatever. That is a dangerous situation. You could get hearings coming in in one tribunal sitting three people, the following day a different four could sit and make an entirely different decision on the facts of the matter. I think the Government should have another think on the Rent Tribunal. The Government should have, if it is going to be effective, a smaller Rent Tribunal, a quorum of only one less than what it is constituted and payment for the members of the tribunal on sittings on a sessions basis. Otherwise, Mr Speaker, this is wholly impractical and the Government is going to have letters in all the press, including those newspapers that are sympathetic - shall we put it that way - to the Government, complaining of ineffectiveness of the Rent Tribunal. It is a massive task that is being set to a Rent Tribunal. There used to be public spirited people who used to stand for election in the House, Mr Speaker, for nothing, but it is thoroughly impractical. Those same public spirited people now get £9,000 or £10,000 a year because it is only right that people who spend a lot of their time pro bono publico, should be remunerated pro bono publico. We do not ask civil servants to take a cut in their salary, Mr Speaker, because they are working for the public. A Rent Tribunal is going to have to deal with lots of applications, I mean, the Government don't know what they have let themselves in for here. I am not suggesting it is a wrong thing, it is a very good idea, but the Government should know that this means a lot of work for the Rent Tribunal, a lot of servicing of that Tribunal. To say seven members in the hope that there will be three available at any given time is, in my view, the wrong approach to this problem. I would recommend that the Government should have a paid Chairman, a paid Deputy Chairman, and the members should be paid on an ad hoc basis, based on sessions which they attend. Mr Speaker, let the parties who apply pay a fee because that is the position in the Courts. If you issue a writ, you pay £15. I am not suggesting that that should be the case, I think it should be a sliding scale but there should be a fee payable for application, however small, so that people should know that it is a serious matter. Mr Speaker, you will see that the Bill is being rushed through this House, without the administrative arrangements, without the back-up that the Bill requires. No Rent Assessor and as I said at the base of the rent report, there will be a need for much more than one Rent Assessor. One Rent Assessor will be bowled over in the first month. He will be taken to St Joseph's Hospital, I have no doubt about it. Mr Speaker, I would like to examine, of course, the provisions of Part III which is the provisions that deal with private accommodation much more carefully and look and expound on it much more carefully than I have been able to do because of the time limited to us. I do appeal to the Government that the Committee Stage should not be taken during the meeting of this House, it should be taken at a subsequent meeting of the House. If, for reasons best known to the Chief Minister, there isn't a subsequent meeting of the House, well, let us take the dissolution and then let us look at it again - because it is a very important Bill and it should not be rushed through the House. Mr Speaker, as far as business premises are concerned,

I wrote to the Hon and Learned Attorney-General about transitional provisions. I notice that the Government is going to amend a Section here that will allow tenants a second bite at the cherry, in the sense that if the landlord has sent a notice to the tenant terminating his tenancy, and he has had no reply from the tenant, he sends him a reminder. This is not a bad idea, and I think that anybody would act if they had got a reminder, and we agree with it. But it also says, Mr Speaker, there is an amendment to be brought to the House where the tenants are going to be allowed to apply to the Court for an extension of time in which to make their application for a new tenancy. We agree with that. But, Mr Speaker, again that requires a lot of thought to prevent abuse either way. I think that if you are going to give the tenant the right to apply to the Court for extra time because he has missed it or his lawyers have forgotten about it or anything else, of course there should be provision that the rent is backdated. There is provision for that I notice and I think that no harm is done provided the rent is then backdated to the date when he should have made his application or whatever. But, Mr Speaker, if this is a new order for tenants of business premises, is the Government going to amend the transitional provisions of the Ordinance to enable tenants who have been caught out in the old Ordinance and who are still in possession, the right to go to the judge and apply for extra time?

HON J B PEREZ:

The Ordinance, as my Colleague Mr Featherstone pointed out, will take effect on the date that is decided by the House and, therefore, everybody will have to start afresh from the date of the Ordinance. But it has retrospective effects, it must have.

HON P J ISOLA:

I think I agree with that but I am not sure, perhaps the Minister will take a note of it and reply. Let me say, Mr Speaker, that during the moratorium period there has been a lot of confusion. There have been differences of opinion as to what can be done or what could not be done as a result of the moratorium legislation. I have mentioned, Mr Speaker, the need to be thorough on the question of landlords who want it for themselves, to be thorough on the question of the five year period to ensure that the beneficial owner of the thing has been five years and it is not just a shell into which he has bought himself. What is causing us, Mr Speaker, on this side of the House, considerable difficulty is the question of eviction of business premises. I do not mind saying again, that because of notice, because of my own absence, it is not possible for us on my side of the House, to discuss the problems that come to tenants who are evicted and cannot find alternative accommodation even though they are generously compensated. My own personal view is that the compensation is generous, but I shall tell you that other Members on this side of the House do not consider it to be generous. To a certain extent I have got to bow to their judgement because they are

business people and I am not and this makes a difference. But again, I think consideration should be given on this all important issue of eviction. I recognise it to be a very important issue that can bring hardship to tenants and I also see it can also bring hardship to genuine landlords. It is very difficult to bring a balance. The best I can come up with personally, at such short notice, is to again say what I said on the Report of the Select Committee that consideration ought to be given to a third alternative. We have got alternative accommodation, compensation or a possible third alternative of granting an option to the tenant to purchase the business premises, at market value, for a lease of 99 years. In theory I don't know whether it will work out that way, if he buys the tenancy at market value, that should channel enough funds to the landlord who genuinely wants to set up a business to use that money for finding premises somewhere by sheer force of money. I don't know, but that is a possibility. I think that on this side of the House we would like to be fair to tenants, and we would like to be fair to landlords and that, Mr Speaker, is almost an impossibility. At the end of the day you have to come down probably on one side or the other. Mr Speaker, am I right in saying that there is no provision in this law that applies Part IV, Business Premises, to the Crown?

HON ATTORNEY-GENERAL:

It is in the preliminary part. Clause 4(3), Mr Speaker, if I may, it is applied to the Crown to the same extent as it does at the moment. What has happened is that whereas it formerly appeared in Part IV, it has now been brought forward to the preliminary provisions of the Ordinance.

HON P J ISOLA:

Well, I think I am right in saying that the provisions under which the Crown can recover property are more or less the same as was existing in the previous Ordinance. It is not my job to tell the Government, but I think that if they examine the provisions relating to Crown properties and the grounds on which the Government can obtain possession for public purposes, I think that the Government will find that amendments are required there. If, for example, the Government has been promised NAAFI, Imperial Court, how do the Government get possession of that? Either the Ministry of Defence passes the property to them with the tenants inside or the Ministry of Defence has to reprove those tenants. But this Bill applies to the United Kingdom Government. So, therefore, tenants of the Ministry of Defence will be able to invoke the provisions of this Ordinance. Mr Speaker, and if the provisions of this Ordinance protects them against eviction, they will be able to get the full benefit of that protection. I think the Government would be well advised, Mr Speaker, to look at the provisions in this Ordinance in relation to public properties - especially when one considers that most of the land that the Governments gets, it gets from the Ministry of Defence to whom

this Ordinance applies. I know there are certain sections that appear to deal with the matter, but I think that if they are looked at closely, the Government could well find the Landlord and Tenant Ordinance to be a constraint in getting properties required for public purposes and for development from the Ministry of Defence. The appeal I would make to the Government, Mr Speaker, in the interests of having one Ordinance, as was said by the Select Committee, that contains the whole of the landlord and tenant law in simple English, in the interest of that that we should have one Ordinance today, and not one Ordinance today, amended in February, amended in April, amended in June and amended in July of next year. That is not what the Select Committee recommended. Therefore, in finishing my address which necessarily has to be a short one, Mr Speaker, because I have not had the opportunity at all.

MR SPEAKER:

Has it been a short one?

HON P J ISOLA:

It has necessarily had to be shorter than it would have been because of the inability of having a moment to consider this, comparing it to the two different draft Bills that we have had on the new Landlord and Tenants Ordinance. I would appeal that the Committee Stage is not taken by the Government at this meeting of the House. The custom has disappeared from the proceedings in this House, a very real custom in the old days - and by the old days, I am only going back a few years - in which Committee Stage of Bills was always taken in the next meeting of the House unless the matter was really urgent. That custom should be followed in this case. If what we want is one Ordinance, then everybody should have an opportunity to look at the Bill, including the Government, during the course of this motion today, we have been told of major amendments that the Government is proposing to this Bill, and they are major amendments of which we are going to get notice. It is totally wrong, Mr Speaker, and totally against the very principles of equity and justice that the Minister for Public Works was referring to, that this Bill should be taken through all its stages at this meeting of the House.

HON M K FEATHERSTONE:

I never said that.

HON P J ISOLA:

Well, no, but it is in the Agenda.

HON M K FEATHERSTONE:

I was referring to it.

HON P J ISOLA:

I know when the Minister was talking he was talking of equity and justice, and what he meant by it; but what I am saying is what is generally meant by it, and the democratic principle that everybody gets full opportunity to look at the Bill, to discuss the implications to read once again all the representations that have been made with regard to the Bill, both to Members of the Government and Members of the Opposition, and to be able to form a fair and just and an equitable view on this Bill. Unless we get these assurances, we certainly cannot support the Bill.

HON J B PEREZ:

Mr Speaker, first of all I think there is a lot of merit, and I agree with many of the things that the Leader of the Opposition has pointed out in his contribution. I think there is merit on the question of time; there is merit in the suggestion that there are substantial amendments which are being proposed and will be put in at the Committee stage. There is merit on the rushing through this Bill, which is of fundamental importance, and I would venture to say, will affect nearly the whole of the community. But there is one point that I must put forward on this: I do not think it is correct to say that this matter has just been brought to the House only a week ago. I agree the Bill was in fact circulated only 7 days ago, but the main contents of this Bill was published at the time of the Report of the Select Committee, and that is quite some time ago. So really, most of the contents in this Bill before the House at present was to the knowledge of all Members in this House. I therefore wish to take the opportunity of counting that out, and of giving the Government's policy on the whole question of Landlords and Tenants, with particular reference to the Bill before the House at Second Reading. Before doing so, let me say that there have been very valuable points made by the Leader of the Opposition, I have undertaken to reply to most of them. I think the main one he asks is the question of whether the Bill is intended to have a retrospective effect. I can quite categorically say that the answer is yes. It must have a retrospective effect. Otherwise there was no point in saying that the moratorium was being passed because the House of Assembly was debating, and there was a Select Committee which was reviewing the whole question of landlords and tenants. The Bill, when it becomes law, must operate retrospectively - because otherwise it will be very unfair and very unjust on both landlords and tenants. I am very impressed with one of the ideas put forward by the Honourable Leader of the Opposition when he spoke of cases where landlords wish to re-occupy premises on the grounds that they want it for themselves, with Mr Isola's idea that we ought to consider not only the question of suitable alternative premises and/or substantial compensation, but whether the tenants should be given an option to purchase the business premises. I think that particular recommendation requires further consideration, and is - in my own view - of substantial merit. I must point out also, that although Mr Isola said that he has not had time, it is incredible the

amount of comments he has been able to offer on the Bill, which, with respect, Mr Speaker, corroborates what I said before, and that is that this is not new. The Select Committee was formed over 2 years ago; we published a report well over 7 or 8 months ago with the Bill. So, many people have had chances to lobby people, and to represent in the House their own particular views. I have had representations from Action for Housing, from the Property Owners and many other people in Gibraltar - as I am sure every Member of the House has had. So, it is not a question that new ideas have been formulated now and are being discussed before the House. Now, coming to my own contribution on this particular Bill, I think it is useful to highlight the guiding principles that the Government has adopted, because these principles are those that were contained in the report of the Select Committee. I would quote from paragraphs 6, 7 and 8 of the Report of the Select Committee, because it is those principles which have been very conscious in Government's mind. Paragraph 6, Mr Speaker says, "Your Committee feels that it is essential to continue rent restrictions on residential premises as there is a need for stability and protection for tenants whose interests must be upheld. However, in protecting the tenants' interests, the interests of the landlords should also be taken into account. Landlords should obtain a rent which would permit them to keep their property in a good state of repair. At the same time, there should be a reasonable benefit for themselves. Furthermore, rent restriction should not be of so severe a nature as to inhibit or stifle development". Then paragraph 7, "Basic requirement is that housing in Gibraltar should be available primarily for the benefit of Gibraltarians and other permanent residents, and that this Housing should be available at reasonable cost. It is pertinent to note that no landlord who gave evidence before your Committee objected to the principle of rent restriction. Landlords' submissions were along the lines that present rents were inadequate and that some increase in rent should be permitted". Then paragraph 8, "Two other points on which your Committee agreed, are firstly that every effort should be made to encourage occupier ownership, with regard to private residential property, and secondly that, through Parts 1 and 2 of the Landlord and Tenant (Miscellaneous Provisions) Ordinance are not applicable to the Government of Gibraltar, the provisions should be used by Government as guidelines for their own housing policy as far as they are reasonably applicable". So those guiding principles from the Select Committee have clearly been followed by the Government in presenting this Bill. Let me remind Members that the changes which the Government proposed to make to the Select Committee's Report were in fact made public by my Honourable Colleague, Mr Featherstone, when we came to the House on the 8th November. So I do not think, with respect to my Honourable Friend Mr Isola, that he can say that this has caught him by surprise and therefore he has not had time. Surely the Report was available, the Bill with the Report was available, and you have Mr Featherstone's contribution as to what was Government's thinking as to the Report and the Bill. I think there are other principles which the Government have been very conscious of in considering this matter, apart from the principles that I have

already read out from the Select Committee's Report. The first one is Section 6 of the Constitution, which provides to the right to property. The Government has been very conscious of that because we did not want to enact legislation which could be held to be unconstitutional. That we had in mind, and at the same time we had to balance the rights enshrined in the Constitution as to rights to property, with the present shortage of housing and business premises in Gibraltar. We feel very conscious of trying to strike a balance between the right to own property and to do whatever you like with your own property, and the supply and demand situation which at present exists in Gibraltar. It is also fundamental, when you come to consider if the landlord is entitled to say he wants his property back for his own use, as to whether that landlord - as a prerequisite of obtaining possession - will have to provide suitable alternative accommodation and/or substantial compensation, and/or Mr Isola's suggestion of having to give the tenant an option to purchase. The other point that we have been equally concerned with is the question of economic development. If you have very restrictive legislation, in particular with landlord and tenant, there can be no doubt that that will not encourage development in any way. That has also been in the back of our minds. The question of the present state of disrepair of certain buildings in Gibraltar has also been in the minds of Government when we have considered the whole thing and tried to look at it objectively. Therefore, you have things like the Sinking Fund; you have an increase in rent, which is allowed to the landlord. He has got to put the money in the sinking fund, so that the landlord cannot say, "I have not got enough money to repair". We have been conscious of all these things. I think the most difficult thing is in fact to try and find a balance between these points that I have pointed out. You have to try and find the balance: certain things are in favour of the landlord, and other matters are in favour of the tenant. Whichever way one goes, you will always get one side saying, this proposal is weighted against the landlord - that would be the landlord's contention, whilst the tenants' contention would be that it does not go far enough. We cannot please both sides. But, in my view, I do not consider the present Bill before the House to be in any way pro landlord; if anything, it is pro the tenant. I have heard groups like Action for Housing saying: "Oh this is a pro landlord Bill, the Government is totally unfair". I must say, with the greatest of respect, that people who say that have either not bothered to read the report properly, they have not bothered to take note of what my Honourable Colleague said on the 8th November in the House, and they are totally wrong in saying that. I will try and show why. Although, let me add, it is arguable that the Bill does not go far enough; that I accept. The Bill seeks to correct injustices which are now apparent, that have existed in the past; it seeks to block certain loopholes which have been available to landlords in the past; and I think it goes even further in imposing further and stricter controls on landlords - which surely goes in favour of the tenant. Let me start by saying that as far as the Government is aware, the Government is clearly of the view that rent restriction in Gibraltar, under the present circumstances, is fundamental, and is

something that must continue. So, having said that, why am I of the view, that if anything, this Bill is a pro-tenant Bill and not pro-landlord? I think this will become clear when I go over, in slightly more detail than my Honourable Colleague has done, the main provisions of the Bill. I would like, Mr Speaker, to divide my contribution by first of all dealing with the provisions relating to dwelling houses, and then I will go on to deal with the provisions that relate to business premises. Mr Isola asked, first of all, why did Government not accept the recommendation of 1954 which was contained in the Select Committee. With respect to even some of my colleagues who sat on the Select Committee, I think that there have been certain members who do not recollect why the Select Committee came up with the idea of 1954, let me explain. The Committee felt at the time that we must have rent restriction, and thought that it would be an idea if properties over 30 years of age should be rent controlled. That is why we came up with the magic year of 1954, because the idea was that if you start your control in 1954, you are now in 1984. Property whose age is over 30 years automatically would become controlled. In 5 year's time you would be controlling property of 1959. I think that there have been many people who have forgotten that. I must confess that, although I was a Member of that Select Committee and I signed the Report, I honestly have changed my mind on having to control all properties after they are 30 years of age. I am now convinced, which I was not at the time, that that surely would not be in the general interest of the community, and would without a shadow of doubt stifle and curb development. For example, a property developer builds a building with flats. He will find it quite difficult, I think, to be able to sell off those flats even in a case of 999 year leases. I am distinguishing the developer and the investor, the one who buys the flat to let. Taking into account the very expensive building costs that there exist in Gibraltar and the price of land, instead of having money in UK in Gilt Edge - like we know there are many people who have the money there - we are doing our utmost to try and get them to bring that money back into Gibraltar by way of tax free debentures and free of estate duty. We would like those people to bring back their money and buy houses. It would encourage developers to build more if there was a larger demand, not only from UK residents who decide to come and settle in Gibraltar, but also from a proportion of the Gibraltar community who have substantial means. If we could get them to bring their money back from Jersey, Guernsey, or wherever that money may be, and invest locally, that is a good thing for us because you would have more developments. If that investor is going to pay the going rate for say, 2 or 3 bedroom flats, which is now £45,000 to £50,000, how can you tell that investor that that property after 30 years will become rent controlled? I don't think the investor is going to be willing to risk his money. In many cases he may have to take a bank loan, and if he goes to the bank and says "I am buying this property, I wish to put 20% or 30% down, will you give me facilities for the balance?" I don't think banks are going to be very willing to lend the balance when they know that after 30 years that will become rent controlled, and be subject to a statutory rent. So that is really the basis of 1954, and with

that I agree we were wrong. This is why the 1954 idea was stopped. Again, I reiterate that it is unfortunate that the Select Committee did not spell that out in the Report how we arrived at 1954. So, people say, "When you looked at '54, the Select Committee was probably looking at how many more properties it was trying to bring in". Yes, we looked at that; but '54 was only based on the idea which I have just put forward Mr Speaker. Now, having said that, what are the main changes as far as dwelling houses are concerned? The first one, I think, is found in Section 3. I do not propose to deal at length at this stage with this; I will come back to it later. May I just tell the House - I think Mr Isola asked this particular question - that it is the intention of the Government to bring in an amendment to that particular Clause, Section 3, which deals with the member of the family. The amendment is because it was felt that Section 3, in itself, may not be clear that you have two transmissions. I take the point which has been made about member of the family, but the view that I took when I first got the Bill was that if you define members of a family to say, brother, sister or what have you, you run the risk of excluding a certain category of the members of the family. You may forget brothers-in-law, and they would be members of the family. It could have a very unfair and inequitable effect on them at a later stage should they have any problems. But the point is of course taken. In the United Kingdom, I think it was the 1957 Act, they extended from what we have now, from one transmission to two transmissions. The wording is quite clear, but even then they defined the members of the family, the courts interpreted it on a very restrictive basis - being a rent control Ordinance in England - and then you had further legislation in England coming back to extending the meaning of members of the family. In fact, it is a very wide definition nowadays. My honest view was that that is precisely what we have done in Section 3; but it is obviously a matter that will be looked at. I will come to that, on the question of transmissions, at a later stage. An important innovation in the Bill, in favour of the tenant is Section 5, the setting up of a Rent Assessor, Section 6, and Section 7, the setting up of a Rent Tribunal. I refer Members also to Section 30 in the Bill which provides that a request may be made to the Tribunal to determine what is a statutory rent of a particular dwelling house. I would stress Section 30 Sub-Section 4, which puts the onus on to the landlord to establish what is a statutory rent. The powers of the Rent Assessor - as far as dwelling houses are concerned - are quite wide, and I think it will go a very long way in stopping the situation that we have had in the past, where tenants have been frightened to take the landlord to court because of the possible repercussions that that could bring. The provisions of Section 30 enables any person to tell the rent tribunal, "I want you to determine what a rent I should be paying". Clearly, that - if anything must be in favour of a tenant and in no way in favour of the landlord. Now, let me come to what I consider to be the major or the fundamental thing of this Bill as far as dwelling houses are concerned: Section 10. We are talking about controlled premises, in other words, those pre-1945. I do not think there is any magic in the year 1945: the importance is not the year.

The importance is that, under our present legislation and under the old legislation, we provided that if you had a property pre-1940, to which the Ordinance was deemed to apply, the landlord could get away from that by letting the flat furnished. I think that has been one of the most unjust provisions that has existed in our legislation, and I would say it is the main provision in which the unscrupulous landlord has benefitted. A landlord with property pre-1940, only had to comply with the First Schedule in the Ordinance and put in a couple of chairs, a bed, two pillow cases. The schedule did not even provide that there should be running water, which was incredible. All you had to provide, if you were a landlord, was a washbasin or - in some cases - a bucket would suffice. Let us be quite open about this: this is the main injustice in dwelling houses. This was allowed by the law: if you just let it furnished, that was the end of the control. I know of cases in which a room and kitchen, because it was let so-called furnished, the landlord was charging £50 and £60 a week. The worst thing is that, since it was outside the control of the Ordinance, that tenant, only needed to get a week's notice from the landlord and out he went. I am going to refer Members to the first Schedule of the previous Ordinance, to see what the landlord had to provide for the purposes of Section 5(2). In any room let as a bedroom, one bed or unless occupation by two persons one double bed, or two single beds complete with a mattress and pillow; one wardrobe; one dressing table; one small table; two chairs; one wash-stand and basin or fitted washbasin. In a sitting room you had to provide a table of not less than 9 square feet; one armchair; three chairs; but no provision for running water, no provision for anything. There can be no doubt this has been abused by many people in Gibraltar. Maybe you cannot blame the landlords, maybe to some extent one would have to blame some estate agents. There are some who are I think respectable and have not done this that I am highlighting. So, that is the importance of our Section 10: we are saying all pre-1945 property is going to be protected. We are doing away completely, with the total injustice that there has been on furnished, or on what I would call the so-called furnished letting, because it never really was furnished in the way that a reasonable man would determine a furnished letting is. In Section 10, we are going to tell the landlord, if it is a pre-45 property, and if it is furnished, you can only charge the statutory rent plus the value of the furniture amortised over 8 years. The advantage of this, if I may come back to the point of retrospection that Mr Isola asked, is that when the law comes into force, there will be cases in which the tenant has had the use of dilapidated furniture. The value of that furniture will be on the date of the commencement of the Bill. The valuer could well look at the furniture provided and say, "This is not worth anything", so that tenant who has been suffering for a long period of time paying a very high rent, in that case will only pay the statutory rent. In the event that there is proper furniture of certain value, the landlord, it is only fair, should get some compensation for that. But the amortization period is 8 years. That is clearly in favour of the tenant. But, let me reiterate, the importance is not only in the rent; the importance is that the Ordinance now applies to that tenant and the landlord will not be able to throw him out like he was

before under the old law. So I think that, with just Section 10, we are correcting a very large number of injustices that have been existing under the old legislation, a substantial amount of injustices both as to rent and as to the question of protection.

HON J BOSSANO:

Is the Honourable Member saying that the tenants are not protected under the present Landlord and Tenant Ordinance which applied to the houses built before 1940?

HON J B PEREZ:

Yes, apart from the prohibition section, of Section 25, which I have no hesitation in saying has been flouted in Gibraltar. Section 25 in the Landlord and Tenant prohibited certain property being let furnished. That has been flouted. Tenants, you see, have been so scared because of the dangers of being evicted that they have not bothered to take the matter to court and argue on the basis of Section 25. All you have is the landlord putting in the minimum amount of furniture and making it prima facie a furnished flat, charging £50 a week, and then when the tenant says, "This is a very high rent" replying "Well, if you do not like it you are going to get a notice to quit". The tenant does not understand the technicalities of Section 25, in having to go to court and argue that the letting was an illegal one. I am going back to the old law. In most cases, in my experience, it has been going to court; but the problem is that you find that the tenant is scared when you tell him, "Well, you may lose".

HON J BOSSANO:

Mr Speaker, surely the Honourable Member is not arguing whether people adequately use the protection that the law has given them; he is arguing that the people are being given protection in the new law that they did not have in the old law. That is what I am asking him.

HON J B PEREZ:

Oh, yes.

HON J BOSSANO:

I mean they might even be scared of using this one.

HON J B PEREZ:

No, they cannot be, because that is precisely the point I made before on the Rent Assessor, Section 5, Section 6, Section 7 the setting up of the Rent Tribunal, Section 30. What I say is: all properties pre-45 the Ordinance applies, there is no getting out of it. Before, we were saying: all properties pre-1940, the Ordinance applies except for those which are let furnished. Section 25 of the previous Ordinance was a major

loophole in the old law. It says: Subject to the provisions of this Ordinance this part shall apply etc, etc, but then you have provided that: (1) this part shall not, save as otherwise provided, apply to a dwelling house bona fide let at a rent which includes payment in respect of board, attendance or use of furniture. That is what I say has been flouted in Gibraltar, and this is where all the injustices have stemmed from. One would have said the property is let furnished by providing the minimum items of furniture, as I have already pointed out in the First Schedule, and got away with it because the tenant has been too scared because the landlord could go to court and prove that it was furnished.

HON J BOSSANO:

It was furnished, Mr Speaker. It could prove it was furnished, and it could prove at the same time that it was breaking the law.

HON J B PEREZ:

Yes, I know that because I am a lawyer and I have been involved. Tenants do not know that.

HON J BOSSANO:

Well I do not think they are going to be any more enlightened by this piece of legislation.

MR SPEAKER:

In fairness to Mr Bossano, if I may interrupt, I think that what Mr Bossano is saying is that there is no guarantee that people ignorant of the law will not misinterpret the new law as well as the other one.

HON J B PEREZ:

Well, then I am not making myself clear.

HON J BOSSANO:

Mr Speaker, I am trying to make the point that if the Honourable Member, on the general principles of the Bill, is trying to convince the House that the present Bill is an improvement on the old one, it is no argument to say that, in the old one, ignorant people failed to exercise their right. Presumably people will fail to exercise their right in the new one.

HON J B PEREZ:

The point I am trying to make Mr Speaker, is this. Under the old legislation the tenant in furnished accommodation was scared in taking any action against the landlord because he was worried of eviction. Under what is proposed now, we are saying that the Ordinance applies to all dwelling houses pre '45, whether furnished or not.

HON J BOSSANO;

Surely the old Ordinance applied to all accommodation, because furnished accommodation was not allowed. Is it not the case, Mr Speaker, that there have been recent cases of tenants who were rented pre-'40 property furnished, who went to a tribunal where the tribunal said that the furnished property was illegal and that therefore it was controlled and they could not be evicted; where the case went to an appeal and where the tenant won an appeal. So, can the Honourable Member demonstrate to me how that provision in the law that he wants to replace is inferior to the one he is bringing in? How is he giving more protection? I think the present law protects tenants quite well if they exercise the law.

HON J B PEREZ:

But, you should have pre-1940 which can be let furnished. What happens if, in 1940, the property was not let, it was owner occupied? Mr Speaker, the point I am making is that with Section 10 we are going much further to protect the tenant. After the House I will explain it to him.

MR SPEAKER:

I get the impression that you are going to have a lot more to say, so perhaps this will be a convenient time to recess until this afternoon at 3.15.

The House recessed at 1.05 pm.

The House resumed at 3.20 pm.

HON J B PEREZ:

Mr Speaker, I was speaking this morning at the end of my contribution on the question of Section 10. I said that, in my view, the application of Section 10, which brought in to conform all the pre-1945 dwelling houses, had a substantial effect and was a substantial improvement towards tenants' protection and rights. I have one or two points which I wish to put forward on this; and then I will proceed to carry on with my contribution, in which I will deal with the question of re-construction - which has also a direct bearing on the points that I have made in connection with furnished lettings. In connection with Section 10, I think that part of the importance of the provisions is that it shifts the onus from the tenant to the landlord. We have brought out Section 25 of the Landlord and Tenant Ordinance. In that Section, where the annual rent was £60 per annum or over, or the house at the time was owner-occupied, the problem that the tenant faced was if he wanted to question whether it was a furnished letting or not; whether he had to pay £50, or £45 or £60 a week; and whether or not he had the protection of the Ordinance. This was a great worry for the tenant, and a great injustice. The position has now changed, because with the new provisions,

what we are saying is that all dwelling houses pre-'45 are not allowed to be furnished. Therefore, the tenant no longer has to take the first step to contest that, because my interpretation-and the intention behind Section 10-is that it is up to the landlord, when the Ordinance comes into force, to take that first step. In other words, it will no longer be open to the landlord to say, in connection with pre-45 dwellings, "Look this is a furnished flat, I have provided you with the furniture. You have to pay me your £50 a week". What we are now saying is "No, Mr Landlord; it is you who have to go to the Rent Tribunal and show that it is or it was bona fide let furnished". We go further and say, "Even if you do that, it is still a protected dwelling". The landlord, after he takes that initial step, will be told, "I am very sorry, your statutory rent is X; that is the only thing you can charge. But, if you prove or if you can demonstrate the value of the furniture at the date of the commencement of the Ordinance, we will allow you to amortise the value of that furniture over a period of 8 years". That is clearly in favour of the tenant. There cannot be any other possible interpretations to Section 10. So I think that that is a fundamental hurdle, and an injustice which the Government is seeking to correct. I am 100% convinced that we are doing that by Section 10. Now there are two other points which I wish to ponder on, in connection with Section 10. The next point I wish to make is the provision contained in Section 32 of the Bill, with reference to properties which are post 1945 but pre 1954. The provisions are very simple. What they say and what they provide is that if you are now dealing with a decontrolled or a non-restricted flat, but nevertheless let on a furnished basis, if you provide the furniture, the rent must be a fair rent. Now let me say right away, that I am worried about this particular provision. The reason is that this is a section in which the onus remains on the tenant. He has to take the first step to try and establish that his rent is not a fair rent. I am worried about that because I think we are coming back to the previous provisions which existed in pre 1940 dwellings.

HON J BOSSANO:

Perhaps it has been cleared up and I have missed it Mr Speaker. There is a constant reference to '54, and in fact it says '64 in the Ordinance.

HON J B PEREZ:

I think that my Honourable Colleague, Mr Featherstone, cleared up the matter as to what amendments were in fact going to be brought at Committee Stage. I think one of the points he made - I don't know if the Honourable Member was in the House - he said that the date would be 1954. The point I am trying to make is that whether you make it '54, '64 or '74, those flats are outside the control of the Ordinance as far as eviction is concerned. So, therefore, you are still leaving the initiative to the tenant to take the first step and say, "This is not a fair rent". I am worried about that because there may be cases in which tenants, as has happened in the past, may not be willing to take that first step in case they lose. They may be

worried that if they antagonise their landlords, the landlords may well then say, "OK, the court has held or the Tribunal has held that the fair rent is not £50 but £35", and then you get your notice to quit. To be perfectly honest with the House, I have not got a solution to that particular problem. What I sincerely hope is that landlords will take due notice of things that have been said in the House, and of the intention behind these words. I am criticising our own provision in the Bill, and I make no qualms about that. Be that as it may, the provision is there, and it may be that some tenant may make certain use of that - but to what extent I am not sure. I do not think that I can really argue that that is an innovation or a great benefit in connection with giving protection to the tenants. The provision is there for those who want to make use of it. Now, the first point I wish to make, which I think is an important one, is that for all dwelling houses, whether it is furnished, whether it is pre 1940, or whenever it was built, all periodical tenancies require a 6 months' notice to quit. That, I am sure, Members will agree, is a substantial improvement to what we had before. We have never had that, and that provision is in fact contained in Section 74 of the Bill. Section 74 is a Section of general application. The heading is Notices To Quit: "Subject to the other provisions of this Ordinance, but notwithstanding any agreement to the contrary, no periodical tenancy shall be determinable by less than 6 months' notice of intention to terminate that tenancy". That, I think, is a step in the right direction and it means that even a tenant of furnished accommodation which is built in 1982 or 1983 will have that benefit of requiring the landlord to give him 6 months' notice to quit. Let me remind Honourable Members of what the law was, or what the law in fact still is, if we forget the moratorium: if you are a weekly tenant, and by that I mean if you pay your rent on a weekly basis, all the landlord has to give you is 8 days' notice. At the end of the 8 days, your tenancy ends and you are out. If you are a monthly tenant, all the landlord has to give you is one month's notice and so on. In other words, the notice required to be given by the landlord to the tenant will depend on the type of tenancy that exists: if you pay a weekly rent or a monthly rent or a quarterly rent, that is the tenancy period. In most cases in Gibraltar that I am aware of, most tenancies of furnished accommodation, post-war, are weekly tenancies. There have been cases of injustices, because here in Gibraltar if you are a tenant of a particular dwelling house, and you are given 7 days, we all know that that is a totally inadequate period to enable you to try and find other accommodation - even if you have substantial means to be able to pay a rent of £40 and £50 a week. At least that is a new thing that is being produced, and it is one which I myself welcome completely. I now come to deal, Mr Speaker, with the question of reconstruction. Let me say straightaway that the whole basis of reconstruction is completely tied up with everything that I have said this morning. I know Mr Bossano still has some doubts about what I said; it is totally tied up with the question of furnished accommodation. Perhaps I am speaking more as a lawyer than a politician, and I apologise for that, but I want Members to understand what goes on in Gibraltar today as far as the relationship of landlord and tenant is concerned. What goes on under the old legislation is very simple.

What landlords do is this. A flat becomes vacant, and all they do is they partition that particular dwelling house, not even with a brick wall, in some cases. What they do is that they may build a little shower room on both sides to try and establish that it is self-contained. When I was speaking about furnished accommodation this morning, we spoke about Section 25 - which was prohibited lettings and we spoke about the £60 per annum annual rent for 1940: any property in a higher rent than that was in fact exempted from that provision. We also spoke about cases in which the property in 1940 was owner-occupied, which I said were two loopholes existing in the legislation. As far as reconversions are concerned, the old law provided a large loophole for landlords because Section 5 of the old legislation said this, Sub-Section 5 of Section 5: "This part shall not apply" - when it says 'this part' it means to the actual Ordinance with the protection to the tenant - "to a dwelling house erected after or in course of erection on the 1st day of May 1940 or to any dwelling house which has been since that date, or was at that date, bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements". There is no provision there as to annual rent, and the way it has been interpreted is that you can just have a simple partition of a vacant flat and you have two tenements. In some cases, the landlord has built a shower room or whatever, said those were two self-contained flats, and was able to take those two flats - possibly built well before 1940 - outside the control of the Rent Restriction Acts. To make matters worse, also in most cases did, was provide furniture.

MR SPEAKER:

Yes, but with respect, let us not go into detail of what was the practice before: it is fair enough to compare the virtues of the new Ordinance as against the practice of the old one, but let us not go into detail because otherwise we can go on endlessly.

HON J B PEREZ:

Yes but, Mr Speaker, this has been put forward as being a pro landlord Bill and I am trying to establish that in no way is it in favour of the landlord.

MR SPEAKER:

Fair enough.

HON J B PEREZ:

So that we are curing as well, because by virtue of the proposed Section 22, we are now again shifting the onus onto the landlord to try and show that there have been structural alterations - not only a partition. Structural alterations are now required by virtue of Section 22. So the tenant does not have to be afraid of being given a notice to quit if he says, "look I am entitled to pay a lower rent". That clearly is in favour of the tenant, and should go a long way to correcting injustices which

have appeared in the past. The whole question of furnished dwellings has been tied up, in my view, with the question of reconversion, and that has brought on tenants to be very scared of taking legal action against landlords. With the new Section 22, any landlord who wishes to establish that his flat is not controlled by the new Ordinance, will have to seek a certificate from the Rents Tribunal. That is a fundamental change to our present legislation, which is clearly in favour of the tenant. The other point, Sir, that I wish to make is the question that my friend Mr Featherstone also pointed out, and that is that Section 22 merely deals with reconstruction or structural alterations being carried out to premises after the Ordinance comes into effect. He did say that it is proposed to bring in an amendment at Committee Stage in order to enable the landlords, in cases where there has been a reconversion, to be able to apply - although the reconversion has occurred before the Ordinance comes into force. That, I think, is fair. The amendment would be to the effect that, if landlords do not make the application to the Rent Tribunal within a certain period of time, if you are dealing with a house that has been divided into two, both dwelling houses would be controlled. That is in favour of the tenant. Mr Speaker, I now come to the question of statutory transmission. The old legislation says, in a case where there is a husband and wife, the contractual tenancy comes to an end either due to the death of the husband or the wife: there is only one transmission. On the death of the husband, the wife becomes the statutory tenant - if the husband was the contractual tenant. After that, there are no further transmissions under the present law. Let us have that very clear in our own minds. What it is now proposed to do is two things. As from the date of commencement of the Ordinance, the person in occupation is the first tenant. When that person dies, it will either go to the husband or the wife: one transmission. Then we are taking it further, to either the son or daughter, or if there are no sons or daughters, to a member of the family who was living within the household for a minimum period of eighteen months before that particular death. So that, again, is an innovation and a great improvement to our present legislation. We are also re-enacting Section 18 of the old Ordinance, which provides for cases where the landlord is restricted as to the recovery of possession of premises. Those I think have operated fairly in the past. With Section 29 of the Bill, we are providing for the provision of rent books. I think that is welcomed by all persons, and in particular by tenants. In Section 16 of the Bill, we are providing for the setting up of a sinking fund. As has already been pointed out, the basic idea of this is to stop the landlord from saying, "I haven't got money to do repairs". We are giving the landlord, on the one hand, an increase in rent for pre 1945 properties; but at the same time we are saying, "You have to set off a certain proportion of that rent towards repairs". So, if a property is in need of urgent repairs, at least there should be a fund to be able to cater for that. It may well be that initially the fund may not be large enough; but the intention is that the fund should build up, and at the same time give an advantage to the landlord as to income tax. So, the money will be there to provide

necessary repairs to be carried out to the building. I think, Mr Speaker, that as far as dwelling houses are concerned, there can be no doubt whatsoever that the proposed Bill provides much greater protection to the tenant and goes a long way to try and curb the injustices that have arisen in the last years. I would reiterate that it is a question of striking a balance between the landlord's rights and the tenant's rights. If you argue that the Bill doesn't go far enough, that is one thing; but what I think is totally wrong is to say that the Bill goes no way in favour of protecting the tenant. I now come Mr Speaker, to the question of business premises. Again, I think that the provisions which are contained in the Bill are somewhat weighted towards the tenant. Again I reiterate the point I made with dwelling houses: it is arguable whether the Bill goes to the extent that one would like in favour of the tenant; it is a question of trying to strike the right balance between the landlord's rights and the tenant's. I would like to highlight the main provisions which I think are changes to the old law. The first one is the appointment and the powers of the rent assessor, which are contained - as far as business premises are concerned - in Section 38 of the Bill. That provides that a register of tenancies must be kept. It is compulsory on both landlords and tenants to register their tenancies; that is the term of years, the duration of the tenancy and the rent which has to be paid under the tenancy. The Select Committee came up with this particular idea as it was put to us on many occasions that tenants have problems as far as Estate Agents are concerned in that Estate Agents are valuers. Some tenants told the Committee that their problem was that they found that the market values which were given by Estate Agents were not done as impartially as they thought that they ought to be done. The advantage with the register is that that would be available, under Section 39 of the proposed Bill, to the courts. The register will contain or should contain by law, all tenancies which exist in Gibraltar of business premises and the rent that is being paid. Therefore, the question of what is the market rent to be established should be quite simple, if you compare it with the present system. Today, there is no register and you can have - in many cases you have had - a particular valuer going to court and saying the market value of, say, business premises in Main Street is £10 a square foot. In order to prove his valuation he may use 1, 2, 3 or 4 different tenancies that he is aware of. On the other hand, you have the valuer for the tenant who says instead of £10 a square foot it should be £9 and he bases himself on different other valuations. With a register they will all be there and it would be available to the court and that should enable the court to try and establish the real market rental for that particular property. There is another fundamental change that is being proposed in the new Bill. This is in connection with technical matters and procedural matters which arise from the Ordinance. This is contained in Section 56 of the Bill, under the heading "Extension of time". Perhaps I ought to explain what the position under the law is or was, where a landlord wishes to terminate a tenancy either because he wants an increase in rent or he wants to oppose the

application for a new tenancy on the grounds provided in the Ordinance. He gives the notice to quit, as per the rules, and he is required by law to put in that notice or request the tenant to say within two months whether the tenant wishes to leave the premises or not. The notice points out to the tenant that he is required to inform the landlord within two months whether he wishes to vacate or not. If the tenant, whether it is his lawyer's fault or whether he may be away from Gibraltar due to ill health, or for whatever reason, fails to reply within those two months, the fact remains that that tenant cannot make an application to court for a new tenancy because the old law provides that it cannot be entertained. That is unfair. The second point we are trying to correct, by amendment at committee stage by the Attorney-General, is that once the tenant has received the notice to quit, and he has replied within the two months that he does not wish to vacate the premises, the tenant must take out a summons in the Supreme Court of Gibraltar requesting a new tenancy. The law provides that the application for a tenancy by the tenant must be made not before two months from the landlord's notice to quit; and not after four months from the date of the notice to quit. There have been many cases that I am aware of in which the tenant or the solicitor or for whatever reason has not made that application not before two months and not later than four months. Under the old law, if that happened, no application could be entertained from the tenant and the landlord took possession of the premises. That we are attempting to change. Here I must reiterate that, as far as the present Bill is concerned, Section 56 that does not go far enough to meet the second point that I have made. Subsection (2) provides, "The court may, in its discretion, grant to a landlord or tenant an extension of time", for giving any notice under this Part. Thus an amendment will be put to that to enable the tenant who has not taken up a summons before the time stipulated to be able to ask for a further extension. That clearly is in favour of the tenant and not in favour of the landlord. I think that answers the point that the Honourable the Leader of the Opposition raised this morning as to the notice. I now come to the main difficulty, as far as I am concerned and that is cases in which the landlord seeks to recover possession on certain grounds. Where the landlord seeks to recover possession on the grounds for example that the tenant has persistently delayed in paying rent, or has failed to carry out repairs, or is in breach of his contractual obligations, I think there is no problem: clearly this is a case in which the tenant is at fault, and that should be the end of the matter. But, we come to the position where a landlord wishes to re-occupy the premises, to bring the tenancy to an end, on the grounds that he wishes to carry out the business either for himself or for one of his children, or he wishes to repossess for redevelopment. It is a matter which worried the Select Committee to such an extent that we went entirely to one extreme and we said, "Because of all the problems that we foresee, our main recommendation should be that any landlord who wishes to repossess for himself or for his children must provide the tenant with

suitable alternative accommodation". We took the extreme view because we said we don't have to deal with problems of improvements which have been carried out by the tenant; we don't have to deal with problems of goodwill which may be attached to the premises; we don't have to consider the case in which a particular business has 30 or 40 employees. If you give alternative accommodation, we don't have to tackle those. There are two factors which one has to consider here. If you go to one extreme and you tell the landlord, "In no way - unless you give suitable alternative accommodation - can you get your property back", that it is arguable, could be unconstitutional and in breach of Section 6 of our present Constitution because that provides for the rights to property and one can argue that if you did that, if you went as far as the Select Committee have recommended, one would in fact be depriving landlords of their freehold property for ever. On the other hand, having said that, one must also take into account cases in which tenants have spent substantial amounts of money in carrying out structural alterations to their premises in improvements and one should to some extent consider the goodwill that is attached to certain premises because one must not forget that if one is carrying on a particular line of business, say in Main Street, that the landlord on making a case, on going to court and proving that he wishes to carry on a business himself, could very well carry on the same business that the tenant was carrying on and therefore the landlord would benefit (1) all the money the tenant has spent on the property (2) all the goodwill that is attached to that particular business which I think is totally immoral and totally unjust because it would be reaping the benefits of everything that the tenant has done. And the tenant has done that and at the same time the landlord has been taking rent from the tenant, the tenant has been spending money towards his business. It is all those matters which one has to consider in dealing with this particular right to possession from the landlord. The Government's view on this was that it would be wrong to go to the extreme as the Select Committee recommended, and let me say that I was a member of that Select Committee and I put my name down to that particular recommendation. The reason I did was because I didn't have the answers to the problems that one is faced with but I do recognise the constitutional right under Section 6 to the right to property. So one has to again try and strike a balance between one and the other and the Government's view on that is that the landlord should either give suitable alternative accommodation or substantial compensation, and I stress the word, the compensation must be substantial. Apart from that there should be an element which would provide or should enable the tenant to obtain money for the improvement for structural alterations which he has made to those premises. In the Bill with the amendments that have been proposed - because I must admit that the Bill at present before the House in fact still goes on the view of alternative accommodation and I think it has been made clear that amendments will be brought in order to provide for compensation to be paid instead of suitable alternative accommodation. The Government is putting forward increased periods of notice, depending on

the number of years that the tenant has been in occupation. The Government is also proposing certain levels of compensation which ought to be paid to the tenant by the landlord in those particular cases. Again I stress the intention is that that must be substantial compensation. For the benefit of those members who may not be aware of what the meaning of net annual value is, net annual value is very simple, it is the duty of the valuation officer to take what he considers to be.....

MR SPEAKER:

With respect, I do not think it is necessary to explain what the net annual value is.

HON J B PEREZ:

Yes, but the only point, Sir, is that if I don't explain what a net annual value is how do I explain the proposed amendment which is NAV or 5/6th the current rent.

MR SPEAKER:

Anyway, perhaps it would be quicker if you do.

HON J B PEREZ:

I don't intend to take long but the net annual value is very simple. What the Valuation Officer does is he takes what he considers to be the market rent of the property, it doesn't necessarily have to be the actual rent paid, he multiplies that by 12 and that gives him his gross annual value. He then deducts 16 and $\frac{3}{4}$ for repairs, I am sure that this is not known by many Members of the House, Mr Speaker, and that gives you your net annual value. There are cases in Gibraltar in which the Valuation Officer does not accept the rent actually paid by the tenant as being the market rent. Therefore, it is proposed at Committee Stage to put in the amendment that instead of X times the net annual value, it should be X times 5/6th of the current rent being paid because the net annual value approximately is 10 months rent per annum and this is where the idea of 5/6th comes in. The Government puts that in in order to try and protect the tenant who in fact is paying a higher rent than the market rent, that when he has to receive compensation in the event that the landlord succeeds in establishing that he wishes to re-occupy for himself, that the tenant should not be prejudiced by having had to pay a higher rent than was in fact the market rent established by the Valuation Officer. I must confess that I myself find that particular clause the most difficult of all. I think that is the most fundamental part of this particular Bill as far as business premises are concerned. I think I have already given credit and I think the idea of the Leader of the Opposition is one that should be looked at again, and that is the question of whether you should have suitable alternative accommodation, substantial compensation, or giving the tenant the option to purchase the landlord's interest whether it is leasehold or freehold. Whether that is within

the Constitution or not I don't know but I think the idea is an excellent one and it is something that we would have to look at.

HON P J ISOLA:

If the Honourable Member will give way just a minute because as he was talking on this Section I realised that the new legislation takes away the right that there was in the old legislation where premises were re-developed, of giving the tenant who had to move out while the development took place, the right to be back into the development, that seems to have disappeared. Is that deliberate or accidental?

HON J B PEREZ:

Perhaps I should answer it this way. In cases of re-development in the past where the option was given to the tenant, it is all very well in law to say that but in practice if I am a tenant of premises in Main Street and the landlord establishes a case of wanting to reconstruct the whole of the property, let us be honest about this, where do I go after the two years it may take the landlord to redevelop that particular property, what do I do? What good is it to the tenant to be told: "When I finish the reconstruction you have an option to go back". What about all his employees? What does he do with his employees as a tenant for those two years that it may take to reconstruct? I must confess, Mr Speaker, that the whole of these sections are misleading because there is an amendment which the House has already been put on notice, which will be put by the Government at Committee Stage. The Bill at present puts the onus on the landlords to provide the alternative accommodation. The amendment should come up at Committee Stage to provide for substantial compensation as an alternative to suitable alternative accommodation.

HON P J ISOLA:

What normally happens in a re-development is that it is divided up. In fact that is very dangerous for a developer because he will re-develop the whole building which had, say, one tenant before and that tenant will have the right to take over the whole lot under that section.

HON CHIEF MINISTER:

If the Honourable Member will give way, the old provision is that after the period of reconstruction the tenant is entitled to premises similar in size and situation as he had prior to the reconstruction.

HON P J ISOLA:

That is not what it says.

MR SPEAKER:

I think this is the sort of thing that one should discuss at Committee Stage. We are now discussing the general principles.

HON J B PEREZ:

We have already been put on notice and an amendment is to be put forward and at Committee Stage one can look at that. But the point I want to establish on the basic principles of that is the reality and the practicality and the position of the tenant, whether the landlord proves his case on the basis that he wishes to occupy the property for himself or whether he wishes to reconstruct, as far as the tenant is concerned in any event for that two years of reconstruction works what does he do with his employees and where will his livelihood come from. That is the point I wish to make because I look at re-development and possession for the landlord on the basis for a business to be carried on by him, as more or less on the same level because the tenant is still at the receiving end of both. And this is where the question of either suitable alternative accommodation or substantial compensation must come in. But what was the previous legislation, the previous legislation or the old legislation only provides for a tenant to receive twice the net annual value. I think members should be aware of this. From 1969 until today, a tenant who has been evicted by a landlord on the basis that the landlord wishes to occupy the property for a business to be carried on by him or his children, the truth of the matter is that all the tenant has got is twice the net annual value so in any event the Government's proposals as to compensation are surely much higher than what the present legislation provides. In fact, it is all based on a scale, it has already been indicated that again at Committee Stage it is proposed to increase those scales not only as to notice to quit, as to the time element, that it is proposed to increase the compensation payable. The proposal at Committee Stage will be to increase on the same basis, for example, not more than 5 years, instead of being three times the net annual value, it will be proposed to increase that and so on. Clearly, a substantial improvement and substantial progress has been made and more protection been given to the tenant in those cases. Again, I reiterate, Mr Speaker, whether some members feel that those levels of compensation do not go far enough, that is another matter because one could say instead of having a tenant who has been more than 10 years but not more than 15 instead of six times the net annual value, and instead of 18 months' notice to quit one could equally say, well, I think it should be 10 times the net annual value. That is something which I think is arguable and again it is a question of trying to draw a balance between the landlord's rights, the landlord's interests and the tenant. To sum up, all I wish to reiterate is the points that I have made on a number of occasions and that is that in no way can this Bill at present before the House be described as a Bill which goes in favour of the landlord. I would again stress that it is entirely to the contrary. The Bill seeks to give

further protection to tenants, both in dwelling houses and to tenants in business premises. The point that I again wish to point out is the difficulty in trying to strike a balance between landlord and tenant. That is open to argument and it may well be that members may think that instead of giving amortising furniture over 8 years you should have it over 15, instead of having the year 1945 you should control property up to 1950, instead of giving tenants of business premises compensation 10 times the net annual value you should make it 20. That I think is arguable but, nevertheless, I think the Government has made a conscientious effort in trying to present what it considers to be a fair and equitable balance between the relationship of landlord and tenant. The Government has tried to take into account the points I made this morning as to the landlords' rights and on the other hand see what the tenants' rights are in that respect and to see how far, constitutionally, this House of Assembly can go in its legislative powers in controlling someone's property, in regulating someone's property for the benefit of the whole.

HON J BOSSANO:

Let me start off, perhaps, by clearing the air and saying that I would describe this Bill as one that favours the landlords, having heard everything that the Honourable Member has had to say on the subject so that should enable us to get off on a sound footing. I will not attempt to emulate the approach of the Honourable Member that has spoken at such length on the subject because it seems to me that at times his contributions verge on the sort of mediaeval theological controversy about how many angels can stand on a head of a pin. Let me say that the most manifest departure from the recommendations of the Select Committee that he was a party to, was the express necessity in paragraph 5 of the front page of thereport, that the new Ordinance should basically be written in simpler language so that the general public would be able to comprehend it and it seems to me that the members of this House are incapable of comprehending it because for the last half an hour we have had an exchange of views across the floor about whether a particular clause says something or does not say it and here we have got the people responsible for passing the legislation and the people who professionally are going to be advising their clients what the legislation means and this is supposed to be the legislation that is going to be more easily comprehended by the general public. Let me say as well that to come along, Mr Speaker, and say, having been two years in the Select Committee and recommending at the end of two years that there should be a requirement that a business tenant should be given alternative accommodation, having sat on that recommendation for 7 months, having brought it to a Bill in the House in the first reading of the Bill to discover between the First Reading and the Committee Stage that it is unconstitutional, is really to stretch the imagination of anybody here. Have we just read the Constitution in the last 24 hours and not in the last three years? Nobody at all in the last three years suggested to the Select Committee before the recommendations were published.

HON J B PEREZ:

I never said it was unconstitutional, I said it could be interpreted as being unconstitutional in connection with Section 6. I never said it was. I said the danger was there.

HON J BOSSANO:

Mr Speaker, I know, but presumably it is landlords that have suggested that it is unconstitutional or perhaps the Leader of the Bar. I can tell the Honourable Member one thing, that the lay Members, who are the ones that I think I can with some modesty speak about on this subject, will see this definitely as a Bill that has been successfully shifted in favour of the landlord and I think the Government's position, quite frankly, is incomprehensible. The Government came to this House of Assembly in 1979. I quote, Mr Speaker, from page 217 of Hansard on the Budget Session of 1979, when the Chief Minister announced that legislation would be introduced during the course of 1979 to control all post-war property in 1979. They went to an election in 1980, they got re-elected, they had a clear mandate on that part of their policy, however unpopular it might have been with landlords, because in fact they announced they were going to do it in 1979, they did not do it in 1979, the Chief Minister said: "That is, we propose to introduce a limitation on the price of post-war flats, which are not furnished". And the limitation was going to be 15% increase at the time that he introduced a 33% increase on pre-war flats and a 25% increase in tenement dwellings. And he announced in the budget a 60% limitation on rent increases for post-war properties. And it did not happen in 1979, and it did not happen in 1980. And he came along in 1981 with a Bill which was more favourable to the landlord than what he had intended to do in 1979. The 1981 Bill proposed to limit rent increases to 10% per annum but only until 1986. That is, between 1979 and 1981 they had been allowed to increase however much they wanted. After 1986 they were going to be allowed to do it again, but between 1981 and 1986, for the five year period, they were going to be limited to 10%. But, clearly, that was from a landlord's point of view, not as bad as the 1979 proposal. And in fact, the landlords, quickly organised themselves into the Property Owners Action Group and lobbied against this, and we then had a Select Committee, and the Select Committee produced its recommendations, and the landlords then produced a list of objections to the recommendations of the Select Committee, and we see those objections taking shape in the law, and the Honourable Member spends two hours trying to convince, I am not sure whether it is me or himself. He may have succeeded in convincing himself but he has not succeeded in convincing me, that the law is not in fact in favour of landlords. Of course it is in favour of landlords. It is in favour of landlords in respect of everything that has been attempted and been still-born until now since 1979.

HON J B PEREZ:

But not as far as the old law is concerned.

HON J BOSSANO:

Well as far as the old law is concerned.....

MR SPEAKER:

No, we are not going to have ding-dong. From now on you will not give way.

HON J B PEREZ:

All my points, Mr Speaker, were based on the Bill as present before the House and the legislation as it exists today. I was not comparing the Bill with the Report of the Select Committee. I made that quite clear from the very beginning. This is why I said that in no way, in my view, could this Bill be interpreted pro-landlord, rather it was pro-tenant compared to the old law.

HON J BOSSANO:

I would dispute that and I will in a minute, Mr Speaker, but presumably the Honourable Member must accept that just because he chose not to refer to his recommendations it does not preclude me referring to them. And if his recommendations are more objectionable to landlords than what he is presently subscribing to, then he has been shifted from being pro-tenant to being pro-landlord. I don't see how he can dispute that. And to come along and say that in the Committee Stage they are going to introduce compensation to protect tenants from the fact that they are taking away in the Committee Stage the protection that they have introduced in the First Reading, I mean, how many mental conjuring tricks does one have to do to swallow that one. If he is so keen to protect tenants all he has to do is not to move the amendment to take away the need to give alternative accommodation. That is all he needs to do. And then if it is said to be unconstitutional let it be tested in a court like the measure introduced at one time by the Minister for Economic Development when he was responsible for Consumer Protection which I supported and I am still waiting to see re-introduced. I supported it in this House, other Members of the Opposition did it because it was going to protect consumers, it was challenged by the Chamber of Commerce because it was unconstitutional, it was lost in court, the Honourable Member had to come here and withdraw it and he announced that he was going to find another way of achieving

the objective and I am still waiting because he convinced me to vote in favour and he has not come back since. The fear of it being unconstitutional, I am afraid, cuts no ice. Let me go back to what it is the Select Committee has done or tried to do. Having started off in 1979 with a declaration of Government policy of controlling post-war rents, we finish up with a Bill that controls war rents because the rents are controlled pre-war, no houses were built during the war, a number of them were destroyed, and we are now controlling for the first time all the houses built between 1940 and 1945. What is it in protection of tenants that has persuaded the Member who signed the Select Committee's Report that he should go from 1954 to 1945? What is it in protection of tenants that is going to produce an amendment to take away 1964 for furnished accommodation and replace it by 1954. All these measures in favour of tenants that we are being told I see as being an only and exclusively in favour of landlords, and I am not saying that what the Select Committee produced is sufficient as far as I am concerned, let me make that quite clear, I don't think it goes far enough. What is being proposed now does not go as far as the Select Committee recommended. The Honourable Member said the Select Committee was too extreme, I consider that the Select Committee is too mild so obviously the present Bill is not going to get my support, Mr Speaker, and I am talking on the general principles and therefore I do not intend to go into detailed examinations of one clause or another clause because it is the fundamental principle of controlling post war rents that I am talking about. And I do not believe that it is true to say that the onus is now going to be on the landlord as opposed to the tenant. The rents of places that are rented furnished at the moment, that are pre-war properties, pre-1940 properties, of which there are 2000 houses in Gibraltar, a third of the housing stock is pre-1940, those places that are rented furnished are rented so illegally. If the landlords have been able to get away with it because the tenants have been frightened to complain, those tenants will not even be aware that the law has been changed, unless the Honourable Member is saying that the Rent Assessor on his own initiative, without anybody approaching him, is going to do a house-to-house inspection in Gibraltar to establish what the rent should be and fix it and enforce it. Then he will certainly need more than two Rent Assessors, he will need an army of Rent Assessors to do that. And not only is it just a question of people not complaining, even when people are approached, Mr Speaker, I have brought up in the House before the question of immigrant workers living in pre-war furnished property which, presumably, is totally illegal, but nevertheless registered as such, I do not know how, where the tenant has got a legal rent of £16, and I have got photocopies of all the documents here, a receipt for £25 and actually paying £35.

The only reason why nothing is done about it is because having brought the matter to the attention of the authorities I am told that the landlord can be taken to court because it is certainly illegal, but then the moment he is taken to court he will just re-register the premises and throw out the tenant so what is the use of the tenant then complaining even if he knew he had the right to complain. He will deny that he is being overcharged. The basic protection must be that if somebody is guilty of breaking the law, then he should not be able to benefit simply by paying a fine which will be an insignificant proportion of the illegal profits that he has made and then getting rid of the tenant and replace him with a new one who probably once he has heard of the experience of his predecessor will certainly not complain. And this nonsense, Mr Speaker, of saying the property in 1964, under Section 32, and it is no longer 1964, even 1964 is too extreme for the Government, so now it is going to be 1954, the property up to 1954, if it is let furnished, it has to be let at a rent which is not exorbitant and therefore it is a rent that the court will determine provides a reasonable profit expected from a similar letting for the year ending the end of this month. And the Government says that is too extreme and they go now to 1954. Well what are they saying then, that if a house is built after 1954 it is alright to have an exorbitant profit, then it does not matter, the rent can be as exorbitant as they like and the Government accepts that. I don't see why anybody should make an exorbitant profit on any property of any age. What is wrong with saying that people should make a reasonable profit irrespective of the age of the property? Why do we need to say 1964 if it is going to inhibit developers. Well it is not going to inhibit developers. If the only sort of developers that we can get in Gibraltar are the people where every enlightened parliament in Western Europe penalises because they are not developers, they are speculators if they need to make exorbitant profits. Because this law isn't in fact saying that people should make no profits. They are not saying we are going to confiscate their property. What they are saying is that their profit should be what might reasonably be expected in 1983. And what is wrong with that? And why is 1964 too recent a date? Why should it be 1964, why shouldn't all properties be subject to that? Why should they be told that they have to make a reasonable profit if it is furnished but if it is not furnished then it does not matter, they can then make an exorbitant profit? Where is the philosophy and the logic that is running through this legislation. Because I cannot find it. To me, it seems to be a Bill which is the result of conflicting pressures and it has been defended from both sides of the House on the grounds that if nobody is happy with it then it must be a good thing because if you are not satisfying anybody with what you are doing that shows that you are being fair. Well, I must

say it is an extremely odd principle on which to make legislation. Should we then apply that across the board to all our legislation? If we are all unhappy with all the laws then that means that they are all very good laws. Nor can I accept, Mr Speaker, that the Bill as it stands now or as it will stand at the Committee Stage, plus presumably whatever amendments to the amendments appear between now and the Committee Stage, is anything other than a reflection of conflicting pressures, and it seems to me the only thing that determines what is the final shape of this piece of legislation is who gets to apply the pressure last before the thing goes past the finishing post. I can tell the House that, certainly, if the Bill is passed and if there is a GSLP Government, it will be repealed.

MR SPEAKER:

Are there any other contributors to the debate?

HON A T LODDO:

Mr Speaker, having missed the first and second contribution, I might be in the course of my intervention making a number of mistakes but no doubt Honourable Members will jump up and draw my attention to it. Mr Speaker, I as a Member of the Select Committee on the Landlord and Tenant Ordinance, supported, and I still support, the report of the Select Committee. As far as I am concerned, that report was not what I would have liked to see but I accepted it because it represented a consensus. Mr Speaker, I believe in collective responsibility and if I sit on a committee there are two things I can do. Either I can come to terms with that Committee or if I find that I cannot come to terms I will leave. I found, Mr Speaker, that, by and large, I could come to terms with the Committee and therefore I appended my signature to the Select Committee's report. Mr Speaker, I support the Report but what we have now is so far from the report that I find I cannot support this. In an earlier intervention in this House, my Honourable Colleague and Friend, the Honourable Mr Haynes, said at the time that he found himself more in agreement with the Government's line than with the line adopted by the Select Committee. At that same meeting of the House, I also said that I was glad that I would be able to have a second bite at the cherry and that is precisely what I am doing now. I, Mr Speaker, am not in agreement with the Government's proposed legislation nor with the sentiments expressed by my Honourable Friend and Colleague Mr Andrew Haynes at the time or I am sure, with what he will be saying later on in the course of this debate. Mr Speaker, I believe that the Landlord and Tenant Ordinance is the most important piece of legislation to come before the House in the last 4 years and it should be a matter of regret that in this case it

is not going to be a free vote because at the end of the day we will all have to be voting along party lines although I would like to state here and now that as far as I have been able to judge, the only party line that I can call a party line has been that proposed by Mr Bossano. The Government have produced what they think is right or what they think is expedient, and we on our side have not yet been able to come up with a precise party line. Mr Speaker, I believe that this piece of legislation is so important that it would not be amiss if Members of this House were to declare an interest. I will declare an interest here and now. I am a tenant, I have no property, I do not represent anybody who has property, but, I would also like to say, Mr Speaker, that having sat through the deliberations of the Select Committee I am not insensitive to just and reasonable requests. I would also reassure the House that in sitting in this Select Committee I did not want to favour anybody, I was not thinking on the lines of being pro-tenant or being pro-landlord. I sat through the meetings of the Select Committee merely trying to be pro-justice. Mr Speaker, for my sins I was for a number of years a Public Health Inspector and I know Gibraltar virtually inside out, I know properties in Gibraltar virtually inside out. I know landlords, tenants and Estate Agents like the back of my hand. I have seen people paying for furnished accommodation when the furniture in these premises would not be given a second look by Mr Tapiero and yet these people have been paying through their noses, Mr Speaker. I would have thought that after so many years, the legislation on Landlords and Tenants would have been a really comprehensive piece of legislation and a piece of legislation to which, Mr Speaker, with all due respect, lawyers would have found it damned difficult to get around because it is well known that lawyers can always find a way round legislation. Not being a lawyer, I approached this piece of legislation, Mr Speaker, with naivety, I was one of those who wanted it to be in simple language, I wanted it to be something that was just reasonable and as far as possible foolproof. We were having to deal, Mr Speaker, with three aspects. Unfurnished accommodation, furnished accommodation and business premises and I believe, Mr Speaker, that the report produced by the Select Committee was a fair report if for no other reason that everybody disagreed with it, landlords, tenants, businessmen, everybody seemed disappointed with it. I could only draw my own conclusion and that was that if it didn't please anybody it must have been fairly near the mark because I have always said that there are three sides to any story, one side, the other side and the truth that must lie somewhere in between and I think we arrived somewhere in between. Mr Speaker, I am afraid that the legislation as proposed by the Government now, gives the landlords a blank cheque. I am not against blank cheques if they are just or the reason for giving them is just.

I don't think in this case it is. And in the peculiar circumstances of Gibraltar, Mr Speaker, I don't think this is right. Anywhere else in the world far bigger than Gibraltar, a businessman is given notice to quit and he can look around and he can find premises. In Gibraltar if a businessman is given notice to quit he is virtually without a way of life. There are two questions, Mr Speaker, which I would like somebody to answer for me. I have asked them before and I have never had a satisfactory answer. One is, Mr Speaker, that if you go to a bank in Gibraltar to get a mortgage, you will be very lucky if you can get a 15-year mortgage so my question is, does this mean that it is reasonable to expect anyone to pay for his property in 15 years? If you can only get a 15-year mortgage is it reasonable to assume that a person can expect to pay for his property in 15 years. If not, I am afraid then that the bank is squeezing you to death so if it is reasonable to expect that the property be paid for in 15 years, if you have a property for 30 years presumably you would at least have made 50% on your property. Not 100%, 50%. So my next question is, how long does anyone expect property in Gibraltar to last? And I am not referring to the property that is being built today, concrete, steel girders, I am referring to tenement properties that were built when the materials for construction were wood, brick and lime mortar. How long is a property built in wood, brick and lime mortar supposed to last? Mr Speaker, the way property changes hands in Gibraltar one would think that these tenement buildings which were built 150 years ago were meant to last like the pyramids of Giza. A property that is 150 years old Mr Speaker, is in a terrible state of repair, yet it changes hands at the fantastic price and then the new landlord complains that he has no money to repair it and that property has already been paid for 100 times. How long is a property supposed to last and how much profit can you expect from a property, Mr Speaker? Mr Speaker, I am afraid that although I would like to expand, I am not completely prepared for circumstances which need not concern the House, I am not completely prepared for my intervention today so I will have to wind up sooner than I expected to do but I will say that I do not believe that the legislation as proposed by Government will do justice, I believe that the legislation produced by Government will only benefit a handful of people at the expense and at the anguish of the majority of the people of Gibraltar and I can only express my regret that the other members of the Select Committee have suddenly or gradually decided to change their tune. I stand, Mr Speaker, by what I have stood all along - justice - which I am afraid will not be done if this legislation goes through. Thank you, Mr Speaker.

HON ATTORNEY-GENERAL:

Mr Speaker, just as a matter of record. I appreciate that this Bill complied with the Standing Orders for the minimum period of time possible but also say in passing that in fact it was not gazetted last Thursday, it was gazetted on the same day it was delivered to Honourable Members. It was gazetted at the same time as it was published. I would also reiterate the

point, Mr Speaker, and perhaps elaborate on it slightly that the substance of this Bill, this is a big Bill, and much of the substance of this Bill is to be found in the Bill annexed to the Select Committee's report, and so to the extent that this may have any matter which Honourable Member may think takes them by surprise in it, such matters are nevertheless limited to a number of specific aspects of the Bill and one or two or perhaps three or four may be major aspects but nevertheless they are identifiable as specific aspects of a Bill which, not in printed form, but in a typed form was annexed to the Select Committee's report some time ago. I had hoped, Mr Speaker, to perhaps speak later on in this debate, after hearing other legal points which may or may not have been raised, but I will cover the ones which have been advanced so far. So far as the question of whether the Bill applies to the Crown is concerned, there was nothing in the Select Committee's proposals and nor is there anything in the green Bill, if I may use that expression, which in any way changes the law or which is in any way intended to change the law from that which prevails now under the existing Ordinance, there were no new provisions at all as to applications of the Crown. That in itself, I think, wasn't an issue which the Select Committee addressed in any detail, it may be an issue but it is not one of the principles incorporated in the new measures proposed in this Bill. So anything that is said about the application of Landlord and Tenant legislation to the Crown, I think really touches on another subject or a completely separate aspect of the matter. The second point, Mr Speaker, is the question of whether or not aspects of the Bill might be unconstitutional. All I want to say in that respect is that it is not quite correct to say that the possibility of unconstitutional aspects of the Bill was overlooked for a long period of time because in fact the Bill as originally annexed to the Select Committee's report did not have the change which was proposed more recently and which we decided after a very short period of time, on reflection, could cause problems and that is the change that takes away the upper limit of 14 years for the Court granting a new tenancy. I think it would be safer to have an upper limit on the length of the tenancy that could be granted because although I believe I am correct in saying that no court case in Gibraltar has yet successfully challenged the question of whether rent controls are unconstitutional there has been at least one case which was decided some two or three years ago where the judgement did come quite close in one respect to perhaps sounding a note of caution that there must be overall criteria on limitation so I think it is necessary to have an upper limit on how long a new tenancy can be granted for. So far as the Rent Tribunal is concerned the provisions on rent tribunal are not really directed towards saying you only need a quorum of 3, not directed towards them in the sense that it is concerned to establish a quorum as such. To understand it I think it is necessary to go back some years, some two or three years or perhaps to 1979, when we were having problems of being able to fill the rent assessment tribunal and that this measure actually is an updated version of an earlier proposal that was intended to eliminate this problem purely from a machinery

point of view, and to eliminate it by in effect establishing a panel from whom a three man tribunal could be constituted at any time and that is why the Bill says that there are seven, I think, members appointed to the tribunal, including a Chairman who must be legally qualified and including a deputy Chairman who must be legally qualified and any three members can at any time constitute the tribunal providing one of them is either the Chairman or the Deputy Chairman. As I say it was not intended to undercut the normal law for a quorum which is commonly a majority or half plus one, which is the same thing I think, but it was intended to enable elements of the tribunal to sit and if one of the lawyers couldn't sit or some of the members couldn't sit one week then any other three, including a lawyer, could sit and deal with the matters before the tribunal. That was the purpose of that. Mr Speaker, an important aspect of this Bill, I think, one to which importance is attached, is the question of how long a property remains a statutory tenancy. In other words, who are the statutory tenants and the purpose of the Bill in this respect, the intention behind the Bill is quite clear, namely, that you have your statutory tenant on his death it passes to certain members of his family, on the death of the one to whom it passes it may pass once more to a member of the family but after that the process of succession has ceased. Whether or not it achieves that and I am not at all persuaded that it doesn't achieve that, but whether or not it achieves that I think is really a matter of drafting detail rather than a matter of policy and will be looked at as such. But the intention is certainly that there should be succession twice and then the run of the statutory tenancy should cease. Generally, Mr Speaker, on the question whether or not particular clauses achieve what is desired or may not achieve what is desired, is one which I think is more appropriate for committee. I cannot help commenting that the difference the Bill is that unclear I am not quite sure why members are able to identify so easily the points that concern them, it must be at least clear to that extent. There is an important aspect to the whole Bill which is what I would call the transitional aspect of it and there are transitional provisions in the Bill already which are to be found at the end but in the course of debate some points have been made and I think that those transitional provisions do require as a matter of detail some further additions or amendments to make sure that while on the one hand the Bill proper is speaking about the law as it will be for the future, the transitional parts will cover the situation of existing properties which have to be brought under the regime and there will be proposals in committee to deal with that and some of those have been outlined already. I was not invited to go through the Bill clause by clause as I think that is a matter for Committee Stage but if I can give a very general gloss on the layout of the Bill. Basically, what has been done is to break up the legislation up in distinct elements, the usual preliminary provisions for any statute of this nature, in which I have tried to bring forward as many definitions as possible because at present they are split up throughout the Ordinance in many respects, the existing Ordinance, and it is much easier to look at them as a whole

at the beginning to deal with the administration that needs to be set up to carry out the intention of the Ordinance. Then to deal with domestic premises, then to deal with business premises and finally, to deal with matters of general application, I am leaving aside the Schedules, of course. I would draw attention to the fact that one very important provision of this Bill, because of the way it is structured, what is found now in Section 3 of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, that is now found at the beginning of the general part of this Bill and that is the provision which is the grant of relief clause, which says in effect that apart from all other provisions of the Bill, apart from all other provisions, the court has that residual discretionary power to decline a remedy for possession if it thinks that there will be undue hardship. That provision, which is an important principle of Landlord and Tenant legislation is preserved and it will be found in the general part of the Bill instead of at the beginning where it now exists. Another particular point which was made, Mr Speaker, by one Member was whether or not the Rent Tribunal will be able to charge fees for what it does. The answer to that is yes, and that will be found in Clause 80 of the Bill under which regulations can be made to enable fees to be charged for the proceedings before the Rent Tribunal. Whether or not such fees are chargeable Mr Speaker, I think depends very much on the philosophy of the Government because there is a view that whereas you may have to pay fees to go to court, rent tribunals are a more informal administrative system, or body, and that it may not be necessary to charge perhaps such high fees for the proceedings before the Rent Tribunal as such. One other general matter I would like to touch on, Mr Speaker, is the question of the jurisdiction of the court, the question of which court should have jurisdiction for the purpose of the business premises and the Minister has already indicated that the Bill will provide now for the Supreme Court to have jurisdiction and I think that I may say as well as the Minister that that does reflect I think a fairly widespread feeling amongst people whose business is to deal with legal matters relating to business premises under the Ordinance. So far as two things are concerned, first of all, whether or not there will be a backlog of work at the outset, and whether or not work in the supreme court can be handled speedily is concerned, it is perhaps unnecessary of me to observe in passing that there are now on the Supreme Court two judges, so that I think is a good reason why matters under Part 4, under the business provisions of the Bill, can conveniently be referred to the Supreme Court which will at the same time meet a desire which was quite widely expressed to retain the jurisdiction to that court in relation to business premises. Mr Speaker, notice has already been given that there will be a number of amendments being moved in Committee and the Government will be in a position to circulate these shortly.

HON A J HAYNES:

Mr Speaker, whilst speaking on the general principles of the Bill, I would like to refer also to the general principles which concern the relationship, the legal relationship, between

a landlord and a tenant. As far as I am concerned, this legal relationship should be as loosely defined as possible. It should be as loose fitting a garment as can possibly be tailored. It must respect, therefore, the principle of the right to own property and by property I include not just real estate but property in its more general form. It is a policy which I think everybody in this House, all Members would subscribe to, and Landlord and Tenant Ordinance is, perhaps, the Bill or the law which most closely constrains that right to ownership. As such, it is a traditional parliamentary or legislative example of where the right to ownership is eroded. In the circumstances, any legislative body must be cautious when looking at a Bill which will further erode the right to property ownership. Of course, the reason why an erosion has taken place is because where you leave two parties to negotiate and one of them is in an unfair position, you have an even greater social evil and that is extortion or exploitation and of course, if man is not civilised enough to be allowed to negotiate fairly, then the legislature must intervene to ensure that that social justice is maintained and that is the only reason why there is a need for a Landlord and Tenant Ordinance. But, of course, when you regulate the position between these two parties, each will see justice from his own point of view. I only agree with my Honourable Colleague, Mr Lado, I think, on two points, and one of them is on this, and I also support the Honourable Minister for Medical and Health Services. He stated that this Bill cannot possibly be to everybody's satisfaction. But one must go further than that, Mr Speaker. Justice is obviously subjective, in this case it is subjected to the 15 Members of this House who are considering the matter, and as regards the position of any landlord or tenant, it is relative and comparative. And the word comparative is a very important one in assessing the justice of the matter and it is something which has been created in this century. The whole of the concept of comparative justice for landlord and tenant has come about as a result of Government responsibility in housing. But before I go into that particular point, Mr Speaker, I would like to further this point which has been highlighted by my Honourable Colleague, Mr Bossano, and put up to ridicule. It is not a matter for ridicule that the matter of this Bill will not be to everybody's satisfaction. What is most important, Mr Speaker, is that whilst not everybody is happy with the entire contents of the Bill, that most should be happy that as far as some of it is concerned it is exactly what they want and other parts may not be exactly to their liking but at least they are acceptable in the sense that the entire package is acceptable. It would be far worse if the package were not acceptable to one particular part of our community. Such a Bill would be against the democratic principle which, in my view, the secret of democracy is respecting the rights and the views of the minority without holding the majority to ransom. In a Bill of this nature where we are talking about the subjective matter of one's individual pocket or justice, it is of course a very difficult area to judge on. But when one considers whether in fact this particular Bill has achieved that balance, we must consider the factors which fall from one

side or the other, the relative and the comparative pressures, as I cited before. I think the fact that Government has a responsibility in housing, is, in my view, the most important factor when viewing as members of a Select Committee, the Landlord and Tenant Ordinance. It did need revision and here we have an alternative. I do not think that the future of the landlord is a rosy one. If one looks at it comparatively, we now have a public landlord - Government - and no private landlord can possibly compete and so the tenant of the public landlord will obviously be in a far better position than the tenant of a private landlord and the comparison they make between their own position, those of a private landlord and those of the Government landlord, the comparison will not be in any way favourable to the private landlord because the private landlord cannot subsidise his tenants both in rent and repairs and the Government can. And today we note, and it is socially acceptable, that we have subsidised Government tenants and the subsidy in Gibraltar, as far as tenants is concerned, is not based on a means test, it is widespread. We have a subsidy which runs to the tune of £1.5 million or something of that nature. We have Government, a public landlord, subsidising the rents of the tenants. We also have that same public landlord subsidising the repairs of the property so that if the rent of any particular estate comes to the figure of the costing which the Public Works, for instance, may submit as the repair figures, then Government does not say: "We are not going to do it because the rents are not equal to that". No, Government effects the repairs if it has taken the decision, politically, to do the repairs. A landlord cannot possibly do that. A private landlord cannot compete with the Government landlord. In the relative term, which is also the other matter which one must consider when assessing the justice of the Bill, we have in Gibraltar, we are talking about our own situation, the relative matter concerning rent restriction. Which tenant in Gibraltar is going to be happy paying £40, £35, £50 a week when he knows that somebody else has an even bigger flat for which he is paying £5 a month? How can that tenant ever be happy with the rent he is paying on a weekly basis? And it is on this particular point that I would take my Honourable Colleague to task, I found his intervention was, as always, inspired, Mr Speaker, but he didn't have the courage to say that rent restriction should come to an end and that, really, is something which must be said. I remember that he stated, however, before the Select Committee was appointed, and he has not repeated it now that the Bill is here.

HON J BOSSANO:

If the Honourable Member will give way. What I have said is that a Bill that was brought to this House in 1981 and which was promised in 1979 to rent restrict unrestricted properties, has now been transformed into a Bill that removes the restrictions where it existed as has just been confirmed by the Hon Member. If that is not shifting the Bill in favour of landlords I do not know what it is.

HON A J HAYNES:

Mr Speaker, the Honourable Member has missed the point that I was making which is that rent restriction is one of the factors which has resulted in the difficulties which the Select Committee faced when assessing the justice of a new Bill. That really brings me back to the point. The loose fitting legal garment which I would like to see in relation to the Landlord and Tenant Ordinance is desirable because where a legislative body interferes between landlords and tenants or, indeed, any parties you find that it is impossible to draft legislation which will fit every single event which will meet the circumstances of every single case. And also that legislative body, for good or for worse, is subject to political pressure. The Government of the day is not the Government that has been in continuous power since the measures were introduced since they introduced rent restriction and no Government that has been in power has felt strong or able to remove rent restriction whether they agree with it or not. That is one of the problems, when you introduce legislation of this nature it is very difficult to undo. In the circumstances, rent restriction I believe has led to a great deal of the problems which face us today. And at this point I would like to stress the fact which no-one seems to make, that the landlord and the tenant are all Gibraltarians, they do not belong to different races. People take advantage when they are in the hot seat. I know it is fashionable only to criticise the landlord and I do not defend the landlord who exploits, who would? But I would stress that the comparison can be made between that landlord who charges £50 or £60 a week for furnished accommodation which is not rent restricted, ie one who is making a hefty profit, a comparison can be made between that man and that tenant who lives in rent restricted accommodation and has done so for umpteen years and has paid nothing and has not complained that he is paying an unfair rent. We have had as many examples of tenants, therefore, who will take advantage of that situation as of landlords because they are all people, Mr Speaker. And if as I say, the demise of the private landlord is here, it has got to be, there is no future for the private landlord, people will not tolerate the position of the private landlord in the same way as the future of domestic servants came to an end in England after the First World War. The relationship between master and servant for perfectly different reasons became obsolete, it became obsolete, Mr Speaker, it was no longer socially acceptable. In different circumstances the private landlord has come to an end of his use in our society. In those circumstances, Mr Speaker, I sought to end finally his role, and who is going to replace him, Mr Speaker? Two persons, the Government, the public landlord, and the home owner. I would like to see Gibraltar populated by people who own their own homes and I am sure that that is what we all subscribe to. Certainly the Committee in its report says that that is one of the aims it wishes to achieve. But I do not see that we will ever achieve that unless we take the bull by the horns and say no to rent restriction. I know that to say no to rent restriction will bring a series of very genuine worries and

problems to those who live and presently occupy rent restricted accommodation. My only concern is to say to those that they must at some point, at somewhere or other, they must actually put their trust in the legislature. If there is good faith in those who want to bring an end to rent restriction then it will be done in such a way as to minimise, if possible, the adverse effects or the dangers or the pitfalls that lie in the way of dismantling such a structure. This Bill, however, Mr Speaker, when one assesses it, and may I first of all state that it is an improvement, in my view, on the previous Bill, on the previous Landlord and Tenant Ordinance, and it is also an improvement on the Select Committee Report Draft Bill. Nevertheless it has serious failings, a number of which have been highlighted by my Honourable Colleague, the Leader of the Opposition, and one also which has been highlighted by my Honourable Colleague, Mr Bossano. As regards the point made by Mr Bossano, I am concerned at the point that he made that if the legislation specifically states that dwelling houses built post-war and after 1954 will be covered by this provision of exploitation which is the old Section 13 in the last Ordinance, that this would not apply to other flats because I think it could be construed as exclusive legislation so that any tenant pleading exploitation on the part of the landlord in respect of a flat built post 1954, would be excluded from such a plea on the basis that the legislation specifically deals with the matter and restricts its implementation to post 1954. If I may bring to the attention of the Members of the House when and how this particular Clause is introduced. It was introduced really as a test section, as I remember. The idea was that we weren't sure what to do in respect of furnished accommodation, what restrictions, if any, to introduce, and we thought that at least a comparative figure for reasonable rent would be appropriate, but, of course, we do not know whether this section will be invoked or used or implemented or relied on at all. In my experience, Section 13 certainly hasn't been used for the last 10 years in the Gibraltar courts. But to get a section like this one off the ground there is no reason why in fact it should not apply to all accommodation. The way one could get this section to provide some security from exploitation and when we are talking about exploitation we are talking about totally unreasonable demands on rents, and we know there are one or two incidents in Gibraltar of such a matter, then, surely, the answer to that is to have something like a community lawyer, Mr Speaker, who can be made available, I am not offering my services, Mr Speaker, who could be made available to the community at large without the risks or the fears or the inhibitions which seeking legal advice and the costs that that can pose, may put off people. The Rent Assessor is already involved in this but the idea of a community lawyer to advise on this is all we require. I am very glad that this section is something to be adjudicated by the courts. It is a proper matter for the courts to consider the reasonableness of rent. And the only way that we will see this section control those unscrupulous landlords, is by having that section implemented frequently. If the courts are going to be able to decide on the reasonableness

or otherwise of any given rent, then they must have a file of precedents, and they will only obtain and they will only attain that kind of expertise through practice. If we are to afford, the people of Gibraltar, the kind of protection which this section seeks to afford, then we must ensure that it will be relied on and used as frequently as possible and that I think will only be possible through the services of a community lawyer to whom someone who applies would be required to pay a minimum and standard fee. It would not be completely free, there would be a payment of say up to £50, to avoid frivolous requests. As regards the other point which I think requires amendment in the legislation, one comes to the point made by the Leader of the Opposition relating to that rather emotive issue which is the terms of notice in respect of business tenancies. I cannot help feeling that we still haven't got the right mix. I know that we have come closer to a fairer assessment by removing the old terms of accommodation but I still think that we have not got the right mix and I would like to see a clause that may be operated by the tenant which enables him to buy a 99-year lease. I would like to see a landlord obtain possession without (1) either such a long wait or such a high amount. I think that when we are talking a rent of say £8000 per annum and the landlord is expected to pay £48,000 that really is unrealistic, it is too high a sum so perhaps the courts could be relied on to arbitrate. Mr Speaker, I find that a court given a discretionary power is able to apply justice to the circumstances of a case whereas a legislative body apply a rule which is applicable whether the case meets those requirements or not cannot help but make blunders, make instances of sacrifice. In the previous Ordinance, which is already outdated, regrettably, those powers which were discretionary and developed on the court, were not used and the vast majority of lawyers, especially in relation to the private dwelling side, I think, did not even attempt to even use those discretionary powers of the court which were open to either landlord or tenant and the courts for the most parts, were kept out of the picture. That has been caused, in my view, by the lack of accessibility to the courts which should be obviated by a community lawyer. That is why, for instance, Mr Speaker, Action For Housing can send me and can make known publicly the enormous amount of cases where tenants have been in situ, paying rents where there is no Section 74, where there is no application under Section 25 to the courts, ie Mr Speaker, cases where tenants have occupied premises which are rent restricted and which they have taken no advice on. A community lawyer is required to prevent that sort of fear of going before the courts, to obviate that fear, and also to take to the courts, because you are not risking your client's money because you are a community lawyer, the kind of cases which we require to have the discretion of the court built up through practice. I would like to see in so far as the notice to quit side of things, the court having power to decide on the justice and the merits of any given case within the framework granted by the legislation. Regrettably, the courts are not invoked enough, in my opinion, in this particular Landlord and

Tenant Ordinance. Mr Speaker, another way in which you avoid the legislature being clumsy and in imposing a series of rules which may not apply to every case, is by adopting a different principle, and that is that Government should subsidise the tenant and not the flat. In that way, again you have recourse to judging the merits of each individual case which allows for fairness. That is the principle which is not apparent in this legislation except for the provision under Section 35 and although it goes far enough in so far as it is there, it does not really promise a change of policy which I believe is necessary so that we are looking to the tenant and not to the flat. Mr Speaker, in the brave new world where we genuinely try and tackle the problems between landlord and tenant we would also seek to have uniformity of action from the landlords. I would like to see, Mr Speaker, Government making representations to the landlords association to ensure that their reaction following the introduction of this Bill is one of a uniform approach. We would not like to see some landlords taking immediate advantage, others holding back, and so forth. I think there ought to be some asset to give the private landlord, insofar as possible, a corporate view, ie give it the kind of uniformity which Government, as a public landlord, can apply. Otherwise, Mr Speaker, we run the risk of once again stirring up those social problems which have resulted and which have lead to this particular Ordinance being revised. As it is, Mr Speaker, the Leader of the Opposition complains that we will be in January looking through a new Landlord and Tenant (Amendment) Ordinance, I am saying, Mr Speaker, that this Landlord and Tenant Ordinance does not go to the fundamental problems and as such, it will be plaguing us, it will be a political hot chestnut for generations to come. I think the legislature must have the courage to do away with the discrepancies of those things which may lead to social injustice, and I think that rent restriction is the greatest of all of them, Mr Speaker. And coming to that point, on the specifics in this Bill, I know the view of the majority of my colleagues is to perpetuate rent restriction, but having said that, Mr Speaker, there is only one light which gleams at the end of this tunnel, Mr Speaker, and that is that the rents have been brought up to a more realistic figure. That may, Mr Speaker, encourage that trend for home ownership which I prescribe to because it may make the rents realistic enough to be equivalent, perhaps, to the mortgage payments which the tenant would have to undertake in order to make a purchase. Finally, Mr Speaker, I think there is one flaw in that, I will not go into the quantum of it, I will go into the assessment. I don't think that there is a case to have the 100 foot maximum for a square. It appears as the second paragraph in the First Schedule, Mr Speaker, a square means 100 square feet of the floor space of a dwelling house. This leads to very complex computations when assessing rents for a flat. I think that the square should mean whatever the square size of any given room is. I am not having this sort of arbitrary idea of size. Again, whilst talking on the specifics of the Bill, Mr Speaker, I had one small point to make in relation to Section 32 is this section whereby a landlord who wishes

to develop pre-war accommodation may do so. Here, under Section D, the whole thing would come to an end of one sticks rigidly to that Clause which says: "No undue hardship will be caused to any tenant of the dwelling house by the structural alterations". Well, I think it would be too easy to make a case for hardship in the sense that one is deprived of space, in the case of every tenant. But I think, Mr Speaker, that there again we have another Clause where the courts should be allowed some discretionary power beyond that of hardship. I think that the court should be entitled to refuse the development if they feel the hardship in the circumstances is great, because there is always going to be hardship, Mr Speaker, or if they think that that hardship can be redressed by financial compensation, then the courts should state what the amount of that compensation should be and make that order. And so, Mr Speaker, I will be moving an amendment to Section D so that the courts would be empowered to assess whether the hardship is such as to stop the development or order compensation to be ordered to the tenant. The reason why I stress or I even consider the idea of changing this section, is because, again, Section 22 is another of those sections which may lead to home ownership in Gibraltar. It is one section which deals directly with rent restricted property. I think it is common knowledge and perhaps the House will take note that most rent restricted flats are far larger than present modern day furnished flats. And as such, Mr Speaker, those large flats are suitable for conversion and as such they will lead to an increase in the housing stock of Gibraltar and, Mr Speaker, one would hope that when the conversion has taken place they will lead to a sale rather than to renewed letting. But again, Mr Speaker, that is the principle of home ownership. If Government do subscribe to home ownership, then I ask that they take seriously the proposed amendment to Section 22D. And also, Mr Speaker, whilst we come to the point of home ownership, we should also have from Government in the same way that they have gone to the trouble of entering Section 18 which indicates that Sinking Fund contributions by the landlord will be beneficial to income tax return, which I think is a good measure, one which I remember I initially proposed in the Select Committee which was over-ruled but has now come back, I am glad to see I would also ask that Government - I think the Chairman looks askance, but if he checks his records he will find I am right - the other matter, Mr Speaker, is that if they have gone to the trouble of introducing Section 81, I think they should also introduce legislation to enhance home ownership by giving the landlord the kind of incentive to enter conversion and more especially, Mr Speaker, by giving the tenant the kind of incentive to take on a mortgage. This may mean long-term mortgaging facilities which are not, regrettably, available in Gibraltar, being financed or partly financed by Government. Whilst I am on the subject, Mr Speaker, I would like to see all that kind of incentive going to both landlord and tenant for improving their housing stock. Financial incentives apart from just income tax incentives. That is the only way, Mr Speaker, through pride in your home and through fiscal incentives and through under-

mining rent restriction that we will obtain home-ownership. Otherwise, Mr Speaker, we are just paying lip service without doing anything to further that aim. I know, Mr Speaker, and I have limited faith in Government, I do have some, I am sure they will be proud and glad to hear, that they will take seriously these suggestions. I think I have spoken far too long and I shall sit down, Mr Speaker.

HON CHIEF MINISTER:

I think the importance that is being given to this matter is well shown by the time that has been devoted to it. In the first place, the big debate on the original Bill by the Government which led to the appointment of a Select Committee, then the work of the Select Committee, then a debate on the Select Committee's Report, and today; on the Second Reading, we have spent a whole day, virtually, and we have not yet finished, though I don't think it can take much longer if only because most Members have spoken. I do not think that anybody can accuse, Members or the House of not devoting sufficient attention and time to a matter of this nature. Lest the remarks made by the Honourable Mr Loddo might lead other people to think that they have been remiss in declaring an interest, let me say that everybody has got an interest because everybody lives in a house in one way or another and, in fact, it is not one of those cases in which an interest must be declared because an interest to be declared, according to the ruling as far back as 1811 of Mr Speaker Abbott, the interest must be a direct pecuniary interest separately belonging to the persons whose votes were questioned and not in common with the rest of Her Majesty's subjects or on a matter of state policy, so that we all have an interest and I am not saying that the Honourable Member was wrong in saying that he had an interest except to say that if, in fact, it were the duty to declare an interest we all have the same duty but my view is that there is no duty because it is like when you are dealing with taxation or you are dealing with any matter of a general nature that you have the same interest and duty as all other subjects and not a special one. But, anyhow, either you rent or you own a property if you live in one or you are allowed by your mother-in-law to do so. The other point I want to stress is what I said at the last debate and that is the difficulty of a small legislature with the same number of people having to do a number of functions and therefore the Select Committee consists of prominent leaders of the Opposition or shadow members of the Opposition, because there are no other kind of Members because of our size, and Members of the Government who are also Ministers. It is the same difficulty that occurs with the Public Accounts Committee where really, strictly speaking, it should be made up of people who are not directly concerned with the front bench on one side or the other as would be the case in the House of Commons. That is the difficulty and therefore there stems the fact that once the Select Committee has reported the Government has got a duty to take a view, whether it is a right or a wrong one, and propose a measure as a measure of Government. As regards the question of a free vote, of course,

that is a matter for each side to decide when it has a free vote, there is no question of having to agree on both sides, each party can have a free vote if it so wishes. As far as we are concerned, in this case we assume the responsibility the Government has in a matter of this nature and therefore those who voted in the Select Committee have, naturally, conditioned themselves to the majority view of the Government and have, in fact, perhaps convinced themselves of the righteousness of the decision of the Government. That is something that has to be borne in mind when we talk about the question of saying one thing in one place and then differently. I don't know who it was, I think it was Mr Bossano or Mr Loddo, I can't remember which. No, I think it must have been Mr Loddo because he said the attempt that had been made in the Select Committee to make a law that was simple and did not need lawyers to interpret it into lay language. Let me say that first of all there are two sets of legislation which have been attempted to be drafted in simple language. One is the original Landlord and Tenant Controlled Rent in 1923 in England which led to the 1933 Act in Gibraltar, and the original Workmen's Compensation Act. And because there was an attempt to put it in simple language it led to more case law, more difficulties than if it had been drawn in what is called lawyers' jargon. It may be interesting in this case to note that a Committee of the Judicial Review Body was appointed to advise on simplifying on the codification and drafting of laws and they published a very obtruse and difficult report saying how laws could be simplified so that really when you come to deal with intricate matters, sometimes to simplify the language really brings in much more doubt than to set it out in what a layman would call lawyers' jargon. Therefore, I think that any hope that legislation nowadays, though there is always the wish to make it, at least, understandable to the lay person, that legislation is simple in the complicated matters in which it deals, unfortunately it is just not possible. What has happened, I think, in this case is that there have been so many expectations by one side or the other as to what the Select Committee would report and then the Select Committee Report which was made public, that people have put up their hopes of what they can get in respect of both sides. The tenants thought that it was going to be a tenants charter and the landlord perhaps thought that it was going to be a landlords charter and whilst some concessions have been made for which some support has been found by the Honourable Mr Haynes in respect of one aspect of the matter to the landlord, that is the question of not having to offer alternative accommodation in respect of business premises, that is only in the context in the number of concessions made to the tenant which are much wider than the law exists today and the proposed changes in the schedule will take that much further, the further changes that will be circulated in a moment as to the 5th Schedule will show to what extent. Of course it is very difficult to say what is a fair balance as between one body of interest and the other but of course I do not subscribe to the suggestion made by the Honourable Mr Haynes that all properties should be decontrolled and start afresh. In fact, one would be inclined if one were

taking that to a point where all property should not be nationalised, if that were the case, because there is this idea that the Government because it has undertaken a duty, not a statutory duty but a political duty, I think, accepted generally to provide housing to make up for the lack of provision of accommodation in 250 years of colonial rule before the war, have been burdened with that responsibility and have had to do it in a way that has some relation to people's earnings, does not justify in my view the fact that the Government as landlords are in competition. But it is true that the Government has built more houses and that the bulk of the private property which is controlled nowadays is property built long ago. I think that one of the arguments stated by Mr Loddo about how long can a building last and what is the comparative cost to the rent, I think deals with one aspect of the matter that has not been highlighted certainly in today's debate which is the most important one and which is covered by the increases in rent proposed in the draft Ordinance and that is that the older the building is the more expensive it is to carry out repairs and if the repairs are the responsibility of the landlord the more expensive it is in comparison with the rent received. So that whilst, perhaps, old buildings were made of bricks, mortar and lime it may have been cheap at the time but perhaps to maintain that it is much more expensive than to maintain a properly built house. One of the aims in recent housing construction of the Government though a little more expensive and which is shown in the Rosia Dale complex and other places is to build houses in such a way that particularly outside maintenance is reduced to the minimum because of increasing costs. I don't think that there is anything that was controlled before that has been decontrolled, therefore the Ordinance is really more in favour of tenants than of anybody else. Whether it has eaten up sufficiently into the landlord's rights or not is a matter of judgement but certainly this cannot be described in any way as a landlords charter, or anything like that. In fact, it could more properly be described as a tenants' charter though perhaps it does not qualify for a charter because the proposals may not get far enough in some people's minds. I think after the considerable amount of time that we have devoted to this, we have struck a fair balance, perhaps we can strike a fairer one in the course of Committee Stage in respect of certain particular items. It is bound to be controversial, it always is controversial because as I think Mr Haynes mentioned, there are two conflicting interests in this as so long as there is private property in existence there is bound to be a conflicting interest between the owner and the occupier be it for business premises or for dwellings. Therefore, whilst we do not say that we have struck the right balance, we have certainly attempted to do so and perhaps maybe after a while there may be amending legislation. I hope not very soon after, but I think we have a better bill now than the present Landlord and Tenant (Miscellaneous Provisions) Ordinance, more protection for tenants of business premises particularly and for some part of the private sector dwellings and therefore I think rather

than have another delay in this matter we should see to it that it is enacted, that it is brought into force at a time reasonably soon to cover the need to appoint a Rent Assessor and a Tribunal. And the question of the assessment tribunal brings me to the point made by Mr Haynes about a Community Lawyer. Well, I do not think that we can announce that there will be a community service the same as we announced that there was a counselling service before the divorce law was enacted, but I think that the point made by the Attorney General is particularly important and that is that a rent tribunal is a much cheaper venue for people who can appear themselves if they want to, than taking the matter to court in respect of dwellings. Perhaps that may lead to having a community lawyer at a later stage but I don't think we should have any illusions that we can tie that up at this stage with the appointment of a community lawyer. In respect of the business premises we have done, for the reasons explained by the Attorney General, what was initially pointed out by the Leader of the Opposition at the first debate, that it was not right that business premises should be dealt with by the Court of First Instance. I entirely share that view and indeed it would be very cumbersome for the Court of First Instance, which is manned by the Magistrate, to be able to deal with the kind of cases that are dealt with in the case of business premises and now, as the Attorney General has said, with the appointment of a second judge they are in a better position to do so, and no doubt with the help of the Rent Assessor the process of these cases in the future will be much quicker than it is now. I think we should perhaps have had better case law on the present legislation about standard rents if people had had the courage to take cases to court and not settle outside for fear of either competition or the fact that the owner might say that he wanted it for himself. I think the safeguards that have now been provided go a long way to taking away that inhibition of tenants whose tenancies have been finished to take the cases to court and to have after that a line of judicial decisions that would give a better idea both to the landlord and to the tenant after a number of cases have been decided of what the trend is and what the likely result is and therefore who can better judge whether it is worth its while for one side or the other to go to court or not. For these reasons, Mr Speaker, of course, I support fully the Bill.

HON G T RESTANO:

Mr Speaker, may I start off first on the question of business premises which I think is very heavily weighted in favour of the landlords as far as any eviction is concerned. At the moment what the Bill tries to do, or at least what the Select Committee suggested and recommended, was that where a tenant was evicted from business premises by his landlord, the landlord had to provide or find alternative accommodation. I know that it is very difficult particularly in Main Street to find alternative accommodation and the Government then decided that it should be either alternative accommodation or compensation. I think the type of compensation that is

being projected is far too low and I will go into that in a moment. But the point is that the choice of either finding alternative accommodation or granting compensation is the landlord's choice and I think that it should be the tenants choice to decide whether he wants alternative accommodation or compensation because I think it is only fair that if a tenant has been occupying premises which are after all his livelihood and he may want to leave that particular business to his children, I think it is most unfair that he should just get compensation which certainly will not allow him to live off, and precluding the right to pass on his business to his children. Therefore I think there should be an element of choice for the tenant as to whether he be given alternative accommodation or compensation. As far as the compensation is concerned, if we take somebody who is paying about £500 a month, who has been.....

HON CHIEF MINISTER:

Sir, if I may just interrupt, the Honourable Member might have the advantage of the new Schedule that has now been prepared by the Attorney General that deals with the review of the 5th Schedule.

HON G T RESTANO:

I will carry on on this one. Somebody who, say is paying £500 a month and has been in situ between 5 and 7 years, and I have taken that one because I think there is a misprint in the law on page 300, Mr Speaker, "Duration of Current Tenancy No.2". It has been put for more than 5 years but more than 3 the word "rent" has been left out. Taking that particular case, that tenant would, under the Table, be paid compensation of about £15,000 and he may well have spent between £7,000 and £10,000 already in putting his shop in good condition so I think that the type of compensation that is in the table at the moment is too little. I would like one or two questions answered by the mover when he winds up the motion and one of those is if and how are existing leases affected by the introduction of this new Ordinance. There are leases whereby perhaps it has been agreed that the tenants should do work which is normally the responsibility of the landlord and under the Bill the landlord has certain responsibilities. Does that mean that this Bill will overrule existing leases or whether existing leases will not be subject to the Bill? Something else that I would have liked to have seen in the Bill is a system for increases in rent. I think that it is Clause 52, Rents Under New Tenancies. I would have liked to have seen increases in rents to be linked to inflation. On the question of furnished accommodation, I must agree with my friend,

Mr Loddo, that in some cases furnished accommodation has been substandard. I don't think it is so in all cases but it has been fairly widespread and I would have thought that if one wants to get furnished accommodation put on the right scale, the way to have done it would have been to have insisted on certain conditions for those flats to be in, rather what to my mind is totally ill-conceived and that is that the furniture put in should be amortised over 8 years. If the object of the exercise is to finish with furnished accommodation, well, then the Government should have come out and said that because, in effect, furnished accommodation will disappear under these conditions. What are the conditions? The actual rent to be paid is the same as for unfurnished accommodation plus the amount of the furniture amortised over 8 years so it means that at the end of the 8 years, let us say the landlord would have spent £10,000 on furnishing a flat at the end of the 8 year period he would have had repaid to him £10,000 and probably have no furniture left at all because it is a well known fact that in furnished accommodation the furniture does not normally last a long time because people do not take care of it very well. As opposed to that, if at year 1 he had invested that £10,000, at the end of the 8th year he would have doubled his money so it is in fact more convenient for a landlord to let out his accommodation unfurnished than furnished. If the point of the exercise is to do away with the furnished accommodation, well, make that illegal but do not try and get around it by hiding behind legislation which does not say straight away that the object of the exercise is to do away with furnished accommodation. One point that I would like to raise on Clause 19, which is where on a temporary basis a landlord has to carry out repairs, the tenant has to vacate the premises. I think that there should be an element of compensation for the tenant. I know that if it goes to court then the court can order the landlord to vacate but a landlord could take a very long time if he so wishes to carry out repairs and it is very difficult for tenants on a temporary basis to find alternative accommodation. I also thought it was a pity that there is nothing in the Bill to cover empty accommodation and I think that that certainly should be included particularly in Gibraltar where housing stock is so limited, to allow empty houses to remain empty when there are people living in bad conditions because there is not sufficient accommodation. On the Rent Assessor, I don't think that one Rent Assessor is going to be sufficient for the first 12 months. There is, I think, a likelihood that if it is only one assessor he will certainly not be able to get through the work that I think is likely to come before him. I wonder whether it might not be an idea to try and get more than one assessor on a temporary one year basis. One last point, the actual increases in rent for unfurnished accommodation. I remember when we discussed this matter last

time we were told that it would be in the region of 100% or 200%, then I think the Honourable Mover wrote a letter to the Chronicle some time after the debate where he said that the increase would be something in the region of, please correct me if I am wrong, 80% of present or current rates. I think that is what he said in his letter and I don't think that that is correct and I would ask what, in fact, is the increase from current rents where £60 per square per annum is the new rate for unfurnished accommodation. Thank you, Sir.

HON MAJOR R J PELIZA:

I must say, Mr Speaker, that I feel very proud to have listened to the debate on this very important issue in the manner that it has been conducted in the House since this morning, and in fact it is a matter that has been the concern of every Member going back a few months now. The work put in by the Select Committee has proved invaluable and no doubt the amount of work put in by the Honourable Attorney-General and all Members of the Government as a whole. I have no doubt in my mind that they have tried to be as fair and just as possible. It is a very difficult task, it is like juggling with three balls and having to keep them on the air all the time, that is, looking after the tenants, looking after the landlords interest and above all ensuring that there is going to be development so that the housing stock and other property continue to develop. It is not an easy task by any means and it is not surprising, Mr Speaker, that it has taken all this long to arrive at this stage. But whilst the Government may find themselves compelled to go ahead in what we may think is quite an incomplete state, I don't think you can ask the Opposition to follow the same line because it is not the responsibility of the Opposition that the Bill has not come in a much more complete state than it is. My Honourable Friend the Leader of the Opposition very quickly looking through it, found a number of loopholes already, without having applied all the concentration of his legal experience in defence of the client, and, in fact, thinking more on the side of the Government than of the client, has already found all those loopholes. It is going to be very difficult for us therefore, to be able to tell the Government that we are going to vote with them in this Bill. It would be unfair to the Opposition and unfair to all the interested parties in the Bill, the tenant, the landlord and developers. You cannot ask us to do that. It would be improper for us to do that. Therefore, when we do vote against the Bill, it must not be taken in any way as an aspersion against all those people who have put so much work into it but it is a responsibility that we have to fulfil and we are going to fulfil it in the proper way that we should. I am not going to go through all the points, far from it, Mr Speaker, because it has been very well done by almost all the Members

who have spoken and it is understood that there are different points of view. We have, for instance, the two extremes, the one of my Honourable Friend Mr Bossano and that of my Honourable Friend Mr Haynes. But that does not mean to say that their intentions are not good and that there is no time left to try and see if the two sides cannot meet a bit more than they have met so far. I think the possibility exists. One point that has been suggested is that it should be done in more simplified language. We hear the Chief Minister pointing out that, in fact, that might in itself be counter-productive in that it might cause more misinterpretations of the law than if it is crushed in legal jargon and perhaps there is a lot to be said for that. However I hope that Government, if they do go through with the Bill, as I suppose they will, will bear one thing in mind, that it is important that the layman understands the law because it is only when they understand the law that the law is going to perform the functions that this House intends that it should and will, I think, relieve a lot of work from the tribunals that we are talking about, which we think is going to be choc-a-bloc very quickly once the law comes into operation. I think that where we have failed so far is that we should have produced a White Paper or something similar to that where the law would have been explained in simple language. That has not been done and that is vital because I think that perhaps one of the laws that affect people most is particularly this one. Second to food, I think, comes shelter.

HON CHIEF MINISTER:

If the Honourable Member will give way. I think the report is equivalent to a White Paper in this case. The report of the Select Committee is a White Paper.

HON MAJOR R J PELIZA:

The Report of the Select Committee, Mr Speaker, cannot be distributed in the sense of a fairly simple concise leaflet which embodies the principal points of the law. I say this because it is also better law. When the people understand the law it is easier to govern because one of the vital things in good Government is that the people should cooperate with Government in abiding by the law. I think My Honourable Friend made a very good point. The landlords have tried to get the best out of it, we are all human beings, we must not forget ever that we are human beings and therefore the landlord is going to try and get the best out of it and so is the tenant and as was very rightly pointed out, a landlord is going to try and charge as much as possible if he can get away with it, and the tenant is going to see that there is no charge if he can get away with it, too. There are two sides of the coin

and we cannot therefore just look at it on one side. I know that this House has been trying to find the middle way. Equally, Mr Speaker, when this law gets through, as inevitably it will, I suggest, and this is done in the UK, that there should be leaflets produced which go very much to the point and it is not just one thick one but one particular leaflet applying to any particular thing, like furnished accommodation. I think it is very important that that should be made available to the public. This could be available in any office of the Government because I do not think you want to distribute it as only a person who is living in furnished accommodation will want to pick it up, obviously, other people are not interested. I suggest therefore that this should be done. I don't think the amount involved will be all that much and it will probably save money in the long run in that less people will have need to go to a tribunal where I think the situation will be a little bit overcrowded to start with, if not forever. Just before I carry on, I would like, Mr Speaker, to refer to one point which I don't think has been touched on today, which is an amendment which has just come out on the commercial tenants, and it is a table for compensation. We have heard this business of the sanctity of property and how the constitution safeguards that. We have got to try and realise the situation of Gibraltar, that space in Gibraltar is limited. The cost of building is extremely high. I don't think it is fair to blame the Colonial Government of pre-war days for the situation today. It is not right or proper. The situation in England was just as bad in housing then as it was here, it was the social order of the day. Since then, when things changed in England, happily, they changed here. And in fact, one has to be grateful to the British Government in that if they had not subsidised housing in Gibraltar, I don't think that we would have the housing stock that the Government has got today because we just could not afford it. And even as it is we know, although my Friend made a very good comparison, and I think a fair one, of how Government can subsidise buildings and the private landlord cannot, one point he forgot to make is that the capital investment is not even taken account of as should have been done. We realise that in Gibraltar we are in a very special situation and suddenly to bring out the sanctity of property as the element that is going to govern all our thinking, in my view, is not the correct one. Nor do I believe that if it was put to the test it would be unconstitutional, I do not believe it. I think this element should not be allowed, therefore, to colour our judgement to the extent that it seems to be affecting the judgement of the Government in their final decision on the Bill. And coming back to this point I think it is a very good example of how it can be offensive, that principle can be offensive. When we get to an individual who has started a business and who has been there working for 20 years to build it up, he has goodwill, he has got business, that to me is also property. It is not tangible, perhaps you cannot touch it, but that is just as much property, that goodwill of that business, and is the bricks and mortar from which the business is being conducted from. If that is so, if that is the situation, would it be proper that after 20

years, let us say that the actual figure of compensation is £3,000 a year. All he is going to get after 20 years is 12 x 3 which is £36,000. Today, I guarantee to the House that the stock that he carries in that business is probably worth more than £36,000. And what is more, he would have to sell it. He would have to sell it and, possibly, give it away because there is a time limit, there is a time limit in which he has got to go.

HON CHIEF MINISTER:

If the Hon Member will give way. I did not want to interrupt him because he is taking the matter very properly, if I may say so, but the time element here is shown as the time that the landlord gives to the tenant. The time element given here is the time that the landlord gives to the tenant in order to terminate his tenancy. After that he has got to get an order from the court and then the court decides within what time he has to get it, that is the time to bring the contract to an end, not the time to get possession.

HON MAJOR R J PELIZA:

I see that, I am not quarrelling with that. But the time element in a business of this nature where you know that you have to start destocking to carry on business after you know that you have to close is almost an impossible task. If you are dealing with items that are expensive you have got to make sure that at the end of the day you are going to be left with nothing. Because what compensation is going to do is that it is going to pay for your dead stock and nothing else. And you are going to be left penniless, depending on the circumstances. Therefore, I don't think this is just the answer. I am a great believer that the person who has been after a number of years established in premises in Gibraltar, should have the right to stay there unless they are offered alternative premises of a suitable kind. I am a believer of that in the circumstances of Gibraltar because for reasons I think that have been explained, and are obvious, I am not going to go into that, we all know that we are in a very special situation in Gibraltar, and I am not going to make a case because the case has been made and I think we all know what it is. Mr Speaker, it is very hard that an individual who owns the building suddenly decides that he is going to change his mind and he is going to do business possibly because the individual who is doing business below is doing very well and he said "Oh, yes, that is a good business for me, my family is going take over". And of course there are hundreds of ways and means of doing it and the lawyers will find ways and means of making sure not only that the family does it but if he wants, that somebody else does it, and gets paid much more than he was getting before. No, Mr Speaker, I don't believe that this is the answer to this problem in Gibraltar. I believe it is going to cause a lot of hardship if it comes to the stage where there is a good reason for landlords to take over. All of them will want to take over businesses that were there before if it is a

good business. Let us suppose that the frontier were to open, and we know that at the moment they said they were going to open there were people offering \$45,000 and there are foreigners who can come in with a lot of money, Mr Speaker. I can see local traders losing their premises very quickly because most of the landlords will want to take over the businesses. I have no doubt about that. And I have no doubt either that the lawyers have got the capacity to be able to overcome the difficulties that are placed by the law with the small restrictions that are there unless there is a clear-cut situation whereby the tenant has total right to remain there unless he is offered alternative accommodation. But, of course, I am a member of a party and I agree that you cannot always have your way. It would be absurd, it would not be democratic and one has to go with the view of the majority, that is party politics and if we don't have that then we don't have party politics and that to me is even worse, that on one occasion I get my way and on another occasion somebody gets his own way because in the end none of us can produce a policy and therefore I think it is proper that we should abide by the wishes of the majority. In the same way that we abide by the wishes of the majority of the House we must abide by the wishes of the majority of our party. That is my view, Mr Speaker. Having said all that, Mr Speaker, it is clear in my mind that the Bill that has been introduced to this House, has been rushed through and we are not prepared, Mr Speaker, to buy a loaf which still has not really been properly baked. I don't think it is fair for Gibraltar, for the tenants, for the landlords, for the developers, for all concerned, that we should go ahead without a properly finished product and therefore, Mr Speaker, my party will be voting against.

MR SPEAKER:

Are there are other contributors? I will then call on the mover to reply.

HON M K FEATHERSTONE:

Sir, I said earlier on, I think almost at the beginning of my speech in support of the Bill, that the Bill tries to bring together the diametrically opposed views of the Action For Housing on one side and the landlords on the other. It seems the diametric opposition also seems to be on the benches of the other side because we had a speech from the Honourable Mr Loddo which was very much to one side of the spectrum and the speech by the Honourable Mr Haynes which was very much to the opposite side of the spectrum. I see at the moment they are sitting close together and if the sparks are shooting between them perhaps this might be used by the Minister for Municipal Services to get a little free electric power. Sir, I think I should start in reverse order, the Miss World will come at the very end. I will start therefore with Major Peliza's intervention, and he mentioned the question, as did the Honourable Chief Minister, of the language used in the Bill. The Select Committee did not specifically state it should be written in simple language but simpler language because the previous Bill was in the most complicated language that you

could possibly come across, so much so that I think I am not wrong if I say that the Select Committee half the time had to ask the Attorney-General to interpret Clauses in the Bill because it was very difficult to fully appreciate what their meaning was. The Select Committee Report did say it should be in simpler language so that the general public would be able to comprehend it and I think the Bill has come out in simpler language which although it is still as it must be in reasonable legal language. And as for the question of loopholes, I think that with the best will in the world any law that is drawn up unless it is 500 pages long it is going to have some loopholes in it. I believe there was a classic case in which the then Chancellor of the Exchequer, Mr Dalton was going to pass a Bill and he was promulgating it in the House of Commons and they recessed till the next day and he came back the next day and he said "Well I presented a very good Bill to you and whilst I was home last night I found 22 ways in which you can circumvent it". So if somebody is putting forward his own Bill and can find loopholes in his own Bill, well, I am sure whatever Bill is presented by anybody somebody else will find some loopholes in them. The question of Major Peliza's White Paper, I think this, really, is almost a red herring. The Select Committee Report, as the Honourable Chief Minister has said, was tantamount to a White Paper and the Government's possible amendments were stated at the last House of Assembly when we debated this and I think it gave everybody a fairly clear view of what was going to be the possible legislation. But one thing the Honourable Major Feliza has said and this is something worthy of very serious consideration, it is a very good idea, I fully agree with him and I think Government will do its best to expedite it, there should be simple leaflets which could be printed and circulated saying: "The new law has come out, if you are a tenant of a dwelling house, this is how it affects you". That is a very good idea and I think it is worthy of the highest commendation and I give the Honourable Major my congratulations on quite a brilliant idea. Sir, the Honourable Mr Restano mentioned how would existing leases be affected. I think the basic idea is that the new law should subsume all existing leases but of course there would be the opportunity to an appeal to court if anything very seriously was affected. As far as Clause 19 is concerned, if because the landlord has to effect repairs a tenant has to move out, even if it is for a long time it does state quite clearly that he must go to suitable alternative accommodation. So that if it is suitable alternative accommodation then really he is not suffering so great a hardship. I agree with him that there may be a need for more than one Rent Assessor in the first instance but I think the situation could be that we started with one Rent Assessor, if one found that he was completely snowed under with work, then a second Rent Assessor on a temporary basis could be considered. The Honourable Mr Haynes made one comment which I feel is not what we would like to see. He mentioned that he thought the relationship between landlord and tenant should be as loosely defined as possible. I feel that that is not good legislation, it should be pretty strictly defined. He made the comment that

there was no future for the private landlord. Well, I don't think that that is really the true case but he has set himself up almost as the landlords' spokesman and we did not specifically get that impression in the Select Committee from landlords who appeared before us. One point he mentioned is that he does not agree with the idea of the regulations for the measurement of squares but this type of regulation which is the regulation to the previous Bill and should apply to the present Bill is the same type of regulation which is used in rating and I wonder whether the Honourable Mr Haynes would like to change the whole rating system as well. His point of a community lawyer, almost an ombudsman, I feel that that is something that could be considered in the light of practice if one sees that the Rent Tribunal does not work satisfactorily and there is need to have a community lawyer to do the legal side of it. But if the Rent Tribunal works satisfactorily and if people apply to it learning what their rights are from the leaflet that could be produced, as suggested by the Honourable Major Peliza, then I feel a community lawyer is only going to duplicate the work and duplicate the costs. I am not really worried with the Honourable Mr Bossano's challenge that when his party wins the elections then the Bill will be repealed, I hope and I am almost sure that the Bill will therefore last for a very long time. But the Honourable Mr Bossano, who in most matters is pledged to a semi-type of nationalisation, would I presume like to see that property should be nationalised. However, one thing I would mention to him where he mentioned the question of compensation being paid instead of alternative premises. In the Select Committee we did vary our opinions as time went on. We started off with the idea that there should be compensation where a landlord wished the premises for his own property and then later on other viewpoints came up and other matters were considered and we veered away from the idea of compensation to the idea of alternative premises. And what has now come out in the Bill is a mixture of the two, alternative premises could be offered or compensation. I think that it is only reasonable to say that the compensation offered today, even on the lowest basis, is very considerably in excess of what appertained under the previous Bill where, if I read it correctly, if you had been the tenant for 14 years you got 2 years of the rateable value and if you had been less than 14 years you got one year of the rateable value. Well the new schedule not only gives you considerably more financial compensation but also gives you a longer period of time in which you can organise yourself and try and find alternative premises if the landlord does not offer them to you himself. Mr Isola brought up a number of points. He suggested that it should be incorporated in the Bill that there should, where the landlord wishes to have the property for himself, suggest either alternative premises or the payment of compensation or an option to purchase. Well, of course, that is worthy of consideration but in any circumstance a landlord always has the opportunity to give his tenants an option to purchase, it is not really necessary to enshrine that in a Bill, he can do that at any time that he wishes so perhaps it is an idea which although worthy of some consideration, may not really solve the problem at all.

HON F J ISOLA:

If the Honourable Member would give way. Surely he has got it all wrong. What I was suggesting is an option to purchase at the option of the tenant there. In other words, if the landlord says "I want it for myself", he has to pay whatever it is by way of compensation. The tenant could then turn back and say: "No, I want to buy it". Then he pays the market value and that enables the landlord to get money to find himself some other premises at market value.

HON M K FEATHERSTONE:

I am thankful for that clarification. That puts a very different light on the idea and I think that it is worthy of consideration. The question of the Rent Tribunal has been cleared I think by my Friend the Attorney General. The Honourable Mr Isola mentioned why did we change from 1954 back to 1945. I think, as Mr Perez mentioned in his intervention, the main reason why he had originally considered 1954 was that it should be a 30-year period, and we changed back partly because we do not want to give the impression to would-be developers that a 30-year period is going to be limits on them and partly because it would create a certain difficulty insofar that there are a number of Government dwellings built during the 1945/54 period which would give a little bit of a contrast in the suggested rents. In actual fact the number of houses which are affected between the period 1945 and 1954 in the private sector is just over 190 so it does not make a very great difference to the general housing stock.

HON J BOSSANO:

He is saying that it does not matter because it is only 190 between 1945 and 1954. Well, how many are there between 1940 and 1945.

HON M K FEATHERSTONE:

I would think none, sir.

HON J BOSSANO:

Then why bring in 1945, as a red herring?

HON M K FEATHERSTONE:

Well, if you are going to make a date at which houses started to be built, then the date would be 1945 rather than 1940. It only shifts it up to a more reasonable point. The point that the Honourable Mr Isola made about the landlord would be responsible for the electrical fixtures, perhaps an amendment may come in which changes the word "fixture" to the word "installation". He should be responsible for the electrical installation. It might be construed as the Honourable Member has said that fixtures include certain other things,

though I wouldn't think an electric light bulb would be classified as a fixture. As the Honourable Mr Perez clarified, and I would reiterate, the intention is that all the clauses of the Bill should be considered as coming into force as from the date the Bill comes into force. This, of course, means that there would be the retrospection where anybody during the period of moratorium had for some oversight, perhaps, not fully understand the situation that was appertaining at the time. The Sinking Fund, of course, in the same way would start from rents recoverable paid after the date of the Bill, not from back to 1945, this would be absolutely absurd. Clause 3. What is family? Well, I think we will bring in an amendment to actually state what is family. This, of course, is one of the things that the legal gentlemen love. They want to be absolutely sure that your second cousin twice removed is part of family and your third cousin three times removed is not part of the family. However, we cannot accept the suggestion that the qualifying period of residence should be reduced to 6 months. This actually came up in the Select Committee and it was considered at the time if you had a tenant who unfortunately was rather on his last legs, you did not want somebody just moving in at the last minute and getting the benefit of being able to take over the tenancy, it should be somebody who bona fide had lived with that person for a reasonable period of time. We had thought of a longer period but eventually we settled on 18 months. I would refer back to the question of the change that the Government made from the Select Committee Report that business premises where they are required by the landlord for his own use should not be simply the offer of alternative premises but compensation would be another possibility, and I would remind the Honourable Leader of the Opposition that in his intervention at the last meeting of the House on the Select Committee Report, he made the comment that if one said that it had to be alternative premises and nothing else, with the dearth of alternative premises which does occur in Gibraltar at certain times, this is almost tantamount to saying to somebody: "Here you have a tenancy on a permanent basis courtesy of the House of Assembly". Perhaps, he might consider that the suggestion of compensation in lieu is not so difficult to accept after all. A very last point. I would agree with the Honourable Leader of the Opposition that the time given to the Opposition for considering this Bill was the minimum permitted by the Standing Orders. I don't think we are asking to rubber stamp it, they have had a very good day today in discussing it. It seems that they have done their homework, they have read the Bill pretty well, but I would suggest to the Honourable Leader of the Opposition, I think that he is a Member of the Committee on the Standing Orders, that if he feels the period allowed by the Standing Orders is not sufficient, he should suggest that this should be increased to perhaps 10 days, 15 days, or what have you.

However, the amendments have been circulated, there will be a period of time before we actually take the Committee Stage during which they will be able to study the amendments, and obviously it will give them time if they have any specific amendments of their own to put them through. With that, Sir, I would therefore commend the Bill to the House. I hope the Opposition which has varied opinions amongst themselves, do not completely follow the suggestion of the Honourable Major Peliza by voting against. I think they might be more elegant if they cannot agree with the Bill itself, although it does appear they do agree in many ways with much of the Bill, perhaps they might like to abstain.

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R C Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor.

The following Honourable Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A J Haynes

The Bill was read a second time.

HON M K FEATHERSTONE:

Sir, I beg to move that the Committee Stage and Third Reading be taken at a later part of the proceedings, not today.

THE WIRELESS TELEGRAPHY (AMENDMENT) ORDINANCE, 1985

HON H J ZAMMITT:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Wireless Telegraphy Ordinance (Chapter 162) be read a first time.

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

SECOND READING

HON H J ZAMMITT:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Sir, the measure before the House intends to amend the Wireless Telegraphy Ordinance to the extent of strengthening the existing provisions relating to the licensing of television receivers. It is unfortunate that quite a number of persons who have obtained licences for previous years have not subsequently renewed them. It is also even more unfortunate that some persons have not taken out a licence at all. These persons are using illegally a service provided at great public expense and in a manner of speaking are defrauding their fellow citizens who have obtained their licences. The present provisions are such that in order to proceed legally against anyone for using an unlicensed set, it is necessary to prove possession of the set by the individual. This is only possible by visiting the premises in which the set is kept and actually having sight of it or, alternatively, having the individual concerned admitting the fact that an unlicensed set is in his or her premises. There are provisions for seeking the issue of search warrants to enter premises in order to ascertain whether an unlicensed set is kept therein. However, the Attorney-General advises that the use of these provisions for financial reasons ie to see whether the licence fee has been paid or not, would be unconstitutional. Certain measures are therefore necessary in order to ensure (a) that these persons who have obtained a licence do so in succeeding years, (b) that those who purchase a television set for the first time obtain the required licence, and (c) that those who already have a set and which has never been licenced take out the pertinent licence. The proposed amendments provide under Clause 2 that anyone who had obtained a licence shall continue to be liable to have a licence until such time as he satisfies the Wireless Officer that he no longer has the set to which the licence refers. These provisions will cater for those under (a). In order to ensure that those who purchase a set for the first time obtain the necessary licence, it is proposed under Clause 3 that licence dealers should submit monthly returns of

sets sold. This will be in addition to the existing requirement of keeping a wireless record book wherein should be recorded all sales made. The present provisions which require dealers to view a licence when effecting a sale, will thus be done away with. This is in response to their representations that the responsibility to ensure that a licence is obtained must rest with the Government and not with them. Such a requirement will also tend to favour the unscrupulous traders as against the honest ones. It is proposed to provide, under Clause 4, for persons who have held licences on or after the 1st October, 1980, and do not hold a licence when the Bill becomes operative and who have not notified the Wireless Officer of the disposal of their sets, to be made liable to continue to pay the licence fee unless within 3 months they satisfy the Wireless Officer that before the coming into force of the Ordinance the set had been disposed of. In order to strengthen these provisions it is proposed to carry out visits to premises where it is suspected that an unlicensed set is being kept. These premises come under two categories. Those in respect of which licence has been obtained before the 1st October, 1980, and therefore not caught by the proposals in Clause 4, and those for which licences have never been obtained and there is suspicion that an unlicensed set is being kept therein, that is to say, by the presence of an aerial cable entering the premises. Although the person carrying out these visits will not have the power of entry into the premises, it is hoped that those that will be visited and others who hear of these visits will obtain their licences should they have an unlicensed set. Mr Speaker, the proposed amendments to the Wireless Telegraphy Ordinance before the House and the follow-up which the Government proposes to take will, it is hoped, go a long way towards achieving the aim that everyone who possesses a television set obtains a licence therefore. At the end of the day, however, in the democratic society in which we are fortunate enough to live in, it is up to the individual's honesty which will determine whether or not that aim will be achieved. Mr Speaker, I would also like to mention at this very moment there is evidence to suspect that we have collected television licences for some two thousand sets so it would not be an unimaginative figure to feel that between 2,500 and 3,000 unlicensed sets are in Gibraltar. Mr Speaker, I commend the measure to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I think this is a sensible Bill and perhaps one that the Government might have presented a long time ago and perhaps recover a lot of revenue from it. We have our own television station, our own wireless station which have to be paid for. They do provide a social service which I think Gibraltar as a whole benefits from and enjoys and apart from other matters that of course we don't agree with, but we are not talking about that now, in no way what I am saying now should in any way be construed as what might be said when the Motion that my Honourable Friend has got here later on a different aspect of GBC, but I think that they do perform an important social service in Gibraltar which every family and every individual who has a television set or a radio set is enjoying and it is only fair that this should be paid for by the people who are actually enjoying the service and not highly subsidised to the extent that it is today. In fact, if all licence fees were collected perhaps the subsidy would be reduced. May I say, too, that I am glad that the Government took note of the points that were made when this was first raised of how the dealers were going to deal with the control of sales of television sets. The suggestion was that dealers should collect the licence fees and that we knew was going to be a very difficult and almost an impossible task and an unfair task for those who carry out the thing religiously. What is being asked to be done now was done before by all the responsible dealers in Gibraltar without any sanctions of the law at all. It was done very well by those, of course, who took note of the importance of carrying it out. Unfortunately, the less responsible dealers were not doing that and it is perhaps because of that situation that we find that so many sets are not paying licences now. From the point of view of the dealers in Gibraltar, the responsible dealers, I think I say that this is welcomed, this change of mind of the Government is welcomed, it is not an impossible task. What I would like to make sure is so that we do not go back to square one, that somehow this is enforced because if it is not enforced then we will come back to the old situation whereby the responsible dealers will carry on sending returns but others will not and after a little while everyone will give up, I think it is important, in my view, that now that the law has been passed and the whole thing has been regularised, that it should be enforced and my party welcomes the Bill.

HON P J ISOLA:

I do not quite see how this particular Bill is going to remedy the very unsatisfactory situation that has been revealed by the Minister of only 2,500 people holding licenses for television when there must be a good 8 or 9 thousand homes, I don't know

how many homes there are in Gibraltar, the assumption that one must make is that there is at least one television set in every home in Gibraltar so, therefore, if you do simple mathematics, there could be as many as 5,000 people not paying licenses and therefore there seems to be no merit in Clause 43 saying that nothing in this section shall be construed to impose on any person retrospectively any liability to pay a licence fee. I would have thought that if the date is the 1st October, 1980, anybody who has held something from then has to go on paying, it seems to me sense that if it is discovered that anybody has got a television set now and has not been paying from the 1st October 1980 should be made to pay from the 1st October, 1980, unless he can show he did not have a television licence around that date otherwise all that is happening is that the people who were paying on the 1st October, 1980, or at least paying until that date, will have to continue to pay and those who have never held a licence or have not done so before that date will only have to start paying as from now or when they are caught, so if one wants to really make a drive on this, I would have thought that the sensible way to do it is in fact to make it retrospective under that section so that anybody who has held a television licence or rather who has held a television set or shows from the 1st October, 1980, pays his license fee. Otherwise all that is happening, surely, is that those who held a license on the 1st October, 1980, pay and those who have not held one on the 1st October, 1980, and not even before or after but who have held a television or have a television today do not pay. That seems to me to be unfair and therefore I would have thought that it should be made retrospective for everybody from the 1st October, 1980, and that may perhaps help to reduce the subsidy that GBC get in which everybody participates equitably.

HON ATTORNEY-GENERAL:

Can I simply clarify that this is only a limited way of reducing the deficit, as it were. I think what would be the most effective way, no doubt, would be to go into homes. It is a controversial view but I do think it is unconstitutional. I think there certainly is a risk of it being unconstitutional. My personal view is that more than that it is not the right type of remedy for the nature of the problem, I think going into homes is a serious matter. If I can just deal with the point which the Honourable Leader of the Opposition made. We cannot have retrospective charging penalties for monetary charges as I am sure he is aware that under the Constitution one may not impose a charge retrospectively and of course that offends general principles of charging anyway.

HON P J ISOLA:

What I am suggesting is that the same principle that is applied in this Ordinance should be applied to people who do not have licenses but have had television sets and puts the burden on them to show they did not have it on the 1st October, 1980.

HON ATTORNEY-GENERAL:

I was coming to that but the problem there is that whereas the person happens to have had, and admittedly it is incidental, but if a person happens to have had a license since a certain date such as 1980, then we know that at some time he has held a licence and we can therefore use that to invoke from the commencement of this Bill a liability until such time as he proves that he has no longer got a set. What we cannot do, of course, after the event is establish that back in 1980 or 1981, a man happened to have had a television set. The nearest we can get to that is by being able to establish whether he had a license. But you will never be able to prove that 3 years ago somebody had a television set, you may prove it but you would be lucky.

HON P J ISOLA:

What I am suggesting is that as there are 5,000 odd people all of whom have television sets and don't have licenses, if one finds somebody who has a set today, the burden should be on him to show that he did not have it in 1980, that is what I am saying, and we should be able to claim the license fee back because if he has got the television set he has always been liable for that license fee the only thing is he has not paid, so put the burden on him to prove that he didn't have a television set in 1980 and not put the burden on us to prove that he did have it because if he has got it now then under the legislation he was liable to pay a licence fee on that from the year one, so let him prove he didn't have it in 1980, otherwise he has got to pay.

HON ATTORNEY-GENERAL:

With respect, I don't think that is a desirable or practical way of dealing with the problems. It is one thing to say that we know he had a licence, then as from the commencement of this Bill we can invoke that fact as a basis for charging him, unless he can show that he has got rid of the set, but I don't really think we can say: "Once we know you have got a set we can assume, until you prove otherwise, that you have always had a set", I don't think that that is an approach we can use, I think that is an approach which at first sight I feel comes very close to being retrospective in effect

anyway, but in any event I don't think we can do that as a matter of principle.

MR SPEAKER:

Are there any other contributors? Then I will call on the mover to reply.

HON H J ZAMMITT:

Mr Speaker, I would just like to clarify one or two points. First the Honourable and Gallant Major Peliza. The question of the burden on the dealer to collect the licence has been done away with because quite honestly very few dealers were complying with that legislation which was very cumbersome and was done away with. The other point I think I would like to clarify is the question of October 1980. Mr Speaker, when I had given the figures of how many people had paid television licences I said that so far this year 2,000 had paid. We must recall that the licence expires on the 30 September and we are coming out with press and television adverts reminding people so there is a trickle coming through but there is one very important fact that Members I think have omitted to see. The facts are, Mr Speaker, that a receiving licence covers any number of television sets within a household. What has happened in the past is that on families moving out they have taken their televisions away with them and they might honestly well be under the belief because they have been covered for so many years, that their father's licence or their father-in-law's licence is still covering them wherever they have now moved to. Am I making my point? Therefore what we are trying to do now, Mr Speaker is to say, right, there has been a number of movements certainly since 1975, there has been a lot of people moving around, we do know we have about 7,000 or 9,000 houses in Gibraltar and I think it is fair to say one can estimate that every single house invariably has a receiver. What we are saying is, if we can establish from 1980 onwards, from then on very few people are going to get away because we can then keep records exactly of who purchased a television set, we would know and we would know equally by the register to what household it is going and we could well find that a person could buy a television into a dwelling that is already licenced by another set so 1980 has been brought up purely with that in mind, Mr Speaker. The other thing of course is that although I said that a TV receiving licence covers any number of television sets within the flat or household, it also accepts the responsibility for a portable television, your own domestic licence covers that and as Members know we no longer have a wireless licence or a radio licence but a television transmission receiver covers this. I hope, Mr Speaker, I have been able to clarify that point that we do feel that there must

be an enormous number of people getting away with it. We don't think the majority are defrauding, what we do feel is people could be under the misconception that their father-in-law's licence when they used to live somewhere else still covers them and this is a point I would like to make and, equally, Mr Speaker, and finally, I would like to point out to the Honourable and Gallant Major Peliza that Government has approved a further person to be employed particularly for this and the records will be kept at the Post Office so I think we will be keeping tabs from now on. Thank you, Sir.

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

The Hon the Minister for Tourism moved that the Committee Stage and Third Reading of the Bill be taken at a later stage in the Meeting.

This was agreed to.

The House recessed at 7.30 pm.

THURSDAY THE 8TH DECEMBER 1985

The House resumed at 10.40 am.

THE IMMIGRATION CONTROL (AMENDMENT) (NO.2) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I now have the honour to move that the Bill be now read a second time. Mr Speaker, Members of the House will recall that at the last meeting of the House, in October, that attention was drawn to the fact that following the introduction of the British Nationality Act 1981, new provisions for naturalisation were substituted for the ones which had prevailed since 1948 under the British Nationality Act of that year. The point was made and was taken by this side of the House, that because of the way in which the new provisions were expressed it was not longer possible for people who formerly could have applied for naturalisation to achieve it, simply because one of the requirements for being eligible for naturalisation now

is that you must be able to say that you have been in Gibraltar free from any restriction as to immigration control for a certain time. And whereas formerly that was not one of the criteria for being able to apply for naturalisation, the problem is that there are some people who would have been eligible to be naturalised, who because of the way the Immigration Control Ordinance is at present worded, cannot get past that absolute requirement that one must be free of restrictions on immigration. A concern was expressed at this and that the Government undertook at the last meeting of the House to look into the problem and to see what steps could be taken to deal with it, and the first purpose of this Bill is to tackle that question. Clause 2 of the Bill is directed towards that end and basically and simply what that Clause says is that the Governor in Council will be given a discretion, and it will be a discretion, it will be an absolute discretion because nobody is entitled as of right to naturalisation, it is always discretionary, but the Governor in Council will be given a discretion to entertain applications from people who are of full age and capacity, who have been in Gibraltar for a certain qualifying period of time which corresponds with the qualifying periods of time set out in Schedule 1 to the British Nationality Act 1981, and the discretion will be to say that those people for the last part of the qualifying time shall be free from immigration control so that once the whole of the period is up then the people concerned are free to go ahead and apply to be naturalised, provided of course they meet all the other requirements for naturalisation, such as character, knowledge of language and the various other requirements set out in Schedule 1 to the British Nationality Act of 1981. It is an enabling provision but I stress again that in no way does it leave a person or enable a person to reach a position where he is entitled as of right to naturalisation. That is always a matter for consideration by the Government, and it is always a matter of discretion. That is the object of this provision. Members will appreciate, Mr Speaker, that we have looked at this matter as a matter of some urgency and there are two points which I would like to raise in Committee on the matter. One is this, that the provisions as drafted in Clause 2, I believe, be satisfactory for future applicants but we are in a situation now where a certain amount of time has passed since the 1981 Act came into force, in fact it came into force at the beginning of this year so if this provision is passed by the House there will be people who may already be able to apply for naturalisation and so it is thought desirable, and I will be moving in Committee, that there should be an amending provision made to deal with transitional cases, applying the same principle but enabling us to say "You do not have to wait another 5 years or another 3 years, as the case may be, you may apply now and we will consider whether or not we will

treat you as free from immigration control". The other aspect of this, Mr Speaker, is that since the Bill was prepared and published, the section of the immigration control which is concerned with this sort of matter has drawn attention to the possibility of needing to slightly expand new Clause 2, anyway, to cover a class of people who since 1973, I think, had rights and I will be making proposals on that in Committee. Mr Speaker, the next part of the Bill which is Clause 3, I talk about part of the Bill, but it is really a short Bill. The next part of the Bill is concerned with the problem which has been discussed in this House earlier this year, and it has been regarded as a matter of some urgency by this House, of persons who come into Gibraltar, who come in very temporarily on daily visits, cross the border, come into Gibraltar and either work as employees or possibly even in some cases carry out work on their own as independent contractors, as it were, but they don't comply either with the trade licensing legislation or, and I think this is really where the nub of the problem is, or with the Control of Employment Ordinance. This Clause, Clause 3, is intended to make better provision to be able to control that situation because it is of the essence of the problem that it is a very temporary one. Temporary in the sense that the person comes and goes and of course certainly under the Control of Employment Ordinance, and I think also under the Trade Licensing legislation, it takes time to go through the process of prosecuting such a person in the courts and you cannot arrest them and detain them and these people, characteristically, come and even if they are detected they have gone and there is no real remedy. The purpose of this provision is to say that when you come into Gibraltar on an entry permit or a permit of residence, if you worked here either in contravention of the Trade Licensing Ordinance, or in contravention of the Control of Employment Ordinance, your entry permit will cease to have effect. That is what the consequence will be if you come and breach either of those laws. The law already says that the fact that you get a permit does not give you any entitlement to work here but this goes further and says that if you do come in and work, your permit will automatically cease to have effect. I think it was explained in the last House but the point of that is that it is much easier to control matters by these means than have to go through the trouble and the time of going to the courts. It will not of course mean that every case will be detected and it will not make it easier to detect because as I understand the position, a lot of these people who are breaching the law are doing so covertly in the sense that they come to somebody's private home, install something and they are gone, and that sort of thing is not easy to detect. I would not like to represent this amendment as being a cure all, as it were, for the problem but it will make it,

I think, easier to enforce in those cases where it is detected. There will still be a need for vigilance on the part of the various law enforcement agencies.. The last of the major purposes of this Bill is in Clause 5 and it is simply in consequence of Greece's accession to the European Community to include Greek nationals in the list of persons to whom Part 9 of the Immigration Control Ordinance applies, and Part 9 is that part under which Community Nationals can come into Gibraltar. And; finally, there is a very small amendment contained in Clause 4, which involves the repeal of Section 26A of the Immigration Control Ordinance. This is consequential on the British Nationality Act, 1981. The explanatory note is slightly misleading, the real point is that it is no longer necessary to have this provision in view of the provisions of the 1981 Act. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I am glad that the Attorney General has included in the amendment Section 3, which is an amendment to Section 11, but I didn't quite understand what he was saying and perhaps he can explain it clearer, to me, anyway. He was referring to the valid entry permit and how this could be withdrawn if it was detected that the individual using that permit was carrying out what might amount to illegal activities in Gibraltar. The fact that it has been included here is a good sign, it shows that the Government is interested in stopping this kind of activity, particularly as it does affect, I think, considerably, employment in Gibraltar and trade in Gibraltar, which obviously the Government must protect. What I do not understand is that obviously an individual who comes in with his passport and has no valid entry permit would be able to carry out doing his activities. What is meant by a valid entry permit? Perhaps the Attorney-General could explain that and also let us suppose that action is taken and the person concerned is disallowed to enter Gibraltar for the reasons stated, has the individual any right of appealing to say "Look, what you are saying about me is not true", what is the position then?

HON W T SCOTT:

Mr Speaker, I would like to ask the Honourable and Learned

Attorney-General in that part of the Bill in Clause 5 which deals with Greece. In the explanatory memorandum it is said that in consequence of the accession of Greece, Greek nationals are given the right to obtain residents permits, and I am wondering whether the Greek nationals acquire this right on the accession of Greece within the European Community or after the period of transition. I say that quite openly looking towards a situation when Spain joins the EEC and Spanish nationals will acquire the right to obtain residents permits on the accession of Spain to the EEC and not past the transition period.

HON P J ISOLA:

I think the point raised by my Honourable Friend Mr Scott is extremely relevant because I think that by putting Greece in Part 9 of the Immigration Control Ordinance, one is allowing Greek nationals to come to Gibraltar and be free from employment permits under the Immigration Control and as I understand it, Greece has a transition period of 7 years and therefore, as I see it it should not really go in because the situation will arise obviously when Spain comes in and it will be pointed out to us that Spain should also come into the Schedule. Again, Mr Speaker, we have hardly had any notice on this, we have not been able to actually compare this with the Immigration Control Ordinance and I think this is something that we would like clarification on. With regard to Section 2, Mr Speaker, the question of exempting people from immigration control in the circumstances specified in Section 2, as I see it, and I am not sure whether I am reading the right section, Section 5 says: "Subject to the provisions of Section 4, no non-Gibraltarian shall enter or remain in Gibraltar unless he is in possession of a valid entry permit, a valid permit of residence or a valid certificate". If you take away the restriction, if the Governor-in-Council takes away that restriction, there is no provision here under which it can be imposed, as I see it. Are we in a position that we are going to now produce a new kind of resident in Gibraltar, one who has the requirement of having a residents permit taken away because he is going to apply for naturalisation so that he can get it, but if he does not get it, he stays free from control. That is what I would like to know and, secondly, this is an important amendment, do I understand from this that the Governor-in-Council is only going to exempt people from this provision in order to enable them to apply or is the Governor-in-Council going to make a judgement as to whether that person is a fit and proper person to become a British Dependent Territories Citizen, because if that is the case then, of course, the Governor-in-Council is taking over the functions of the British Nationality Act 1981, and I would much rather

see a provision under which people who wish to apply for British Dependent Territories Citizenship should be free from Immigration Control under Section 4(1) once the Governor-in-Council is satisfied that they are entitled to apply by way of the residence they have had in Gibraltar and so forth, and then make a provision under which immigration control can be re-imposed on them if their application does not meet with success. I think this is something that certainly we would like to get clarification of because it is of some importance, I think, that the applications for British Nationality should be dealt with in accordance with the British Nationality Act, 1981, and not be a matter for decisions in Gibraltar although Gibraltar, obviously, must take some part in it, and there should be provision under which the Immigration Control is re-introduced if the application is unsuccessful. That is one. The other one, Mr Speaker, Section 3, the amendment to Section 11, I can only repeat what I said, what I said in the Control of Employment Ordinance that all this Section intends to do is, in fact, make it more difficult for those who have been here for some time to stay and does absolutely nothing, really, in respect of the great number of Spaniards who are even today coming in, working in Gibraltar, working in households, working in lots of other places, which is not covered by either the Trade Licensing Ordinance or by the Control of Employment Ordinance, and what I would like more attention to be given by the Government is that instead of making it easier for the enforcement agencies to chase or run after what is a comparative minority in Gibraltar, they should be looking as to how they can collar and stop what is quite a large number of people that are coming into Gibraltar and doing work on their own in houses and all over the place in respect of which the Government has absolutely made no provision in the law. And then, of course, as I have said already on the question of Greece we would certainly like to have a very clear exposition on this before we vote to include Greece to the Schedule.

HON CHIEF MINISTER:

Mr Speaker, some of the points that have been raised have been those that have been considered by the Government and I shall give my understanding of what we have agreed on the Bill to be confirmed from the purely legal point of view by the Attorney-General. In the first place, the question of naturalisation. By virtue of the fact that the British Nationality Act, 1981, applies to Gibraltar and particularly the condition for naturalisation as a British Dependent Territories Citizen are exactly the same as the condition for naturalisation in the United Kingdom, as Members are aware, in the United Kingdom, once you have lived there for four years on a permit, whatever your nationality you are free from Immigration Control and it is based on that, no doubt, and not

taking into account the requirements of other territories, certainly not Gibraltar, that the requirements under the schedule to the British Nationality Act under Section 18(1), the First Schedule, the provisions are that the requirements referred to in paragraph 1A, that is to say, subject to paragraph 6 the requirements for naturalisation as a British Dependent Territories Citizen under Section 18(1) are in the case of any person who applies for it, the requirements specified in the other sub-paragraph which is the same. There it says, "that he was in the relevant territory at the beginning of the period of five years ending with the date of the application and that the number of days in which he was absent from that territory, that period does not exceed 450, that he was not at any time in the period of twelve months so ending subject under the Immigration Laws to any restrictions on the period of which he might remain in that territory". That does not apply to any alien in Gibraltar. Every alien in Gibraltar who wants to be naturalised is subject to a residence permit. Except in the case of the spouse of a British Dependent Territories Subject who has by virtue of the nationality of the British spouse or the spouse of a British Subject, by virtue of the nationality of the spouse has a subsidiary permit of permanent residence and those have not got immigration control and those are the only ones till the Act was enacted that have been able to be given British naturalisation. But there are quite a number of people who have all the qualifications either under the old law or under the new law for it to be considered by the people who are considering it now but cannot do so because they cannot be said to be free from immigration in the last year before the application. What the amendment proposes, as I understand it, is that once all the procedures have gone through and an application is favourably going to be entertained in the usual way without interference by the Governor-in-Council or anything like that, then the Governor-in-Council will give an exemption in order that a person who has otherwise qualified can qualify under this provision, I hope that is clear. As I understand it, until all these normal procedures carried out as they are now to recommend a naturalisation, there will be no question of exempting anybody, no question of exempting people in advance because they are going to apply. They will apply and if they are going to be recommended then the Governor-in-Council will decide that that person shall be deemed to have been one year without immigration control. I think it is the best way of overcoming the provisions of an Act of Parliament in England which is really binding on us and I think, if I may say so, that it is rather an ingenuous way that the Attorney-General has found for that which I think satisfies that requirement and therefore I think is very necessary and I think this corresponds to representations made by Honourable Members opposite, particularly the Leader of

the Opposition, about the stumbling block to naturalisation. But one thing is certain, that now the provisions for satisfying the naturalisation except for that one which will be especially exempt, will be the provisions that are provided in the law now and not in the law before. This is all linked up to the theme of the British Nationality Act of connection with a particular territory and that is why there is a provision which there wasn't before and that he was in the place not absent for a period exceeding 450 days. So, really, the permanence is a little more defined. In that respect there is no intention of the executive or the Governor-in-Council assuming merits of cases other than the Governor in his discretion either recommends or now he has the power to give himself on the basis of instructions received. It will only be a matter of decision by Gibraltar Council of the fact that a person who has otherwise qualified will then be deemed to have been exempt from the Immigration Laws for that year in order to qualify to get his nationality so that the thing will be exactly the same. With regard to Greece, my understanding of this, it will be confirmed by the Attorney-General is that that is subject to whatever transitional period applies to the United Kingdom and to other places. We cannot give more rights to people who become a Member of the EEC that is acquired under the Treaty of Accession and if, in fact, there is a transitional period of seven years to apply to labour from Greece into other EEC territories, the same will apply to Gibraltar. Therefore the fear that that might be translated into the fact that if there was a transitional period if and when Spain were to join the Common Market they would have straight away permission to come here, I don't think exists because this is only subject to the conditions under which Greece has joined and the transitional provisions which apply to other Member States will apply to us so if there is a transition of seven years whereby Greek nationals cannot settle in any EEC country the same applies to Gibraltar, that is my understanding. With regard to the other question of permits, only one point that I would like to answer, again subject to anything the Attorney-General may say, my understanding of the situation is that with regard to permits of entry to which the Honourable and Gallant Member referred, other than those who have a permit given by the Police, the actual stamp and the number of days that is set against the stamp when you enter Gibraltar is virtually the period for the permit of residence that you have.

HON J BOSSANO:

If the Hon Member will give way. I wonder if the Honourable Member is in a position to say, in respect of things like the transitional period, would that apply to people moving after or also to people who have been settled in an EEC country

already? I think we are probably different in our immigration control law in that irrespective of how long non-EEC nationals are in Gibraltar they never acquire a right to permanent residence, they always have annually renewable residence permits, whilst I think the normal practice in UK and in the rest of Western Europe is that after a period of years, I think it is something like five years in UK, then irrespective of whether you are in the EEC or not you can apply. Would, for example, Greek nationals who have been here for a number of years, I personally know of a number of Greek workers who are here on annually renewable permits but who have been here for the last ten years; would they be subjected to something like the transitional period or would they by virtue of their previous residence in Gibraltar be able to be treated on the same footing as others straight away, does the Honourable Member have any idea?

HON CHIEF MINISTER:

My understanding of the situation is that until the transition period applies they will be subject to the same permits that they are subject to now and that after that they will be so released by virtue of the Treaty that they will not need a yearly permit, they will need whatever five yearly permit is given to anybody who has settled for more than six months and so on, so that they do not acquire any more rights by the fact that they are here than if they came afresh though they have perhaps a bigger moral right to be continued to be given the permit of residence like even some Spaniards who have permits of residence to live here now, that is done on the merits of the individual cases.

HON ATTORNEY-GENERAL:

As the Honourable Chief Minister has already confirmed, in relation to Greece the intention is and the Bill if passed by the House after Committee will give effect to the intention, the intention is that the Greek nationals should not acquire the same rights as other community nationals except after any transitional period has expired.

HON P J ISOLA:

If that is the intention, that is not what the legislation will say because it is clear to me, under the Control of Employment Ordinance, that anybody to whom Part 9 applies, ie Greek nationals, is free of Control of Employment Control under our law, whatever the transitional provisions may say, and therefore we are certainly not prepared to accept that rather substantial amendment because we are creating a precedence for when Spain comes in and we do not see why we should.

HON ATTORNEY-GENERAL:

I really think, Mr Speaker, we are at one on principle and the implementation of that principle is a matter which will be met at the appropriate stage in the House. I don't think there is any dispute on principle; nothing is going to happen in advance of the proper expiry of the transitional period.

HON P J ISOLA:

Are we going to have an amendment to this in Committee Stage, that is what I would like to know.

HON ATTORNEY-GENERAL:

We are going to make sure that the Bill which the House is asked to pass in Committee and in the Third Reading will not give any Greek National any right as a Community national until the transitional period has finished. That is the intention of the Bill, on the question, Mr Speaker, of Clause 3 of the Bill, dealing with the cancellation of permits, the intention is to invoke a more convenient administrative procedure. I didn't in any sense mean to imply that Gibraltar would waive its traditional reliance on the rule of law in this respect. It doesn't mean that the whole thing is arbitrary, all I am saying is that the procedure that is being adopted is a more convenient one administratively. Gibraltar gives rights of appeal to people who had their permits taken away from them; they are entitled to appeal and nothing in this proposal derogates from that. From a practical point of view, because it is worth stressing in the circumstances of this particular case, from a practical point of view it doesn't mean that people cannot be required to leave because the fact that you have a right of appeal does not mean you are entitled to stay in Gibraltar pending the outcome of the appeal but your legal rights are there, even so. It is not in any sense an arbitrary matter but the convenience of it is that it gives the Principal Immigration Officer certain powers. If the executive is correct in assessing the situation then the Principal Immigration Officer has certain powers which are more convenient and are quicker than having to go to court on the more specific and more limited procedure of prosecution. The point about paving the way to naturalisation of a person by enabling him to achieve the situation where he is free of immigration restriction, I think in view of what the Honourable and Learned Chief Minister has said and of course we have discussed this Bill beforehand, I would just like to state quite clearly what the affect of the Bill is in this respect because I think there is something of a chicken and egg problem here. The British Nationality Act, 1981, Schedule 1, lays down the conditions

on which you can apply to become naturalised and one of those conditions is that you must be free of immigration control. If, in fact, as a matter of law you are not free of immigration control at point A, at a given point, you cannot make the application, as I see it, and what the Bill legally says and I would like to stress that because I wouldn't like anybody to be under any misapprehension, what the Bill legally says without reference to an application for naturalisation, it says at any time a person can apply to the Governor-in-Council for release, as it were, from immigration restriction and that is all it says. So a person legally could come along before he had made his application for naturalisation and as I see it, really has to come along beforehand because otherwise his application can never take off. It says at the outset that it is a matter of absolute discretion whether or not the Governor, formally, will grant the application and in practice, and this is the distinction I would like to make, in practice as a matter of strict law, the situation on which such an application would be entertained, considered and possibly granted, is when it is known that there is going to be an application for naturalisation but the point has been made by the Honourable and Learned Leader of the Opposition and if I may say so, Sir, is entirely correct, of course, that on an application under this subsection one cannot properly pre-empt the merits of an application for naturalisation as such. Although I think formally there is a duality of roles involved because although I think formally the power to grant naturalisation is vested on the Secretary of State, there is provision for those powers to be delegated in effect but I think in practice naturalisation will be handled in Gibraltar by the same authority as deals with this particular provision, but there is a legal distinction between the two functions. I wanted to point that out because that is a matter which if Members are not happy with it will have to be looked at further in Committee, but I find it very difficult to conceive how we can put the one before the other. It seems to me that the waiver must come first. One other point I would like to answer which was made in this debate is that although the Bill itself does not provide for the cancellation of this exemption, in fact such a power can be revoked because the power to do something includes the power to undo it and so if in the event an application for naturalisation were not made or if it were made and it failed, it would always be open to the Governor-in-Council to revoke the exemption. It is a very easy matter to spell that out explicitly, I was relying in fact on the Interpretation and General Clauses Ordinance but I realise that this could be seen as an important and even a sensitive area and there is no reason at all, of course, why we cannot spell that paragraph quite explicitly. I have no difficulty in doing that at all.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE INTERPRETATION ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Mr Speaker, I am not in a position to proceed on this Bill. I do not wish to proceed on this Bill.

MR SPEAKER:

You are not proceeding on the Interpretation Ordinance at this meeting.

THE SUPPLEMENTARY APPROPRIATION (1983/84) (NO.3) ORDINANCE 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1984, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be read a second time. The Bill seeks to appropriate, in accordance with Section 65(3) of the Constitution, the sum of £650,274 out of the Consolidated Fund. The purposes for which this sum is required are set out in Part I of the Schedule to the Bill and detailed in the Consolidated Fund Schedule of Supplementary Estimates No.3 of 1983/84 which I tabled at the commencement of this meeting. The Bill also seeks to appropriate, in accordance with Section 27 of the Public Finance (Control and Audit) Ordinance, the sum of £57,500 set out in Part II of the Schedule of the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates No. 3 of

1983/84 which has also been tabled. Mr Speaker, I would like to highlight three principal requests for supplementary provision on the recurrent budget. The first, £172,200, is required to meet the estimated additional costs of the 1983 pay settlement. The approved estimate of £900,000 was based on a 5% increase and as stated in the Schedule of Supplementary Estimates a number of grades have had marginally greater increases. The increase in some allowances and the efficiency bonus has also been above that figure. Additional funds are also needed to meet the cost of re-banding some industrials and the introduction of the 39-hour week with its consequential effect on overtime rates and on the pay of shift workers conditioned to a week of more than 39 hours also adds to that. Secondly, a further £170,000 is required to meet the cost of importing an additional 19,000 tons of water by tanker from the UK. This, of course, is not the first time that provision has been required during the year. Thirdly, an increase in the subvention payable to GBC, income from advertising, will be less than the amount the Corporation budgetted for, hence the provision of an additional £49,850. Furthermore, having taken note of the observation made by the Learned Leader of the Opposition in this House, it has been decided that it is not appropriate to continue the previous practice of meeting the cost of the salary review of the staff of GBC by re-allocation from Head 27 hence the need to appropriate sums for this purpose. Finally, the additional funds required for the Improvement and Development Fund will enable the Installation Section of the Telephone Department to transfer from its present inadequate workshop at Orange Bastion. It is also intended to move the Parcel Post Store from its present location in the Bonded Stores. This is one of the planned moves necessary for the release of the Bonded Stores at Waterport for development. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, we will reserve our comments for the Committee Stage when we examine the Heads and the Estimates. Let me say, Mr Speaker, that in relation to this Bill we are not objecting to the Committee Stage being taken today although I must point out that we regret very much that we did not get the supplementary appropriation estimates with the Agenda for this meeting. We hope that in future we will get

the Schedule of Supplementary Estimates with the Agenda as in fact has been the case always. I think this is the first time we didn't get it but having said that and taking into account that it is my Hon Friend the Financial Secretary's first appearance in this House, we will agree to taking the Committee Stage, if that is required, today.

MR SPEAKER:

Any other contributors to the Second Reading of the Appropriation Bill? Do you wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, except to thank the Hon and Learned Leader of the Opposition for the courteous way in which he excused any shortcomings on my part.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1983
(Continuation of the debate on the Second Reading)

MR SPEAKER:

Members will recall that we started the Second Reading of this Bill at the last meeting and halfway through the debate the debate was adjourned to a subsequent meeting which is today and I would like to bring to the notice of the House that Mr Bossano, the Chief Minister and Mr Loddo have already spoken to the Bill and that any Member who has as yet not contributed is free to do so. If there are no contributors I will ask the Mover to reply if he so wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, I don't really think I have got a good deal to reply to, from memory. I know my Hon Friend Mr Bossano was concerned about the death sentence for treason. Can I just say that we are not changing the law. I think I made it clear at the outset that all we are doing in the case of the crime of treason is what the Law Revision Commissioner has recommended

and that is to codify, to put it in statutory form as elsewhere. We haven't changed the law, it would be a substantial step to change it either way but the fact of the matter is at the moment that the death penalty is the penalty for the crime of treason. I think one Hon Member did in fact query why there should be a limit on prosecution in the case of such a grave matter as treason. I think the reason for that is that it is not a time limit on all cases but it is a time limit in those cases other than where the Queen's life was threatened. There is really nothing more I wish to say on this and I commend the Bill to the House.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE SEX DISCRIMINATION ORDINANCE, 1983

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to render unlawful certain kinds of sex discrimination and discrimination on the grounds of marriage and for related purposes, be read a first time.

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

SECOND READING

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, if the last Bill which we had in the House which related to jury service could be interpreted as employment I am in dead trouble as the mover of this Bill. I hope this is not the case. This Bill in fact has been lying in my Department for some time. One of the problems was that before bringing it to the House I wanted to reconstitute the Labour Advisory Board to advise me on this Bill before it came to the House. We are finally able to meet in late October of this year and we agreed that we should take a further look at the Bill in February. However, during all this time, I was being given little nudges by the EEC

through the Foreign and Commonwealth Office that we should come into line with the Directive of February, 1976, of the Council of European Communities. And the last nudge was so great that I have had to bring this Bill to this House and I must say straightaway that though it looks a simple Bill it is quite a complex Bill and in deference to Members of the Opposition I do not intend to take it through all stages at this meeting and also because I want my Labour Advisory Committee to advise me on this Bill. I think one of the important things is that when we are talking here of sex discrimination the Bill as described mentions women but of course, the Bill also equally applies to men, discrimination is in respect of men and women even though the word women is more prominent in the Bill. I have nothing to add, Mr Speaker, except that I hope the Opposition realise that I didn't intend to push this Bill through, that it is only because I have been nudged by the EEC that I have presented it to the House in this way but I have made arrangements, in fact, to meet the Labour Advisory Board in February so that I can have their views and then come back to the House.

MR. SPEAKER:

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

HON W T SCOTT:

Yes, Mr Speaker, on our side of the House, at least the Democratic Party welcome a Bill of this nature, at least to remove some of the restrictions between the different sexes in Gibraltar. I am sorry to see, in fact, on a personal basis, that in the explanatory memorandum where it is mentioned that the principle of equal treatment for men and women as regards access to employment, vocation, training and promotion and working conditions, one which the Hon Member opposite has already mentioned on the jury service, which I understand was a free vote at a very late stage, I think if I had been present we would have swung it and, secondly, that no mention is made here of pensions because I think that in itself has been discriminatory between men who are worse off than the women are and I think some equivalence has to be arrived at there in time to come as indeed in fact and I think there is a motion later on in the meeting of the House by my Hon Colleague, Mr Bossano, on equivalence on retirement age but, as I said, we generally welcome the Bill but we are sad to see that perhaps it doesn't go as far as it should have done if one is to take into account the long time that the Minister has had it in front of his desk.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to say a few words about this because it is much more important I think that really the House seems to think. It is a very important principle. Women for a long time have been subjected, you might say, and still are in many countries to pressures from males which I think is almost inhuman.

HON CHIEF MINISTER:

It all depends on the nature of the pressure.

MR. SPEAKER:

Is the Hon Member speaking from personal experience?

HON MAJOR R J PELIZA:

I suppose, Mr Speaker, that everything one says is subjective. Mr Speaker, I do believe in a serious way now, that this is a very important Bill. It is moving forward towards a higher degree of civilisation which I am glad to say Gibraltar I am sure will receive very well. I do not believe that there is any need for the law in itself in Gibraltar because I do not believe there is all that sex discrimination going on but I think it is proper that we should have it in our books at least to show that we are no less advanced and progressive than other European countries. It is also very interesting that we have almost been forced to bring the Bill to the House by the European Community Organisation and Institutions. It shows the importance of belonging to this community and the effects that this is having all the way down to the ordinary citizens of the community. I think that one can look forward to this great European Institution to greater things in the future. I think it is extremely important to women themselves. The rights that this will give them now would be unquestionable in law once this goes through, I am not so sure that the Minister will not get into trouble over the jury system. I do not see why, an amendment should not be introduced to the Bill at the appropriate time to do with juries and perhaps, Mr Speaker, he could bring this issue back to the House in a round about way.

MR. SPEAKER:

Not for the next six months in any case.

HON MAJOR R J PELIZA:

I am not so sure he may not have to delay it for another 6 months if he does not get it through before the House of Assembly comes to an end. And if he, I believe, is in favour and even the Chief Minister is in favour, he may find ways of delaying the Bill coming through and therefore it will be possible to take it again when the next House of Assembly is convened. Mr Speaker, I welcome the Bill but I am sorry that the question of the jury is not included.

HON M K FEATHERSTONE:

Sir, although I fully welcome the Bill, it presents a little measure of worry to me on a philological basis. I wonder if the English language is going to have to be changed so that the word "man" must be removed. We already have the shocking word "chair person", I wonder if we are going to have to talk of the "person power board" to "person handle something", to "personage" instead of to "manage" and perhaps to "personoeuvre". I think we must perhaps have a clause in the Bill saying that the use of "man" in the English language can be taken to include woman otherwise the whole of the language is going to be very difficult. Thank you, Sir.

HON CHIEF MINISTER:

I would like to say to that that I am particularly impressed by the definitions which says that woman includes a female of any age.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I share the views that have been expressed by the Honourable and Gallant Major Peliza. I think what I would like to emphasise to Honourable Members opposite is that it is because I consider it an important Bill that Gibraltar should have, not that it is not all that necessary, that I have been careful in giving time to Members opposite so that we get the things right and that I get the proper advice from my labour Advisory Board. I think I must emphasise that, that I have not been riding roughshod over the Bill because I think it is an important Bill which will be seen by other countries as to how we are progressing in this field. I think it is also true to say that, certainly, in the public sector there is no sex discrimination in employment, in wages, in salaries, in promotion of any kind. I would add, Sir, that on the question of the jury service which has been mentioned in connection with sex discrimination, I think that it is one of the great things about the mind that can be so logical and also so illogical because when we finished at the last House when I

voted against compulsory service for women in juries, I was literally stopped by every female that I knew, saying "You should not have done it, you should have voted in favour of the Bill", and everyone said I should vote in favour of the Bill. But when I asked "Are you going to go and serve?", they said: "Oh no, I am going to be excused". Everyone of them said that, but it is the logical and illogical minds of women and men. Sir, all I have to say is to commend the Bill to the House.

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

HON MAJOR F J DELLIPIANI:

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

THE EDUCATION (AMENDMENT) ORDINANCE, 1983

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Education Ordinance 1974, (No.11 of 1974) be read a first time.

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

SECOND READING

HON J B PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, ever since the opening of the frontier, the Education Department has noticed that there has been an increased incidence of non-residents, and when I use the word non-residents in this particular connection I am really referring to those Gibraltarians who throughout the last 10 years have taken up residence and are in fact working in Spain, and with the opening of the frontier there have been a number of them who have now tried to seek free education for their children. The real intention behind the Bill at present before the House is precisely to stop that particular situation from arising because we have been informed that under the present law it was arguable that in those particular cases, children of these Gibraltarians or even of non-Gibraltarians but who have families here, could in fact opt for free education for their children. This was done or could have been done very easily. It could have been done by submitting a

letter to the Education Department to the effect that a particular child was being looked after by her grandmother who has always been resident in Gibraltar. As the explanatory memorandum provides, the object of the Bill is to provide that except as otherwise provided in Regulations, where no real parent of a child is ordinarily resident in Gibraltar, the child shall not be entitled to free education. The expression real parent in this context is intended simply to refer to a natural or adoptive parent who is alive and is, or would be if he exercised his rights, entitled to the legal custody of the child. It is necessary to so provide because under the principal ordinance the word "parent" is widely defined for general purposes to include any person who actually has the custody of the child. That is the point that I was making originally. A grandmother who went to the Education Department with a letter from the parents who have always been living in Spain could say "Look, this is a letter to the effect that I am looking after and I have the custody of the child". It was only a mere letter, it was not a court order, or anything like that and this Bill seeks to stop that, that is the free education side. The Bill also includes provisions to facilitate its enforcement. Where a natural or adoptive parent of a child is alive, it is presumed, unless that parent proves otherwise, that he is entitled to its legal custody. Where a natural or adoptive parent is a person who would be entitled to free education for his child if the parent did live in Gibraltar but he had in any year lived outside Gibraltar for more than 3 months, it is presumed, unless he proves otherwise, that he is not ordinarily resident in Gibraltar during that year. Mr Speaker, the fact of these presumptions are rebuttable will in fact enable natural or adoptive parents who are genuinely resident in Gibraltar to establish the children's rights to free education in those cases where the parents are absent for such reasons as business, holidays, or educational purposes, and I would add for health reasons, which are really of a temporary nature, outside Gibraltar. The Bill will come into force on the 9th January, 1984, being the date of commencement of the next school term but I see that we have put that the Committee Stage will be taken at a further meeting of the House so that is probably wrong. I think the intention of the Bill, is in fact, very clear and I sincerely hope that it meets with the support of the other side of the House. I think that it was Mr Loddo, at one particular meeting of the House who brought the matter up, I think it was in a question, and I did say that I was looking into the matter and as a result of that these are the proposals. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes, Mr Speaker, I think there are two principles involved in this. The first principle, obviously, is that people who do not reside in Gibraltar do not pay taxes in Gibraltar, and do not contribute to the economy of Gibraltar are not entitled to have their children educated in Gibraltar free of charge. To that extent of course, we agree fully with the Bill and that there should be these restrictions. On the other hand, I think that provision ought to be made for children of Gibraltarians registered under the Gibraltarian Status Ordinance who live or work in Spain or in the nearby area, to enable them to have their children educated in Gibraltar on a payment basis. The reason I say this is because I think that it is important for us that Gibraltarian children coming as they do under the evil influences of our neighbours, should have a bit of our own educational system inculcated to them in Gibraltar, in the environment of Gibraltar, because, obviously, Gibraltarians and the children of Gibraltarians could one day come back to Gibraltar and would one day form part of the people who might vote in any future referendum on the future of Gibraltar and therefore whilst agreeing that we should not allow Gibraltarian children whose parents reside and work out of Gibraltar the benefits of our educational system free of charge, I do think that they should have the right to be educated in Gibraltar on a payment basis. Apart from that Mr Speaker, we support the Bill.

HON MAJOR R J PELIZA:

I would just like the Minister to clear a point for me. Possibly, there is no case at the moment but I can foresee this possibly happening in the future, particularly with a fully open frontier if it ever happens. What I am referring is to a situation whereby there are Gibraltarians who because they cannot find accommodation in Gibraltar, a married couple who cannot find accommodation in Gibraltar, have to go and live in Spain. They continue to work in Gibraltar and obviously they continue to pay taxes in Gibraltar but their permanent residence is in Spain. Perhaps they themselves would not like to be in that situation but circumstances compel them to and they find that they have to educate their children in Spain or that they have to educate their children in Gibraltar but have to pay for their education notwithstanding that they are contributing in

taxes. I wonder if a way can be found, in fact, to overcome that problem.

MR SPEAKER:

Well if there are no other contributors, I will ask the Mover to reply.

HON J B PEREZ:

Thank you, Mr Speaker. Mr Speaker, there are two points that call for my replying. About the first point made by the Leader of the Opposition I can assure the Leader of the Opposition and the House that that particular provision as far as payment is concerned, already exists. That is in fact available and as far as my term of office as Minister is concerned, I think there is already one particular case in which that has already been approved although let me say, that the person concerned tried to get in on the basis of free education and we said "Look, we don't feel you are entitled, but should you wish to take up the right of paying, you will be entitled". That is already part of our legislation. The second point which calls for my reply is the one which was raised by the Honourable and Gallant Major Peliza. Again, as far as this point is concerned, that is already met because if he will note the words used in the Bill are "ordinarily resident". What would happen in that case in the event where you have the husband and wife who are both working in Gibraltar but due to lack of accommodation, or for some other which I would say bona fide genuine reasons decide that they have to live in Spain, obviously, this would be, as he said, in the case of a fully open border situation, that could already be met by the words "ordinarily resident" which in fact, although it is a legal term, it does mean that if you can show that your connection, although you may live in Spain your real connection is with Gibraltar of "ordinarily resident". It has not arisen yet but I think it is in those cases persons could make use of that particular word of "ordinarily resident". There is provision as to that as well.

HON A J HAYNES:

The interpretation would be that he would be domiciled in Gibraltar but resident in Spain and it would not be ordinarily resident.

HON J B PEREZ:

The point put forward by the Honourable and Gallant Member was in fact if it should arise with a fully open frontier. What I

am saying is that it is arguable for that particular parent to say that although they are living in Spain but nevertheless since they are working in Gibraltar, since they are contributing in Gibraltar by way of taxation, by way of social security and other means, they could argue that they are ordinarily residents. I am not saying that I am entirely agreeable to allowing that particular case but let me say that the provision is there and I suppose, really, you could take it to Court to make a judicial decision on the interpretation of that particular word.

HON A J HAYNES:

On a point of clarification. The Minister is wrong in his interpretation, Mr Speaker, in that a permanent resident is— also defined in the Bill as living in Gibraltar for nine months in the year.

HON J B PEREZ:

It is ordinarily resident and if you would have listened to what I said, I said the expression, when we were talking about expression about real parents, we were talking about natural or adoptive. The persons who are entitled to free education would be those who are ordinarily resident in Gibraltar. Therefore if anybody is living in Spain it is for them to establish that although they are living there they nevertheless are ordinarily resident in Gibraltar. If they cannot establish that then they would not be entitled to free education but they would be entitled, as I have already pointed out, to education by paying the relevant fees.

HON A J CANEPA:

On a point of order, Mr Speaker. We are at the Second Reading of the Bill, the Hon Minister has already exercised his right to reply and the Hon Member keeps on jumping up like a jack in the box.

MR SPEAKER:

No, with respect, I have taken it that the Hon Mover has given way to the Hon Mr Haynes.

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

HON J B PEREZ:

Sir, I beg to give notice that the Committee Stage and Third

Reading of the Bill be taken at a subsequent meeting of the House.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

- (1) The Pensions (House of Assembly) (Amendment) Bill, 1983;
- (2) The Auditors Registration Bill, 1983;
- (3) The Gibraltar Shiprepair Limited Bill, 1983;
- (4) The Wireless Telegraphy (Amendment) Bill, 1983; and
- (5) The Supplementary Appropriation (1983/84) (No.3) Bill, 1983.

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

THE PENSIONS (HOUSE OF ASSEMBLY) (AMENDMENT) BILL, 1983

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move the following amendment to Clause 2: In the proposed new section 8B(1), on page 126, to omit paragraph (d), and substitute the following paragraphs:-

- "(d) his condition is such that he is no longer reasonably able to perform the functions of an Elected Member; and
- (e) his condition was caused or materially accelerated by the injury or disease".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like, if I may, to speak in support of this amendment. Hon Members may recall that when this Bill came up for the Second Reading before the House, the Hon and Learned Leader of the Opposition made the point, if I may say

so, a very valid point, that the way the Bill was expressed meant that a person who might be able to claim a pension because he had, in fact, been injured and become unable to continue to serve in the House could lose it on a technicality because the way it was expressed, the immediate reason the person would have left the House was because of a dissolution and that was the way we had it drafted and I think that point does have to be covered and the point of this amendment is to change it in that respect so that the test is not whether you have left the House as such, you must have left the House, obviously, to qualify but then the further and the real test is whether you are reasonably able to continue in the House so it has got nothing to do with dissolution as such. That is the point of that amendment, it is to meet the point raised by Members on the other side. Perhaps it would be convenient for me at the same time to refer to a second point which was taken in the Second Reading debate but which we are not proposing amendments on and that is the question of the definition of the meaning of the expression 'duty' in relation to an elected Member of the House and it was suggested or put to us that we should define what the duty of a Member of the House is. I am afraid I have to say that my own view is the same as in relation to the Members of the family in that this is a case where one should rely whether it would be desirable not to try and define it definitively but one should rely on the ordinary meaning of the word 'duty' and look at the situation in the context of each case that arises and we do not anticipate any real difficulties in this but in any event we are not proposing an amendment to define 'duty', we are taking the view that it should be left to its ordinary meaning.

HON P J ISOLA:

Mr Chairman, this amendment I think meets the point that I raised on the Second Reading and it is quite clear that once an elected Member is not able to perform the functions as an elected Member that is the time when obviously the pension comes into play and he should cease really to be an elected Member. I think this meets the point that I made in the Second Reading.

HON MAJOR R J PELIZA:

Just one question, at what time can this be declared, is it during the time that he is serving in the House because how can you tell whether he cannot perform the functions of an elected Member? Obviously, he must be serving at the time otherwise if he stands for election and he is not elected he cannot come back and say: "I cannot perform the functions

of an elected Member". He must cease to be able to perform the functions of an elected Member whilst he is serving in the House, is that not so?

HON ATTORNEY-GENERAL:

If I may clarify that point. I think any pensions question, as indeed I think most matters that concern pensions must be looked at this way. A person would say: "I believe I am entitled to a pension", and he then has to meet certain criteria which are checked and I think the relevant criteria, I am condensing them are; first of all; "Have you been a Member of the Third or any subsequent Gibraltar House of Assembly?" If the answer is yes you have met one of the qualifications. The second relevant point here I think is; "Have you ceased to be a Member?" If the answer is yes, you have met another qualification. The third relevant point is; "Have you suffered any injury or disease attributable to your service as a Member?" If the answer to that is yes, the third leg has been made out. I said there were three but there are in fact four legs. The last question to be asked and it is a matter of fact in each case is; "Because of that injury or that disease, are you now unable to serve as an elected Member, are you not fitted to serve as an elected Member?" And if the answer to that is yes, then the pension authority is entitled to come to the view that this person is qualified for a pension. It is a matter of objective judgement or decision by the pension authority. I do not myself think that that has to be made while the Member is still serving, in fact, my answer to the Hon and Gallant Major's question is that it would not be necessary for a Member to be serving when that decision is taken as long as those four steps are all satisfied.

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

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

THE AUDITORS REGISTRATION BILL, 1983

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move the following amendments to Clause 3(5); to omit the word "appointment" and substitute the word "re-appointment".

Mr Speaker put the question which was resolved in the affirmative and Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move the following amendment to Clause 4(3); Omit this subclause and substitute the following subclause:

"Any person who is not exempted under subsection (2), who satisfies the Board -

- (a) that he is of good character;
- (b) that he has not less than five years experience as an accountant;
- (c) that he has an adequate knowledge of accountancy, and of the law relating to companies and to taxation, and also has obtained adequate knowledge and experience of auditing; and
- (d) that accounting and auditing occupy a reasonable proportion of his working time -

shall, on application in writing to the Board in such form as the Board shall require, and on payment of the prescribed fee, be entitled to be registered in Part II of the Register".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to also speak in support of this amendment by way of clarification. When this Bill was first proposed to the Government the scheme of the system of qualification was rather more loosely worded and if I can explain what I mean by that. The relevant clause of the Bill gives the Auditors' Registration Board the power to grant registration where it is satisfied that a person meets certain

requirements. The Bill as initially presented to this House set out those requirements as they were conceived by the professional society proposing the measures and agreed to by Government at that time but the society subsequently came back to us, they had obviously thought further about the matter and wanted to be more specific in a number of respects about the qualifications that had to be demonstrated or met before a person could obtain registration. The amendment is to give effect to that further thinking of the society and in fact I think it is desirable because it is rather more specific and therefore more objective than the previous wording. The one point which we did not feel able to include, because I think it was really not so much a question of qualification was a proposal that one of the things a person had to do was to show that he was practising with unlimited liability. I do not really think that is a question of qualification, I think that is a question of professional ethics or professional practice and that is a matter that my advice to the Government is that it should be looked at if and when the legislation we are now establishing for the first time is further developed specifically in relation to professional practice and professional ethics. At this stage we are not proposing to include that as a qualification.

HON P J ISOLA:

There has been some shift, I am afraid of the intentions behind the Bill in this amendment. As I understood the Auditor's Registration Bill as it was originally brought about, had two objectives. One was to decide basically, who could audit companies under the Companies Ordinance for the purpose of income tax. As I understand the position, the Commissioner of Income Tax has a very good idea as to the accountants he can accept as being adequate and so forth and the idea of this Bill, part of it, as I understood it, was to regularise the position of people who were in accountancy and so forth. There is only one part I query of this amendment, and that is in paragraph (C). Paragraph (C) is that he has an adequate knowledge of accountancy and these are the words I object to, and on the law relating to companies and to taxation, and also has obtained adequate knowledge and experience of auditing. I think it should just read that he should have an adequate knowledge of accountancy and knowledge and experience of auditing. I do not know who is going to be on the board, I don't know whether it was said who would be on the board, one as Chairman, one should be a Member of the Gibraltar Society of Chartered and Certified Accountants and it would seem to me that it could be argued by the Chartered Accountants on the board that the person did not have a knowledge of law relating to companies and to

taxation, because (a) he had not obtained the qualification on the matter which all accountants have to do and (b) what is an adequate knowledge of law relating to companies and to taxation? I think there are many lawyers who do not have the adequate knowledge relating to that today. So an accountant who has obtained his experience for example, working in a chartered accountancy firm and then branched off on his own, could be shot down very easily by anybody on that board and I think that the intention behind this Bill was to regularise the position of people who spent most of their time in accountancy work, were generally accepted by the Commissioner of Income Tax as being OK for audit purposes, and exclude all those who are outside that. I would move myself, for the reasons I have stated only, that (c) should be made less restrictive by just asking for an adequate knowledge of accountancy and experience of auditing. This is what I think it should be.

HON CHIEF MINISTER:

Mr Chairman, isn't the Honourable Member trying to prepare the ground in order to have stronger support for his proposed amendment later on?

HON P J ISOLA:

No, on the contrary, I suppose that if it stayed as it was, it would probably help Section 13. But what is the purpose of this Bill Mr Speaker? Is this to have another examination board? What happened in the United Kingdom, as I understand it in the 1929 Act, what they did was to accept all auditors, everybody who had been practising auditing up to a particular date and, for example, here with dentists what we did was to accept as qualified dentists all those who had been practising in effect dentistry without a qualification up to a particular date. And what does this do? This is in the same line, to accept people who have businesses of accountancy going who are working as accountants, to accept them for the purposes of Gibraltar, for the purposes of the companies ordinance. I believe that the Commissioner of Income Tax has been consulted on this and I think that he himself suggested this. So let us not have a new situation introduced under which the board will say 'No, not you, because you have passed no exams in company law and you have not passed any exams on tax law'. That is all I am trying to do. What I am trying to do is that I think the introduction of knowledge of a law relating to companies and to taxation introduces a new element into the Bill, a substantial new element into the Bill, which I am sure it was not intended in the original Bill. If we look at the explanatory note to the Bill, "they are of good character and who in the

opinion of the board have obtained adequate knowledge and experience with accountants and auditors and spend a reasonable proportion of their working time on accounting and auditing". That is all the Bill is trying to do. If we are going to have a registration board who are going to tell an accountant who has been working for a long time, doing his business; "Once you have got an examination, bring me a certificate that you know something about company law and something else, then you will be qualified". That is what I think is wrong. I would move Mr Speaker, perhaps I could read it first, and that is that sub-paragraph (C) be deleted and substituted by the following: "(c) that he has adequate knowledge and experience of accountancy and auditing".

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

HON ATTORNEY-GENERAL:

Mr Speaker, the effect of that amendment is that what is proposed in Committee by way of a change to sub-clause (3) as presented in the original Bill is simply to add a 5-year minimum qualification, that is what it comes down to, I think. If Honourable and Learned Members' concern is that people that have been practising at present may be excluded from future practice by the amendment of the Bill in the way originally proposed, if that is the concern I don't think, with respect, that that is correct because the principle already contained in sub-clause 3 of the Bill is that there be a board, the board will be able to say who may or may not qualify or may or may not be registered as an auditor, and that is a matter of judgement, although the original sub-clause 3 laid down some criteria and there is a right of appeal. I do not think that the amendments that the Honourable Financial and Development Secretary originally proposed gets away from that principle. All that it is doing is to in effect, particularise those criteria in two respects. One, the 5-year rule, which is not controversial, and, two, to say among other things an adequate knowledge of accounting and auditing includes a knowledge of the law relating to taxation and the law relating to companies. I do not think that that is in any way departing from the original principle of the Bill. I think that it is a matter of law, a person who does not hold any qualification can still be held by the board, because of his practical experience, to have a sufficient knowledge of taxation and of company law. If the Member is concerned on the point of how objective must the board be, that may be a different matter, in other words, it may be a question of looking at the wording who satisfies the board rather than the detail of this particular paragraph. But that has not been put by anybody and as matters stand we have not been proposing to amend it in

any way in that respect. Mr Speaker, if I can make one other point. I think there is a difference. It is true that customarily when one introduces professional or occupational registration for the first time, one says for the future people must meet these requirements, all people who have been practising immediately before the introduction of this new control will be deemed to be able to continue to practice. But I think there is a difference between auditing and accounting. Surely, accounting is the profession, the general profession, auditing has always been seen as something over and above that which calls for specialised knowledge and one of the reasons this Bill is being brought in is to ensure that there is an efficient standard of auditing and I think the same consideration as might apply to other occupations do not necessarily apply to the specialised skill of auditing.

HON P J ISOLA:

Mr Chairman, with respect to the Honourable and Learned Attorney-General, he misses the whole point of the Ordinance. All it says is people who have an adequate knowledge of accountancy and experience in auditing and what this introduces is a test. The test may not be that you need your degree, but it is a test. You have an adequate knowledge of law relating to companies and to taxation, specifically set out. This is a difference. And as I understood the position, I know a little about the background of this, not very much, but I know a little. As I understand the position, this is an exercise of weeding out people, basically, whom the Commissioner of Income Tax did not want to have as auditors and people he did want to have as auditors who were obviously making a full time practice of accountancy and spent full time on it. To bring in a specific requirement, now, at this stage, is to put all that at risk and I do not think it is fair on the people concerned. That is all I am saying. Because you are going to have a chartered accountant there who says: "He knows nothing of law of companies", even though the Commissioner of Income Tax thinks he does and he has been accepting his accounts. It brings in a qualification that was not intended. If one is looking objectively at the situation the way one should do, though not trying to add on a qualification at a late stage, but if you are going in accordance with what the principles of the Bill, the general principles as explained to us, this particular pointing out of qualifications, changes, in my view, the concept of the Bill. That is why I am suggesting that we leave it as it was intended. Can I ask one question? Has the Honourable and Learned Attorney General had representations from Chartered Accountants on this Bill? Is that the position?

HON ATTORNEY-GENERAL:

This is a proposal from the society.

HON P J ISOLA:

Of Chartered Accountants, of course.

HON ATTORNEY-GENERAL:

I really can't agree with the Honourable and Learned Leader of the Opposition. This is not a new qualification, this is a further particularising of the existing requirement which is that you have an adequate knowledge. We are saying you have an adequate knowledge if, amongst other things, you know something about company law and taxation law and that is not a new principle.

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to point out one thing to the Attorney-General. If the consequences of this amendment is that the number of people in Gibraltar who have been practising as accountants for years, because of this possible interpretation that my Honourable Friend has given to it, were to put them out of a job, I think it would be a gross injustice and I doubt whether the Opposition can possibly accept the amendment the Attorney-General is suggesting.

HON CHIEF MINISTER:

Mr Chairman, it is very peculiar that one gets accused all the time about not having sufficient time to make amendments, and I have often said how dangerous it is to try and tinker about with amendments ad hoc on the spur of the moment and suggest wording here and wording there, the full contents of which could have much wider repercussions. I am not talking about the merits of the amendments at all, I would rather leave that in the hands of the Attorney-General in respect of the drafting. There is another amendment of which he has given notice which we can take on its merits, fair enough plus the ones that we may propose but I have said this more often than once, this last minute tinkering with words in draft Bills which have been published for a long time and of which we have not had notice, really puts Members, particularly the lay Members in a difficulty. It puts me in a difficulty. I can imagine the lay Members find it even more difficult to know exactly whether there is merit or there isn't merit. Perhaps we could leave this until later on and deal with it at a later stage. I would like to think about this.

HON P J ISOLA:

May I say one thing, Mr Chairman, about what the Hon and Learned Chief Minister is saying. All we are doing is reinstating the original Bill, that is all we are doing, the wording there on section 4(3) "obtains adequate knowledge and experience as an accountant and an auditor" and that is all that amendment does. And it is the new amendment that has been given with very little notice which was circulated to the Members of the House yesterday evening. My amendment comes only as a result of that amendment, if that amendment had not been made I would not be amending and all I am doing in the amendment, Mr Chairman, is reinstating what was in the original Bill in respect of which I am sure the Hon and Learned Attorney-General took a long time to consider and draft and the only reason why we are having this amendment today is because the Society of Chartered Accountants wants to screw people a bit more, that is all.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, as a relative newcomer to this subject I must say that it does seem to me desirable and necessary that someone who is, in fact, going to audit accounts and whose experience will have to be accepted by the Commissioner of Income Tax, should have a knowledge of taxation and tax law and also of company law and this is the force for the amendment. Obviously, one is seeking to improve and strengthen the provisions governing auditing and I find it difficult, as I say, as a newcomer to understand why the Hon and Learned Leader of the Opposition is objecting, apart from the form and the exchange he had with the Chief Minister, the amendment seems to me a sensible one.

HON P J ISOLA:

Mr Chairman, I can appreciate and I take it that the remarks of the Financial and Development Secretary are precisely the remarks of a newcomer and therefore has no knowledge and experience of the whole history of this, firstly. Secondly, I think that if these qualifications are being brought in you might as well scrap the Bill. The idea of the Bill was to enable the Commissioner of Income Tax to decide who should be auditors for the purposes of the Companies Ordinance and then preclude everybody else from being auditors and the people that would be accepted are people who are doing full-time accountancy work and incidentally, Mr Chairman, full-time accountancy work in competition with chartered accountants and we now get brought in an amendment which is sectarian, Mr Chairman, this amendment, it is sectarian and if the

predecessor of the Hon Financial and Development Secretary did not find it necessary with his three years of experience in Gibraltar to bring in this new element; I see no reason why it should be brought in at this stage. The more that it is discussed the more suspicious I become that the Bill was promised, brought in and now it is being chopped off. We may find there is nobody registered as auditors under this Bill and we are all wasting our time, Mr Chairman, and the monopoly is being maintained.

HON CHIEF MINISTER:

Mr Chairman, I am not very happy about this and I wonder whether we could leave this amendment to a later stage. I want to take advice on this since I have heard the Attorney-General, I have heard the Leader of the Opposition and I am not at all happy one way or the other.

MR SPEAKER:

We will then adjourn the Committee Stage of this Bill to a later stage. I imagine that perhaps it would be the wrong time to start on the Gibraltar Shiprepair Bill, so perhaps we could have the Wireless Telegraphy Bill.

THE WIRELESS TELEGRAPHY (AMENDMENT) BILL, 1983

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, in Clause 2 if one looks at new section 10(5)(a), the whole point of this is that you are being sued for a licence fee because you haven't taken out a licence and I think that should read, and I will propose a very brief amendment to it, that should read - "a person has at any time after the commencement of the Wireless Telegraphy (Amendment) Ordinance, 1983, held a licence". I have an amendment which I will move. I move that Clause 2 be amended in the new section 10(5)(a) to omit the word "holds" and substitute the words: "has at any time after the commencement of the Wireless Telegraphy (Amendment) Ordinance, 1983, held".

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

Clauses 3 and 4 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1983/84) (No.3) BILL, 1983

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

Schedule

Supplementary Estimates Consolidated Fund No.3 of 1983/84

Head 2 - Customs

HON W T SCOTT:

Mr Chairman, can I ask the Government what led to the extra expenditure of £18,000 which I understand from the remarks is to provide cover for relieving officers during periods of annual leave and sick leave that could not have been pre-determined during estimates time?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, extra activity on the part of the Customs pursuing their normal duties. As I think the Hon Member may be aware the staffing of the Customs Department is barely adequate to meet extra demands placed on them. As is normal in these cases there is to be a staff inspection report and this may lead to increases in manning levels but in the meantime it has been found necessary to put officers on overtime in order to cover for officers on annual or sick leave, it is just pressure of work.

Head 2 - Customs was agreed to.

Head 4 - Electricity

HON G T RESTANO:

Mr Chairman, is the additional amount required for staff engaged by HSPE or by the Electricity Department?

HON DR R G VALARINO:

This, in fact, as the comment says is for six months of additional local staff which were engaged for the Waterport Power Station which consist of one Assistant Mechanical Engineer who is a PTO II who was recruited and the System Engineers who were advertised for and were promoted to PTO II and at present are undergoing training at Waterport Power Station, they are local people.

HON G T RESTANO:

And they are actually in the Waterport Power Station?

HON DR R G VALARINO:

Yes, they are there.

HON G T RESTANO:

Are they the only Government employees in the Waterport Power Station or are there any others?

HON DR R G VALARINO:

Well, if we could call it full-time, they are the only ones at the present time, Sir, but other people go there from time to time. Obviously, the City Electrical Engineer and the Deputy City Electrical Engineer go there as do various Heads of Department and people like the Ancillary Section to make sure that the place is cleaned up etc, but these have been recruited specifically for these jobs.

Head 4 - Electricity was agreed to.

Head 10 - Judicial (1) Supreme Court

HON P J ISOLA:

Mr Chairman, can I ask, is there still industrial action in the Supreme Court or the Registry of Companies or has that disappeared?

HON ATTORNEY-GENERAL:

That has disappeared, Mr Chairman.

HON P J ISOLA:

I am very glad to hear that. Can I ask, the additional staff employed for the additional judge, is that the staff actually asked for?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it is not. The staff of the Supreme Court, following the appointment of an additional judge, is also the subject or should be the subject of a staff inspection and they have not as yet been granted their full additional demands.

HON P J ISOLA:

What was the staff that was being demanded for the additional judge? Is that known?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I haven't got the precise figures, I think the difference is that we are allowing them a number of staff on a temporary basis, the figure, if the Hon and Learned Leader of the Opposition won't hold me too precisely to this I think it is the difference between nine and six, I think, in that order, but I would have to check on that figure.

HON P J ISOLA:

Because it does seem to me, Mr Chairman, having some knowledge of the Courts, the sort of staff that is being apportioned under the vote is totally inadequate, that is why I mentioned it: Just having one Executive Officer and one Usher to service an additional judge would seem to me to be inadequate. Could I ask under Item 6 - Jurors, this I presume is in relation to Operation Jam, presumably, the cost. I have noticed recently under this item because it seems that prosecutions, especially in drug cases, are becoming particularly burdensome on the economy. Mr Chairman, I notice that recently there were some cases before the Court in which, from what I read, some defendants were prepared to plead guilty but the Crown decided to take it on trial in the Supreme Court. Can I ask, is any consideration given when making a decision such as that when defendants are prepared to plead guilty and take their punishment and the Crown decides to prosecute into a higher Court, is any consideration taken of the fact of the very substantial expense that is involved in any prosecution of drugs involving as it does, visits from Scotland Yard, visits from Gibraltar to England, expert witnesses and all these substantial expenses when we don't have, for example, a prison that is adequate for long term prisoners and so forth. It was very odd for me to read what I read that the Crown which doesn't always succeed, obviously, in a prosecution should not have accepted a plea of guilty but involved us in quite heavy expense which any prosecution case or any trial in the Supreme Court involves, including, of course, payments to jurors and so forth and I could not quite understand the principles on which it was decided that there should be a Supreme Court trial. The question I ask here, of course, is, is any consideration taken in the Attorney-General's Chambers of the cost of prosecutions in the Supreme Court in drug cases involving the enormous expense it does to the taxpayer?

HON ATTORNEY-GENERAL:

Mr Chairman, I cannot comment on the first part of that question at all because the matter is sub judice.

MR SPEAKER:

In fairness, I cannot accept that it is sub judice. You have been asked to give an answer on general principles as to the policy of the Attorney-General's Chambers.

HON ATTORNEY-GENERAL:

I am not prepared to discuss my prosecuting policy at all, Mr Chairman.

MR SPEAKER:

Well, that is another matter, but it is certainly not sub judice.

HON P J ISOLA:

Do I take it then that this House is asked to vote money but won't be told why they are being asked to vote it and the principles on which they are being asked to vote it. We can't accept that, Mr Chairman, and will vote against.

HON ATTORNEY-GENERAL:

I can clarify it to this extent. The law of Gibraltar says that drug matters are serious matters. If that is not to be the law in the future, well, that will be another matter. We prosecute what is said by the law to be weighty matters, weighty criminal matters.

HON P J ISOLA:

Mr Chairman, I asked for the principles because I do not know whether perhaps what I read in the, I don't know what paper it was, was wrong. Perhaps the amount involved was much bigger than was shown in the newspapers. But what we are concerned about is that when there are quantities that can hardly be regarded as commercial, the taxpayer should be involved in the expense of a trial in the Supreme Court with hundreds of witnesses or apparently lots of people coming over at very considerable expense. Of course, drugs smuggling is a very serious offence but on the other hand, one must keep a sense of proportion, surely. What we are wondering here, on this side, what are the principles on which it is determined

that cases should be taken to the Supreme Court rather than dealt with summarily, especially when the defendants themselves were not even residents of Gibraltar and are prepared to plead guilty.

HON ATTORNEY-GENERAL:

Mr Chairman, unless we are at cross purposes, this matter is sub judice at the moment, this very matter is sub judice at the moment.

MR SPEAKER:

I think the Honourable and Learned Leader of the Opposition is just referring to the present case as an example of the policy which is being applied generally by the Attorney-General's Chambers and nothing else. What the Honourable and Learned the Leader of the Opposition is saying, on general principles, is this the right procedure to follow, not question the fact whether it is the right procedure to follow in this particular case.

HON ATTORNEY-GENERAL:

I am grateful, Mr Chairman. My difficulty is that he has associated it with the considerations which are governing this particular case and it is very difficult for me to comment at all whilst this case is still going on.

HON CHIEF MINISTER:

Mr Chairman, there is one area on costs in respect of this which also appears in subsequent items on which I have taken an interest in order to see whether we can save money and that is the expense of sending officers to the United Kingdom with samples of drugs for specialised analysis. I have urged on the Deputy Governor and the Commissioner of Police to try and see whether we can set up, we have problems in respect of the staff but the idea would be that it would be worthwhile incurring some capital expenditure in equipment in our laboratories which would more than pay for the continuous expenditure of sending drugs which have got to be supervised from the moment they leave here to the moment they come back. I must say in fairness, though, that the Police take advantage of officers who go to the United Kingdom on leave and, therefore, they do not have that extra expense. But it is a continuous flow of expenditure on this matter. There are some that could be done here at some capital expense with equipment that would save all these passages and this bringing of witnesses.

HON P J ISOLA:

I agree entirely that that should be followed up because it seems to me to be quite absurd the enormous cost that criminal cases where drugs have been concerned are costing the taxpayers in Gibraltar. I notice here the remark, "cost and expenses of 8 pending trials". This is why I think there should be some sense of proportion as to when something is taken to a higher court and when something is not because at the end of the day it is the taxpayer who is going to be asked to pay.

HON ATTORNEY-GENERAL:

Without being facetious the sense of proportion is needed among the traffickers, the people that deal in drugs. Can I come back to the point which the Honourable and Learned Member was concerned with. It is difficult to discuss it at this stage, I am happy to do so informally for the moment but later on it will be easier to discuss it.

Head 10 - Judicial was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Head 18 - Prison

HON W T SCOTT:

Mr Speaker, every year a head is created in the Consolidated Fund, this year it is Head 27, which is the 1983 Pay Settlement and, in fact, at a later stage in the Committee proceedings we have a sum of £172,200 awarded because of that pay settlement and I am at a little bit of a loss to understand if an extra £8,100 is required for the prison precisely to meet the cost of the Pay Settlement, why this should appear in Head 18 and not Head 27.

HON A J CANEPA:

Mr Speaker, Head 27 is for the 1983 Pay Settlement. This is in respect of the 1982 Pay Settlement and when that happens, when it is more than a year in arrears, then a specific supplementary provision has to be made by the House.

HON W T SCOTT:

Then the follow up question is, obviously, why did it take so long for the prison staff to be awarded the result of the

1982 Pay Settlement?

HON A J CANEPA:

It probably isn't that it took so long, it could well be that there has been a further settlement in the United Kingdom. There may have been a revision made of allowances there and they have been delayed and therefore we, under the parity principle, are required to apply those and we also have to do so retrospectively and it comes through later than the previous financial year.

Head 18 - Prison was agreed to.

Head 19 - Public Works

HON P J ISOLA:

In that item it refers to the cost of preparation and printing. Could I ask where has this brochure been prepared?

HON M K FEATHERSTONE:

The Gibraltar Chronicle Sir.

HON P J ISOLA:

Have any outside agents been engaged in the preparation of the brochure in pretty pictures and so forth?

HON M K FEATHERSTONE:

Yes, Sir, we have used the firm that has done the colour separations for us.

HON P J ISOLA:

Could this not have been done within the Department? How much did that cost?

HON M K FEATHERSTONE:

No, Sir, the equipment available in Gibraltar does not give colour separations of the quality that is required but once you have the colour separations done to the standards required, the printing in Gibraltar is able to cope with it.

HON P J ISOLA:

Could I ask how much of this £11,665 is in respect of the pay

car park and how much in respect of the Queensway Development Project?

HON M K FEATHERSTONE:

Yes, Sir, the colour brochure is, I think, £9,500, the balance is in respect of the Queensway Project.

HON P J ISOLA:

So the Government is spending £9,500 in what is essentially a public relations thing, just a picture so that the public can see how pretty the Queensway project is going to be.

HON M K FEATHERSTONE:

You could call it public relations but I think it goes much further than that. This is the brochure which it is intended to give to would be developers so that they can get an idea of the site, what Government would like to see there etc. The main aim is to would-be developers rather than to the general public. Of course, the brochure will actually be sold so some of the money to a great extent will be recouped.

HON P J ISOLA:

How many brochures are going to be printed?

HON M K FEATHERSTONE:

Between 300 and 400.

HON W T SCOTT:

Mr Speaker, I would like to know if the department itself undertook the artwork.

MR SPEAKER:

Undertook the what?

HON W T SCOTT:

The artwork or if it didn't, if it went out to tender?

HON M K FEATHERSTONE:

The majority of the art work has been done by the department. The department is basically concerned with the detailed part but of course as I said the colour separations were sent to England to be done.

Head 19 - Public Works was agreed to.

Head 20 - Public Works Annually Recurrent.

HON W T SCOTT:

Mr Chairman, I have one on subhead 56, Importation of Water. Is this figure the second or third consignment of fresh water that we have received by tanker?

HON M K FEATHERSTONE:

The third, Sir.

HON W T SCOTT:

Is the Minister able to say what effect the recent heavy rainfall has had on the reserves of water?

HON M K FEATHERSTONE:

The recent rainfall was very welcome and helped us considerably but it produced altogether roughly sufficient water almost equivalent to another tanker. The basic difficulty has been that the importation of water that we had been relying on from a much closer source fell away since they were very short of water and so far, in spite of the rainfall, it has not been restored. The present position at the moment is that we have about the same amount of water in our reservoirs as we had at this time last year.

HON W T SCOTT:

Does the Government intend contracting another ship-load during the course of the winter?

HON M K FEATHERSTONE:

That is very difficult to say, Sir. We are hoping that the source close at hand will once again start to supply us in the quantities which it used to supply. If that happens there should be no need to bring any more water from the UK.

HON W T SCOTT:

If that is so, Mr Chairman, the importation of water would subsequently go down and on that basis can the consumer of Gibraltar look forward to a deduction in their water charges which have been raised quite recently in the House and are effective until the end of April of next year.

HON M K FEATHERSTONE:

The idea of the surcharge was to cover the two importations previous to this present importation. Whether this present importation would be a further surcharge would still have to be considered but I would mention that we have had a whole survey on the question of water and the whole question of water tariffs will be put to review and may give a considerable change all the way through based on a more economic way of looking at the situation. I wouldn't like to say at the moment there will be a reduction, an increase, anything at all.

HON W T SCOTT:

Not till after the next general elections, no doubt.

Head 20 - Public Works Annually Recurrent was agreed to.

Head 22 - Secretariat

HON A J HAYNES:

Mr Speaker, what security do these officers concern themselves with?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The security of cash in transit.

HON A J HAYNES:

Isn't that a sort of thing that should be kept secret as a matter of public interest?

HON P J ISOLA:

In four months 3 security officers, £4,620, that is about £400 a month each security officer, roughly. Is it during working hours that they are employed and do you have any particular qualifications?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As far as I know they work during normal working hours, Mr Chairman, and their qualifications will be those appropriate to the grade of security officer.

HON P J ISOLA:

Is there such a grade in the Government Service?

HON M K FEATHERSTONE:

Yes.

HON W T SCOTT:

Mr Chairman, might I ask, if this is a new thing that has just happened? Is this a temporary one or is it a permanent one?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, obviously, the security arrangements will be kept under close review, Mr Chairman.

HON W T SCOTT:

And, obviously, what gave rise to this new arrangement, what was the reason?

HON CHIEF MINISTER:

The £44,000 robbery.

HON MAJOR R J PELIZA:

Rents of flats of officers. Would the Financial and Development Secretary explain this £45,000. It says: "Reinstatement of funds previously reallocated and required to meet other commitments". Could he say what these other commitments are and perhaps since we have something to do with the cost of renewal of a lease in which it was clearly seen by the Government that it was better to give up the lease and perhaps find Government accommodation for these officers, since the total amount is £168,000 which really could easily mean that we could contract at least 4 flats, which in terms of offices could be quite a lot of flats, I just wonder if the Financial Secretary could give an explanation.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the reallocation, is simply a technical matter. Reallocation Warrants Nos.1 and 2, have already been laid at an earlier session of the House and this does not mean that £168,000 has been spent de novo. It is £45,000 which was originally reallocated for other purposes and is now being put properly under its right sub-head.

HON P J ISOLA:

Surely, the £45,000 was reallocated and therefore spent and now the Government is seeking another £45,000. The £45,000 that

the Government is now seeking, what is it for? It is not just for reinstatement to have it in the bank, it must be, surely, because it is needed. What is it needed for? Is it, for example, in respect of the new rent that has to be paid for Leon House?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have explained the reallocation and the re-instatement. The additional sum now required is to meet certain fees and expenses of the Chairman of the Steering Committee with which the House, I think, is probably familiar.

HON P J ISOLA:

Mr Chairman, I didn't quite catch that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It comes under item of Rents of Flats and Offices because that is a re-allocation from that particular sub-head.

HON MAJOR R J PELIZA:

It is a real pity, Mr Chairman, that a matter that this House has been so concerned about, the expense of the Chairman of the Steering Committee, that a clearer note should not have been made in the estimates. This is most unfair to the Opposition and also could I know if this amount has been included in the answers that have been given to my Hon Friend?

HON P J ISOLA:

Mr Chairman, when you allocate funds all we get is a statement of allocation and the money is paid out on the warrant of the Financial and Development Secretary. As I understand it, as I read this, money was voted under Rents of Flats and Offices and money was allocated from that to something else, not Rents of Flats and Offices. Having spent that money which didn't require approval of the House but we get notice of it, the Government now comes to us and says: "We have gone and spent money by re-allocation which we now need again and therefore we ask you for another £45,000". Am I right that that is what has happened? We are voting another £45,000 which the Government now tells us is going to be used in respect of the Chairman of the Steering Committee or has been used, has been paid over and has been included in the figures that my Hon Friend Mr Restano has been given in answers to questions, that is the position?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct.

HON J BOSSANO:

It doesn't explain why it is under Rents of Flats and Offices.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, if I may answer the Hon Mr Bossano, it is that the re-allocation is why it appears under Rents of Flats and Offices.

HON J BOSSANO:

The Leader of the Opposition, I think, had an understanding of the situation with which I coincide entirely. The money may have been used to pay the Chairman of the Steering Committee instead of having been used to pay for rents but the £45,000 that we are voting now is for rents not for the Chairman of the Steering Committee?

HON CHIEF MINISTER:

That is right, for rents.

HON J BOSSANO:

Then my question is, what rents?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Rents which were the subject of estimates laid before the House earlier in the year.

HON P J ISOLA:

So the position is that we voted money for rents of flats and offices, at a particular stage the Government thought it better not to come to the House for money for the Steering Committee and used that money to pay the Steering Committee's Chairman and now they need that money to pay for rents again so that is why we are voting, another £45,000, is that the correct situation?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is a re-instatement, Sir.

HON MAJOR R J PELIZA:

What I don't understand is, in what form was this money paid to the Chairman of the Steering Committee, in the form of his salary, in the form of his rent in the hotel, in what way, why would you take it out from a vote which has to do with rents of flats and offices, I just cannot see the connection? Could the Financial Secretary explain it because to me it doesn't make sense to take away money from rents of flats and offices to pay a salary, if that is what it was, it just doesn't make sense.

HON CHIEF MINISTER:

I think the general provision for re-allocation is that when you need money if you are not using it for one thing and you need it for the other and you haven't got it you make the re-allocation and then you come back and ask it for any item.

HON P J ISOLA:

But, surely, that is not the position, is it? When you allocate monies from a vote you allocate them somewhere else because in the opinion of those who have estimated the vote or the Treasury, or the Financial and Development Secretary that money is not likely to be used under that vote so it is allocated somewhere else. But when you are estimating rents of flats and offices you know the rent you are going to pay for the year so why take it out from there? There can only, in my view, Mr Chairman, be one reason, that the Government didn't want to come to the House for provision for the Steering Committee's Chairman.

HON CHIEF MINISTER:

Most certainly, as far as I am concerned and my colleagues are aware, there has never been any suggestion that we should hide it in any way, I think, perhaps, it may be fair to say that this re-allocation has been done by the Hon Financial Secretary's predecessor and he has had to answer for it now and perhaps if Hon Members want a little more detail about the rents I am sure he will get it and deliver it to the House.

HON MAJOR R J PELIZA:

I would be most interested in getting more information about this.

HON G T RESTANO:

What I would like to know, Mr Chairman, when the original re-

allocation was made to pay the Chairman of the Steering Committee, I don't think I have seen that re-allocation, where does it, in fact, appear?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

When it was laid before the House. As I said in my earlier comments that re-allocation Warrants Nos. 1 and 2 are the ones in question which have already been laid.

Head 22 - Secretariat was agreed to.

Head 26 - Treasury

HON P J ISOLA:

Mr Chairman, this is another £9,000. Is that for Mr Casey again? I notice the expression 'ancillary work' is mentioned, does that include U-turns?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, the sum includes the final accounts for Mr Casey and one or two other minor consultancy engagements.

HON P J ISOLA:

Can I ask what is the full amount that has been paid to Mr Casey and is that the end of Mr Casey?

HON CHIEF MINISTER:

So far, yes.

HON P J ISOLA:

I would like to know the full amount that he has now received for (a) his written report (b) being of great assistance to the Chief Minister in London and (c) for being of great assistance to the British Government and the Chief Minister in Gibraltar in the Access Television? What is the full amount that he has received?

HON CHIEF MINISTER:

There was an original figure of £20,000. I think we came for another £8,000 and this is the final account up to today. If we have to consult him again we will have to pay him.

HON P J ISOLA:

He has received £20,000, £8,000 and now another £5,000, is that the position, that is £33,000?

HON CHIEF MINISTER:

Now it is £9,000.

HON P J ISOLA:

The full figure is £42,100. I understood the Financial and Development Secretary to say that there were odds and ends apart from Mr Casey. What we are interested to know is the full amount received by Mr Casey, we don't worry about the odds and ends of anybody else.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The odds and ends are between £2,000 and £3,000. The amount for Mr Casey is just over £5,000.

HON P J ISOLA:

No, the full amount.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The full amount inclusive of previous consultancies?

HON P J ISOLA:

That is right.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will have to provide that information to the Hon Member.

HON P J ISOLA:

I have made it £20,000, £8,000 and £5,000 which is £33,000 which leaves another £9,000 unaccounted for on this vote of £42,000 on the Dockyard Consultancy because this (New) Dockyard Consultancy was a Head opened exclusively for Mr Casey and therefore on the face of it it looks as if he has received £42,100.

HON CHIEF MINISTER:

The point is that some of the ODA consultants whose further work was required, in one case the consultancy was on a

continuing basis and continues, in one or two other cases the consultancy has come to an end and we wanted the tail end of their advice and that, of course, we had to do with our own money. That includes the last days of short advice given by Messrs Cooper and Lybrands.

HON P J ISOLA:

Will the Chief Minister not agree that having regard to the very handsome payments that Mr Casey has received, would he not agree that it is odd that he declined an invitation from the Gibraltar Broadcasting Corporation to appear on a programme with Members of the DPBG to question him on his report?

HON CHIEF MINISTER:

I think that is a matter for him and not for us.

HON P J ISOLA:

But is it a matter for him and not for the Government having regard to the fact that he is being paid for what he was doing, he wasn't doing it for the love of the Government or the love of Gibraltar, he has received nearly £40,000.

HON CHIEF MINISTER:

The Government in no way interfered whether he appeared on television or not. If he had chosen or television had chosen to give that programme and that had entailed a further payment of fees the Government would gladly have paid that.

HON P J ISOLA:

Well, I am sorry to hear that, Mr Chairman, because what we were told by GBC when the suggestion was put up that they were anxious to put the programme on, that they could have done it the night after Mr Casey appeared in this sort of panel game, they could have done it the next morning, GBC could have set it all up, but that both Cooper and Lybrands, they are not paid by the Government so I suppose we cannot say anything about that, but that Mr Casey, who is the person about whom we have spoken most critically and was the person with whom we would have wished to have had an interview, declined the combat.

HON CHIEF MINISTER:

That may well be the case but the Government has had nothing to do with that decision.

HON J BOSSANO:

Mr Chairman, can I ask, the twenty-three minutes that Mr Casey did appear on television, how much did that cost?

HON CHIEF MINISTER:

I don't think you can classify television appearances of consultants by the minute that they appear. The appearance on television, like anybody else's, like an artist or a violinist, I suppose, it is not the time that he performs but the fact that he is available for performing. For that he had to come to Gibraltar and had to spend the time required to appear on television, that is part of the consultancy, a day, two days, three days, whatever it is, like any other consultant or any other professional person.

HON J BOSSANO:

Irrespective of whether it was twenty-three minutes or not, Mr Chairman, Mr Casey was interviewed on Access-Television, can we know what the cost was? Is that what the £9,000 is for or if it is only part of the £9,000 how much did bringing him out to be interviewed for Access Television cost?

HON CHIEF MINISTER:

He did not only come out for Access Television, he came out for continuing consultations and so on and one of the main reasons why he came, of course, was for television. Certainly I don't know how the time can be divided without notice, I could find out whether there is a division but my understanding is, so many days at so much, so much, and that is the way in which the account was rendered to my recollection. But certainly there is no itemised fee for appearing on television.

HON P J ISOLA:

But Mr Casey came to Gibraltar at Government expense, hand-somely paid, to put forward his views to the people of Gibraltar and to be questioned on them and GBC considered it of sufficient importance to agree to a programme exclusively devoted to Opposition Members with Mr Casey on television because obviously this was the only way in which a proper discussion could have been carried on and not the way it was done with fifty people there and so forth and Mr Casey who was being paid from public funds declined to face the people who voted him those public funds.

MR SPEAKER:

That has been accepted, Mr Isola, and you have been told that it is not for the Government to answer for that.

HON MAJOR R J PELIZA:

Mr Chairman, I would like to say why we are going to vote against this, it is only fair that I should say so. Mr Chairman, this of course is the second time that we are voting money for this man. For what we voted before I have not been able to see because one of the conditions that was imposed on me was that I should keep secret everything I saw or read and because of that I wrote to the Chief Minister a letter to the effect that I would not read it. Unfortunately, to this day, the Chief Minister has not replied to my letter and I would very much like him to do so because at least for the record posterity can see what the position was when this happened.

HON CHIEF MINISTER:

I will certainly reply.

HON MAJOR R J PELIZA:

I am so glad that even now he is prepared to do so. The other thing is, Mr Chairman, in this instance not only do we not have a report which we can keep secret but we don't know anything at all about it and therefore because of that, Mr Speaker, I am voting against this.

HON W T SCOTT:

Mr Chairman, I also took that attitude without necessarily writing to the Chief Minister and I have mentioned it in this House before, that if I could not be entrusted on a confidential basis to keep a document to myself, that I had to go down to the Secretariat to read it, I have mentioned what my Hon Colleague on my right has mentioned and I have also, and I say it for the second time in this House, I refused to read that document and I will only read it at such time as it is made available to me at my own time in my own place.

HON CHIEF MINISTER:

Other people appear to have read it and almost revealed it.

HON P J ISOLA:

As this report is being paid entirely from public funds and

as the Government has already signed along the dotted line for commercialisation and committed themselves to the British Government, what possible harm can come, Mr Chairman, from the public having sight of the document that they have been asked to pay for quite exorbitantly?

Mr Speaker then put the question and on a vote being taken on Head 26 - Treasury, Subhead 18 (New) Dockyard Consultancy the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

Subhead 18 (New) Dockyard Consultancy was accordingly passed.

HON P J ISOLA:

Mr Chairman, the next item is the Contribution to the Gibraltar Broadcasting Corporation. I notice that we are being asked to vote £49,850 to meet anticipated decrease in advertising sales. Well, Mr Chairman, I don't know whether you are a regular viewer of GBC like I presume most of us are and one cannot find the woods for the trees as far as advertising is concerned, you have those three little piglets who are always telling you what they can do and the chap of Securicor, too, and Dona Lola. Could we please have an explanation, Mr Chairman, how the Government find it necessary to make up the decrease in advertising sales and could we be told in what areas the decrease has occurred so that we may look for it when we are watching GBC?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am happy to say that I cannot answer the latter part of the Hon and Learned Leader of the Opposition's question because, of course, the day-to-day management of advertising is, of course, for the Gibraltar Broadcasting Corporation. I feel that perhaps the legend here has suffered from a certain amount of compression, Mr Chairman, as indeed Erskine May himself does from time to time and that it is really to meet, it is for an additional subvention because the revenue of the GBC has fallen. The decrease in advertising sales was in fact rather more than that but there have been reductions in expenditure on the part of the corporation, so the £49,000 is itself a net figure and they have made savings of £10,000 in addition to quite substantial savings which they have already made in the financial year. The other items are, I think more or less self explanatory and, indeed, the final item, that is to say, the cost of the 1983 Pay Settlement and its inclusion here is of course as a direct result of a suggestion made by the Honourable and Learned Leader of the Opposition on an earlier occasion that they should not be reallocated from the Head 27.

HON P J ISOLA:

We are talking about the advertising sales, am I right in thinking that the expenditure budget at GBC was cut down by £100,000 and now we are putting back £71,559?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman, I think I have made it clear in my earlier remarks that we are not putting back into the expenditure budget, we are increasing the subvention because of a fall in advertising revenue. Two quite different things, to an accountant at any rate.

HON P J ISOLA:

Who has got knowledge of company law and income tax laws.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Who ensures that those two are to audit accounts have that necessary knowledge.

HON P J ISOLA:

Mr Chairman, could I ask on the question of pay settlement, again as a matter of principle, is the principle involved here

the principle of parity which the Government accepts as an employer and is it automatic in the case of GBC that when revision of salaries are made the Government subvention is raised in order for the settlement to be made. Is that the principle on which the Government works?

HON CHIEF MINISTER:

Well, it is the same as in the parity decisions every year that you take it year by year and you decide and in this case, so far anyhow, parity with whatever station the original salaries were equated which this year, according to my information, is exactly the same percentage as in the general body and £50. Naturally, they make a case and so far for as long as we can afford it if it comes out of the pocket of Gibraltar we have to pay because they are equalled on the parity basis and we make up for the difference. That is why because this year the money is coming out direct from the subvention and not from the general allocation provided for the general body, as suggested by the Leader of the Opposition the item is set out there. The practice is that following on any settlement of their equals, they put in their budget the amount that that would involve in the local staff which of course means increased expenditure and therefore the subvention, which is the balance between the money that they receive and the money that they require is expected to be made up by public funds.

HON P J ISOLA:

So that the pay settlement of GBC, am I right in saying, is in fact paid for by the Government. In other words, the Government underwrites parity for GBC. In other words, it is added to the subvention the cost of the wage revision and Government doesn't look to GBC to make savings in order to be able to pay parity, is that the position?

HON CHIEF MINISTER:

Well, we have asked them to make savings to the extent of £100,000 and they have cut off a number of features which have already been pointed out here because they haven't got the money to run it. The point is that for as long as the Government has got to make up the difference between the cost however economic or stringent the cost of the running the corporation and the difference between the income from advertising and other ancillaries together with the licence fees of television licences, whatever the difference is is what they come to the Government for and we try to see that that difference is the minimum. But if there is an increase in the salary and there is no corresponding increase on the other side, it happens the same as with the advertising.

HON P J ISOLA:

But should not the position be that when the wage negotiations take place between GBC and its staff, there should be a representative from the Government there because they are going to pay. It is not like when somebody negotiates and he is going to pay. When the Government negotiates its own pay review, the Government negotiates because they are going to pay. When GBC does, apparently, my Honourable Friend Mr Bossano and the Manager or the Chairman of GBC sit across the table and argue all day long but the paymaster is in fact the Government so why is not the Government brought in.

HON CHIEF MINISTER:

Because we do not judge the parameters of the changes, in fact there are very few negotiations nowadays for settlement except to establish what the formula is in the United Kingdom and that is why it takes such a short time as soon as that is ascertained. Sometimes it takes time like in the case, for example of the Prison Wardens, they have to get what the parity was and a settlement is delayed because of that. All that the Treasury ensures and that I am quite satisfied is done is that when they put in the claim for parity GBC satisfies the Treasury that they have been satisfied that the parity is actually in conjunction with the area from which they have drawn their comparison for the purposes of their salaries and wages.

HON P J ISOLA:

So Government is committed to maintaining parity for GBC staff?

HON CHIEF MINISTER:

No, the Government is not committed. The Government is committed to subsidise to the extent that it has to except with such capital as has been made to for as long as we want GBC, to give a subsidy of the difference. What we want to encourage GBC is to get more money out of advertising and other ancillaries if it can. What the Government cannot do is allow GBC to be static in their wage levels when other people are receiving wage reviews every year.

HON P J ISOLA:

We would not object to that, Mr Chairman. The only thing is that we would like to see the negotiations on a more realistic basis with the Government taking a part who are after all paying. The other thing I would like to ask is the decrease in advertising sales, that is an amount of £49,850. Has there

been an increase in the expenditure in making advertising sales because my information is that a considerable amount of money is spent by GBC in travelling around Spain looking for adverts, making programmes and so forth.

HON CHIEF MINISTER:

They are not allowed to make programmes for advertising in Spain. What they do is that they do go out and promote sales of airtime in order to be able to get income and for that purpose they are busily engaged in getting as many clients as possible. Some of them are really not geared to Gibraltar viewers but to viewers in the vicinity and hence the item of £3,000 to try and penetrate a little longer the signal to be much clearer further afield to be able to cover a wider field of people who may be interested in watching Gibraltar television and therefore advertisers would be attracted to put it on the screen.

HON P J ISOLA:

And have a lot more of advertising Spanish products and so forth. Mr Chairman, we are opposed to the advertising policy of GBC so we will be voting against it.

HON J BOSSANO:

Will the Honourable Member agree with me that if, in fact, the House advocates a change in policy in advertising so that we move away from depending on Spanish adverts, which I support, it requires the House to increase the subvention because the shortfall in advertising will be bigger than £49,000?

HON CHIEF MINISTER:

Considerably, that is the reason why I said that I didn't particularly like it but it was money that came into broadcasting which was mainly geared to viewers who are not really mainly from Gibraltar.

HON MAJOR R J PELIZA:

Mr Speaker that is not the right way of doing it. Surely, there are other ways of doing it. There must be ways and means of streamlining the efficiency of that unit, and if necessary cutting down on staff. After all, the intention of having GBC in colour was to prevent Spain from brainwashing Gibraltar. Now, it is exactly the opposite, it encourages Gibraltarians to go over to Spain and spend their money there.

HON W T SCOTT:

Mr Speaker, reverting to the advertising, my Honourable Friend I think has brought up a very valid point. I first mentioned this about a year and a half ago and the Chief Minister gave me the same reply, and that is that any revenue is better than none, I think that was the reply that the Honourable and Learned Chief Minister gave me.

HON CHIEF MINISTER:

Well, any revenue coming from reasonable sources.

HON W T SCOTT:

Yes, of course. But I would venture to suggest in fact, Mr Speaker, that we have a perfect example with the three little piglets that has been mentioned earlier on. That is a Spanish company advertising on local Gibraltar television, selling a product exclusively in Spain because that Spanish company cannot trade in Gibraltar. That means, effectively, that the Spanish company is using publicly subsidised advertising time that the taxpayers pay for in Gibraltar to sell a product, not to a possible 30,000 people in Gibraltar, but perhaps 3 million catchment area up the coast. If you are advertising to a catchment area of 3 million or 4 million people, then the rates should effectively go up that much higher.

HON CHIEF MINISTER:

That I agree, I am sure they get as much as they can.

MR SPEAKER:

I think we have exhausted the subject, I am going to put it to the vote.

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

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

The following Honourable Members voted against:-

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

The following Honourable Member was absent from the Chambers.

The Hon A T Loddo

HON G T RESTANO:

I would like to know on the Coopers and Lybrands study. Has that study been completed?

HON M K FEATHERSTONE:

Yes it has been completed and it is actually being studied by, I think, all Government Ministers.

HON G T RESTANO:

Can the Minister give us an indication of what the main recommendations are?

HON M K FEATHERSTONE:

I wouldn't like to say. I can only say that they went in depth into the production, both of water and electricity, worked out what are marginal costs etc, and what might be a reasonable tariff structure based on it on an economic basis. Further than that I don't think I can go any deeper.

HON CHIEF MINISTER:

It was circulated last week.

HON G T RESTANO:

Mr Chairman, is the end product that we are going to have an increase in tariffs?

HON M K FEATHERSTONE:

I couldn't really say. There may be increases in some areas, decreases in others, the whole situation has been studied, it is a very comprehensive report. I don't think that Ministers have really had time to read it, it is over 100 pages long.

HON P J ISOLA:

Can I ask, what was the idea of this report?

HON CHIEF MINISTER:

It was mentioned at budget time by the then Financial and Development Secretary saying that an in-depth study of the structure of tariffs would be considered in connection also with water and it was announced at the time of the budget though at the time we did not know how much would be involved. A token provision was made or just a mention by the Financial and Development Secretary in his budget statement. I think Members should remember this quite clearly.

HON P J ISOLA:

Yes, but the reason why I ask this is because, surely, any study the result can only be (a) that you are not getting enough money from water and electricity charges or (b) that you are getting too much. If the answer is, hopefully, (b), that you are getting too much, the Government obviously cannot do anything about it because they need that money to finance it. And if you are told that you are getting too little then there will be a revolution in Gibraltar if electricity and water charges go up, Mr Chairman, again.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I may help the Learned Leader, I have skimmed through the report and some of the contents there I am familiar with. It is not just a question of too little or too much, there is a time factor, questions as whether the present population should pay the cost of investment or whether this will be deferred to future generations. There are concepts which are rather difficult and as my Honourable Friend has just said will, I think, take some time to consider. It can't be described as simply too much or too little, it is quite a complicated subject.

HON P J ISOLA:

Yes, but £25,200 has been spent in all this, Mr Chairman. There is only one basic problem, I am sorry to say, and that is that we are paying too much for electricity and water, or are we? We have always advocated that if you get a new power station it should be spread over a whole generation or rather the life of it, so that everybody has paid his share, all that, I think, is agreed and has been agreed. What we find a bit odd is that all this money should be spent on a study when the basic issue really in Gibraltar is do we pay too much for electricity and

water and I think there would be an overwhelming majority in favour of that proposition. But if the answer is going to be that we pay too little, then it will not be implemented.

HON CHIEF MINISTER:

I think that as the Financial Secretary said, it is much deeper than that and there is also the question of the charges for water and the possibility of the structure system that will be required once the two distillers are there and the exhaust heat of the generators help to distill water. It is a very complicated matter and it is not as simple as saying you get the same money in a different way or you can do it for less money, it is a very thorough study.

HON G T RESTANO:

Will Government be making the study public?

HON CHIEF MINISTER:

I have not looked at this as a whole but I don't see why not but at this stage I would not like to say.

HON J BOSSANO:

Wouldn't the Chief Minister agree that the question of the tariff structure and, indeed, the way that the cost of generating electricity or producing water, how that cost is met by the community is a matter for political decision? Where does the expertise of Coopers and Lybrands come in?

HON CHIEF MINISTER:

I am sure that the Honourable Member will appreciate that the political decision can only be taken against the background of the best information possible on cost of generation, the division of the tariffs where you should perhaps pay a little more for the first few and then the more you produce according to the capacity you have the less it costs and so on. It is a very complicated matter and you cannot take a political decision on that until you get all the facts and all the different choices that may be open as a result of the study.

HON J BOSSANO:

Surely, the only conclusion that that report can come to and I am sure that if it ever sees the light of day it will be corroborated by whatever it is in the report, is that by putting different charges given the size of the community and the pattern of demand which is well known to people in the

generating station, and if you put different charges you can only at the end of the day either be getting the money from one sector of the community or getting the money from another sector of the community but the total amount of money that you are going to get at the end is the same. If we spent £9 million on electricity and sending around charges from one sector to another does not alter the total. The Honourable Member is not telling us that by spending £25,000 we are going to save any money in the cost of electricity, are we?

HON CHIEF MINISTER:

I don't know because if the question of the capital charges are recommended in a different way, in a much more economic way because it gives a longer term, it is bound to have less capital charges phased over a longer period than more capital charges phased over a shorter period. With regard to the actual money to be received, it may need time and every ten or fifteen or twenty years it is necessary to see whether the tariffs as between one and another are fair and reasonable and whether it suits the requirements of the community at that time. Whether, for example, if there was going to be a big industrial requirement at off peak times what the charges should be on that basis in order to make them attractive and so on, all these things are factors. I am not thinking of this report, I am thinking of my experience in the City Council in the earlier years when we went into the three-phase extension in 1957. At one time there was only one rate, then we started first, secondary and tertiary, then we went to first and secondary rate only. There are many different ways in which the consumer can be attracted, perhaps, to buy electricity at an off peak time when it is cheaper to sell in industry or in other places, we could diversify, this is what the report is about.

HON J BOSSANO:

Mr Speaker, off peak electricity was suggested by me to the Government 9 years ago when the Honourable and Gallant Col Hoare was the Minister for Public Works and it was turned out flat. I was told that the pattern of consumption of electricity in Gibraltar where in fact there are no industrial undertakings, unless the Honourable Member has engaged Coopers and Lybrands to see what the effect of the Commercial Dockyard on generation would be. I don't know if that is the purpose.

HON CHIEF MINISTER:

They may have taken that into account.

HON J BOSSANO:

Ah, that has been taken into account. Well, then I have no doubt which way I am going to vote on this Mr Speaker. Taking up another point that the Honourable and Learned Chief Minister has said. Surely, will he confirm, first of all, that under the existing regulations governing the funded accounts, the Government has got the freedom to pass the cost of capital equipment at whatever rate they think fit to the fund. And, secondly, will he also not accept that if the cost of, for example, building a generating station for £8 million is already funded in the I and D Fund, and already reflected in the charge to the community through the debt servicing charges coming out of the Consolidated Fund, at the rate of which it is passed on to the Electricity Account, is only a way of retaining the Consolidated Fund and it does not alter the real cost at all, the real cost has got to be met within the time that we have to repay back Lloyds Bank and Midland Bank, surely, that is the real cost to the community. The rest is just an accounting exercise.

On a division being taken on Head 26 - Treasury, Subhead 83 (New) Electricity and Water Tariff Study, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Honourable Member was absent from the Chamber:

The Hon A T Loddo

Subhead 18 (New) Electricity and Water Tariff Study was accordingly passed.

Head 26 - Treasury, was accordingly passed.

Head 27 - 1983 Pay Settlement

HON P J ISOLA:

Could I ask, Mr Chairman, how it is that it has taken 4½ years to decide the salary review of senior grades in the Government? Does that auger well for good and efficient government over the years? It has taken apparently 4½ years to decide what senior grades in the Government are to get. It started off just after the last elections and it has been completed just before the next.

HON CHIEF MINISTER:

You seem to be thinking only of elections. We are dealing with something else.

HON P J ISOLA:

No, it looks as if the Government is only thinking of elections, that is why I am asking. I would like to know why it has taken 4½ years to decide the salaries of senior grades in the Civil Service.

HON A J CANEPA:

It has not taken 4½ years.

HON P J ISOLA:

Well, it says here retrospectively to 1st July, 1980.

HON A J CANEPA:

But that does not mean that it has taken 4½ years to carry out the review.

HON P J ISOLA:

Well, what does it mean then?

HON A J CANEPA:

What it means is that the review has recommended that in some cases the post should be paid retrospectively to 1980 but it does not mean that it has taken that long. You are too clever

by half sometimes, Honourable Leader of the Opposition, you think you know everything.

HON P J ISOLA:

I don't know everything, Mr Chairman, that is why I am asking.

HON A J CANEPA:

You assume you know everything.

HON P J ISOLA:

It says here: "to meet cost of salary review of senior grades including upgrading of some posts retrospectively to 1st July 1980". So I ask, Mr Chairman, how many posts are involved, when was the settlement reached and for how long have negotiations been going on with respect to these senior grades?

HON A J CANEPA:

This has been going on for about 18 months following the report of the review and agreement has been reached recently, I would say the last final agreement in the last 2 months on what the way ahead should be and the way ahead amounts to settling this review in respect of the great majority of the posts but I think that a handful of them 5 or 6 are going to be referred back to the reviewers for perhaps what could be termed final review, I would say.

HON P J ISOLA:

So it is still not settled then?

HON A J CANEPA:

It is still not settled in respect of about 5 or 6 posts. They are being paid on an interim basis and but in respect of those 5 or 6 another look is being taken at them.

HON CHIEF MINISTER:

I think I ought to add in fairness, for the record, that the great difficulty has been that whereas in many grades, particularly the professional grades, it is easy to find what the parity state is, there are a number of grades in the senior grades which have no equivalent in the United Kingdom. First of all there was a review to try and bring them in, then there were representations as to the scales in which they were to be put, this is the point. That is why it has taken so long.

Some of the posts have no equivalent in England. A policeman is alright, a Customs Officer is alright, a carpenter is alright because a carpenter is a carpenter but there are a number of grades by virtue of the nature of our administration that cannot be classified as being its equivalent of something else and it has taken a long time and a review by two experts which was done about 18 months ago and that has been the subject of a lot of consultation.

HON P J ISOLA:

Could I ask, Mr Chairman, if the negotiations have been going on for 18 months, how is it that the award has been made retrospective to 1st July 1980?

HON A J CANEPA:

I don't think that the award is retrospective to 1980. It is only retrospective to 1980 in respect, I think, of some posts. Generally, I think it has been implemented from 1981. The reason why it goes back to that is because it was round about then that the staff association concerned, I think it is now the IPCS, made a claim for a general review of their posts because they considered that very few of the senior grades were following the parity principle.

HON P J ISOLA:

So therefore a claim was made in fact, in July 1980, and.....

HON A J CANEPA:

No, I said round about July, 1981, a claim was made and July 1981 has been agreed as the date of the implementation of the bulk of the report.

Supplementary Estimates Improvement and Development Fund No.3 of 1983/84 was agreed to.

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

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

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

THE GIBRALTAR SHIPREPAIR LIMITED BILL, 1983

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Clause 2 be amended as follows: To omit the definition "Company" and substitute the following definition: "company" means the Gibraltar Shiprepair Limited, a company to be formed and registered under the Companies Ordinance by the Government and having for the time being a share capital of £1,000 divided into 1,000 ordinary shares of £1.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to explain that this is an enabling amendment so that the company not yet having been incorporated, it may be incorporated after the Bill has been passed. But, nevertheless, the Bill is merely to identify which company we are talking about and there is also a further amendment to which I will speak about later on directed to the same end, namely, to secure this name for the company.

HON P J ISOLA:

Mr Chairman, I think it is probably under this section that it is appropriate for me to ask if the Memorandum of Association that was submitted to this House is going to be amended prior to incorporation to limit the activities of Gibraltar Shiprepair Limited to the business of ship repair, which the Financial and Development Secretary in answer to a question to me said was so in the sense that he said what the Government could had been very carefully set out in the Memorandum of Association of the company. I don't know whether he has had an opportunity to look at the Memorandum of Association of the company. Since I suggested to him that I might have to read the whole lot to him, I will not take him through the whole lot but I think that if he looks at the Memorandum of Association, if he has it in front of him, I think he will agree with me that they are extremely wide, the objects that the company can engage in and the types of business the company can engage and which represents; in our view, in the absence of any assurances or any knowledge of the terms of the lease to Gibraltar Shiprepair Limited or any knowledge of the terms of the Management Agreement with Appledore, makes the company potentially a menace to the private sector of Gibraltar, building firms, construction firms, shipping agents, ship chandlers, yacht repairers, the list is very long indeed. Does

the Government propose to proceed with the company as brought before this House?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think during the debate on the Second Reading of the Bill when the then Financial and Development Secretary spoke on this subject, he informed the House that the Memorandum of Association was put in these wide terms because it was appropriate for a company which was established in this way as a private company to have terms such as that in a Memorandum of Association. This does not mean that it was the Government's intention to develop the Gibraltar Shiprepair Company as to quote the Honourable and Learned Leader of the Opposition's phase, I believe, a Falklands Islands Company, and the Government would certainly keep the activities of the company under close review. We have, in fact, considered seriously, whether it might be desirable to go further at this stage and shall we say introduce into the Bill a provision for the Government to give directions, that is to say, take a power of direction in the Bill formally. We decided it would not be appropriate to do this at this stage, it is conceivable that at some future stage the Government might take a different view but I think the fact that this matter has been considered very carefully and very closely is in itself an assurance to the Honourable Leader of the Opposition that the Government has taken note of the points he expressed. The Government does not share his concern in quite the same terms but will obviously take note of developments as the commercial shiprepair goes into operation and it may be necessary at some future stage to consider legislation or some other action.

HON P J ISOLA:

This is not really good enough, Mr Chairman, although I must say the Financial and Development Secretary has gone a little further than his predecessor and Government Ministers. We feel that the whole structure, we don't know who the Board of Directors are going to be, we know that no Government Minister is going to be a director of the company and the directors, again, will be people who would want to make this company a success obviously. The managers certainly will want to make it a success and if they can make it a success by infringing on the private sector we have no doubt that they will and it is insurance against that that we are asking for and that insurance must be in clear terms, otherwise we just cannot accept it.

HON MAJOR R J PELIZA:

What we heard the Honourable Financial Secretary say the other

day at question time made it very clear that this company would be as autonomous as possible, that the Government would not interfere, that was clearly stated time and again. Involved in the company are operators who have got a stake in getting profit out of it in that they would derive a commission. It is therefore very likely that if they can see that they can make extra money by perhaps infiltrating into other kind of businesses in Gibraltar which will give them benefits, I think they will be very prone to do a thing like that. I think it is unfair to the traders of Gibraltar that what amounts to a heavily subsidised company, not just by the Gibraltar Government but by the UK Government as well, should possibly enter into competition, I think that this is an assurance that should be put in the law for the safeguard of all the many people who have been established in Gibraltar in businesses over the ages. I say ages because some go back over a 100 years.

HON CHIEF MINISTER:

Mr Chairman, first of all, the Memorandum and Articles of the Company are not really the basis on which the company works but on the Articles of Association. We who are concerned with company formation and so on are well aware that we do make very wide provisions just in case it could be necessary but first of all the articles will determine that, the articles can be changed much more easily than the Memorandum, then there will be the management agreement entered into and agreed by the Government before it is given over to Shiprepair Ltd and that will have its element of strength. Last but not least I have seen correspondence because a number of traders have sent me copies of correspondence that they have had with the proposed operators where they have suggested that they might be impinging and the way in which I have seen the correspondence go was very much the other way. I think, whatever may be said before the company is set up the Government will have to make its own ideas and directions given to the Board of Directors of how the company should be run and that is also reflected in the management agreement and I do not think that this is going to be a company that is going to run the whole of Gibraltar, it is not their intention, nor do I think that the terms of the Articles and the proposed Management Agreement would allow them to do that.

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

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

The Hon J B Perez
The Hon Dr K G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Lóddo

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

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

New Clause 6

Mr Chairman, I have given notice of an amendment which involves a new Clause 6: to insert after Clause 5, as new Clause 6, the following Clause and to remember the existing Clauses 6 and 7 as Clauses 7 and 8 respectively.

"Gibraltar Ship- 6.(1) There is hereby established a fund,
repair Limited to be known as the Gibraltar Shiprepair
Fund. Limited Fund.

(2) The Fund shall be a special fund within the meaning of the Public Finance (Control and Audit) Ordinance, 1977, and accordingly all the provisions of that Ordinance that apply to funds declared to be special funds under that paragraph shall apply to the fund.

(3) Notwithstanding section 24 of the Public Finance (Control and Audit) Ordinance, 1977, there shall be paid into the Gibraltar Shiprepair Limited Fund all monies received by the Government of Gibraltar from time to time by way of grants and loans from Her Majesty's Government in the United Kingdom in aid of the investment of the Government of Gibraltar in the company.

(4) There shall be charged upon the Fund such monies, not exceeding in the aggregate £28,000,000, as the Financial and Development Secretary may authorise for the subscription or purchase by the Government of Gibraltar of shares in the company".

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

HON P J ISOLA:

Am I right in assuming that the effect of this clause, Mr Chairman, is to take control of the expenditure of the Fund entirely from the House. I am trying to get the Ordinance to have a look at it, could the Financial and Development Secretary perhaps tell us what would be the procedure for expenditure from this fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, this is largely a technical provision and it would not have been possible for the then Financial and Development Secretary to move this as part of the Bill because the arrangements which the Overseas Development Administration, Her Majesty's Government, are proposing to make for the payment of the £28 million development aid to Gibraltar for the purposes of the commercialisation of the Dockyard were not then fully known and it is only subsequently that we have been able to put this particular clause together. The effect is, in fact, and I said it is a technical provision, is to enable the £28 million development aid to pass through the books of the Gibraltar Government and to dispense on purchase of assets to enable the dockyard to operate and indeed to draw down working capital as may be required from time to time to finance the day to day operations of the dockyard, paying wages and so on. The means by which this is done is the establishment of a special fund, as provided for in the Constitution, and also in the Public Finance (Control and Audit) Ordinance itself, so this is quite a normal arrangement and it will be separate from the Consolidated Fund. The Honourable and Learned Leader of the Opposition registered a concern just now that this would take the operation of Gibraltar Shiprepair Limited outside the control of the House. No, it will not. This is, of course, to be a private company but it is to be financed with public money and the House will of course have many opportunities to debate in general terms any appropriate matters about Gibraltar Shiprepair Limited. For example, and one would think is to be the most important occasion, perhaps, the report and accounts of the company, which will show, inter alia, how the £28 million pounds, the source of the fund, has been deployed

in the business. The report and accounts will be laid before the House and the House will have an opportunity to discuss this and comment on the affairs of the company and the accounts, of course, will be, as already provided for in the Bill, subject to audit by the Principal Auditor. Furthermore, in the event of there being further finance required, additional to the £28 million and at this stage of course I am putting this as a hypothetical question because there is no question of more than £28 million being required as of now, we are only talking about £28 million, but in that event, in that contingency, then clearly the Government would bring the matter before the House either through a borrowing Bill or through some other medium, there will then be a further opportunity to discuss the affairs of the company. I would like to assure the Honourable and Learned Leader of the Opposition that this is not in any way a device for taking Gibraltar Shiprepair Company away from the attention of the House but of course it does establish a special fund outside the Consolidated Fund and the detailed day to day expenditure will not therefore be subject to the estimates and appropriation procedure which is appropriate for the sort of items we were discussing earlier under the Supplementary Appropriation Bill, that is quite common, but not for a commercial and trading organisation and a fortiori trading organisation which has been deliberately set up as a private company.

HON P J ISOLA:

Mr Chairman, I am very grateful to the Financial and Development Secretary for that explanation, I appreciate that we will have an opportunity to discuss how the monies have been spent or how the thing has been operating like we do with GBC, not to a great success, I might add, but what this does by having it as a Special Fund is that the £28 million that the United Kingdom Government is giving Gibraltar for the commercialisation project will go into a special fund under the Public Finance (Control and Audit) Ordinance under which the Governor has control, from what I can read quickly here, so that if, for example, Gibraltar Shiprepair Limited requires £5 million to buy a couple of cranes and odds and ends like that, they will not come to the House for the money to be approved. The Financial and Development Secretary or the Governor or since we are becoming very independent, the Chief Minister, or whoever it is who has the authority would just say: "Write the cheque out to Gibraltar Shiprepair Limited". So that the money that the United Kingdom Government is giving to Gibraltar she is not giving it to Gibraltar, really, she is giving it to a special fund closely controlled by the Governor and whether the money is well spent or not well spent in commercialisation will not be a matter for the approval of

this House. We are not asking that approval should be obtained from this House to spend £4m on a crane but what we do think is that this House should approve the pushing of money in from the Special Fund into Gibraltar Shiprepair Limited which would be controlled by a Board of Directors who are not answerable to this House at all, so that United Kingdom funds are being said to be given to Gibraltar but are not being given to Gibraltar because the elected representatives of Gibraltar are not authorising the actual expenditure and therefore we cannot go along with this one either, Mr Chairman.

FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I can only say that the conclusion which the Honourable and Learned Leader of the Opposition has drawn from what is really a technical provision to enable the funds from Her Majesty's Government to come to the Government of Gibraltar and not I might say in passing the Governor but the Government of Gibraltar which is in control of the funds, the difference is totally at odds with the reality.

HON P J ISOLA:

Mr Chairman, when we have £47 million budget, under the Constitution that money is spent with the approval of the House, in actual fact with the approval of Government because they have a majority and they pass it every time, but the £47 million even British Government development aid to Gibraltar on things like Housing and so forth, approval comes to the House for the expenditure. The Government has the majority and they will always have it passed but it enables the public forum of elected representation to give their views on it and to authorise it. Here we have £28 million coming to Gibraltar and being spent without any authority from this House at all, that is the difference and it is a very big one, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the authority is the authority given by this House on the passing of this legislation.

HON P J ISOLA:

I know that Mr Chairman, we might as well pass a Bill saying that from now on do not come to the House for Budgets or anything else but just use the money if the Government majority approves. What we are questioning is the way it is being done, we are questioning it because it deprives this House, where elected representatives of the people are, it deprives them of having any say at all as to how that money is appropriated into the commercialisation project and that is wrong in our view.

I know the Government has a majority, the Government has a final say, but it is wrong that the House should not have an opportunity to express an opinion on the break-up of the £28m and how it occurs.

HON CHIEF MINISTER:

I hope there is no confusion of the fact that this is the same £28m that according to the Honourable Mr Bossano Appledore was to get into their pockets, it is the same £28 million. It is not £28 million to the Government and £28 million to Appledore, it is just the same £28 million. Therefore anybody who knows how ODA funds are disposed of by the ODA should know that this is not just easily disposed of. Even though the money will come into the fund they will also have a considerable amount of say in the way in which the items are spent. But what we cannot really expect is that every time that funding is required within the £28 million for the development of what has already been a more than studied scheme that we should come and have a debate to whether the crane should cost £45,000 or £55,000. Of course not. And certainly when you have made no contribution towards doing that but you pose every possible difficulty on the way and therefore I think that the way that we propose to do it is the most practical and the correct way and it is subject to the scrutiny of the House when the accounts are laid on the table at the end of the year.

HON P J ISOLA:

Mr Chairman, we cannot follow the logic of the Honourable and Learned Chief Minister. It is true that the ODA looks very closely how monies are being spent but have we not had £14 million aid from ODA, a much smaller sum, over a period of 3 or 4 years and the expenditure has come to this House for approval. The fact that this House approves it does not mean that ODA is going to give it, I agree but because it is a much larger sum, I am sure that the Government is not going to come to the House for £100,000, but because it is Gibraltar Ship Repair Limited it will come for substantial amounts and the requirement as it is seen for the next 12 months. That, surely, should be approved by this House. Why should it be taken away from this House? Even if it is £55,000, why should it not be discussed if it warrants discussion? That is the whole process of the House of Assembly, that is why we are here, Mr Speaker. In other words, we don't have to be here, the Government has a majority, they know it, they can get anything through that they like, but we are here because the Constitution says we should be here and we should perform this function. Here is £28 million of British Government Aid to Gibraltar and we don't even get a whiff of it in this House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I can assure the Honourable and Learned the Leader of the Opposition that the sort of close control which I sense from his remarks he wishes to see and the Honourable and Gallant Major nodded in agreement when he mentioned small items being brought to this House and being the subject of day to day comment by the House, well, this is totally inimical to the concept of a commercial operation and I feel sure the Honourable and Learned Leader of the Opposition and all his colleagues want to see the Gibraltar Shiprepair running as a commercial operation, whatever reservations they may have but I can assure him that to subject the company to the close scrutiny of a day-to-day expenditure is quite hostile to the concept of a commercial undertaking, it would be asking, in effect, for a closer control over the activities than to my knowledge has ever been exercised over any statutory undertaking, any commercial undertaking set up in the United Kingdom of this nature. It would be asking for close day-to-day control of estimates and that is quite wrong in an operation of this kind.

HON P J ISOLA:

Mr Chairman, we are not asking for day-to-day control. We do not have day-to-day control of the expenditure of the Government. We come along here and they tell us, like today, £172,000 for salaries and pay settlement. We say, yes or we say no, GBC, so much, we ask questions. We are not asking for a day-to-day control. We don't see anything more about it until the general estimates once a year. It would probably come to us, what, once a year or twice a year or three times a year, but the right to be able to question how that £28 million goes from time to time is an important right, it is a democratic right, it is enshrined in the Constitution, Mr Speaker, it is enshrined in how the House of Assembly works, the whole principle of public finance and we think to take that away from the House is undemocratic.

HON J BOSSANO:

I would like clarification on a number of points. First of all, I would like to know whether the decision to do it this way is in fact because the Government of Gibraltar wants to do it this way or because the British Government who is providing the £28 million wants it done this way. That is the thing I would like to know.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The decision to do it this way, Mr Chairman, is because the

Government of Gibraltar want to do it this way.

HON J BOSSANO:

Secondly, could I then ask the Government of Gibraltar why it is they want to depart from the way of doing it that has been put forward and recommended by the Consultants and in the Project Study.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Which Study does the Honourable Member refer to?

HON J BOSSANO:

Mr Speaker, I realise that the Honourable Member has not had as much time as I have had to look at all the studies but perhaps he has had enough time to look at the part that says that since the Government of Gibraltar is going to be the owner of the land and of the permanent structures and lease them at a nominal rent to the Shiprepair Company, the civil engineering work that involves that part of it should come as a direct charge to the Improvement and Development Fund and part of the £28m was going to be provided for improvements to the permanent infrastructure and that was going to be dealt with in one way and the other part of the £28m was going to be to provide finance to the Shiprepair Company in order to buy equipment and carry out refurbishment. That separation of the money into two clearly distinct sums is being done away with here as a result of a policy decision. I would like to have an explanation because it is a different approach.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I would say in answer to the Honourable Member's question, Mr Chairman, that first of all the Consulting Engineers were not experts on Government legislation, the drafting of legislation, but secondly, I don't think that what we are proposing is in any important sense at odds with the points which the Honourable Member made, that is to say, we are not in fact proposing, certainly not with this Clause or indeed with any other Clause, we are not proposing that the land, the site and the fixed assets should be vested otherwise than in the Gibraltar Government. The Gibraltar Government will retain ownership. Obviously, the working capital which is used for, as I said, payment of wages and the running expenses, that that will remain the property of the Gibraltar Government and I think one would be stretching the connection between accountancy and legislation rather too closely.

HON J BOSSANO:

I think the Honourable Member is straying away from the point. Is it not a fact, Mr Speaker, that as it was envisaged it would work, and we have had no indication until this moment that there had been a change of policy in that respect, as it was envisaged the £28million would not all go to the Shiprepair Company because, in fact, since the landlord of the dockyard was going to be not the Shiprepair Company, the Shiprepair Company was a tenant, then the improvements to the physical assets of which the Gibraltar Government would be the owner would be to the account of the Gibraltar Government, still financed out of the £28million but through the ODA funds. In fact, if the House will recall, when we had an initial debate on this, I think it was the Honourable and Learned Mr Isola couldn't establish where part of the money was going because there was £11 million that did not appear in the accounts and it was in fact because that money was going directly to the Gibraltar Government to be spent from the Improvement and Development Fund in the physical improvement of the assets and the logic of that is that the landlord is obviously responsible for the civil engineering work to the assets and not the tenant. If a reason has been found for changing that and we are discovering the change quite fortuitously in what appears to be a very small amendment, I would like to know the reason because I can see the logic of what was being done before although I disagree with the whole enterprise but I could see the logic of that argument but I cannot see the logic of the present one.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think that the easiest way to answer this is to say that this particular clause does not affect in any way the leasing arrangement which may be appropriate or, indeed, the lease between Gibraltar Shiprepair and the Company. It does not affect that at all.

HON J BOSSANO:

Does the Honourable Member accept, does he accept that I am correct in thinking that the creation of a fund on which there shall be charged monies not exceeding £25million is, in fact, a change from the original proposals which was that something like £20million would be used to finance the Shiprepair Company whereas the other money which was going to be spent on improvements to the assets which were owned by the Government of Gibraltar would not form part of the capital of the Company, it would form part of the Improvement and Development Fund?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, as the Honourable Member has already said he has the advantage over me in a greater knowledge of the previous events. There has been no basic change, there may be some change between the recommendations of the consultants and the reports, as I remarked earlier in the discussion on this clause, but the £28million is to be applied on the critical development of civil and related engineering works and for money to start up expenses and also to provide working capital and, indeed, as an extension of working capital to meet anticipated losses. That is the purpose of the £28million and I have explained or the Clause indeed is an explanation of how this money shall be transferred from IMG into Gibraltar Shiprepair Limited.

HON J BOSSANO:

I accept that we are talking about the same money and we are talking about the money being used for the same thing, Mr Speaker. What I am saying is that we are talking about the money being used in a different way. Let me give an example, Mr Speaker. If we got a situation where a £1million is going to be used to alter No.1 Dock and No.1 Dock does not belong to the Gibraltar Shiprepair Company, No.1 Dock belongs to the Government of Gibraltar so the Government of Gibraltar gets £1million out of the £28million which goes into the Improvement and Development Fund which is awarded as a Civil Engineering Contract and which then forms the cost of doing up No.1 Dock. In the Balance Sheet of the Gibraltar Shiprepair Company that £1million does not appear. Now, the way that the Government has decided to do it, the Gibraltar Shiprepair Company will issue a £1m worth of shares to the Gibraltar Government. Then they will have to increase their share capital by £1million which will then have, presumably, to be shown up on the liability side as expenditure and on the assets side the £1 million refurbishment will have to be shown as an asset but it cannot be shown as an asset because the Dock is not an asset in the balance sheet of the company. The Dock belongs to the Government of Gibraltar, no value is put on that Dock and the company rents it. So the company is renting an asset for a peppercorn rent that the improvement to the asset must be shown in its own balance sheet. What I am saying is that to me this is an extraordinary way of going about it. If it would help to bring the company to a halt then by all means go ahead.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It may be that the technical point which the Honourable Member has raised, it may be that we shall have to reduce the sum by the amount of share capital which is shown in the balance sheet.

I would like to take further advice on that particular point, Mr Chairman, and come back to it later.

HON MAJOR R J PELIZA:

Mr Chairman, I am really shocked, as a Member of this House to see that money that was given to Gibraltar is now given, not to Gibraltar to be controlled not by the people of Gibraltar through their representatives, but is now going to a company which is going to be controlled by a number of directors who even at this moment we do not know who they are. That is bad enough but to be told that this has been done at the suggestion of the Gibraltar Government I think that is an outrage because it is taking away the constitutional rights of the Gibraltarians to spend money in the way that their elected representatives, as their watch dogs you might say, authorise in this House. And that, in fact, was not only even going to be asked, it was going to go through as an amendment to the incorporation of a company. I think that is shameful.

HON ATTORNEY-GENERAL:

I simply want to say that it is not an unconstitutional provision because there are sections in the Constitution which provide for the way in which this matter is being handled.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

HON ATTORNEY-GENERAL:

Mr Chairman, the point made by the Honourable Mr Bossano is one I think which could be dealt with by a short amendment to the amendment because the point of this point, if I am talking about an amendment to an amendment I might as well talk about points to points, but the point of his point is that the money that comes into the fund might go out into the company by way of share subscription or as the report has earlier indicated might be expended by the Government itself. Mr Chairman, I would therefore move the following amendment to the amendment, namely, to amend subsection (4) of the new clause 6 to add after "company" the following words: "or for expenditure on assets belonging to the Government that are or are to be leased by it to the Company". Mr Chairman, I move accordingly.

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

HON P J ISOLA:

By putting it in in this way it excludes any part of the £28 million being spent, for example, in working capital because the amendment now reads that the £28 million can be used for the subscription or purchase of shares in the company for expenditure on assets belonging to the Government but are to be leased to the company so the money can only be used for expenditure on assets.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way. We are having two options, either to subscribe the shares which is the way you can get money for working capital, or in respect of assets which are not going to be owned by the company, to apply the money for the improvement of those assets, the ownership still remaining in the Government.

HON J BOSSANO:

Mr Speaker, I regret to say that this amendment will make the practical job of setting up a commercial dockyard more feasible than it would have been with the original drafting of the Government. I shall be voting against the amendment and against the original amendment and of course against the Bill because I do not support commercialisation and I do not support the Shiprepair Company.

HON CHIEF MINISTER:

I hope the Honourable Member will accept that it meets the point that he made.

HON J BOSSANO:

The point that I was making, Mr Speaker, really were two points, one was if it was a conscious decision to do it that way then it seemed to me to be a decision that has not been explained and, secondly, it was a decision that appeared to me to make the whole thing very impractical and cumbersome since once the company had issued shares to the Government in order to obtain the money to improve the assets, they will then have the difficulty of how to write off that money on their balance sheet or depreciate it or do anything else which presumably is the way they would handle any money that they get by way of shares to spend on fixed capital or on working capital. It does need the inconsistency that I saw and therefore it makes the thing more workable and consonant with the original proposals but I do not support it because I do not support the Shiprepair Company.

HON P J ISOLA:

Mr Chairman, there is another point that I would like to bring on this. We are not supporting it for all the reasons of principle that we have pointed out but, again, should it be called the Gibraltar Shiprepair Limited Fund when it is not going to go entirely to the Gibraltar Shiprepair Limited Fund? Would not a more appropriate name be the Gibraltar Dockyard Commercialisation Fund because some money is going for shares in the company and some money is going direct to the tax payers.

HON ATTORNEY-GENERAL:

I take the nicety of the point being made by the Honourable and Learned Leader of the Opposition but it is of no legal consequence.

HON P J ISOLA:

Except the legal consequence of confusion, that you set up a fund Gibraltar Shiprepair Limited for the money for them and you don't give it to them, you give it to somebody else, that is the only technical consequence, I suppose.

HON ATTORNEY-GENERAL:

I hope you will not take this the wrong way but I think that is a debating point, really. The legal consequences of that section are contained in subsection 1 to 4 and there is no doubt that there is no legal confusion involved.

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

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

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon Attorney-General's amendment to the amendment was accordingly passed.

Mr Speaker then put the question in the terms of the Hon Financial and Development Secretary's amendment as amended, and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

New Clause 6, as amended, stood part of the Bill.

Clause 7 (Old Clause 6) was agreed to and stood part of the Bill.

Clause 8 (Old Clause 7) was agreed to and stood part of the Bill.

New Clause 9

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have to move the addition of a new Clause 9 as follows:

"Protection of name (9) Notwithstanding any provision in the Companies Ordinance, no company other than the company may be formed or registered in Gibraltar with the name Gibraltar Shiprepair Limited".

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

HON P J ISOLA:

Mr Chairman, we are voting against this Clause because it constitutes an insult to the Registrar of Companies. As if the Registrar of Companies would even contemplate ever allowing a company to be formed by exactly the same name of an existing company. He is precluded from doing that by the Companies Ordinance. If the amendment were to have read "or by any name that could cause confusion", etc etc etc, perhaps, but to ask the House to vote for something like this, Mr Chairman, is an insult to the administration of the Registry of Companies in Gibraltar. We have more faith in the Registrar of Companies than the other side seem to have.

HON ATTORNEY-GENERAL:

Mr Chairman, a very short answer to that is that the Company has not yet been incorporated.

HON J BOSSANO:

Mr Speaker, does that mean that if somebody actually goes out and incorporates such a company between now and the time that this becomes law the Gibraltar Government will not be able to go ahead with commercialisation.

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone

The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr k G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor.

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

New Clause 9 stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Pensions (House of Assembly) Amendment Bill, 1983, the Gibraltar Shiprepair Limited Bill, 1983, the Wireless Telegraphy (Amendment) Bill, 1983 and the Supplementary Appropriation (1983/84) (No.3) Bill, 1983 have been considered in Committee and agreed to in the case of the first three Bills with amendments and in the case of the fourth Bill without amendment and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Pensions (House of Assembly)(Amendment) Bill, 1983; the Wireless Telegraphy (Amendment) Bill, 1983, and the Supplementary Appropriation (1983/84) (No.3) Bill, 1983, the question was resolved in the affirmative and the Bills were read a third time and passed.

On a vote being taken on the Gibraltar Shiprepair Limited Bill, 1983, the following Hon Members voted in favour:

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

The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Bill was read a third time and passed.

HON CHIEF MINISTER:

Mr Speaker, as I indicated this morning, I move under Standing Order 7 (3) to change the order of business and proceed now with the Private Members' Motions.

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

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

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

Standing Order 7(3) was accordingly suspended.

PRIVATE MEMBERS' NOTIONS

HON J BOSSANO:

I beg to move that: "This House considers that persons aged 60 and over should receive insurance credits whilst unemployed and not be subject to a maximum period of 26 weeks as provided for by Clause 10(3) of the Social Insurance (Contribution) Regulations, 1965, and calls for the said Regulations to be amended accordingly". Mr Speaker, I have brought the motion to the House (a) because in fact I thought that the Government had already accepted the principle of moving in this direction and I find it has not materialised and (b) because it seems to me that the need for such legislation has become even more pronounced in the light of the way that the rules for redundancies are being drawn up by the UK Departments which is the same as the rules are in UK. The situation is that the Trade Movement has been pressing the Government to introduce a reduction in the age at which males become eligible to collect old age pension from the Social Security Fund and as a result of a memorandum the Chief Minister said that although his party was committed to the principle, in fact I think there was a motion passed at the general assembly of the AACR committing the party to such a policy, the Government felt that they couldn't move in this direction because the cost was estimated to be in the region of £2m if it was done all in one go and in fact £½m if the reduction in the age of entitlement for males was lowered by one year. But the problem of that particular category of worker that is obliged to give up his employment at the age of 60 was a problem that was recognised by the Government, I don't think the letter said that but I think it was clear in meetings. I think the letter said, in fact, people are compelled to retire before the age of 65 and who continue to pay social insurance contributions until they reach full pensionable age and in this connection whatever proposals are agreed will be contained in the usual statement by the Minister to the House. It had been hoped that Government would accept that the possible loss of revenue to the fund from the numbers involved in this category would not make a significant dent and if it did make a dent at all which had to be made up by the rest of the contributors, since we are talking about a very small number of people against something like an insured population of 12,000 at the moment, spreading the cost of the loss of contributions amongst the 12,000 would

make a very insignificant increase in contribution necessary among the rest. The Government, I believe, has moved in this direction by not increasing the rate for voluntary contributors in the same ratio as has been done in previous years but I don't think that is enough Mr Speaker, and here the Government itself under the pensions rules that it applies to non-industrial Government employees which requires them to retire, the only people that are over pensionable age in the non-industrial civil service are those who are not pensionable, that is, people who are taken on temporary and non-pensionable employment, may retain their employment because they do not accrue pension rights but people who do accrue pension rights are obliged to retire at 60 unless these are really very compelling reasons and, generally, it means that the person concerned is irreplaceable other than by bringing in a contract worker. In the past, Mr Speaker, in a situation where unemployment has not been a problem, what has tended to happen is that people who are retired at 60 then in fact get a second job and they have an improvement in their income because at worst they are no worse off than they were before they were employed because they have got their civil service pension, and they have got their income from their new job and they pay social insurance contributions as employees and their employer pays the other half. Of late the situation has been that people compulsorily retired at 60 have had to compete with younger men for scarce jobs in a labour market where every day there are less opportunities and more people competing for jobs and in those circumstances the elderly person of 60 retired already from a job stands at a disadvantage because of physical limitations employers generally prefer a younger man and in any case there is also a certain amount of resentment from the unemployed that somebody who is already getting a civil service pension should be taking away a job from somebody who is younger and has got a family to support and no income. So on the one hand they are thrown on to the labour market by a pressing need and on the other hand they are themselves seen as acting antisocially for trying to get a job that could go to somebody else. The situation with the UK Departments is that applying UK rules to Gibraltar before they make anybody redundant they start off by retiring people at 60. There are two basic reasons for doing this, the most obvious one is that the Treasury requires the UK Departments to carry out their redundancy procedures in the most economic way possible and people who are 60 are not entitled to redundancy payment so if they retire a younger person the younger person has a preserved pension and a redundancy payment which in some cases is almost as much as their wages would be if they carried on working until 60. The UK Departments in drawing their lines of priority have said before we decide how many people we need to make redundant if there are going to be less jobs, the first thing we do is oblige everybody to retire at 60 because in fact under the UK

Departments pension scheme, continued employment after the age of 60 is based on two things (1) that the person is physically fit and (2) that the employer needs them, and the employer can hardly argue that they need somebody over pensionable age if they are compulsorily making redundant a younger person and paying redundancy payment. So we are talking about a situation where the numbers involved are going to increase if the UK Departments carry out their intentions but in any case the situation that already exists even though today, really, the main source of retirement at 60 are the non-industrials in the Gibraltar Government. Of course, there is from the private sector as well a number of people over the age of 60 who are in this situation but not because there is a policy of retiring people at 60 but because people who lose their jobs for other reasons, people who lose their jobs because a firm contracts then find it very difficult to become employed again and they are really in the worst position of the lot because they have no income at all other than supplementary benefits. The additional argument, I think in support of this is that the person concerned, the worker, concerned, the male, is in a situation where he has to contribute from a very limited income in order to get the same pension as a female contributor gets five years later so there is clearly here a situation of sex discrimination where the discriminated party is the male and on top of that it is aggravated because the male has got to contribute for five years longer, not just has to wait five years longer to get the pension but has to contribute for five years longer and contribute with a great deal of hardship because even at best the person that has got a full government service will come out with half pay from Government service and that half pay will put him on par and there are very few people in that category. The bulk of the people concerned, in fact, quite often are having to supplement their income by applying for Government assistance. I therefore, Mr Speaker, I think that in putting this motion now before the House I am asking the House to recognise that the problem exists and to agree to doing at this stage something that is within Gibraltar's means, something that is possible for the Social Insurance funds to bear and something that at least if it doesn't solve the problem of this particular category of people, at least it will lessen the hardship that they are having to undergo at the moment and let us do it now before we find that the problem has grown bigger because there are more people in the category concerned. I commend the motion to the House.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, let me say straight away that I fully sympathise with the motion brought forward by the Honourable Mr Bossano. It is no secret between us that every time we meet at the Manpower Planning Committee I have always told him that this was of great concern to me particularly. The only problem with the way that the Honourable Member has presented this motion, as I see it, is that he has made it so wide that we are going to give benefits to people who can afford to pay the social insurance contribution. I could retire at 60 and be earning £200 pension, why should I be privileged when somebody who is earning less has to pay social insurance contribution? I agree with the sentiments expressed by Mr Bossano, I have said to him many times privately that the way he has presented this motion means that anybody who is 60 no matter how much money he earns on a pension, no matter how much money he has got, he doesn't pay anything else. To me that under the present situation of what I consider social justice, it is not right because how is it possible for a person who can retire earning £100 a week not to pay any social insurance and a person who is only earning £60 or £70 and is younger has to pay social insurance, to me it is not equitable. I have full sympathy with the way that he has presented the motion, I know where he is going and I agree with it but.....

HON J BOSSANO:

Will the Honourable Member give way on one question of clarification. Is he saying by implication that the present system is equitable?

HON MAJOR F J DELLIPIANI:

No, the present system is not equitable but his motion will not make it any more equitable. It cannot make it more equitable if somebody is earning less and has to pay and somebody who has a pension hasn't got to pay. I hope that he will agree with me on that point. As the Honourable Member has rightly mentioned, he has brought in other things into the motion when he has mentioned unemployment and youth opportunities and work for youngsters so the way that I would approach it would be in the broad context of the unemployment/employment situation of Gibraltar as it exists now and as the problem will get worse in the future. I cannot treat it in isolation. In my introduction this year to the new Social Insurance Contributions which will come into effect on the 1st of January, I went through the whole question of the cost of bringing the old age pension down to 60 and I conceded something in that now they are not paying more if they are unemployed which you

have considered here. But I also make the remark that although the granting of credits after 60 should not be introduced in 1984, serious consideration should be given to their introduction in conjunction with the move to a system of retirement pensions for 1985. I think the Honourable Mr Bossano was not here when I made this statement. Already I was thinking of 1985. In the meantime the Government has formed a committee composed of Ministers who are big employers like the Public Works Department, like the Minister for Municipal Services and officials and myself as Minister of Labour, which is chaired by my colleague the Minister for Economic Development and Trade and we are looking into the whole spectrum of employment policy, retirement policy, pensions policy, the whole spectrum of unemployment/employment that is happening now. I have never myself wanted to treat anything in isolation because I would consider it wrong just to think of it going one way when maybe by going other ways we can better solve the whole problem of unemployment and employment and the injustice that I consider is being done under our own present system where persons who retire without a proper pension have to continue paying when they are earning less. The Honourable Member will be aware that I have intervened personally in a few cases that have come to my knowledge. So I am going to do what we always do to Mr Bossano and that is I will try to introduce an amendment. The sentiment will still be there but I cannot allow the question of everybody over 60 being given the chance not to pay. I am introducing the amendment with the proposal that it is a global thing which the Government is considering which has already met and considered the whole unemployment situation and the whole future of employment in Gibraltar. In this context though I am going to say delete all after "that" I am sure that the Honourable Member will understand that the sentiments are there and not only that, that where in my introduction to the 1984 social insurance I gave a date of 1984, in my motion I am not giving a date. At least in 1985 I am giving a deadline but in my motion I will not give any deadline so the introduction could be sooner than 1985 and I hope that the Honourable Member opposite will accept my amendment. I propose that the motion be amended by deleting all the words after "that" in the first line thereof and substituting the following "in the context of the general review of employment and retirement policy at present being undertaken by the Government, consideration should be given to the removal of the present limitation under Clause 10 (3) of the Social Insurance (Contributions) Regulations which provide that persons aged 60 or over who are compulsorily retired shall, whilst unemployed receive insurance credits for only 26 weeks". Mr Speaker, though I have not put into this motion the question of the money limitations I mentioned, it is in the context of the committee which is chaired by my Honourable Colleague

Mr Canepa, that we are considering putting a minimum wage where if you receive that minimum wage or minimum pension or minimum income, you are automatically entitled to a credit until you reach the age of 65. The way they are looking at it is that we will have a wage limit and any person who earns less than that will be credited until he is 65. I am also adding that the onus is on the person who is over 60 to come to my department with proof that he is unemployed and that he has no other income except the one that gives him the entitlement to credits. I hope the Honourable Member will accept the fact that I am agreeing with this motion, that I am trying to make it more equitable in a sense because I do not think that if you can afford it you shouldn't pay for it, and the fact is that it is a whole series of measures which the Government wants to introduce to tackle the employment/unemployment situation. I commend my amendment to the House.

Mr Speaker proposed the question in the terms of the Hon Major F G Dellipinal's amendment.

HON J BOSSANO:

I want to move an amendment to the amendment because I take it that in moving the amendment the Minister is trying to meet me somewhere along the road so I am just trying to determine where along the road it is that we meet. The amendment I propose, Mr Speaker, is the deletion of the words "who are compulsorily retired" and the reason for doing that is because by limiting it to people who are compulsorily retired I think we are not doing anything that has been defended so far. I said the people who are compulsorily retired are Government's own employees and nobody else virtually, is compulsorily retired at 60. The reason why they are compulsorily retired is because there is a requirement in the Pensions Ordinance that public servants must retire at the age of 60 only in the Gibraltar Government. In the UK Departments there is a requirement that people must retire at the age of 65 but may be retired at the age of 60 (a) if they are in poor health (b) if the department cannot continue to use their services. So I think that if we went by the letter of the amendment, and I am sure that is not the spirit, effectively, we would be asking that the only people in Gibraltar who should be given credit should be retired non-industrial civil servants from the Government of Gibraltar who are the people who are said to be compulsorily retired. We have a situation, as I have mentioned, where, for example, we have got in the construction industry firms that have got rid of every single worker, they have really gone down to simply keeping an office and a clerk in that office in the expectation that there will be contracts some time in the future and that they want to maintain a presence because of

that. They have got rid of people over 60. Those people over 60 have gone and registered as unemployed. They have used up their unemployment benefit, they have no income at all, they have no pension, they have not been compulsorily retired and they find it much more difficult to be re-employed and I think that they should not be deprived of the opportunity of being given, it certainly is the category that is in greatest need within the question of the Minister's argument that there could be somebody earning £200 a week who might wish to apply for a credit, well, there could be, it is obviously not an impossibility, but I must say that there must be very few people around with £200 a week wishing to claim credits because they are over 60 and presumably if the Minister can countenance females with £200 a week being able to be paid tax free social insurance pensions, I don't see why he should be so worried about males with £200 a week having to wait five years to get the social insurance pension without having to pay stamps for five years. I really think that argument is not a very strong one to use as an argument against the motion, but I am prepared to accept the amendment in the spirit that the Government is willing to do this before 1985 if they are able to do it before 1985, I think it is necessary to remove the words "compulsorily retired" because in my view the strict interpretation of those words narrow the eligibility of those for whom such a move would be made virtually at this stage to people who are non-industrial Government employees and nobody else. I also want to make clear, Mr Speaker, that of course in accepting the amendment I am not endorsing the general review of employment and retirement policy which I don't know what it consists of. The party that I represent has got its own policy as to how it would handle the social security system and we would obviously deal with the payment of pensions at 60 in that context, not with the granting of credits in that context. We think the granting of credits can be done now with the existing resources, that the cost is minimal and that there is no problem in financing it. It is quite obvious that the Government is not prepared to do it now. We don't think that it requires a general review of the overall social security system to do just that. I would certainly agree with the Minister if he was saying to me that in order to pay pensions at 60 to everybody he would need to do it in the context of an overall review. I am prepared to accept the amendment, that is, I am prepared to support it myself subject to the words "compulsorily retired" being removed and I so move that the words "compulsorily retired" be deleted from the amendment.

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

HON W T SCOTT:

Mr Speaker, before the amendment to the amendment to the original motion is perhaps further amended by the Minister of Labour I think I might pass a few comments, if I may, whilst still not giving up my right to talk on the original amended motion.

MR SPEAKER:

If you speak exclusively on the present amendment, yes, because that is what is before the House.

HON W T SCOTT:

Mr Speaker, I think what has come out clearly is that there is sympathy within all sides of the House to the individuals who might be caught up in the circumstances in time to come and it is in that spirit that the mover introduced the motion.

MR SPEAKER:

No, no, with respect. What we are talking about now is whether we should widen the category of people and that is all you are entitled to speak about at this stage. By leaving out the words "who are compulsorily retired" you are widening the category of people who would qualify and that is the only question before the House just now. I am saying this to you because you have reserved your right to speak on the main motion. If you want to speak generally on the whole of the motion I have no objection.

HON W T SCOTT:

That was my understanding and it was on that understanding that I am making my contribution.

MR SPEAKER:

Then go ahead by all means.

HON W T SCOTT:

I think, Mr Speaker, it is the spirit that the mover presented that motion that the sympathy of the House should be translated into an amended motion that commits the Government in a very finite way to the people caught up under these circumstances. The point obviously is taken by my party by the Minister where the expression whilst unemployed but still could be in receipt of a substantial income well and above that that would otherwise not qualify him and I would have thought quite frankly

that a simple amendment by the Government substituting the words "whilst unemployed" and reading something like "in receipt of an income no greater than the social insurance pension or the minimum age" or whatever would have perhaps committed the Government and translated the Government's thoughts to the sympathy that the Minister has expressed. If the Government itself had moved such an amendment Mr Speaker, I think certainly our party would have voted on that basis, we would have voted for the amended motion. I take the point that the motion does require an amendment and I look for a further initiative from Government to further amending it to commit Government rather than leave it for the review body looking into employment and retirement policy of the Government just for them to consider it. I feel this is far too loose and does not give the protection that the people that will be caught up in these circumstances are looking for now, they are looking for that now, not in a year's time and I feel that under the circumstances Government ought to commit itself in a finite way in a manner that translates its spirit as demonstrated and as said by the Honourable Member opposite to such a motion.

HON A J CANEPA:

Mr Speaker, I read the last part of the motion as being a reference to what Clause 10(3) of the social insurance contributions are providing for and if the social insurance contributions provide as they do, section 10 part III credit, is about unemployment, you cannot amend the reference to "whilst being unemployed" because that is what the whole thing is about. This part of the regulation, Part III, is credit for unemployment Section 10; Section 11 credits for incapacity; Section 12 unemployment and incapacity in same week. You cannot in a motion amend the regulations just like that. I think the Honourable Mr Scott has got to accept the spirit, the commitment which the Government is entering into having regard to what my Honourable Friend the Minister for Labour has said and the intention which we have, having regard to the limitation which has been expressed in-so-far as people of a certain income are concerned because they happen to have a very good pension and the Government considers that they should not be exempt from paying contributions when they are in a better position to do so than other people in employment. But I don't think we can just willy nilly start striking words out of the motion which is making a reference to the regulations.

HON W T SCOTT:

If the Honourable Member will give way before he sits down. Perhaps I should have said whilst unemployed and not in receipt

of a pension larger than a certain amount. Would that clear the point?

HON A J CANEPA:

No, I don't think he gets my point, Mr Speaker. I don't think that the last part of the motion is absolutely clearcut because my reading of this motion in that there is a reference being made here to what the regulations are providing for. It says under Clause 10(3) of the social insurance contributions regulations which provide that, the regulations provide certain things, which are summed up there and one of the things that they provide is that insurance credits can only be paid for 26 weeks. We want to remove that limitation and allow insurance credits to be paid between the age of 60 and 65 whilst the person remains unemployed but I don't think that you can be striking words out of the last two lines of the motion just like that because then we would be passing a motion which is making a reference to something which in fact is not the case. Because you cannot alter what the regulations are providing for because the regulations are law. In a motion by altering that we would be factually incorrect. That is the point that I am trying to make.

HON J BOSSANO:

If the Honourable Member will give way. The regulation does not in fact say that persons aged 60 or over who are compulsorily retired.

HON A J CANEPA:

No.

HON J BOSSANO:

So in fact the Honourable Member is just giving another argument for supporting my amendment.

HON A J CANEPA:

No, they don't and this is why I was puzzled. Whilst the Honourable Member was speaking I was puzzled in trying to reconcile the few words "who are compulsorily retired" with what there was in the regulations. The regulations make no reference whatsoever to being compulsorily retired and that is why we can go along with the deletion of those words because that is factual, but we cannot go along with the deletion of the words which the Honourable Mr Scott is seeking because that is not factual.

HON W T SCOTT:

The addition, actually, not the deletion, the addition of some extra words after "whilst unemployed", not the deletion.

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

MR SPEAKER:

The amendment is therefore carried and we have before the House the question as moved by the Honourable and Gallant Major Dellipiani as amended by the deletion of the words "who are compulsorily retired" and any member who has not spoken to the question is free to do so.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I welcome the deletion of the words "who are compulsorily retired" because as I say it is all tied up, the way I projected it, with employment and unemployment and if a chap voluntarily retires at 60 it might provide an extra job for somebody else so therefore by deleting "compulsorily" I may be opening other jobs so I welcome the amendment and I support it.

Mr Speaker then put the question in the terms of the Hon Major F J Dellipiani's amendment as amended, which was resolved in the affirmative and the amendment was accordingly passed.

HON J BOSSANO:

Just two points, Mr Speaker, that I would like to put to the Government in asking them to do the necessary to implement the motion and the spirit which the member has spoken in this motion. One is that the fact that consideration is given and I do not object to the word "consideration" there because in fact my original motion says "this House considers" and I think it amounts to the same thing, it is using words in a different way but I wasn't asking for more than that because in fact I cannot put a motion, as I understand it, changing the actual regulations myself. I am calling for the regulations to be amended and as far as I am concerned the commitment of the Government that that should be considered in the context of the general review, I put it to them doesn't mean that they have to wait for the general review to do this. I accept that they shouldn't be doing something at this stage that might be inconsistent with something they are planning to do ahead of time but I put it to them that this should be dealt with at

least the first stage and the thing that is given most priority irrespective of what may be done later which I accept should not be inconsistent with this. Secondly, the fact that it is something that can be done by regulation I think is fortunate because in fact it means that once the Government is ready to do it, they should be able to do it without needing to come back to the House and I welcome the support that there has been given in the contributions, I hope that they will be able to implement it soon.

MR SPEAKER:

I will then put the question which is "That this House considers that in the context of the general review of employment and retirement policy at present being undertaken by the Government, consideration should be given to the removal of the present limitation under Clause 10(3) of the Social Insurance (Contributions) Regulations, which provide that persons aged 60 or over shall, whilst unemployed, receive insurance credits for only 26 weeks".

The question was resolved in the affirmative and the motion, as amended, was accordingly passed.

HON W T SCOTT:

Sir, I beg to move that: "This House welcomes the success of the Industrial Training Scheme run by the Construction Industry Training Centre but regrets that Government has neither extended this scheme to cover other areas of youth training nor initiated a Youth Opportunities Programme to provide worthwhile employment prospects for the youth of Gibraltar as has been constantly requested by the Opposition and urges them to do so without any further delay". Mr Speaker, there is a historical background to the introduction of this motion which goes back to November of 1980 and that deals with the first part of the motion welcoming the success of the industrial training scheme. When I introduced that motion and I will not go into it deeply, even Mr Bossano said of it that it was too revolutionary for him but, thankfully, an amendment which he introduced, which was further amended by the then Minister for Labour, Mr Canepa, at least ensured that the motion, or the spirit of the motion, was carried and that in fact, Mr Speaker, was the first time that I am aware of that the House committed itself, or the Government committed itself, to providing industrial training opportunities for the youth of Gibraltar. I think, Mr Speaker, that having now had something like two years experience of that training scheme and whereas in the first year or so it did not have the expected success judging by the numbers or the lack of numbers of young Gibraltarians who did not make use of that

scheme, I think it was the Honourable Minister for Labour himself only quite recently in this House also gave the news that this year the intake was something like 30 or 40 young men. And it is in that context, Mr Speaker, that the second part of the motion is directed and that is that it regrets that Government has not extended the scheme to cover other areas of youth training. In that context, Mr Speaker, one was glad to hear at the opening of the Construction Industry Training Centre, a ceremony that unfortunately I wasn't able to attend, the guest speaker who I understand was the Minister for Public Works, gave an indication that Government did have an intention of extending that scheme to cover other areas and the Minister of Labour, the Honourable and Gallant Major Dellipiani, has himself been shown to be wrong because I remember for a number of years he has been saying here of the youth of Gibraltar that they do not want to dirty their hands, they are not willing to enter into an employment where they might be subjected to things that a penpusher is not and he did not seem to have much faith in them. Thankfully, Mr Speaker, and I am sure he would be the first to admit this, certainly insofar as the Industrial Training Scheme is concerned, he has been proved wrong and the youth of Gibraltar has been proved right in that sense. And it is only in that sense, Mr Speaker, that one is now calling for that scheme to be further extended to cover areas not only for young men but also for young women and I have no doubt at all, Mr Speaker, that the unemployment figures as reflected to the 31st of October, 1983, which show a not too unacceptable level of youth unemployment is perhaps to a very great degree due to the success of that scheme and the number of young men that are participating in it. But, in fact, Mr Speaker, the last part of my motion runs a little bit deeper than that and that is something that I personally in questions in the House have been urging the Government to do for quite a long time and that is the introduction of a Youth Opportunities Programme, a Youth Opportunities Programme which will provide the young school leaver who ordinarily today finds it difficult to obtain employment, perhaps because he or she is not suitably academically minded and that individual finds himself very shortly after having left school, gone through a whole summer perhaps in the beach, attempting to get a job and cannot do so. I am thinking here particularly of young women who do not have the opportunity to enter into the existing scheme. I think, quite frankly, Mr Speaker, and I am sure the Honourable Minister for Labour is quite familiar with the old Youth Opportunities Programme as it used to be run in the United Kingdom, I think on the initiative of James Callaghan, and the changed one, the adopted one, which is now a Youth Training Scheme ran by the Conservative Government although its duration is only one year it does provide on the job training in the field it makes the young individual not feel as rejected by society as he would perhaps otherwise find

himself. I think within that context, Mr Speaker, it opens up a spectrum for debate that I am not going to enter into at great length but only to suggest that education in schools in Gibraltar seems to be taking a turn and has been taking a turn over the last few years where it is directed principally at the acquisition of academic standards through the passing of the relevant exams directed at the very few pupils who are able to do so and not at the vast majority of pupils do not have that standard, who cannot look forward to attaining the required 'A' level exams leading on to further education in the United Kingdom. I think there is a great problem that we have been having in Gibraltar and that is that the schools are responsible for educating young men and women to make them fit and proper persons so that in time they can take their rightful place in the society that they belong and it is that context that I feel that too much stress has been laid by both comprehensive schools to the acquisition of high academic standards to a few fortunate individuals that incidentally once having acquired their mandatory scholarships very few return to Gibraltar and give the benefit of their training to Gibraltar which is a totally different thing to the young industrialised individual through the Industrial Training Scheme or in fact through a Youth Opportunities Programme where that young man or that young woman in the majority of cases would be able to use their experience for the benefit not only himself but also of the community at large. Mr Speaker, a Youth Opportunities Programme quite simply need not of its own necessity involve Government in a huge financial expenditure as the Minister well knows. There are circumstances in fact where it is not necessary for Government itself to employ these people. The way I understand it as it was run in the United Kingdom and as indeed the present system is run in the United Kingdom, it makes it more attractive for a prospective employer to employ that young man or that woman by offering to pay a certain element of the salary or wage of that young man or woman that would normally cost the Government even more through unemployment benefit or social security benefit. There is, Mr Speaker, a valid argument, even a valid financial argument to take that consideration quite seriously. Mr Speaker, I remember that in November, 1980, the Honourable Minister for Labour at the time separated quite distinctly the function of education and the function of industrial training and I wonder whether Government has thought, and I am sure it has, when it eventually gets possession and run the Technical College whether or not the two should be merged in some way or other precisely to bring in a system of training and a Youth Opportunities Scheme which can only be to the benefit of Gibraltar and its youth in particular. Mr Speaker, I am not going to delay this any longer, I think I have put forward the main points of what I have to say and I look forward to what possible initiative the Government might have which has been sadly lacking over the last two years.

Mr Speaker, I beg to move.

Mr Speaker proposed the question in the terms of the Hon W T Scott's motion.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am glad the Opposition acknowledges the success of the Youth Training Scheme but I said when we were trying to introduce the scheme that I would go slowly on this question because I am not sure it was going to be a success. I certainly do not want to be the Minister who creates white elephants. I always want to make sure that whatever I introduce works. The first year it didn't work, the second year which is this present year, we have 45 youngsters who are very keen and working very hard so I think now I can move a step forward. I certainly was not going to move a step forward when only six people came and applied. This is the way I act, I don't do it to catch votes or to do anything like that. I do it as a matter of principle, I want to do it in logical steps. I remember when there was this motion on youth opportunities, I mentioned the question of the College of Further Education, I don't know whether the Honourable Member will remember.

HON W T SCOTT:

Mr Speaker, it wasn't a motion on youth opportunities, this is the first one we have ever had.

HON MAJOR F J DELLIPIANI:

I see the whole thing in fact connected together. The College of Further Education, the present Industrial Training Scheme, and youth opportunities a la Great Britain. But let me say that in the Great Britain Opportunity Scheme there are certain limitations which I at the moment am not happy about. For example, one limitation is they are under 18, if you are 19 you have had it, you don't get the opportunity. We might not want that limitation in Gibraltar. The Honourable Member has regretted in his motion that Government has not extended this scheme. Government could not extend the scheme, as I have said, until it was sure that it was working.

HON W T SCOTT:

Ye of little faith.

HON MAJOR F J DELLIPIANI:

Well, I was proved right for a whole year. I am glad the Honourable Member has referred to the speech by Mr Featherstone

when he said that the question would be extended because of the encouraging response that we have had this year to provide more training opportunities in appropriate areas for girls and for boys so before the Honourable Member brought this motion forward my Honourable Colleague Mr Featherstone had already suggested and said it as a matter of policy.

HON W T SCOTT:

If the Honourable Member will give way. I don't want to interrupt him again.

MR SPEAKER:

You will have the right to reply.

HON MAJOR F J DELLIPIANI:

I would just like to emphasise that the Minister for Public Works mentioned this in a speech at the Construction Training Centre, that Government was looking at providing more training opportunities and in appropriate areas for girls as well. I can assure the House that this is being actually pursued. Not only that, in the present scheme in the Industrial Training Centre we are already thinking of ways and means of improving it and possibly of actually getting the youngsters who are at the moment receiving an overall construction training background, of possibly extending it for next year and specialising on a particular subject. We are already thinking of that and the Training Officer has already submitted a report to me on how we should approach the question of extending and improving the training scheme. I am also interested in the Youth Opportunities Scheme which is running in the United Kingdom and it doesn't necessarily mean, as the Honourable Member has mentioned, that it is connected with Government employment which will only create greater bureaucracy than we already have. It is intended, in fact, for private firms. I have a lot of sympathy towards this scheme but I want to connect it with the question of training and I would like to see a way where we have not only training on the job but the employer agreeing to release this person to have further training maybe in the College of Further Education or in the Construction Training Centre. This is not the scheme operating in England. In England it means you work for a year and the Government pays the employer £15 and the employer makes it up to £40. We are thinking of going a step further ahead than in the United Kingdom. This is why I have always said that I wanted the control of the College of Further Education so that we could gear the needs of Gibraltar in education and in employment and I must say I agree with the Honourable Member's remarks about the gearing

of schools towards 'O' levels and 'A' levels. I think during the last year in school there should be a lot of vocational guidance and training, far more than there is now. But I would say, Mr Speaker, that there are certain areas of training that no matter how attractive we make it the youngsters of Gibraltar are still not interested. They are not interested in the catering trade. I suggested to some members of the Trade Union Movement of maybe introducing a scheme where we could train people to be waiters because I think waiters require a certain amount of skill. I was told "Don't do it, you won't get anybody because they would be working unsocial hours, Saturdays and Sundays and they are not interested". I am convinced that they are not interested, it is a fact of life. I think there is an indication that things are moving where Gibraltarians are now accepting the fact that they have to look elsewhere other than to local Government or the nice firms that have the nice jobs and the easy cushy jobs, that things are moving in that direction. They haven't gone far enough but they are moving. So in essence, Mr Speaker, I agree with what the Honourable Member is trying to put across to the House but as a member of the Government I cannot accept the word "regrets" and things like that and I think he put it there knowing fullwell that I could not accept it. I propose an amendment. My amendment, Mr Speaker, is that all the words after the word "Centre" in the third line be deleted and substituted by the following: "asks the Government to extend this scheme to cover other areas of youth training and to give urgent consideration to the introduction of a Youth Opportunities Programme to provide worthwhile employment prospects for young people".

Mr Speaker proposed the question in the terms of the Hon Major F J Dellipiani's amendment.

HON W T SCOTT:

Mr Speaker, I was not that naive that I expected Government to have accepted my motion as it stands in its totality and I think that the first two and half lines could be taken by Government as a self congratulatory message but, however, I think quite frankly whilst I also regret that an amendment was found necessary, I really cannot accept the first word in the amendment which just asks the Government. I think it should be perhaps a word expressing the concern of the House and a little bit of a stronger word, a stronger word like "urges" the Government to extend the scheme to cover other areas of youth training because if indeed the Government has already said through the Honourable Minister for Public Works that it intends doing so, it is pretty useless us asking Government to do so, we are urging them to do so. On that basis, Mr Speaker, I would like to introduce an amendment to the amendment.

MR SPEAKER:

Do you honestly feel that the word urges will make any difference to the policy of the Government.

HON W T SCOTT:

Mr Speaker, I feel otherwise asking the Government to extend the scheme to cover other areas is not saying very much. I prefer, Mr Speaker, to introduce an amendment to the amendment by substituting the word "asks" by the word "urges".

Mr Speaker put the question in the terms of the Hon W T Scott's amendment to the amendment and on a vote being taken the following Hon Member's voted in favour:

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon W T Scott's amendment to the amendment was accordingly passed.

MR SPEAKER:

Does any Hon Member wish to speak on the amendment, as amended?

HON P J ISOLA:

I am going to speak once and I think this is the appropriate time to speak in view of the fact that this is the part of the

debate when the word "regrets" is leaving us. I think there is need for an explanation as to why we agree "regrets" should go and to put in "urges". I think if one can get a motion out of the wash that gets the intention of the mover in the form of a resolution of the House, it is preferable than having the whole thing defeated or altered by Government majority. I think I would like to congratulate the Honourable Mover in bringing this motion to the House. I think the question of youth training and youth opportunities is very important in the Gibraltar of today, it is very important that youth who look at the situation of Gibraltar as it is today with great disquiet and with pessimism, should be given the opportunity of turning their pessimism into optimism by putting forward worthwhile programmes. I, Mr Speaker, deputised my Honourable Friend at the Construction Industry Training Centre where certificates were given and I listened to the Minister for Public Works at that place and I was, I must say, impressed by the enthusiasm, not of the Minister for Public Works, of the enthusiasm of the young men who received their certificates, the enthusiasm of their parents, and I had an opportunity to talk about the success of the Industrial Training Scheme which at the time that my Honourable Friend moved his motion suggesting an Industrial Training Scheme for 18 years old and teenagers of a later age, a lot of cold water was poured on it at the time as they were not sure whether people would join or not, I was very impressed by (a) the enthusiasm there and (b) by the sense of achievement in young people but I was also told, it is only fair to say, Mr Speaker, that necessity was also a factor in the success of the scheme insofar as young people found employment opportunities were no longer there and they might therefore just as well go and learn a craft or learn a trade and get paid not very much but they get paid something for it and, of course, it is obviously a matter for regret that that should have been part of the motive but these are facts of life. But now, Mr Speaker, with the problems that face Gibraltar of unemployment right through the city as a result of the partial opening of the frontier and the closure of the dockyard and so forth, I think it is very important and that's why I welcome the very small amendment made by my Honourable Friend to the amendment of the Government of using the words "urging the Government" to do something quickly to extend the scheme to other areas of youth training and youth opportunities programme. I think it is important to try and get some sense of optimism or hope in the youth of Gibraltar and that needs vigorous initiative from the Government and I am glad that if, as a result of this motion, Government gets on with it quickly in the short period of time before the House expires on February the 28th, if they get on to something that is worthwhile and they get it going, well, let them get the credit for it too at the time but I think it is important to get the main thrust of my Hon Friend's motion, to get the

message home and to appear to be doing something to it so, I do hope that the Government will do more than just pay lip service to this motion as has happened, I am afraid, in a number of other motions that have been passed before the House and try and do something about it as quickly as possible and to consider it with the urgency that the motion itself urges on the Government.

Mr Speaker then put the question in the terms of the Hon Major F J Dellipiani's amendment, as amended, and on a vote being taken the following Hon Members voted in favour.

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

The following Hon Members voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon Major F J Dellipiani's amendment, as amended, was accordingly passed.

HON J BOSSANO:

Mr Speaker, I do not support the original motion and I do not support the amendment of the Government and I do not support the amendment of the Opposition to the amendment because it is the basic philosophy that I disagree with. I do not consider the Industrial Training Scheme to have been a success. I do not consider that one can quantify the success of a scheme simply by virtue of the fact that there are now 45 youngsters attending the Construction Training Centre because they are unable to find other employment. That is not a way of

measuring the success of the scheme. What are those 45 going to do when they finish at the end of the training? That is what one has got to ask oneself. The Government is spending public money in training people, what is it training them for? The Government is training them and the only defence that has been made of that scheme is, Mr Speaker, is that it can be substituted for the first year of an apprenticeship. What apprenticeship? There are no apprenticeships. The situation is that, in fact, as far as two years ago the Minister for Public Works was telling us in this House in 1980/1981 that he was facing difficulties in finding employment for final year apprentices and that he was worried that he might have to think along the lines of charity starts at home and if you have to choose between getting rid of an apprentice who has just finished learning to be a mason, do you get rid of a non-EEC national and let the apprentice stay on or do you get rid of the apprentice. That was the situation two or three years ago, I think it was in 1980/81. To have trained 45 people in the construction trades without knowing what is going to be the demand for the construction trades seems to be simply to produce a scheme not for training for a purpose and therefore I cannot welcome it, but for training simply because in the absence of nothing it is better than nothing and I do not support this for the same reason that I do not support the ship repair vision, which is no more than that, because the main argument put in support of it has been that somebody can produce cogent detailed analysis showing the prospects for viability and for security and for long-term employment but that it is better than anything. Anything is better than nothing and I am not prepared to welcome something because it is better than nothing. It is manifestly obvious that however poor something may be, if you accept that we have to be content with that or nothing then it is better than nothing. The Industrial Training Scheme, as far as I am concerned, is not a success. The people who are there are there because they are getting £15, they don't really know what they are going to do at the end of it and as I say substituting one year of an apprentice, it can only mean the Gibraltar Government. The Gibraltar Government would then have to decide that they would give preference to the people produced by the Training Centre over the other school leavers because the DOE is no longer training apprentices, the private sector construction industry is not taking anybody at all, never mind apprentices, they have not got any craftsmen left to teach apprentices, anyway. The Gibraltar Government is the last area taking apprentices and if the Gibraltar Government gave the jobs to the people who have now gained one year they could only do it at the expense of this year's crop of school leavers and this year's crop of school leavers would then feel that they have been unfairly treated because the others have already £15 for one year. I cannot see where it is the scheme is leading us to.

I have to remind the House that I proposed in August, 1981, on behalf of my party, a scheme for dealing with the situation before it got to the stage it has got to now, which was in principle welcomed by the Government and that is as far as it got like so many other things welcomed in principle. And it certainly was received with a very great deal of scepticism by my colleagues on this side of the House who said that the scheme was one of introducing a levy throughout Gibraltar on the public and the private sectors based on each employer paying so much per head through the Social Insurance Contribution, that is, the machinery for collecting it would not put an administrative burden on the Government because it could be paid at the same time as the Social Insurance Contributions. The revenue coming into the Government could be used to subsidise private sector employers or public sector employers taking in apprentices and the value of the scheme was that, in fact, if an employer is waiting for the public sector to produce the trained craftsmen for him or for a more enlightened employer to do it at no cost to himself, that is an incentive for not taking anybody on, whereas the essence of the scheme and it has got a long history in UK where there have been industrial training boards and industrial training levies, the essence of the scheme is that you reward the good employer by helping to subsidise his training costs at the expense of the employer who expects to recruit trained people without taking anybody in for training himself. It has a very long history and it has always had strong support from organised labour and from the Trade Union Movement and I thought that was the way we should move and I suggested it in 1981 and nothing happened. That is still the policy that I advocate and that is the policy that will form part of the programme of my party as the way we should be moving, although today with the change in labour force, we have already lost two years, who will have lost three years if we do it in 1984, and of course the longer we wait to do it the less logic there will be to doing it because the greater the burden that will be on whatever employers are left. Coming to the second part of the motion, obviously, since that is our policy, that is what I would urge Government to do so I cannot urge the Government to do something else. I have to inform the House that the Youth Opportunities Programme no longer exists in UK. I don't know whether Members are aware of it or not.

HON W T SCOTT:

I never suggested in the motion that it did.

HON J BOSSANO:

It was in fact done away with. I would have thought that if we want to introduce something here we might want to find out what is the latest situation in UK.

HON W T SCOTT:

I don't think the Hon Member was here when I made my contribution. I did mention the Youth Opportunities Programme in the UK, that it had been introduced by the Callaghan adminis-

tration and that recently it had been substituted by a youth training scheme. I did say that.

HON J BOSSANO:

Well, I think, Mr Speaker, that if in fact the Youth Opportunities Programme has been done away with there, is it then the view of the mover of the motion that it was superior to what there is now and that therefore we should go along with what there used to be rather than what there is. Because, in fact, the Youth Training Scheme in UK is a much wider scheme in the sense that it is intended to cover all school leavers. It has its limitations and certainly in UK organised labour and the trade union movement have been very reluctant to give it support but it is now supporting the scheme and it is co-operating with the scheme although it is moving it in the direction which has been agreed and accepted by the Manpower Services Commission in the direction where notwithstanding the fact that there are statutory minima attached to the Youth Training Programme, in UK unions have got the freedom to negotiate higher rates which are Trade Union rates applicable. Because one of the worries, I think, about doing a scheme which I take it is what we are talking about here, when one is talking about a youth training or a youth opportunities scheme we are talking about not a scheme designed to produce craftsmen in a very small area for a particular purpose but in fact a scheme to deal with youth unemployment and the problems of school leavers as a whole in the whole economy. Therefore, I think one of the worries that the Trade Unions have expressed and which have to some extent been recognised and met I think by the Manpower Services Commission, is that this should not be a cloak for providing cheap labour and therefore substituting for adult employees by using low paid youth employees. I think that the way that the scheme is beginning to work now in the UK with strong trade union involvement, in fact, the situation is much improved. But in any case, as I say as far as I am concerned, I urge the Government to go back to the proposals I put to them in 1981 and give reconsideration to them. I will not be supporting this.

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to say one thing, if I may, and it is really on a point of my Honourable Friend Mr Bossano has just mentioned. I always listen to him with great attention because his contributions to this House are very valuable. On this occasion, however, I think it escapes him that something is better than nothing. I think it is logic, isn't it, that if we have 40 young people in Gibraltar for whom there is no employment, I think it is in the interest of those 40 young people to find some occupation. It is not total waste of time since they are acquiring a skill which maybe to their own particular benefit if not at present in the future, things could change, perhaps things may turn for the better. Those individuals are acquiring a skill which they will possess forever. It is valuable.

HON J BOSSANO:

Does he know what are the skills they are acquiring? As far as I understand, and this can be confirmed by the Government, they are taught the rudiments of being a painter, a mason, a carpenter, four trades in a year. What degree of skill does he think they acquire in one year covering the rudiments of four different construction trades. Why do we have four-year apprentices?

HON MAJOR R J PELIZA:

You are certainly not going to get architects or anything like that. We are not expecting fully trained tradesmen to come out of that, no. It is the beginning of the skills. It might open avenues for them but above all it gives them some discipline during those 12 months which I think goes to the benefit of the character of the individual. I don't think it is fair to say that it is a total waste of time and therefore whilst I appreciate that this is by no means the ideal, we do not live in the ideal world, the problem is the scourge of the earth at the moment, wherever one goes one hears that this problem is there. It is not going to go away by saying that this little scheme is no good because you are going to leave nothing in its place and therefore I think to accept defeatism in that way rather than those what I know are crumbs falling from the table, that is better than nothing at all. I think that in Gibraltar particularly we have greater limitations than anywhere else so we have asked the Government to do this, they agreed after some difficulties, they have been able to do it, it is proceeding, it is going on, my Honourable Friend is asking for more. Let us see, it is a start and you know what the Chinese say that if you want to walk 1000 miles you must take the first step. Well, this may well be the first step. Mr Speaker, therefore, in the circumstances, I think that the suggestion by my Honourable Friend is a good one and I find difficulty in going totally against something which is better than nothing. I just don't understand the point.

HON W T SCOTT:

Mr Speaker, I think I might start off my summing up with the Honourable Mr Joe Bossano, obviously. I cannot accept his comment that there should be an undertaking by Government after training for a job.

HON J BOSSANO:

If the Honourable Mover will give way, I have not said that there should be an undertaking from the Government. What I have said, to put the record straight and be absolutely factual, is that the only argument in defence of the training scheme which we are welcoming in this House, is the fact that it can substitute for the first year of an apprenticeship. And the only people who are giving apprenticeships in the construction trade is the Gibraltar Government, who is taking in 12 apprentices a year. So the only way the people who come out of

the Construction Training Centre could usefully use the knowledge they have obtained which substitutes for the first year of apprenticeship, is by taking one of the 12 jobs that would be available at the expense of somebody else that leaves school next year. That is all I have said, I have not said the Government should do it, I am saying that that is the only positive argument in its favour.

HON W T SCOTT:

I am grateful for that, Mr Speaker, because surely the Honourable Member will accept that it is better for the individual one year after he has left school and not being able to find a job as arranged, to have undertaken training of this type enhancing, perhaps, whatever little opportunity for employment he might have had a year before and of course it is not Utopian, of course it isn't but what we are trying to do here is urging Government to progress that system because if the Honourable Member will remember, in November of 1960 when I introduced my motion, my motion was not on industrial training it was amended to read industrial training, my motion on apprenticeship, if the Honourable Member will remember. The second one, Mr Speaker, that he made a remark on was on the expression Youth Opportunities Programme and he assimilated that and equated it to the system as used to be run in the United Kingdom on the same lines. But that does not necessarily mean because I have not mentioned it yet, it means a system providing opportunities for the youth of Gibraltar. That is what it means and it is termed in that manner. The same as the system in the United Kingdom, the YMP, was adapted to form the better system of a youth training scheme, surely, in retrospect and with hindsight, we can also adapt the system that they have there to better suit us in our small community. Mr Speaker, the Honourable Minister for Labour did pass a number of remarks that require my mentioning them. The first one that he said was that he wanted to introduce the Youth Industrial Training Scheme slowly and he wanted to wait for the results of that before he passed on to the next stage. I suggest to the Minister that perhaps we would want him to move a little bit quicker and that is precisely why that motion has been introduced now and not this time last year or the year before. The fact of the matter is that it is being introduced now. I was very glad to hear one very important point that he made and I think this illustrates to me somewhat of a change of policy and that is bringing youth, industrial training and education a little bit closer together than they have been working over the last few years in Gibraltar. I think it is very necessary for Gibraltar to have that, particularly if we are going to look at an era in the not too distant future of running a successful technical college. Incidentally, Mr Speaker, he also mentioned that in the United Kingdom the Youth Opportunities Programme at the time was restricted to youths of 18 or less, no mention was made by me of an age restriction either. I think, Mr Speaker, I have dealt with the point that the Honourable Member made except for one. When in talking about YOP, he did say that there would be difficulty with a private employer in the day release of a young man or woman to the future Technical College. Well, the YOP in fact,

could prescribe precisely that by the introduction of a payment of part of the wage of the individual, a condition of Government paying that could well be that that student should be released.

HON MAJOR F J DELLIPIANI:

That is what I said, that in the scheme I wanted to introduce those kinds of elements. It is not because I doubted the employers, it is because I wanted to combine training and work experience which the scheme in UK does not provide, it only provides a work experience.

HON W T SCOTT:

Mr Speaker, that is precisely why I said earlier on that we should adapt existing schemes or ex-schemes in the United Kingdom to best suit us. Mr Speaker, I beg to move.

Mr Speaker then put the question in the terms of the Honourable W T Scott's motion and on a vote being taken the following Members voted in favour:

Mr Speaker then put the question in the terms of the Hon W T Scott's motion, as amended, and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon A T Loddo

The Hon W T Scott's motion, as amended, was accordingly passed.

HON P J ISOLA:

Mr Speaker, before my Hon and Gallant Friend moves his motion, does not the Chair think it is an appropriate time to adjourn. It is a quarter to eight, other Members in this House have

commitments to attend to, on this side of the House, and I think that to start a motion by my Honourable and Gallant Friend at quarter to eight would seem to me, frankly, putting undue pressure on us. We have had a lengthy day, we have got tomorrow and we have got Monday.

MR SPEAKER:

It was my intention to call the motion to be moved by the Honourable and Gallant Major Peliza and then recess. I don't know what the feelings of the House are.

HON CHIEF MINISTER:

I think, Mr Speaker, hopefully, we should do most of the work pending tomorrow. Tomorrow is a short day for me as I have to finish at about 5.30 or 5.45 and I thought perhaps we could deal with this, or part of this motion now for another half an hour or so and carry on tomorrow and any progress made now may be helpful. After all, I remember the days of the Intergration Government when we stayed here until about 11 o'clock at night...

HON P J ISOLA:

Mr Speaker, we have heard that one before. During that time we did start at 5 o'clock in the afternoon or 2.30 in the afternoon.

MR SPEAKER:

With respect, sometimes we used to work from 10.30 in the morning till about 10.30 in the evening.

HON P J ISOLA:

Very rarely, Mr Speaker, and frankly on the question of continuity, the motion that my Honourable and Gallant Friend is now moving, as indeed like all other motions, is of some importance. There are commitments on the part of Members of this House, tomorrow we will be expected to stop at 5.30.

HON CHIEF MINISTER:

No, I have not said that.

HON P J ISOLA:

I am not objecting to it but what we are requesting on this side of the House is that we should recess now, we have had a lengthy day and I think that it is possibly unfair on my Honourable and Gallant Friend to ask him to move a motion and we shall have to stop during the middle of it.

MR SPEAKER:

I was hoping that the Honourable and Gallant Major Peliza would move the motion at least and then we could recess.

HON MAJOR R J PELIZA:

I think it is not in the interest of the House that we should start on the motion now and then recess.

HON P J ISOLA:

Mr Speaker, it is extremely difficult for us on this side of the House to plan our days and our engagements. We are normally sitting till seven, this seems to be the practice, and suddenly one night we are told we are going to carry on until 9 o'clock.

MR SPEAKER:

I must disagree with your statement because we have been sitting until 7.30 and 7.45 and at the last meeting we were sitting till 8.15. Anyway, I would like to have the Chief Minister's view on this.

HON CHIEF MINISTER:

It is no use arguing about half an hour or three quarters of an hour. I think we took the whole of the first day on the Landlords and Tenants Ordinance and that is why we are a bit behind schedule. I should have thought that everybody would have liked to have finished by the end of the week but if that is not to be it does not matter, we might as well recess. There is one thing that I would like to say in case there is any misunderstanding: For a number of reasons we shall have to finish the business of the House on Monday, whatever happens, even if we have to sit late, because we have a number of other things to deal with.

The House recessed at 7.45 pm.

FRIDAY THE 9TH DECEMBER 1983

HON M K FEATHERSTONE:

Yesterday, in the Supplementary Estimates, I was asked a question about the brochure that is being made for Queensway and who provided the graphic works for it, and I said it was the Public Works Department. In actual fact it has been a joint effort between the Public Works Department and a local firm, The Moving Hand Studio.

MR SPEAKER:

I will perhaps take this opportunity to say something I should have said yesterday evening. I have received two notices of the intention of Members to raise matters on the adjournment. One is from Mr Bossano who wishes to raise a matter referring to the manner in which the UK Departments are depriving some of their employees from the right to voluntary redundancy, and another one to be raised by the Honourable and Learned

the Leader of the Opposition which refers to matters related to the unsatisfactory answer given to Question No.487 by the Chief Minister regarding the advertising policy of the Government.

HON MAJOR R J PELIZA:

Mr Speaker, I beg to move: "That this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far." Mr Speaker, the motion, one might say, speaks for itself and in normal circumstances with a Government that would face reality there would really be no need for me to make a case to establish the facts that are stated in the motion. The first one, Mr Speaker, is that the Government is responsible for tourism. There is no question about it and I will say why. I think that the Government has not taken sufficient effective action to prevent the tourist trade from suffering a very severe decline so I have got to establish as well that they have not taken sufficient effective action and that the trade is suffering from severe decline and that that this happened at least, it probably started before, but certainly it continued to decline during the term of office so far. I say so far, Mr Speaker, because with St Nicolas around we never know, there might be the expected miracle before the Government really go to the polls again but that, perhaps, is hoping for too much. Let us see, Mr Speaker, how we can establish that the Government is responsible for the tourist trade. Unquestionably, we have a Tourist Department in Gibraltar headed by a Minister whose objective is to try and promote tourism for Gibraltar. If that amount of tourism is not generated then he must question himself whether he is not responsible for what is happening, I doubt very much whether he is going to question that, that he is responsible for the success or failure, generally, of tourism in Gibraltar, he must accept that. If he does not accept that then I don't think he should be holding that position at all. In fact, that position should not exist because it is a total waste of time. But to prove that he is, Mr Speaker, he has a Vote. He has a Vote under the Estimates of Gibraltar which in this year 1983/84 is £650,000. Not a lot of money bearing in mind that the total estimates for Gibraltar is £50million, and also bearing in mind that this is one of the industries in Gibraltar which should generate income for Gibraltar. Therefore, if one looks at what we want to have - services, good hospitals, good schools, all the other social services in Gibraltar - one must realise that one must make the money to be able to support them. And if one has to decide where we are going to put the money, there must be a sense of proportion of how much you put into, say, social services and how much you are going to put into the industries that are going to produce the money that are going to provide for the social services. In that respect, Mr Speaker, the Government must be responsible because ultimately they are responsible for the economy of Gibraltar. And this, as we know, is said to be the second pillar of our economy. The proof that this is important is that rather late the Chief Minister has come forward and seems to decide that, after all,

he is going to do something about it and the magnificent step he takes is to call on his Administrative Secretary to go around and see how the whole thing is working. Is it possible that he cannot rely on the Minister for Tourism to tell him what are the necessary things for tourism in Gibraltar that he has to call on his Administrative Secretary after four years in Government, Mr Speaker, not mentioning the other 40 that go before that. I am surprised, Mr Speaker, at the situation. It is incredible and look at the answer that he gave to my question, Mr Speaker, he is not even a co-ordinator, as the Minister says, he is not even a co-ordinator, he is an inquisitor, he is going round to find out what is going wrong, Mr Speaker. That is what he said. "The role of the Administrative Secretary in this matter is to look into the various aspects of tourism, and to report to me on ways in which effect might be given to the Government's declared policy of devoting special attention to the sector of the economy". He has got a Minister and he does not call on the Minister to tell him what must be done. He calls on his Administrative Secretary to go round. I would have thought that the Minister would have that at his fingertips. No tourism can function, Mr Speaker, unless there is proper co-ordination in every department in Government, from Education downwards, because they all play a part in tourism. Because once the tourist moves into an area, a country, Gibraltar in this case, he becomes almost another inhabitant of the place. In fact, he is more than an ordinary inhabitant, he must be given special attention as a guest that you would like to see come again. Every department of Government is involved, that is where co-ordination comes in and there hasn't been any co-ordination. I know there hasn't been co-ordination because of the questions that I have been asking here. How many times have I brought the question of cleanliness? What did I say about the Upper Rock of going for a walk and not being able to look down because the bushes have overgrown. What was the reply of the Minister for Public Works? "I have not got the men to do that now". And I don't believe he has found them yet. That is one of the attractions of Gibraltar, that is a simple one, of course, there are many more important ones, but I am just trying to produce one simple example. What about the beaches, when are we going to start? The reply was "No, the people go to Spain, why should we open the beaches at this time?" How can you expect tourists to come to Gibraltar if that is the situation. Mr Speaker, it is not that I am bringing this to light now, it is not something that has suddenly arisen because the elections are coming and I am producing this motion in the House. I think it is because of the elections that the Chief Minister is taking a particular interest at the last moment, that is because of the elections, Mr Speaker, the same as you see everybody cleaning Gibraltar now, that is because of the elections Mr Speaker. And we will see a number of photographs, because I have already seen them. I have seen in the Public Works going through the motions and the official photographer there taking the photographs. So very soon we are going to see in the press in Gibraltar all the work that the Government is doing in cleaning Gibraltar. I suggest to the Chief Minister that if they want to keep

Gibraltar clean and improve the situation, they should call an election much more often, perhaps once a year, Mr Speaker. If you are talking about elections, Mr Speaker, that is the true position of the elections. I am not doing it because of the elections because I have been bringing this question forward time and time again, right through the last four years and before. Mr Speaker, has there been a decline? I think we have to accept and I think the Government will accept that they are responsible for tourism in Gibraltar. I don't think that the Minister will give any encouragement to the tourist trade, inject any confidence in the tourist trade if he says that the Minister for Tourism is not responsible for tourism in Gibraltar. That would be the end, Mr Speaker, if he said that. He might as well pack up and the Government give up the question of tourism and give it to somebody else to do it. Perhaps create a board of the hoteliers and all the other parties interested, the tour operators, give them the money and let them do it. That would be much better, Mr Speaker, and wash their hands of the whole thing. Or let's then say: "Let us forget about tourism, we are not interested in tourism", otherwise it is just a waste of money and time. I think they have got to accept that they are responsible. They have got to accept that there has been a decline and I am going to prove this. Tour operators, Mr Speaker, going back to September, 1980. The Chronicle of the 11 September Mr Speaker, Mr McNally: Exchange Travel boss, McNally, told the Chronicle that his winter bookings are currently 34% down when compared with the same time last year adding that only a determined effort to cash in on late bookings through an extensive advertising campaign in about two months time might improve matters. Nigel Thompson Cadogan Travel says his bookings are registering a 20% down trend and he was of the opinion that the percentages will probably increase. Gibraltar Hotel Association; Mr David Okes-Voysey said yesterday that there has been a 15.2% reduction in occupancy figures on last year, January to August and as far as winter is concerned none of the hotels made a profit last year and all indications are that losses are going to be even heavier this year. This Mr Speaker, is 1980. It has taken 4 years for the Chief Minister to ask the Administrative Secretary to find out what is going wrong with tourism. What he should have done, of course, is got hold of his Minister for Tourism and told him: "Look, you have 12 months to get this right and if you don't we shall have to look for somebody else to do it". This is the position of a Chief Minister who is really running a Government, Mr Speaker, and who wants to produce results, not wait for the elections to come and then put a little lipstick and eyelashes, false eyelashes, to his efforts, Mr Speaker. That is not the only one, Mr Speaker. The Chronicle of September 20th said: "A spokesman for the hotels said yesterday they acquainted the Minister of the problems facing the hotel and tourist industry and the exceedingly bleak prospects for the future. The Minister was appraised that hotel tourism had declined a 15% and that hotels anticipated being less than half full, a decline of some 25% to 35%, and unless early Government action was taken there would be a continual decrease of business next summer. This is Saturday December 20th 1980. Mr Speaker, the Gibraltar Licenced Victuallers Association, Chronicle, 23rd

August, 1982: "The Committee feels that under present conditions tourism potential is not fully understood nor is it being exploited, only simply allowed to decline when in real terms it is one of the few areas in which we may contribute to the local economy and minimise employment problems". Sadly it contains an incredible indictment of poor facilities and products which are knowingly being allowed to exist for several years. This is common knowledge, Mr Speaker, you only have to walk up Main Street and see the state of the surface of Main Street, holes and pot holes when what we should have is the equivalent of an open area carpet with good tiles and that would make the whole place look quite differently. But what do we get? The Minister for Public Works says: "Yes, yes we are going to do this, oh, yes, we are going to do it". The latest is that I think after the elections it is going to happen. Let us hope so, but we shall have to wait and see. This has been going on for years now, Mr Speaker. Look around, wherever you go, it is not just Main Street, it is wherever you go. But at least I would have thought that as far as Main Street is concerned a special effort would have been made. The complacency is such that they could not care less about the amount of criticism made, they could just not care less, it is water off a duck's back. The Minister admits the figures, it is in the Survey. I quote the Hotel Association with regard to figures. It is a serious reply because it is not just that we have gone down here, it is that we have gone down and we have not captured the increase in the amount of tourism that has been generated the world over and certainly in Britain from where we get most of our tourists. It is not just that we have lost business but that we have not gained what was going up everywhere else in the world so that is why I say it is a serious decline. Mr Speaker, according to the Hotel Association, and I have no reason to believe this is not so, the tourist arrivals of 1979 were 35,395, in 1980 33,139 and in 1981 24,481 and then in 1982 25,500. The figures that I have quoted are from the official statement from the Hotel Association which is a Study Paper for the promotion for the tourism to Gibraltar. I don't think it has got a date, but if it has a date, for the sake of the records we might as well put it down. I can't find the date but the Minister can have a look at it if he does not believe me. During the same period Mr Speaker in 1979 the inclusive tour market in the United Kingdom in 1979 was 5.08, in 1980 it was 6.26 and in 1981 it was 7 million people, an increase of almost a million from 1979 to 1981 - a decrease in Gibraltar. The Times, Thursday 8th December, 1983, on page 3, Social Trends in Britain, says: "Fewer holidays were taken last year but more of them were spent abroad, up from 30 million to 40 million". Another million up. Now we are talking about 40 million, 40, in 1981 it was, according to this figure, 7 million, in 1983 it is 14 million.

What have we got in Gibraltar Mr Speaker, how has it gone up in Gibraltar? Doesn't the Minister believe that there must be something radically wrong in that we cannot get .0001 of that market more than we were getting. I think that if I had been in his place and I had realised that after two years I could not make anything out of this, I would have thought it is time somebody else came in and took my place, as a matter of personal pride. If Gibraltar depends so much on this I should allow somebody else to handle this, perhaps Mr Canepa who is so effective in other quarters, or the Chief Minister himself who seems to draw the rabbit out of a hat like the generating station machines that were going to be installed in two months. But what I cannot understand, and I really mean this honestly and truthfully, I cannot understand how a person who sees that he cannot make any success of the venture that he has undertaken, that he should persist. It would be alright if he was just damaging himself and wasting his time but when it affects the whole economy of Gibraltar that is a different matter. Of course, there are other people who must carry the same responsibility too, which is the Chief Minister for allowing that to happen and realising it at the end of the term of office. He must be blind, Mr Speaker. Mr Speaker, we have a new operator coming to Gibraltar. I do not know what kind of reception he was given or what undertaking has been given. I think we have got to try and make the best of the new operator. But what surprises me is that no sooner have we got a new operator that something goes wrong and we have cancellations of flights. And what even surprises me more is that the Minister for Tourism could not give me a full comprehensive answer. Mr Speaker, the Minister said in answer that he understood that the operator could not get the aircraft to fly. I would have thought that on such an important matter he would have been able to give a definite categorical answer. No, he could not get it because of a, b, c, d, e, f, g, whatever it might be. If that is the way he tackles everything that is happening, it is not surprising Mr Speaker. And then he goes on in his answer that he hopes that in the new year it will be alright. A Minister coming to this House answering a question in such vague terms on a matter of tremendous interest. I would have thought he would have bent backwards to make sure that Intasun comes here and find out what the difficulties are and how he can help. And so, Mr Speaker, we find that even where we have an operator which is one of the biggest in Britain now and I know that if they have booked 400 beds and I know, I don't know if the Minister has gone round asking this but I know that people are worried because they have booked 400 beds and if they don't get them they shall be in trouble. That is the situation today and the fact that the planes are not coming in at this moment obviously worries the trade and it is bound to make people nervous. That is the second point I was going

to try and establish, the decline, and I think again I doubt whether the Minister cannot accept that there has been a decline and that it is a serious decline in view of the fact that trade generally has been on the way up. We say that sufficient action has not been taken. I suppose that the Minister must have taken action, he has added a bit, for instance, to the budget. But is it all that much that he has added to the budget, Mr Speaker? I just looked at it because it rather surprised me that in 1981/82, Mr Speaker, the Government spent £557,000, actual expenditure. In 1982/83, in the revised expenditure, the Government spent £669,000 and now in the estimates of 1983/84 we have £653,000, less than last year, Mr Speaker, not more, less. So in terms of money, Mr Speaker, and if we take into account inflation, of course, it is even far less than that. So in terms of money, Mr Speaker, one cannot say that they have taken effective action to try and prevent that. And remember that the total budget is £50million, which is up by £3million on the revised estimates of 1982/83. Where, therefore, could the Government have taken some action? If the marketing that the Government have been carrying out has not produced results, not for 1 or for 2 or for 3 or for even 4 years, it goes beyond that, then I would have thought that something must be wrong with the marketing, something radically wrong. Why is it that somehow, something was done to try and see where the failure is. Has a thorough study been made, and I don't mean more experts from the UK, I think a lot of money goes to waste there. When you look at those reports you say, "Well that is commonsense, it is what I thought it was but it is beautifully done in a book that thick and you pay £25,000 for it". We all know that most of these reports are just eye wash, justification in most cases to try and be able to sell whatever they want. That is what it is, just to justify an action in most cases. But, by and large, at the end of the day it is the man behind the counter who has the feel of what is going wrong and puts it right, it is almost instinctive, this is why some people are successful and others are not no matter how many reports you give to one or you give to the other, you find one is successful and the other one fails. Like a good football player, one can play and kick the ball 100 years and he will never be a good football player and the other fellow almost comes out of the cradle, kicks the ball and you can see that he knows how to kick the ball and that is it. And this is where I say the Minister has failed and he should recognise it because he may have ability for other things, maybe he would be excellent at Public Works, I don't know, or Education, but certainly not Tourism, or perhaps Opposition, that would be excellent. So, Mr Speaker, that requires changing, I have said it before here and it is confirmed by a book I have here on the business of tourism. When carrying out surveys it is very important to allow the person who gives the answer to do it anonymously

and without being in the presence of anybody. If you have a nice girl who approaches you at the end of your tour in Gibraltar at the airport and she asks you: "Did you enjoy Gibraltar?". Who is the gentleman who says "I didn't enjoy Gibraltar". Of course, he says "Yes, lovely place, I am coming again". What would the Minister say? Oh, he may laugh but that is a fact. I know it is so absurd that it is ridiculous but, in fact, it is the truth, it is the truth. I have said it before. If you want to carry out a survey, do it in such a manner that at least, you expect them to give you the truth and the whole truth and nothing but the truth. So, Mr Speaker, that is the first thing I would do, to find out where we are going wrong. You get 42%; the previous survey, of people coming back and I think it is 37% of people who intend to come back on this survey.

HON H J ZAMMITT:

46%.

HON MAJOR R J PELIZA:

46%. Right, well, if it is 46% this time and it was 42% last time, I would have thought that just with the people who say that they are coming back we would be thriving, on the top of the world. If you recurrently have people who say they are going to come back, 42%, it would be about 500% today. If you get such returns from your survey and, in fact, it is not producing the results that you would expect it to produce. Something must be wrong with the survey, that is commonsense. But, no, we go on doing exactly the same thing. Therefore, the survey will never help us to steer the ship in the right direction, never. Mr Speaker, the market for tourism is based on the needs of the consumer and the attraction that the resort can give. When they coincide, then the consumer comes because that is the attraction that brings him provided, of course, that he can afford it. The principal markets for tourism are the seaside resorts, sun, sea and sand. We all know that, the identity of that is almost everywhere and we find that in that respect tourism is very competitive and we know that Spain, particularly, can offer very good holidays at very low prices. I think one then comes to the conclusion that unless one can meet those prices it is going to be very difficult to compete with Spain. The Minister accepts that, I am sure he does. We all accept that because of the price differential it is going to be very difficult to attract the tourists. So, we have to look for something else that Spain has not got and that we have and that because the number of tourists that we have to attract is so small that we may just find that category of tourists that will make the system

bookings for Gibraltar which will cover our market adequately. I think the historical background of Gibraltar is of great interest to the British public, there is no question about it but that we have left behind. Now, I am glad in the tourist survey, we are putting a question there about the historical background, what do they think of it. But we have to go a long way to do this, a long way. But, unfortunately, we always go in the reverse because even if we market Gibraltar with all its historical background, it is no good coming here and finding that the place looks like a cheap holiday resort, because all the effect of the publicity goes by the wayside and I think another interesting matter is that a lot of people come here by personal recommendation so it shows the importance of personal recommendation. Apart from that the tourist agents do sell it. If the tourist agent goes back and says: "I have been there, it is a wonderful historical place, it looks historical, he can sell that. What you cannot do is suggest to him, "Yes, it is a lovely historical place", bring him here, he goes back and he says: "It is almost worse than one of the cheapest holiday resorts in Britain. I cannot say that this is a historical place. The client that comes to me every year for me to suggest where he goes for his holiday will never look at me again". One has to be honest, totally honest and sincere in the publicity because at the end of the day it is only if the product is according to what the literature on Gibraltar says that the people are going to start coming back and the word is going to start going round and tourism will grow. You walk in through Casemates, what do you see? Barriers, traffic barriers all twisted tubes with cheap advertisements there. Does that give you the impression of walking into a historical place? Of course not. Remove that, put wooden posts there, blemish them if necessary to make them look old and immediately as you come into Main Street you will notice the difference. Then go round and tell the shops - the Government has the power to do it: "We are now going to lay down the kind of signs that we are going to have in Gibraltar. No plastic signs in Gibraltar, do away with plastic signs. In no time the atmosphere of Gibraltar will start looking historical. Then you can start putting photographs of that in your pamphlets. Bring in the museum, we have a lot of history here to develop and exploit. It is not done, Mr Speaker. That is the kind of marketing that Gibraltar needs, Mr Speaker. To sit and wait for things to happen, it just will not happen. It needs a co-ordinated effort from all concerned. Mr Speaker, I think that I have established that sufficient effective action has not been taken to make it a success. But I would like to go a little further than that, Mr Speaker, because unless we can bring in all the people concerned in the trade it will never be a success. That is why I pressed very hard for the Advisory Board and it took me months before the

Minister agreed. But he hasn't really made full use of it. I asked a question about what had been discussed at the last meeting and the reply was: "Something to do with taxis and to do with tours". I have not heard him say any big thing that has been discussed there such as we are discussing here today. I think the hoteliers and others concerned are fed up, they are not really interested any more in the Advisory Board as far as I can gather. Mr Speaker, it is a great pity, we have undoubtedly a desire from all people concerned, and including the population, I think the Gibraltar population likes to see tourists, it is good socially, new faces, in fact, it is one of the things that keeps us in touch with the outside world and perhaps the reason why the Gibraltarians are not insular notwithstanding the long siege of 20 years is because somehow we have been in touch with the outside world, and not only through television. So, Mr Speaker, this Advisory Board who themselves have a personal pecuniary stake in the success of tourism, what better willing workers have you got than them. Why not use them? I think the essence of a good executive is getting other people to do everything that he would like to do. This is what the Minister must try and do. Try and get everybody in that Board to do the things that he would like to do himself. That would be the art of leading tourism in Gibraltar, unfortunately, he has not done it. Finally, Mr Speaker, because I have just come from there, I have just come from the World Trade Market. Every nation both big and small was represented there. The big ones have got huge stands by region, all the nations by region, not just national but by region. I went to see if I could find Gibraltar but Gibraltar was not there. Barbados, Trinidad, the whole lot, you name them, they were there. Gibraltar just was not there. I thought perhaps that it would cost a lot of money so I asked. In fact, I asked the Cayman Islands who are doing very well with tourism and they are very willing to help, in fact. They spent a lot of money of course, like everything else. Coca-Cola sells because of the advertisements, of course, but the drink must be good as well, obviously. I am not just saying spend money on advertising. Once you spend the money you have got to have the product that will satisfy the buyer, of course. But what I say is that they spend a lot of money in advertising, they spend about £1m. This produces for them, Cayman Islands, £30million. I asked how much a stand would cost. The one the Cayman Islands had and they had bought all the things that they have there, and they had a rather bigish one, a double stand, with everything they bought, cost them £10,000. I was told that a smaller one would be about £2,000/£3,000. The person who runs this is a great friend of Gibraltar. The World Trade Market Council is a prestigious body and this is the magazine which is called Travel News. The Council is a prestigious body of people involved in travel industry. Lord Boyd-Carpenter is the

President of the Council and Gibraltar has not got a better friend. Mr Speaker, what a great pity that we were not there. What a great pity that we have not established a closer relationship with this man who has been so helpful to Gibraltar. We all know, he has always been. Mr Speaker, you go further along this Council and you find that the Fair was opened by Mr Tebbit who is now the Minister for Trade. And he says: "The economic importance of tourism in the UK is fully recognised by the Government". But this even more interesting: "The World Trade Market has established itself as a force to be reckoned with in the travel industry. The tourist offices are the main object of the event while the exhibition offers fantastic opportunities for tour operators and others involved in this industry, it is the tourist offices which can benefit most by presenting a high profile to trade and consumers". Gibraltar was not there at a time when we need it most. No wonder the Chief Minister has sent the Administrative Secretary round to find out. But, surely, these are the matters that the Minister should be aware of. There they were, hundreds of tour operators from all over the world, not just British and travel agents, all going round. They have a section for a number of days which is entirely for the tourist trade and then they open up for the people, generally, at Olympia. And of course, thousands go there, because now is the time when they are buying their holidays. Miss Cayman was there on the stand, a very beautiful girl, of course, and I said perhaps I may go to the Cayman Islands one day, I would be delighted to see the islands. Gibraltar is expensive, perhaps it is by all standards but it is not all that expensive. That day The Times produced the cost of holiday living index which shows how much you pay for different things in different places. If the Minister has not got one I have got a spare one for him. I tried to find out where Gibraltar would fit in in this index because, obviously, Gibraltar does not appear there, and, in fact, I am glad to say that it falls in between Spain and Madeira, I will give you the figures because it is rather interesting. The point is that if falls in between the two. Whilst in Spain they spend about £161 and in Madeira £185, in Gibraltar according to the figures that I have, it would be £177.60, that is according to the figures that I have. We are not all that much out according to those figures. I have got the figures of hotels, the cost of a good hotel in the Costa Del Sol and it is almost double in Gibraltar when you come to hotels, not tours, but going on your own. This is why we have to look for that specialised kind of tourist who is interested in the sand the sea and the sun but to whom the historical background will have a special appeal. One of the good things that Gibraltar can sell is that we have not been spoilt by tourism. The local population is sufficiently large to almost make the tourists who come here disappear. I think another good thing

about the Gibraltarian is that the Gibraltarian knows how to smile and this is very important. We have to our credit lots of good things that we should try and develop. Although the price is a matter of importance, I think that it is not by any means the thing that will stop tourism from developing in Gibraltar. You have it with all kinds of wear and goods. There are cheap sources and expensive sources, cheap television and expensive television, there is a cheap and expensive of everything. But when the quality gives you value for money, this is what we have to do. We have got to give value for money which we do not think we are giving now. If we can produce the product which gives value for money to the person who comes to Gibraltar I think we will succeed and price should not be a stumbling block. I know the Minister has this idea that until the frontier opens we will not be able to succeed. Even if the frontier opens, for as long as the differential exists it is very difficult to attract people purely on the basis of sand, sea and sun. I think on that basis it is going to be very difficult to attract them in any case. Another important point is that when a tourist goes abroad he is in the right frame of mind to spend money and buy things. Gibraltar is expensive in that respect. Things that you get here now are almost cheaper in Britain and something has to be done about this. I have said it time and time again that one of the important things is not to charge duty at entry but to base it on some kind of sales tax, VAT, call it what you like, which is paid for when the thing is purchased. That, automatically, will reduce the price and also which can be paid back to the tourist as he or she leaves Gibraltar. That, to my mind, will be a tremendous encouragement because unless we do something like that the motive of coming to Gibraltar will disappear. Well, not disappear, it is just not there. Mr Speaker, I think I have gone long enough to establish my point. I just want to say to finish up that there is no question about it, the Government is responsible for tourism in Gibraltar. There has been a serious decline in Gibraltar and there is no question about it that the Government has not done enough so far to prevent that from happening because if they had there would not have been that tourist decline.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable and Gallant Major R J Peliza.

HON H J ZAMMITT:

Mr Speaker, I want to be as sincere as the Honourable Member opposite has said he has attempted to be. I will attempt to be calm, cool and collected. I will not become as emotional as he has been, and I am sure Mr Speaker, that I will be able to convince the Honourable Member that he is completely and utterly mistaken. I am delighted and I am very grateful to

the Honourable and Gallant Major Peliza for having raised this motion in the House because it does show his concern for tourism not just over the last four years during which he has been shadowing tourism but even during the days when he was Chief Minister of Gibraltar the continuous importance that he gave tourism. It is surprising, Mr Speaker, and he blames the Chief Minister for doing everything now in the closing days of a Government, it is surprising that for the first time since 1969 to this day, that the Honourable and Gallant Major Peliza, particularly since 1980 to this day, it is the first time that a substantial motion on tourism has been brought. The decline has not happened in the last 6 months or in the last 3 months but according to him, certainly over the last 4 years. All that we have had, Mr Speaker, from the Honourable and Gallant Major Peliza was all of two motions on the adjournment for one of which I was not here having suffered some medical upset and my Honourable Friend Mr Brian Perez had to cover and answer the Honourable and Gallant Major on the 26th October, 1981, and then, again, on the 6th July 1982, a second motion on the adjournment. Look at the importance that the Honourable and Gallant Major Peliza has given to the decline of tourism throughout the 4 years that he has had as much or should I say half of the responsibility that I have to accept for the failure of tourism. The person shadowing tourism has done absolutely nothing and waited until the last day, virtually, to bring a motion to the House of Assembly to try and make all kinds of insinuations. Mr Speaker, he talked about the general elections. It is purely, and I will prove this, I am going to be factual, Mr Speaker, absolutely factual, because I am going to prove that the Honourable and Gallant Major Peliza cares two hoots about tourism and has cared two hoots about tourism from his past record, and I will substantiate this with fact not from what I have heard or someone told me, but with fact. Mr Speaker, I became acting Minister for Tourism round about April, 1980, shortly after this Government came into office and as a result of the unfortunate accident suffered by the Honourable Isaac Abecasis and I had been Minister for Tourism certainly since September 1982. Since 1981, to this day, and I am saying that because the motion talks of this Government, that is 1980 to the present date, the Honourable and Gallant Major Peliza has raised 71 questions on tourism, 71. But let us look now and see how many questions he asked on tourism between 1976 and 1980. The answer is nil. Let us look at how many questions he raised between 1972 and 1976 - Nil. Let us go back even before that, Mr Speaker, and let us find out why should he have this attitude towards tourism. Mr Speaker, by looking at Hansard, when the Honourable and Gallant Major Peliza was Chief Minister of Gibraltar, the then, and I say this, Mr Speaker, and I want to be absolutely clear, because one of the things I would like to highlight

with total clarity is the consistency of this Government, that is the 1972-1976-1980 because we have been here now for 12 years, virtually, and even before that the consistency of AACR Government on its theory of tourism as a vital industry towards Gibraltar's economic activity, and I will be able to substantiate Mr Speaker, by referring to Hansard of the 16th March, 1971, where as I say, the Honourable and Gallant Major Peliza was Chief Minister of Gibraltar, as to why he seems now to give tourism all the importance in the world which they certainly did not feel was anywhere near as important as it is now represented to be. Mr Speaker, the Honourable Mr A W Serfaty, in Hansard on page 141 of the 16th March, 1971, said amongst other things: "Shouldn't the Government be very interested in trying to obtain some insurance for the future. Should that dockyard economy through reasons beyond our control come to an end, why doesn't the Minister get on with the job". He was trying to urge the then Government of the Honourable and Gallant Major Peliza to pour something more into tourism. The Honourable Chief Minister at the time said: "The dockyard is Gibraltar's main source of income and as far as this Government is concerned, this is priority No.1". I ask Mr Speaker, what priority, what was the Government of the day pouring into MOD expenditure? What were they investing in? The whole money was put in by the British taxpayer, by MOD spending. There was nothing done by the Gibraltar Government to ensure for the future, particularly on the tourist industry which is no doubt vitally important. But that is what the Chief Minister of the day said at the time. And he went on to say: "This does not mean to say that we ignore tourism, of course not. What we do is that we take tourism in a realistic sense. Mr Speaker, I am now coming to the realistic sense and the Honourable and Gallant Major Peliza has spoken of expenditure. During the time that the Honourable and Gallant Major Peliza was in charge of that unholy alliance which ended in the glory that it did, we found that his Tourist Vote went up by 12.3%, and I will come back to that because I will be able to tell you, Mr Speaker, exactly why it only went up that much. It makes very interesting reading. Let me just give you an instance because I don't want to go through from 1969 to date. This Government that apparently has failed to do anything about tourism, to have neglected tourism and all the rest, between the budget, and the Honourable Member has the figures in front of him, of 1978/79. We were then spending £342,000 on tourism. 1982/83 £673,000. Mr Speaker, to be precise, we have increased our tourist expenditure by 98.8%, virtually 100% in just over 4 years in relation, Mr Speaker, with the expenditure of 1978/79 and of course, I can't say in respect of 1983/84 because we have not yet got that. Mr Speaker, I did omit to say one thing that I should have done very clearly when I stood up originally and that is to say, in fact, I omitted two things Mr Speaker.

One is to say that I hope Members opposite had noted that I had not interrupted the Honourable and Gallant Major once during his intervention, on the contrary I only helped him in giving him figures and I expect equal treatment. Secondly, Mr Speaker, I should have said that one of the things that the motion that Major Peliza has moved in this House has made me understand is the reason why he insists so much on an index. I now understand it totally because if only we had an index 75% of what he says in this House he wouldn't say, Mr Speaker. The Honourable Mr Maurice Xiberras, during the time of the Intergration with Britain Party who subsequently became the Leader of the Opposition, had the same idea on tourism. He said on page 147 of Hansard of 16th March 1971: "Apart from that, this side of the House" - that is, referring to himself talking of course - "has, I think, perhaps taught the other side how to suck eggs. We did not insist so much on the tourist side of this. We said in our manifesto, 'maintain tourists realistically', and then, Mr Speaker, he goes on to say on page 148: "and I think it is very easy for a Minister of Tourism" - talking of course of the Honourable Mr William Isola, who was then the Minister for Tourism - "and I think it is very easy for a Minister of Tourism to start pushing and pushing and pushing without reference to the reality of the situation". He goes on on the same page and he says: "The PA Report will take into account all the circumstances, economic, labour, etc, of Gibraltar because these were, in fact, their terms of reference, not to put tourism up in a cloud and try to imagine all the millions of hotels he would like to see". That is what the Intergration With Britain Party under the very capable leadership of the Honourable and Gallant Major Peliza, referred to. And, Mr Speaker, not only consistency but let me remind the House of what the Honourable Mr Serfaty went on to say and he reminded the Honourable and Gallant Major Peliza as Leader of his Party and as Chief Minister of the day, on page 153 of the same year, talking about the reduction of 224 Squadron and other MOD cuts in Gibraltar, and referred to the dockyard. He said: "I hope it never closes, I hope it never does, but what would happen, we would be left stranded on one foot and that is why I am insisting that we should develop our tourist economy to the greatest possible extent. I am not in favour of low wages, let Mr Xiberras remember this:" Mr Speaker, this present Government who were in opposition had already the foresight, not talking with hindsight, but the foresight to bring to the Government of the day the importance of tourism towards the economic viability of Gibraltar. I am talking of 1971, when none of us here, I think, can say that we knew that the dockyard was going to close. None of us knew yet Mr Serfaty was warning the then Government. Mr Speaker, Mr Xiberras went on to say that that could not happen to us. It could not happen. The Dockyard in Malta closed because Mr Mintoff was responsible.

And then, Mr Speaker, we get the Honourable Chief Minister, the Honourable Major R J Peliza, who after hearing all this about Malta and the economy of Gibraltar and the possibility of the effect on the economy on the closure of the dockyard, stands up and says: "Mr Speaker, I just beg your indulgence for another couple of minutes to try and do away with any alarm that something like what happened to Malta can happen to Gibraltar overnight. We know that for a number of years already the dockyard is committed to Gibraltar. The important thing is, and this is what we have got to realise, that whilst in Malta there was unemployment, very serious unemployment, and even before the dockyard was closed, in Gibraltar, very happily, we have over full employment to a very large degree, that is my first point. My second is that because of those circumstances, even if the dockyard were to close down as a naval repair establishment it could be used in my view, with the support of the British Government for the benefit of Gibraltar as a commercial concern. It is beautifully situated with hundreds of ships going down through the Straits. Perhaps it is over 100 a day and therefore that point of view I think we have a very stable sort of income in Gibraltar, come what may, from the Defence point of view. If one day all the nations decided that they are going to dump their armaments into the sea, and I doubt whether that will happen, although I would hope it happened tomorrow, but I doubt whether it will, and the dockyard ceases to be a necessity, I am sure that from the commercial point of view, it would be the main source of income". That is the Gallant and Honourable Major Peliza as Chief Minister, Mr Speaker. Mr Speaker, thank God we have not got an index. Please, Mr Speaker, permit me to remind the Honourable and Gallant Major Peliza that he can thank his lucky stars that the House of Assembly is unable to furnish me with what he said in 1969 and 1970. I have only got 1971 because I am told, that records were not kept then, what a shame. I have thoroughly enjoyed myself reading through these Hansards, Mr Speaker, to such a degree, that it really is bordering on comedy. Thank God that we are still not live on the air and some people could take notes at home, Mr Speaker. Then we come Mr Speaker to 1976. We then have the Honourable Mr William Isola shadowing tourism.

MR SPEAKER:

I am surprised that you have said that the House cannot supply you with information regarding the meetings of 1970-71 because this is not correct.

HON H J ZAMMITT:

I do apologise, I was carried away, what I cannot find was

the budget of that particular year, Mr Speaker. Mr Speaker, we then find that in the budget session of March, 1976, the Honourable Mr William Isola was shadowing tourism. For consistency's sake I will say that the Honourable forecaster of tourism and the dockyard, the Honourable Mr Serfaty, became Minister for Tourism so we had somebody here who now knew what both tourism was about and was able to forecast the value of tourism in relation to a possible closed dockyard. Mr Isola was very concerned, Mr Speaker, about the expenditure of the Gibraltar Tourist Office in London and he says: "Mr Chairman, there are two matters that concern me. That is, the actual expenditure for the London Office. In 1971/72 it was £7,992. We are now being asked to vote for the London Office the sum of £27,000. Does the Minister think that such an increase is justifiable?" Mr Speaker, I will later prove, because I do not want to put these out of order, that I have been urged, my predecessor Mr Abecasis has been urged and the predecessor to Mr Abecasis, Mr Serfaty, particularly were urged to invest more money. But yet a Member of his own Government, when it comes to the London Tourist Office to which the Honourable and Gallant Major Peliza attaches so much importance, there is inconsistency, certainly amongst Members on his own side, most certainly. Mr Isola went on to say, Sir, on page 517 of the same Hansard: "I am not saying that it is not doing its work, what I am saying is that the cost of the London Office is soaring enormously". Why spend more on tourism, close it down. Why? And then we find, I am not giving way at all to anybody unless it is a point of order.

MR SPEAKER:

Order, Mr Haynes, unless it is a point of order you are not entitled to rise.

HON A J HAYNES:

Yes, it is a point of order.

MR SPEAKER:

Will you explain to me what the point of order is. I am asking you to explain to me what the point of order is.

HON A J HAYNES:

Well, the point of order, Mr Speaker, is that the Minister is inferring that the Honourable Mr William Isola was indicating that tourism should be done away with.

MR SPEAKER:

No that is not a point of order, with due respect. He can infer what he likes and then anyone can rectify.

HON A J HAYNES:

Well, if the Minister's interpretation.....

MR SPEAKER:

No, I am not having it, what you want to raise is not a point of order.

HON H J ZAMMITT:

Mr Speaker, what I am trying to establish is that the sentiments that the Honourable and Gallant Major Peliza has tried to bring to this House in this motion at the end of 1983, almost 4 years after he has been shadowing, which he has not bothered to do before, is inconsistent with his way of thinking about tourism, not only his way, but the way that his party under his leadership dealt with tourism. They were not interested in tourism, they were interested in MOD spending and tourism was nothing. Now, in 1983 at the end of 4 years having been shadowing he comes up with a motion, that is what I have been trying to establish. I have mentioned Major Peliza as Chief Minister, I have mentioned Mr William Isola, I have mentioned Mr Xiberras, and I go back to Mr Xiberras Sir, on page 529 to prove that they really did not consider tourism as important to the economy. He said: "It is a question which I think I asked last year as well because we have got this constantly developing expenditure on tourism and I think the cost effectiveness is of importance". When they were on this side of the House they could not care less. Mr Speaker, we then find 1977. The Honourable and Gallant Major Peliza, was referring to Mr Serfaty and he said, and this is important, Mr Speaker, probably the Honourable Member might like to listen to this with care. I don't know if he has got his hearing aid on. I am blind, Mr Speaker, but he is deaf. I would like to remind him to make sure that he listens to what I have to say. This is on page 213 of Hansard of March 1977. "It will be seen in Hansard time and again that I have concentrated on the importance of the income derived from the services given to United Kingdom employers in Gibraltar that that, in fact, was the most secure income for Gibraltar now this has been proved. But perhaps we are going too far now, if I may say so. I remember when I was being pressed by the present Minister for Development, the Hon Serfaty, that we should give all priority to tourism, everything had to be dedicated to tourism, nothing else really mattered but tourism". Mr Speaker, how can the Honourable Member stand up here at the end of four years as shadow Minister for tourism and try and make a cream cake out of tourism when he himself as shadow Minister has done nothing. And if I am responsible for tourism in Gibraltar, he, Mr Speaker, shares half my responsibility, he gets half my allowance and he has done nothing, nothing at all, Mr Speaker, other than

lolling around in the place he shouldn't be. This is where he should be, not coming here for a quarter of an hour every three years or every three months, laying 5 questions and going away. And, Mr Speaker, I can equally tell you that although I have the number of questions that he has asked let me tell you that in proportion I have had more questions from the Honourable Mr Andrew Haynes, Mr Loddo, Mr William Scott, the Honourable the Leader of the Opposition, and Mr Restano, put together than my own shadow, shame Mr Speaker, so much for tourism. Mr Speaker, not only do I get 71 questions in 4 years, that is including this very meeting we are in today of which 5 of those 71 questions have been answered by the Honourable and Learned Chief Minister, the three on the Administrative Secretary and two on the Gibraltar Tourist Office, I am as incapable, I am as incapable as the other Ministers that he had who lasted 5 months in Housing and God knows what, they were capable, my God they were capable, that is why you lasted 2 years and 10 months. Not only do I get 71 questions, and I have a breakdown but I will not bore the House because Mr Speaker, I have a breakdown of being able to say, for instance, 10 on Tourist Advisory Board, 1 on tourist survey, 5 on Tangier, I can go on, I am not exaggerating; I have got the list there for people to see that I have gone completely into every single question that the Honourable Member has asked on tourism, 71. To an Opposition that comes to this House with 130 or 140 questions, sorry I am exaggerating, well over 100 at every meeting, look at the importance they attach to tourism. And to cap it all, two motions on the adjournment but never, never, a motion like this one that I can stand up and take 10 hours in answering.

HON P J ISOLA:

More than two motions.

HON H J ZAMMITT:

Never on tourism. Not the Honourable and Gallant Major Peliza.

HON P J ISOLA:

Yes.

HON H J ZAMMITT:

No.

MR SPEAKER:

Order, order, you will speak to the Chair.

HON H J ZAMMITT:

And then, Mr Speaker, I find that all we get from him, and this is because I reminded him in the House is, five letters. That is the correspondence that a man living in England,

getting half my allowance, writes to me about the crisis of tourism. Five letters, Mr Speaker, in 4 years. But are they about tourism? No, one was that the pump was out of order in the childrens' pool at Camp Bay, one about the poor ventilation at the old air terminal because they could not open the door upstairs, the other one was about why don't I invite the news media to our advertising campaigns on the GTO presentations. One about the advertising in "The Licensee" and one about tour operator visits to London GTO. That is the work, the strenuous work that my shadow now has the gall to come here and say that this Government has not carried out any effective measure to try and improve tourism. The Honourable Member knows that I think very highly of him as an individual, I think he is a great man, and I do, I do honestly think he is a good person but, my God, when he comes into this House the man is thick, the man is thick. And, Mr Speaker, we know very well the contributions of the Honourable and Gallant Major Peliza so next time he might like to think before he leaps. Mr Speaker, I have got very many more things here pointing out how the Honourable and Gallant Major Peliza and his party relied totally on MOD expenditure. There was nothing else in Gibraltar that mattered, there was no need to expand tourism, there was no need to expand trade other than MOD. But I repeat, what I would like to ask the Honourable and Gallant Major Peliza is what contribution was there from Gibraltar other than rendering the service of the dockyard or air terminal or airport or what have you, what financial investment was the government of the day under Mr Peliza putting in to stand on our own two feet economically. The answer is nil, Mr Speaker. Mr Speaker, over the last 4 years that I have been either acting Minister for Tourism or Minister for Tourism there have been an enormous amount of things done which people like to forget, particularly the Honourable and Gallant Major Peliza. It is not for me to stand up here and try and say that Gibraltar is a gem because it certainly isn't. The streets are dirty, of course they are, but we are doing something about it, and that is what Major Peliza must realise, but because he is not living in Gibraltar he does not know the circumstances. He does not know the circumstances. Let us look Mr Speaker, for instance, at the number of trade promotions and I am saying this because he himself highlights that I should spend more time in England where the market is, pushing at the counter, pushing tourism, hovering around and doing my job, I assume, very badly, in his opinion, but he wants me there.

HON CHIEF MINISTER:

Mr Speaker, I wish to raise a point of order. We have heard Major Peliza for one hour without interfering. When a Member of the Government stands up there are continuous comments and grins from the opposite side. I don't think it is fair. We have had it over and over again. They seem to be doing nothing but grinning and making remarks, low remarks, not enough to be heard by you, but sufficient to distract the speaker. With respect, Mr Speaker, I think this is not in keeping with the dignity of the House.

MR SPEAKER:

I think that Standing Orders are clear on that. I think the person who holds the floor must be entitled to make his contribution without being inhibited or interrupted by other Members of the House. Most certainly if a thing like this happens and I am not aware of it, it is the duty or the responsibility of the speaker to call my attention to it, or any other Member, and the most I can do in this case, is to remind the House of the way the matters should be conducted.

HON H J ZAMMITT:

Thank you Mr Speaker, Mr Speaker, I was talking of trade promotions from which I personally agree we derive a tremendous amount of benefit, we are visited by a tremendous amount of people in the business and people who generate tourism to Gibraltar. I accept that it is possibly one of our greatest ways of being able to put the message of Gibraltar over amongst the selling section of the tourist trade. Mr Speaker, when this Government took over, there were no such things as trade promotions, in 1969/72. In fact, the Gibraltar Tourist Office was situated in a 5th floor and there were issues and arguments between the then colleague and Gallant Flying Major Gache, and Mr William Isola, but today, Mr Speaker, we have increased our trade promotions and, for instance, in 1981/82 we did 13; in 1982/83 19; 1983/84 22. We are increasing, Mr Speaker. We are increasing because this Government accepts totally that the only possible industry for expansion within our control is tourism. We do not have the blinkers of the previous administration, that is to say Members opposite. Let us look at public relations. In 1980/81, we were spending £7,200, 1981/82 we were spending £10,300, 1982/83 £16,500, almost double on public relations, Mr Speaker. That is the Government that does not have any concern for tourism. As for advertising, Mr Speaker, the money has been - and I think the Honourable Member knows - from 1970/71 it was £34,400; 1982/83 £231,000 on advertising. That, Mr Speaker, is the Government that has no concern for the tourist industry of Gibraltar. The Honourable Member has not mentioned this today, Mr Speaker, but he has in the past made reference to cruise liners. 1980; 87 cruise liners called at Gibraltar; 1982, 101 cruise liners, despite the shipping recession, the closed frontier, the strength of the pound, everything you like against us. Everything seems to be going if not well, if not exceedingly well, at least reasonably well. Mr Speaker, the Honourable and Gallant Major Peliza mentioned that in this year's estimates for the Tourist Office the Government have provided £650,000 or so, he is right, there is something in that region, and that we have done nothing for tourism, that this Government is not concerned. Well, I would refer him, Mr Speaker, to page 90 of the Estimates where Government provides over another £100,000 in relation to a subsidy formula for the hotels on the question of water and electricity rates. Again, an overt, a declared concern towards the industry by the Government, and may I say some hotels have taken advantage of this formula. And I would not go into that hidden subsidy that the Government puts up with by those hotels that do not take advantage of the

formula and which costs Government money in having to continue to provide services Mr Speaker, I was surprised to hear the Honourable and Gallant Major Peliza talk about the increase in tourism everywhere, and I see that he reads the Travel Trade Gazette, the Travel Trade News and other very important papers. I wish he would keep his hearing aid on.

MR SPEAKER:

Let us not make personal references. Members can listen if they so wish and if they do not wish they need not listen. Continue with your contribution and forget about everything else.

HON H J ZAMMITT:

Sorry, Sir, I do apologise.

MR SPEAKER:

That is alright.

HON H J ZAMMITT:

Mr Speaker, he spoke about the increase of tourism everywhere in the world except Gibraltar and he has the gall to say everywhere in the world except Gibraltar. Is he aware what has happened in Malta? Is he aware what has happened in Cyprus? Is he aware what happened in the United States? Shall I carry on saying is he aware? He only seems to be aware of what he listens to when he comes over for 2½ hours on the plane to Gibraltar. Mr Speaker, the Government of Malta have had to take over and instruct, I don't want to get involved in Maltese politics, Mr Speaker, the democratic government of Malta has imposed that no hotel will charge over £2 a night to try and sell their packages. Is the Honourable Member aware of that, because they priced themselves out of the market, is the Honourable Member aware of the recession there has been in Cyprus? When I talk about what a hotel costs in Spain the Honourable Member tells me: "I am not interested in Spain". But he does and compares the price structure of hotels in Spain and let me tell you I am surprised that he does not understand that piece of paper that he has in front of him, that is, the expenditure of tourists in various countries, countries that are able to offer an all-inclusive tour with full pension and the money that the Honourable Member is mentioning of expenditure in tourism is but the coca cola that somebody may have outside or the odd meal that he has not got to have outside because the hotel caters for it. That is what he has got to start

reading about in tourism. There are many different words and phrases and he must learn those little phrases and then he will know what he is talking about. The jargon, the touristic jargon, he must learn those and then he will know exactly what they mean. Mr Speaker has there been a decline in Gibraltar? Let me tell the Honourable Member in particular that the decline in Gibraltar is not as bad as was anticipated. Let it be understood that we have had a number of setbacks, difficult setbacks. We were talking about the Lisbon Agreement with an open frontier, where tour operators went to press talking on a two centre holidays that never occurred. Am I responsible for that, Mr Speaker? Let us talk of air communications Mr Speaker. We have increased our air communications, there is a service today, there are cheaper flights today than ever before in Gibraltar, Mr Speaker. And when the Honourable Member talks about Intasun, that was possibly one of the greatest landmarks that Gibraltar's tourism has been able to have. I have for years been trying to secure the interest of a major tour operator. This Government did that Mr Speaker, and I say this Government because the motion is against Government and not me although I have been asked to resign a few times by the Honourable and Gallant Major Peliza. It is the Government as a whole, we work as a team Mr Speaker. We have Intasun attracted to Gibraltar. We know, and the Honourable Member knows very well, why they stopped their Manchester flights but they are coming from Gatwick, they are coming from Gatwick and as I said in my answer to Question 445, they hope to be able to fly in from Manchester after Christmas. Is the Honourable Member aware that during the month of October for the first time, possibly, in something like eight years, the Rock Hotel was totally packed? I am sure he isn't aware of the efforts being made by the Gibraltar Tourist Office and by our Public Relations and advertisers with regard to conferences. Is the Honourable Member aware of how many conferences come to Gibraltar during the shoulder months? Is the Honourable Member aware of Government assistance where we can on the question of the Danish airline, of Dan Air, because I remember, Mr Speaker, that the Honourable Member says that we have done nothing to help, to assist, to encourage, to foster. Mr Speaker, Government put £20,000 into the Danish operator to bring a new market out from Scandinavia. This Government did it, Mr Speaker, this Government because we believe in tourism, because we believe genuinely in tourism. It may not have lasted but it shows that we put our money despite the risks. But the Honourable and Gallant Major Peliza and his colleagues, I say colleagues but Mr Peter Isola was a part colleague, he was the odd man out, I think he used to sit at the end of the bench, he was the part-time backbencher at the end there. Even he didn't believe in tourism and if he wants I can quote but I don't want to waste more time. Even he didn't believe in tourism, the

Leader of today's Opposition. Obviously I have to leave out the other three gentlemen because they were not here, but neither Major Peliza, Mr Peter Isola, or Mr Xiberras had anything like the argument that Major Bob Peliza is bringing to this House today as a matter of interest. They cared nothing for tourism, Mr Speaker. Mr Speaker, statistics can prove whatever you want them to prove. I am saying that statistics can prove whatever you want them to prove and if I look at these statistics, and these are Gibraltar Government statistics from the Statistician's Office, the Honourable Member can say there has been a decline and I can tell him that there has been an increase. Let us stop arguing about ten per cent or up or ten per cent down because you may be finding, Mr Speaker, that in your hotel occupancy figures whereas you had 10 tourists, for arguments sake, coming, next year you may find one tourist coming and staying ten times as long as the other tourist stayed. So in actual fact when you look at arrivals which could be down or up, because the Honourable Member who is an expert on airlines knows very well what we were going through a few years ago with load factors of 87% and 97% but that still didn't fill our hotels up, we still had a 40% capacity. But then if you look at guest nights sold, you will find, Mr Speaker, they are up by 19% on all and 12% on tourists. Those are the things that these things can prove. Mr Speaker, it appears that we have only begun to clean Gibraltar up, we have only begun the water subsidy in the last six months because of the elections coming up in the next two or three months, this is absolute rubbish. The Honourable Member, instead of reading The Times in England should read the Gibraltar Chronicle now and again and I will refer him to the Chronicle of the 26 January 1983. Mr Speaker, let us be realistic, I think we all have at the back of our minds the main object and the main goal to score. Let us try and put Gibraltar in order. This Government has been trying to do that, we have tried to do it, when we try and do something a little over, then the Honourable Member tries to offend me and I can assure him he does not. I am big enough, Mr Speaker, to take it. The Hon Major Peliza said that the Chief Minister had imposed upon me the Administrative Secretary. Well, let me clear his mind. It was I, the Minister for Tourism, who suggested Mr Pitaluga and the Chief Minister agreed. I hope I am not incapable, if I am, then of course the Chief Minister can get rid of me as soon as I sit down, or even before that. Let us not try and ridicule people who are trying to do an honest day's work for the benefit of the community and the reason, Mr Speaker, why I asked for Mr Pitaluga to join me in my endeavours was, as the Chief Minister has mentioned, for the coordination as Head, if I may use the phrase, Head of Heads of Departments, to try and coordinate, to try and get people together and it all began when we had a presentation

here by our advertisers and our public relations people that the Chief Minister made sure that every department, and I agree, that virtually every department has something to do in some small or large way to assist tourism and they were asked to come along and put their hearts and souls behind this. Moreso, Mr Speaker, because of Mr Pitaluga's involvement particularly on the new land situation vis-a-vis Queensway and Rosia, that was my idea I have been accused of trying to put Mr Pitaluga over the Director of Tourism. I am not ousting the Director of Tourism from his job. I am saying lets work together but, alas, when you do that, you get all kinds of situations. I think the Chief Minister mentioned it in one of his answers that the Administrative Secretary met with the Commissioner of Police to discuss the question of cars and litter, the Public Health Department, the Director of Public Works, everybody together. And as the Honourable and Gallant Major Peliza can see from a press release only yesterday, Mr Speaker, we are trying to get school children to go into a competition to keep Gibraltar tidy. Mr Speaker, that, I hope, shows Government's concern. What I think I certainly have done is to show the total lack of concern of the Opposition with regard to tourism. Apart from what I have mentioned we have also helped, I hope, with what we did with the Departure Tax with the GB Viscount. The Government has been pressured into nothing on tourism because the Opposition couldn't care less about tourism and I have proved that beyond all reasonable doubt, not now but way back when Major Peliza was Chief Minister. His faith and hope was in MOD spending and he was wrong and he has regrettably been proved wrong and he was proved wrong by a Member of this side of the House, the Honourable Mr Abraham Serfaty who was warning them and he has to eat humble pie, so let us stop that phobia, Mr Speaker, I am surprised too that the Honourable Member should talk about the Government not doing anything on the historical side. Has he seen the new Tourist Office brochure? Has he seen the new "Walk with History" produced by the Gibraltar Tourist Office? Has he seen the very many pages no longer refer to pretty girls or muscular young men on the sand, sea and sex that he talks so much about. Has he seen the way that Gibraltar is portrayed with its wild life and fauna, has he seen that? Let me say, Mr Speaker, possibly he has not and therefore I would say greater shame on him because even at this late stage I will repeat what I said before. I still extend a welcome to the Honourable and Gallant Major Peliza, as Shadow Minister for Tourism, to pay one visit to the Gibraltar Tourist Office and see for himself what we are doing, one visit. He has not appeared in the four years he has been Shadow Minister anywhere near the Tourist Office which other members of the Opposition, may I say, Mr Speaker, have done with regard to the respective ministries they are shadowing. That is the concern

that Major Peliza has for tourism, that is the regard that he has the regard he has for tourism is to come to Gibraltar, appear on television or what have you, and try and destroy everything in a quarter of an hour of what we have done over the preceding three or four months. Shame, Mr Speaker, I think it is embarrassing to have to be told that and I have extended an invitation time and time again and to this day he has still not thought it proper to come along and sit down and have a chat with me, but my cordial right hand of friendship, Mr Speaker, is still extended, he is welcome and possibly in this trip he may be able to spare five or ten minutes to come along and see us. Mr Speaker, he spoke of the World Trade Market. Yes, we were aware that there was a World Trade Market in Olympia, we had been invited. When I was over in England we received an invitation to attend this, I am afraid it was not £10,000 as the Honourable Member mentioned, it was substantially more. This is a matter of judgement and a matter of the same realities as the Honourable Member no doubt spoke about of tourism in 1969/70 and 1971. It is a question of cutting the suit according to the cloth. We found, Mr Speaker, I wasn't there, the Honourable Member was and therefore I will bow to his direct knowledge. We have experience that when particularly the Caribbean countries turn up, they are able to have a lovely desk and normally provide such things as tin bands and other things of course that we cannot compete with and it is no good saying that we can, unless we take a rock ape by the hand and the Minister holding up the British flag, I very much doubt what else I can take there to be of attraction. We just cannot compete and rather than put ourselves into having to cut down on advertising, we felt we should not attend. We would have liked to attend but we have to be careful because you can be ridiculed if you cannot offer equal or similar attractions and we certainly cannot but on the other hand, Mr Speaker, we do attend, for instance, all the Philatelic events because there we are more or less on a par. I think the Honourable and Gallant Major Peliza will be sincere enough to say that some of these countries go into tremendous expense. I remember seeing a Canadian exhibition where they had horses and Canadian Mounted Police. We just cannot get anywhere near that at all. Mr Speaker, he is right in saying that in UK Mrs Margaret Thatcher is now becoming very much aware of the tourist potential of Great Britain, and, in fact, it would not surprise me in the not too distant future to see a Ministry being dedicated to that source of income. Britain has never been touristically orientated but they are becoming so now. I agree Mr Speaker, with one thing that the Honourable and Gallant Major Peliza said and that is value for money. I agree entirely that people will come to Gibraltar even if they have to pay that little bit extra because according to our information there are people who come back, because of personal recommendation,

because they have been constant visitors, patriotism, Britishness, military history, people who have served here, yes, they are prepared to pay those extra pounds. What we have to be careful about, Mr Speaker is, and we have to be absolutely serious, let us not kid ourselves, there is a great price war going on in tourism. Let me tell the Honourable and Gallant Major Peliza that it is going to be cheaper this summer for British holidaymakers to go to Spain than to go to Bognor, Skegness, Scarborough or Blackpool. I can forecast that because we have information. Of course more people are travelling abroad. I reminded the Honourable Member, I think it was at the last meeting of the House of Assembly, I reminded him of four weeks in Majorca £86, flight, bed and breakfast and every additional week £9. My God, Mr Speaker, it costs me £9 a day to live at home, never mind £9 a week. How do we compete, God knows, I certainly haven't found the formula. We cannot compete, but I will say in fairness and I think I should be absolutely truthful about this, we cannot compete for the simple reason that in winter, incertain holiday resorts in Spain, the staff of hotels do not get paid, they work voluntarily just to be assured of a job next summer. Mr Speaker, if my Honourable Friend Mr Bossano were here and he drew up an agreement with me that the hotels would have free labour for the winter months, but let us be honest, we know very well that it would not happen nor would we want it to happen. Therefore, if the hotels are not charging and all you are paying is the air fare and a continental breakfast....

MR SPEAKER:

Let us not go into all the details.

HON H J ZAMMITT:

Mr Speaker, we cannot compete with the strength of the pound and I think I have said here before that the tour operators today, forward buying for tours for Spain next year, they are buying at the rate of 3 hundred pesetas for a pound, that is what the tour operators are getting, three hundred pesetas per pound. How can we compete, it is not just the value, it is not the service, it is that it becomes abundantly so lopsided pricewise that you have to be very patriotic, very, very patriotic to say that you are going to Gibraltar for possibly something like eight times the price of a similar holiday elsewhere. What the Honourable and Gallant Major Peliza said about involving everybody is exactly what we have done. We have the Tourist Advisory Board involved with Public Works, with everybody, we are trying to get everybody together, we are trying to bring in a mental state into the people of Gibraltar, who hitherto, possibly thanks to the efforts of the Honourable and Gallant Major Peliza, had not a serving mentality.

They had been brought up over the years with an MOD spending mentality so why should they bother about becoming touristically orientated. The question of advertising on iron rods, whether they are iron rods or wooden beams, creosoted to make them look antique is a question, Mr Speaker, purely of judgement, I am not going to argue with that, that is a matter of judgement as everything else is a question of judgement, whether we should spend more, whether we should spend less, whether we should be coming or whether we should be going, it is purely a question of judgement. But this is something I certainly would not argue about because personally I do feel that those signs coming round the Cross of Sacrifice are an eyesore. Mr Speaker, the Honourable Member also spoke, very craftily may I say, of 1979 figures. He spoke of 1979 tourist arrivals in Gibraltar. Well, 1979 was a boom year and, in fact; Mr Speaker, most of the arguments that I have heard was the fact that everything was based on 1979. I would like the Honourable Member, and I don't want praise because we never get it, Mr Speaker, if we brought 20 planes to Gibraltar a day, if our hotels were totally booked, we would not get praised, we do not think that the Opposition is here to do that, but we would like the Opposition at least to look at the situation and see, as I said earlier on, the very many problems that we have had to overcome. I have spoken of the strength of the pound, the frontier situation, the let down to the traders in almost four times waiting for an event that never took place but in addition to that outside forces unfortunately still dictate our destiny. The departure tax in Morocco adding £50 to virtually every person crossing the straits of Gibraltar, obviously had an effect on our economy, I don't know if he would like to include that in the Motion and blame me for it. What I would tell the Honourable and Gallant Major Peliza and Members Opposite is that we may have a lesson to learn, we might well have a lesson to learn in trying to make public so many reports and so many details and what have you because only a few instances, like for instance the sudden sale of Gibraltar Government Lottery when the frontier opened, we made such a hullabaloo about it that the Spaniards immediately prohibited its importation. We come out with statistics saying that Moroccan day excursionists coming to Gibraltar are leaving £1.2m and King Hassan says: "I will have the £1.2m, why should Gibraltar have it". Let us keep our big mouth shut, let us learn, let us keep our mouth shut once and for all and that goes for other reports which are not the subject of this Motion, but which I would ask Members opposite for Gods sake let us be sensible about it and let us keep our dirty washing to ourselves and not let other people take advantage of our situation. Now Mr Speaker, what really surprises me of the Honourable and Gallant Major Peliza's contribution is that during one of his visits here, apparently, I take it, in 1980, he saw or received,

I don't know, or contacted Mr McNally from Exchange Travel, Mr Nigel Thompson from Cadogan or he read about it in the Chronicle, or David Okes-Voysey, Chairman of the Hotel Association, and they complained bitterly of losses. Well, why didn't he bring it to my attention in 1980? He gets an allowance, half of mine, Mr Speaker, and I work ten hours a day as a Minister, why didn't he write me a letter, why not? Then he does the same thing, Mr Speaker, on hotels. In 1980 there was a decline between 25% and 35%. Why doesn't he write to me, does he want a postal allowance? I am sure I could manage it out of my Tourist Vote, Mr Speaker, at the rate that he writes my postal and my stationery vote would not suffer at all. But let me tell you, Mr Speaker, that it is time that Members opposite realised that today we are paid by the general public, we are reasonably paid and they get half an allowance, half a Minister's allowance and, my God, they don't do half or a fraction of what Ministers do and yet get stick from that side of the House. It is high time, Mr Speaker, that we should all start pulling our weight together and not just Ministers who suffer a tremendous amount of inconvenience, without going into details, whilst other people can have a life of leisure, a life of pleasure even away from Gibraltar, and coming here and creating a storm in a teacup at his pleasure and at his convenience. Mr Speaker, it is ridiculous for the Honourable Member to say that this motion speaks for itself. It is an aspersion on himself, it is an aspersion on himself and what is even worse on the Opposition because I am sure, Mr Speaker, and I say this without trying to be funny, he did not remember the little importance that he has given tourism as shadow, as Chief Minister of Gibraltar, or throughout the twelve years that I have been in this House. He did not realise that I had done the research that I had done to expose that his interest is not there, his interest in this motion is to bubble up heat because within two or three or four months he is going to come to Gibraltar and as he normally does, from 8 in the morning until 2 at night he will go electioneering everywhere reminding everyone of Peliza's presence because certainly his performance regarding tourism in Gibraltar leaves a lot to be desired and I have further material in case the Honourable and Gallant Member thinks that I have not and that I leave for the elections. At least I will make him read between now and the next election. Mr Speaker, I think that I have taken up enough time of this House. I have the Hansard here of the Hon Member's two motions on the adjournment which quite honestly are so contradictory that I do ask him to read them, to read them carefully, to go back to the days when he was Chief Minister, its nostalgic, I am sure he would like it. Read and go back into your own autobiography, virtually, and then, Mr Speaker, he may have very different views about bringing a motion trying to show up the only Government of Gibraltar that has been consistent in its policy over tourism. Mr Speaker, we cannot accept this motion,

we cannot even accept an amendment to the motion. We have to treat it with the same contempt as the Honourable Member has treated tourism. Mr Speaker, I think the Honourable Member should now be satisfied that you cannot run with the hare and hunt with the hounds and in politics there is one thing that keeps you, and that is continuity and you must be honest - I am not saying that the Honourable Member is not honest - you must be absolutely honest in what you say when you believe in it and stick to it. Mr Speaker, I cannot ask the Member to grow up, he is older than I am, but for God's sake wake up.

The House recessed at 12.55 pm.

The House resumed at 3.10 pm.

MR SPEAKER:

I will remind the House that we are on the Motion moved by the Honourable and Gallant Major Peliza. I understand that the Honourable and Learned Leader of the Opposition wishes to speak.

HON P J ISOLA:

Mr Speaker, we are the honourable Opposition and we do not take advantage of the few numbers on the Government benches which could ensure a speedy passage of the motion. Mr Speaker, the Minister for Tourism has spent I would have thought three quarters of his time doing a historical analysis of the tourism record of the Opposition and it astounds me when he talks of the duties of an Opposition in these matters. He seems to think that the Opposition Members, that my Honourable and Gallant Friend, just because he gets half the salary that the Minister gets, and he seems to be very bitter about this, I don't know what it has got to do with the Motion but, anyway, he seems to be very bitter about this; should be there at the Gibraltar Tourist Office every day at nine o'clock to tell the Minister what he has to do and this is not the function of an Opposition. The function of an Opposition is to operate, Mr Speaker, in this House and to be critical of the Government in this House and to make suggestions to the Government in this House. That is our role, that is our constitutional role and if the Minister feels that we should be a back-up to the Gibraltar Government then he ought to suggest changes in the Constitution. The Minister has made a very, very bitter attack on my Honourable and Gallant Friend, one of the bitterest attacks I have heard in this House, thus confirming the adage that the best means of defence is to attack but, unfortunately, Mr Speaker, there was no defence of his position, there was no defence of the Government position whilst it has been in power during the last four years but only a diatribe of historical events of the last fourteen years. It is incredible to me that the Minister should have juggled with figures to try and prove the point. The Minister has misled the House in the figures he has given and I will give an example. He has accused my Honourable and Gallant Friend of

having switched his position to the position he held on tourism when he was Chief Minister thirteen years ago, and that is not correct. It is just not correct and I will illustrate that. In the first place, Mr Speaker, any child will know that the situation in 1970 or 1971 was entirely different to the situation that exists today. It is a completely different panorama, to use the name of a prominent weekly, a completely different panorama. In 1969, the frontier closed, all Spanish labour was withdrawn, it was traumatic experience for Gibraltar. Moroccan labour had to be hurriedly imported, the economy was at risk because all links with Spain, on whom the economy had depended for many years, had been closed and the work of the Government of that time anybody would agree would be to face the Spanish challenge. There is no question at all, and he should know this, that the mainstay of the economy was then and still is Ministry of Defence expenditure, there is no question about it. And when my Honourable and Gallant Friend talked about being realistic in touristic expenditure, he was absolutely right and we are absolutely right today to talk about being realistic in tourist expenditure as, indeed, in all other kinds of expenditure. The Minister for Tourism laughs and jokes at the fact that my Honourable and Gallant Friend was saying in 1969 or 1970 or 1971 or 1972 that if the Ministry of Defence closed the Dockyard or whenever it was, it could go commercial, he was joking about it. He doesn't realise, Mr Speaker, in his ignorance, he doesn't realise that during that period of time shipbuilding and shiprepair was on the ascendancy, that the world shiprepair business, the world shipbuilding business was booming, he doesn't realise that. In those days, Mr Speaker, a commercialisation project for the Naval Dockyard was far more realistic than the madness with which the Government of this day in Gibraltar has gone into commercialisation in the middle of world recession and on impossible terms. I won't call your aid, Mr Speaker, I don't mind if he laughs, he won't be laughing by the end of my speech, no, I don't think he will be crying, he is too hard a nut to crack that way. He just doesn't know his position and he criticises my Honourable and Gallant Friend when his criticism should be aimed at his own Chief Minister who was put on notice in 1977 that the Dockyard might be closing and kept it to himself, told nobody and didn't plan for the Government of the future and didn't plan for what might happen, he left it for 1983 in July to say that tourism was now very important and he had to do something about it. His remarks, Mr Speaker, should have been addressed to the Chief Minister and not to my Honourable and Gallant Friend who was absolutely right in the remarks that he made in that day. But then, Mr Speaker, what does our noble Minister for Tourism say? He says the Government of my Honourable and Gallant Friend spent £106,000 in tourism in 1970, we spent £378,000 or £368,000 in 1978 and we are spending £669,000 in 1983 - roars of support from his side of the House - but what he did not tell the House was the effects of inflation, what he did not tell the House was the percentage position then and now and he might be interested to hear it. In 1971, my Honourable and Gallant Friend's Government voted £106,520 for tourism, out of a total expenditure of five million three hundred and ninety three thousand that the colony had. That represented, Mr Speaker, 2.83 per cent of total expenditure.

In 1983/84, today, thirteen years later, the Government is budgeted to spend £663,100 out of a total expenditure of £50,000,000 making it 1.29% of total expenditure so that in relative terms, my Honourable and Gallant Friend's Government were spending 100% more than the Government is spending today and that is the position mathematically. It is not rubbish. If the Honourable Minister will put £60m down of total expenditure, if he would be kind enough to do that, the total expenditure on recurrent expenditure for the Gibraltar Government for 1983/84 is quoted in the estimates, they may be wrong, Mr Speaker, I don't know, £50,342,200. The amount being spent by the Tourist Office is £653,100 and if he looks at the estimates of expenditure of 1972 to 1973, he will see that the expenditure for 1971/72 was £106,520, anyway, he is not listening so it doesn't matter, but if he does use figures, Mr Speaker, the first thing he should do is to state them against their correct backgrounds and relate them to percentage of actual expenditure, the first thing he should do, and the second thing he should do if he is going to use figures is to be accurate. I am not using this against the Government Mr Speaker, I am not saying that my Honourable and Gallant Friend was undermining tourism or wasn't spending enough on tourism or was spending too much on tourism and that the Government is spending too much or too little today in tourism, you cannot express achievement just by expenditure, I concede that, but what the Minister cannot do is come to the House and mislead us all about figures and try and appear to be very well briefed and very well versed and pick choice quotations from 1970, though what 1970 has got to do with 1983, I don't know, and pick choice quotations from 1970 to try and show that my Honourable and Gallant Friend had no interest in tourism at all and has no interest and he has been like that ever since which is absolute rubbish and he knows it. For a Minister to have to defend his achievements of four years by going back to 1969 as to what was done then which is a hell of a lot more than has been done since, Mr Speaker, but for what was done then to defend himself, shows the very weakness of the Government case because if this present AACR Government and I talk of the AACR because the Minister for Tourism has stressed the AACR Party, the AACR Government knew or at least one Member of it knew in 1977 that the Naval Dockyard was in jeopardy and kept it to himself which he was entitled to do so as not to cause alarm and despondency and so forth and the Government does nothing about it until now in July when Mr Pitaluga the Administrative Secretary is hurriedly pushed to help my Honourable Friend the Minister for Tourism in his predicament in tourism, surely, that is an indictment of this Government, not on the indictment on my Honourable and Gallant Friend because even if my Honourable and Gallant Friend had made an appalling mess of tourism in 1969 to 1971, even if he had made an appalling mess of tourism which he did not do, but even assuming that he did, it is no defence to the present Government to throw that in his face because they have had 12 years to put it right and it is a reflection on them if they still haven't put it right after twelve years. So, Mr Speaker, arguments of history do not help the Minister for Tourism in his arguments in this motion. The sum total of his

arguments against my Honourable and Gallant Friend is a complaint that he hasn't visited his Tourist Office and I am prepared, Mr Speaker, I am prepared to help him in that. If he is so worried about it, I will turn to my Honourable and Gallant Friend and ask him: "Please visit the Tourist Office, let the Minister give you a cup of coffee or whatever beverage they are used to giving in that office and then you will have met his counter attack on this". My Honourable and Gallant Friend, Mr Speaker, to accuse him of lack of activity is not to know my Honourable and Gallant Friend. He is the most vigorous, the most energetic politician, in my view, that Gibraltar has. I won't complain about interruptions from the Chief Minister, Mr Speaker, I am even prepared to give way and allow him to explain why he has done nothing for tourism since 1977 when he first got the warning signal about the Naval Dockyard closing. I am even prepared to do that. Mr Speaker, I tried to listen to the Minister for Tourism to try and grasp what his defence was. He referred to my brother when he was Minister for Tourism, I stand to be corrected because I am not quite sure, but I am almost certain that it was my brother as Minister for Tourism who indeed started the promotion visits to England during his ministry, started the promotion visits to promote Gibraltar which has been enlarged on by subsequent Governments and by this Minister who still goes on these promotions and goes to try and sell Gibraltar, the only difference is he doesn't seem to do it very successfully and we do not have this abundance of tourists that we seemed to have in Gibraltar in the old days. It is no use giving us figures Mr Speaker, the figures are known to everybody. There used to be an abundance of tourists to Gibraltar until the last three years, in fact, ever since the Minister took over that office in an acting capacity. There has been a tourist decline and the tourist decline has become so serious that the Chief Minister has found it necessary to send his most trusted Civil Servant into that department to see what he can do to coordinate, or to help, or to give advice or to report to the Chief Minister or whatever. If he had, Mr Speaker, a thriving tourist industry in Gibraltar, there would have been no need for the Chief Minister to have sent his trusted Civil Servant to give the Minister for Tourism and his department a hand, it would not have been necessary, and that in itself is an admission that something is wrong with tourism in Gibraltar and with the Tourism Industry and what I think the Minister should have done, with respect to him, is instead of involving himself in a great tirade against my Honourable and Gallant Friend, he should have addressed himself to the problems that exist in Gibraltar today for tourism and address himself to what the Government had done to overcome those problems and that is what he has not done. He has taken this motion as a personal attack on himself as Minister for Tourism and that is wrong because what my Honourable and Gallant Friend has done is to hold the Government as a whole responsible because it is the Government as a whole that is responsible and I will say why in a moment. The Government as a whole is responsible, Mr Speaker, because the tourist product in Gibraltar, in other words, the place which people visit Gibraltar for for their

holidays, has been deteriorating steadily during the last four years. When Intasun came to Gibraltar, to give a very small example, they brought 120 tour agents. This was something big, but these travel agents came to Gibraltar and they had to look at Gibraltar as it was, they saw the dirty streets, they saw the general set-up in Gibraltar and they saw the cost of things, they saw everything. Can the Minister for Tourism assure us that they went away very happy? I don't think they did, I think they were very unhappy with the entertainment they were given the very first night when they were told not to have dinner because there would be food in St Michael's Cave and they went up there and at 9.30 all they got was a few tapas and they were very upset about that, but I would hope that would not change their attitude to Gibraltar. It is the product that has been declining gradually over the years, that the Government has allowed to decline over the years. That is one of the main problems for any growth in the tourist industry in Gibraltar and for that the Government has to take responsibility. They are the people who were elected to govern, they must take the responsibility for that. Then you have the decline in tourism, of course we know there has been a decline in tourism in other parts of the world though not in Spain, we know that, but Gibraltar should have been there getting the market. One of the serious things that I think has occurred in tourism has been the lack of coordination between the Minister, or the Government, and the people involved in the Tourist Industry. We had a debate here some time ago in relation to having a Tourist Advisory Board. In fact my Honourable and Gallant Friend put a motion down on that, and a Tourist Advisory Board was set up, although it took a long time to set up like everything else, but it has never got working. There seems to be complete lack of coordination between those people who are responsible for the tourist industry, for those people who bring people to Gibraltar, who entertain them in Gibraltar, give them drinks in Gibraltar or give them food, or give them entertainment, between all those people, for which they are paid of course, and the Minister. He has not told us what has been the real problem that besets the local picture. He talks about people not coming here because they can get a holiday there cheaper, you can go to Palma for four weeks, £80, you can go here, you can do that, he has shown what all our competitors do, but he doesn't show what it is that keeps people away from Gibraltar, he hasn't told us what his problem is in Gibraltar. Listening to him, there is no problem but obviously there is, Mr Speaker, because people are not coming to Gibraltar. The occupancy factor in the hotels is very low indeed and Gibraltar is in such a state touristically that the Chief Minister has had to intervene and that is the truth of the matter. The Minister points proudly at the increased expenditure that the Government is having on tourism. I would like to know where that is stated because if you look at the approved estimates of expenditure for 1983/84, you will find that the revised estimates in tourist expenditure for 1982/83 is £669,500 and the estimated expenditure for 1983 to 1984 is less, £653,000, so without making any allowance for inflation the tourist department is going to spend less, apparently, in 1983/84 than they did in 1982/83. And when you

consider, Mr Speaker, that a lot of that expenditure is today in the London Tourist Office, rent and everything else, the amount of money that the Government is spending in relation to total expenditure on tourism is lower today than it has ever been, lower in 1983 to 1984 in relation to total expenditure than it has ever been and that at a time when the Chief Minister tells the House how much importance the Government gives to tourism. These are the sort of arguments that I would have hoped the Minister for Tourism would have explained and put forward and replied to rather than involve himself in a historical tirade against my Honourable and Gallant Friend. I think the weakness of the Government position is illustrated by the fact that he has to spend three quarters of his speech talking to us about what happened in 1971 and talking to us about his great sorrow that my Honourable and Gallant doesn't visit him at the Gibraltar Tourist Office and, in fact, complaining that the 75 questions that my Honourable and Gallant Friend has put to him have not been enough. I hope my Honourable and Gallant Friend in the short time that is left for this House, will put 20 or 30 questions on tourism to keep him happy. Mr Speaker, I think that if my Honourable and Gallant Friend's motion has succeeded in awakening or in challenging the Government on their declared policy of helping tourism and promoting tourism in Gibraltar, then it will have been worthwhile but it is absolutely useless for the Government to say and to talk proudly of their tourist record during the last four years because there has not been one and it has not been a proud record. They may not be altogether to blame for it, that is a matter for argument and conjecture, but for the Minister for Tourism to say all the things he has done and how successful it has been, flies in the face of facts, flies in the face of reality. But as my Honourable and Gallant Friend has said, if and so long as there is a Minister for Tourism then he must take responsibility, he must take the rough with the smooth. At the moment he is going through a rough period, the tourist industry is going through a rough period and he has not satisfied us that either he or his Government are tackling this problem with the energy that it deserves, with the energy that it requires and, accordingly, we of course, support the motion of my Honourable and Gallant Friend.

HON CHIEF MINISTER:

Mr Speaker, at five to one, the Leader of the Opposition got up as if he was going to speak well knowing that he wouldn't be able to start at that time. It was quite clear that he had been stung and that the mover had been stung by the very competent, well researched, well prepared delivery of the Minister to which I would like to pay tribute because he made what I consider to be one of the best speeches in answer to a censure motion that has been heard in this House, and I have

only been here since 1950. I could see that he was stung by that and it is all very well to say it is no use looking back, of course it is important to look back, it is important to look at the performance of people and the consistency of people and not as the mover said at one time: "It is one thing what you say before the election, and it is another thing what you do after the election", which is what he said in 1969 when by sheer fluke he was brought into office in the most peculiar coalition in the political history of Gibraltar and which of course terminated in the disaster that it did. But of course if the mover is such a wonderful person, the best, most energetic Minister then the people of Gibraltar are the most ungrateful but if he is as good as the Leader of the Opposition wants to make him be, then the people of Gibraltar must be either foolish, ungrateful, because he held office for a very short time and he was very quickly sent packing and he has never seen the light of office ever since in the last thirteen years. That, I think, is either that the people know exactly what his performance was like or that they are very foolish that the only people who stand up over everybody else are the Opposition in particular, the only other person who has had the honour of holding the post of Chief Minister and who sometimes speaks as if he were a beginner in politics by the kind of silly questions he asks in this House. I can never imagine some of the questions that come from him that could come from somebody who held office even if it was only for 2 years and 10 months. Anyhow the record and Hansard show quite clearly eleven years after what the Mover was saying has shown him to be inconsistent so the record will show in years to come that the Minister has made his most excellent contribution and he was not defending himself, he was not only defending the Government, of course we have collective responsibility, but he was being positive about it, he was saying what was being done. It is not like all the things that the Leader of the Opposition has twisted as if we had not heard the Minister himself speaking, anybody who heard the Leader of the Opposition describing what the Minister has said would think that what he said was completely different, but that is his ability to twist matters in this House to make them look different to what they are. Fortunately the people know that well enough and I am sure that they will have a very early opportunity of knowing it further. One point has been raised about the 1977 proposed closure of the Dockyard. Well, it is true that that was not known because by the time it could have been known I had achieved the reversal of the policy by Her Majesty's Government but the great difference there was that at that time the closure of the Dockyard was not going to be on the basis of defence review but on the basis of economy and therefore a direct attack at the economy of Gibraltar and that is why then I fought as hard as I could and the thing never came to the light of day until many years later because

it would have been very easy, it would have been fantastic to have gone to the 1980 Elections and say: "I achieved the Dockyard having been kept opened". I never said that because it was a trend of thought at the time in order to achieve economies that hit at the economy of Gibraltar and that is what was intolerable and that is why it had to be fought tooth and nail because that was a direct attack on the economy of Gibraltar. We know now that the closure of the Dockyard is as the result of Defence review, not as the result of an attempt at the economy, as a result of Defence review because whether we like it or not the British Government has agreed that there is no longer any need to refit leander class frigates and that they are going to be phased out and the present set-up of the Dockyard cannot take this kind of work. But what has happened? I think to some extent I give credit to the Mover in having been prophetic because exactly what he said would happen has happened that if ever the Dockyard was not required for the Navy we had a wonderful place to have with British help a commercial dockyard. I must give him credit for being prophetic or perhaps for having had even if it is only a flash of commonsense for a change. I quote: "I would just beg your indulgence for another couple of minutes to try and do away" - you will not forget that, I can tell you - "with any alarm that something like what happened to Malta could happen to Gibraltar overnight. We know that for a number of years already the Dockyard is committed to Gibraltar. The important thing, and this is what we have got to realise, is that whilst in Malta there was unemployment, very serious unemployment even before the Dockyard was closed, in Gibraltar very happily, we have over full employment to a very large degree. That is my first point, my second point is that because of those circumstances even if the Dockyard were to close down as a naval repair establishment, it could be used in my view, with the support of the British Government, for the benefit of the economy of Gibraltar as a commercial concern. It is beautifully situated with hundreds of ships going through the straits perhaps it is over a 100 a day and therefore from that point of view I think we have a very stable source of income in Gibraltar, come what may, from the defence point of view. If one day all the nations decided that they are going to dump their armament into the sea, I doubt whether that will happen although I would hope it happens tomorrow but I doubt whether it will, and the Dockyard ceased to be a necessity, I am sure that from the commercial point of view it would be the main source of income". Wonderful prophesy, exactly what we are getting plus all of the prime sites and the Rosia Swimming Club and all the rest. That could not even be imagined then but there it is and there the words remain for posterity without an index. I wonder what else we would have discovered if we had had an index. I dread to think about an index, not only because of that but because we would be reviving Mansard every day at

every occasion. It is not unfair to revive it in a situation like that and throw at a former Chief Minister something which he said eleven years ago as being ideal which he says now is not worth looking at. But as the Honourable Mover said after the 1969 elections, one thing is what you say before the elections and the other thing is what you do when you get into office. That was the very great different reason in the 1977 proposed closure and I can tell Honourable Members and I can say publicly that that was a very hard time to live with that thought for a while without being able to share it with anybody because it was the only way in which I could achieve what I wanted, and I did, and that was that for purposes of economy the Dockyard was not closed and if I have to pay tribute to anybody on this I would have to pay tribute to two people and that is to Mrs Judith Hart and Dr David Owen. And I do this because they were the protagonists at the time and not because they belonged to any particular party. I am sure that anybody else of any party at the time for the reasons adduced in favour of keeping the dockyard would have done exactly what they did. But it is time that they did it. Of course the Leader of the Opposition has been very annoyed at the way in which the Minister has defended the motion. Of course, the Minister does not require the mover to come and help him to do the work, but I think it may have struck members opposite and it struck me the other day when they were complaining at not having enough time to read papers which we have had for 10 days, and it is indeed an injustice if you put it that way that Ministers who are hardworking-double the work of what a member of the Opposition does and yet when you get ten days to look at a few Bills they come and complain they haven't had time. What the hell do they do the rest of the time when there is no meetings of the House of Assembly for which they get paid whatever has been decided, but in proportion if there is pressure of work and they have to study the papers they should devote whatever time is required to come here prepared. If you have been away, you come two days before the meeting, that is a different matter but if you are here you get them in time of course there is no reason why you should not be able to be prepared with the amount of time given by Standing Orders to make a Bill public and I feel that is a very telling point and the Minister wasn't telling the mover that he ought to do the work for him, but the same as other Ministers say, are paid as other members of the Opposition and he mentioned in his fairness, that other members of the Opposition visited Departments to which they are shadows and they are well received and they are attended, but there is one very good reason why the mover hasn't been able to do that because he doesn't live in Gibraltar and he comes here for a meeting for what he says, an attempt of appearing in the television to appear that he is on the ball all the time, he rushes from one side to the other on his bicycle and then

comes here makes a few questions and goes away. Of course he has not time to visit and have a cup of tea with the Minister in his department. But if in fact he was to get himself involved with what he is doing what less could be expected than to say: "well, let us have a chat about it, he is not bad to have a chat with, he is quite nice." And I am sure we would all enjoy having a chat with him, but he does not appear to have got the time, his mind is somewhere else. He is living somewhere else, his home is somewhere else, his work is somewhere else, it is only the House of Assembly that is here for him in Gibraltar.

HON P J ISOLA:

If the Honourable Member will give way.

HON CHIEF MINISTER:

No, no, I am sorry I will not give way. I did not interfere with you I said I had had my talk when I did. One other thing there was an attempt to belittle - which is very typical of the Leader of the Opposition - belittle everything, to belittle the Intasun intervention I think the Minister was very explicit about what happened and very clear and very honest, of course there has been a set back and he has explained what the set back was, and then the Leader of the Opposition in his usual way tried to belittle the reception given because the tapas were small or whatever it is, but what did we get out of all that? Well I have here the Intasun Summer 1984 Brochure of which 2½ million have been distributed, and here we get four pages for Gibraltar. Four full pages for Gibraltar. Gibraltar is put on the map on 2½ million homes in the United Kingdom as a prospect of coming on holiday. How much is that worth in terms of publicity? Isn't that worth every penny that has been done and let me say that in respect of the Intasun people whether they have to go somewhere else to have dinner or not, they were all delighted with the way in which they were attended and received. And I had that from Harry Goodman down to the last person who came here and there is no doubt that they put a very real effort and I have no doubt and having regard to the amount of money that they have spent if they have not been able to operate as originally suggested they must have had very good reasons for doing so but they are obviously concerned and committed to the extent of the way in which they have produced Gibraltar on the Brochure and that there will be benefits to be gathered from their participation. But there is one thing which is very contrasting and this was remarked by the Minister but it had been made more clear and the unfairness of the mover's remarks has been made more clear by what the Leader of the Opposition has said because what the mover said that we were going down in tourism and everybody was going up. The

Minister replied adequately but the Leader of the Opposition said that it is well known that the tourist industry is going through a bad time throughout the world, that is what he said which is not what the other one said. "Tourist industry going through a bad time", those are his words and Hansard can answer for it. That is what the Leader of the Opposition said. That the mover said everybody else was making progress except us. So, you know even at this short debate, or this debate, there are different views as to how to approach it in order to try and harm the Government. But I am very glad to say that I am proud of the case that has been made not just to answer the responsible allegations of the mover but the positive way in which the Minister looks at his Ministry and the manner in which he has performed this morning. And I fully support every word he said.

HON J BOSSANO:

I won't get drawn Mr Speaker, I won't get drawn into an argument of 1971 when I was not around. Let me say that I am supporting the motion purely and simply on what the motion says. I don't think it is anything other than a matter of fact that the tourist industry has suffered a decline. I mean that is either true or it isn't true. And I think it is true because I think people in the industry are saying that and I imagine they are in a better position to say than anybody else, and I think in fact the Government's own statistics indicate that there has been a decline. Secondly, I wouldn't support the motion myself, apart from the fact that I think that, that is a true figure because the first part of the motion holds the Government responsible for not taking sufficient effective action to prevent this from happening which pre-supposes that it is possible to take sufficient effective action to prevent it. Which I myself have doubts about, but which the Government cannot have doubts about because they are saying they are going to do it now. Now if they think they are going to do it now in 1983 then it is correct to accuse them that they have in fact gone wrong in not having done it before. If they were saying now in 1983 it is impossible to take any measures to stop the decline then one couldn't accuse them for not having done it since 1980. So I think in fact that the second part of the motion is a statement of fact, the first part of the motion in fact is substantiated by the announcement of the Government itself that it is going to produce a new thrust to develop tourism in Gibraltar without a frontier opening, I think the Chief Minister has said in his speech in London that Gibraltar can survive on the back of the commercial dockyard and the tourist boom, without having to wait for normalisation of the frontier. I am not quite sure what the normalisation of the frontier is going to do, because it

seems to me, we spent a lot of money either our own money or UK tax payers money and I think wasting money is something that one shouldn't do irrespective of who's money it is. So we spent a lot of money getting people who charge very high fees for giving us advice which we then ignore and keep secret. And certainly the advice that the Government has had from PEIDA would not justify their optimism about a tourist boom with a closed frontier. Because PEIDA did not say that it is not possible to develop a mass tourist market because they haven't got Queensway or the Rosia Swimming Club PEIDA didn't say that. PEIDA said it wasn't possible fullstop. They said Gibraltar couldn't compete in that area. And, I don't know whether the optimism of INTASUN will prove well founded or not, but certainly the criticism that has been made of Intasun by other people and again it is not an area where one can be sure because everyone is defending their own little patch and obviously people who stand to suffer from competition by Intasun will try and knock down Intasun's projections and Intasun who stands to gain will try and push them up the same as Appledore does and so forth. But certainly there seems to be an argument for saying that Gibraltar's cost structure effectively take it out of the cheap end of the market whatever you do unless in fact you are going to subsidise tourists and I remember Mr Speaker, because I think I have been the most sceptical member of this House since I arrived in 1972 about the potential of tourism and I don't mind saying it now because in fact my reason for supporting the motion has nothing to do with collecting votes in a couple of month's time and I say now as I have said on so many other occasions that I am sceptical about the potential, loses me votes from that particular quarter, well, so be it. I am not prepared to buy votes on false pretences. And I remember asking the Honourable Serfaty in the House a long time ago whether the Government would conduct a cost benefit analysis on the value of tourism to the economy of Gibraltar and I remember the blank look on his face. I don't think he ever actually figured out what a cost benefit analysis was - he did not even know at the time what I was talking about and I am not sure that they ever went down that road. Looking at it perhaps because I tend to look at things as an Economist, rather than on any other light, looking at it from that perspective I have always said to myself well if we have to import so much water and bringing in an extra tourist must add something to the economy but in fact in order to arrive at what it adds to the economy I should deduct what the economy has to bring in from outside as a result of bringing in the tourists. And then find out the marginal addition to the generation of wealth in Gibraltar produced by investing money in increasing tourism. Now, I am not sure that that has been done or that that it is intended but I would certainly advise the Government to do it

although it seems to run contrary to in fact there on public statements that they are now committed to a massive injection of resources into expanding this area. But we must not forget that the Minister for Labour earlier on in the House, today, talked about the reluctance of Gibraltarians moving into the catering industry. Well we certainly do not want to create jobs - I will be giving way in a moment -

HON H J. ZAMMITT:

I must say that I accept his argument because I know and one knows the way that he feels about tourism and as he has always felt. I can say that tourism today is generating £11.2m to the economy after which £1.2m comes directly to Government coffers. That is at our low ebb as we are today on tourism. So it is now possible the Honourable Member may forget that when he asked the Honourable Mr Serfaty for those kind of figures we did not have a Statistics Office as such and today we are able to get I dare say with more or less accuracy that kind of figure and I agree entirely with the Honourable Member as I said because I do know that he has even questioned and in fact have to say, because he is quite open about it and honest about it, that he has voted against measures such as the subsidy of water to hotels and things like that because the argument is a very logical socialistic argument, so I wouldn't dispute that.

HON J BOSSANO:

Well, I mean apart from the ideological context of the argument, the point is Mr Speaker as I think by making reference to the subsidy to water the Honourable Member has made a little point. He would bring in more tourists and bringing in more tourists means we import more food. We import an extra tanker of water, we import labour, we provide accommodation for the labour, let us not then knock out all the things that we have to bring in, before we arrive at the effect because right you may have an increase in GNP of so much, but I mean the net result is what, now I am not saying that tourism does not provide anything, that would be nonsense, it is money freshly to provide something but what I am saying is that in using resources and I won again in taking decision on how to use resources again one must make certain assumptions. If you have got a certain resource which is useless but which you had no other use, then clearly it requires very little return to make it worthwhile using it in a particular way. If it has alternative uses then the rational thing to do is to see which of the alternative uses is the one that produces most. Now, there may be certain assets in Gibraltar which have got little potential use other than for tourism, it could be argued that the same is true of a dockyard, I mean the reason why the first thing one thinks about

in the closure of a Naval Dockyard is a Commercial Dockyard is not because we need an expert to tell us because it is manifestly obvious that the most appropriate use of a dry dock is to dock ships that is the most obvious and the first thing you think about, without any expert telling you that, now you have to decide whether using £28m for the British Government's aid in that particular way is the most sensible way in which to use it. I would certainly dispute that it is. I have no doubt about that at all and I am prepared to put arguments why I think it is. And I think the arguments are based on rational analysis and economics. Now I don't expect, for example, Messrs Appledore to agree with me, but of course why should they agree with me because they are not looking at it from the angle that I am looking at it anymore than I would expect any hotel owner to agree with an agreement of mine that if we were to have to use £100,000 to subsidise water consumption by tourists in hotels there are better ways of using that money. I don't expect any hotel owner to agree with me on that, because he is going to find that perhaps because the water is subsidised he is then able to produce a more competitive price and therefore he is able to increase the capacity utilisation of the hotel and therefore the return on his investment is better. If he had to pay the £100,000 himself then the economics of the operation will be totally different. So, but I expect people to understand at least the thrust and the nature of the argument that I am putting. So therefore I am saying Mr Speaker, that I myself have got serious doubts about whether there is a potential in Gibraltar for a mass tourist market, I have serious doubts about the wisdom of devoting our resources, scarce as they are, to doing that unless we have done a very thorough job about whether we are getting the best possible return by using our resources in that particular way as opposed to another way and I would put to members in the House who have seen the report the same as I have done, that that line of argument seems to be supported by the views of the experts that the Government has engaged as consultants who looked at alternatives, other than commercialisation and came to the conclusion that the tourist potential of Gibraltar with a closed frontier was very limited. I nevertheless think that the motion is accurate and I think in fact for some reason that hasn't been explained as far as I know there seems to have been an improvement in the tourist attraction of Gibraltar after 1978 when a report was produced by the Economist Intelligence Unit for operators in the tourist industry, which showed that the market came to a bottom in 1977 and then it went up again, until about 1980 and then it started coming down in 1981. Now, as far as I know, nobody in Gibraltar did anything very much in that period to get the tourists to come. I mean they were doing the same thing in 1977, as they were doing in 1979 and they were doing in 1981. So, in fact, it happens you know and I think perhaps it might

not be amiss to find out whether in fact it happened through a change in the competition that we were facing or the facts that there was an increase in tourism in that year, but the report of the Economist Intelligence Unit in 1978 pointed out in fact that Gibraltar at the time, was having a declining share of an increasing market. I think the 1978 Report which to some extent was coloured by the fact that it was produced and paid for by the people in the industry here wanted to make a case for it, apart from that, I think there were a number of important statistics contained in it. One was that tourism abroad was increasing, there has been a post war trend in UK for UK tourists to go abroad rather than take their holidays in UK and that that was still on the increase in the late 1970's it might have altered in recent years, with the serious unemployment problem that the UK is facing. People may be taking for all I know holidays at home rather than abroad, but at the time it was certainly increasing very fast and Gibraltar's share was declining, because while the number of British tourists going abroad was going up, the numbers coming to Gibraltar was coming down, so in fact our share was declining in absolute terms, not just relatively. But at the same time against what we were saying about attracting tourism here, or rather what the report was saying, the statistics showed that the percentage coming to Mediterranean resorts was declining. Now after that, I happen to know, that for example, the tourists industry in Malta took off and it went through a boom, but that in the last 18 months they have been going through a very bad patch. Now obviously, as happens here, the Opposition there blamed Mintoff for it. One doesn't know whether it is true or not. But I mean certainly it is put as an argument that, you know, the internal political wrangles in Malta have been a deterrent and the state of the economy and the measures that they have taken with the Maltese pound and so on. Now I would have thought that if we look at Gibraltar as a resort in the Mediterranean with a background of the widespread use of the English language, familiarity with their currency and so on, the two obvious resorts competing with us are Cyprus and Malta and the internal problem of Cyprus and Malta should have given us an opportunity of capturing part of the market that they lost and there I think we missed the boat. I think there, was a clearly definable potential market because they were both expensive resorts, they were not cheap, I mean I think it is easier to attract somebody to Gibraltar that might have gone to Cyprus or Malta, than to attract somebody to Gibraltar who might have gone to the Costa del Sol because the price differentials are narrower and because the attraction, I think, of Cyprus and Malta to the British tourists is that as well as being a Mediterranean resort it is it has a familiarity of the British background. There I feel is an area where perhaps the thrust should have been identified and I think, in fact, the only people who attempted anything like that were Exchange-Travel, who were in fact treating the

same resorts and when they found that some of their clients were scared to go to one of the other places they tried to channel them to Gibraltar. Anyway, Mr Speaker this is really all I want to say on the motion.

MR SPEAKER:

Are there any other contributors and then we will call on the mover to reply.

HON B PEREZ:

I think I want to make my contribution rather short on this particular occasion but I think there are a number of points which I would like to put to the House. First of all I think, if anything is clear at all, is that there can be no doubt whatsoever following this particular motion presented in the House, that not only has my Honourable Colleague Mr Zammit shown that he has a very keen interest and he is in fact very concerned with tourism, not only in his contribution to the motion but that his concern has gone back to quite some time as far as tourism is concerned. There can be no doubt at all that the Government is very conscious of the role that tourism has played in our economy. The other point that I think is also clear Mr Speaker, is that to a very large extent here in Gibraltar there is very little control that one can exercise to try and determine the number of people that actually come to Gibraltar. I think we are limited, I think some of the points have been made by the previous speaker, Mr Bossano, because we have to realise we have certain limitations in Gibraltar through space, we cannot offer tourists golf courses, we cannot offer tourists large swimming pools and we are of course limited to our size and as to our touristic potentials. There can be no doubt about that. But on the other hand I think what has in fact been made very clear by the Minister concerned, is that in what we have certain advantages and that he and his department, and in fact the Government, has been doing its utmost to in fact, to try and bring forward and to project. Gibraltar has advantages to offer to the tourists, I admit quite a large number of people mainly British tourists who have been in Gibraltar and they have been involved in conversations in which people even Gibraltarians have offered to take them over across the border and to offer them the golf courses and the swimming pools and that and in my presence, these British tourists who have been here say no we are not interested in that, we have come to Gibraltar and we want to see Gibraltar we are not interested in playing golf. If we were we would have gone to Spain. So I think to a large extent, my Honourable Colleague and his department have succeeded in that. The people who come to Gibraltar come to Gibraltar

because of what Gibraltar can offer, whether its the historical value, whether it is because we are British, whether it means seeing the British Bobby out in the streets, or whatever it is, I think the tourist office have succeeded to a very large extent. Because whether we like it or not, there are a very large amount of people who come to Gibraltar. It may well be, that we would like that figure to treble, but if one cannot achieve that, does that give cause, does that give reasons to my Honourable Friend Mr Peliza to come to this House and condemn the Minister of Tourism he is not justified in doing that, because the numbers and the statistics speak for themselves Mr Speaker. Another point which has been made in this motion, is that all of us in Gibraltar, being conscious of the importance of tourism, that tourism plays in our economy, we all have to try and pull together and help. We have heard in the House, that the Administrative Secretary was in fact requested by my Honourable Friend Mr Zammit to come and help to coordinate Government departments, and we hope that this will have an even more successful effect than in the past. I think the whole of Gibraltar must contribute, I think most Gibraltarians want to contribute unfortunately, I don't think the message which one is trying to portray of contribution, of putting one's own little grain on to the pile, has not sunk through to Members of the Opposition. I am sorry to say that, particularly to my good friend the Honourable Major Peliza, because all that I can see that he is attempting to do in putting this motion to the House, is really electioneering. I resent to say that, but I honestly believe that that is the main intention behind the motion. I have not heard him give one single constructive suggestion as to what the Honourable Minister, or what the Government should do as far as improving tourism is concerned. I sincerely, Mr Speaker, I sincerely regret having to say that but he spoke I think for over 45 minutes, in moving the motion, and all he did, really, was to condemn my Honourable Friend Mr Zammit. That is all he did. He didn't have one single good word to say either about Mr Zammit or about the Government as far as tourism is concerned. That to me, I do not consider that Mr Speaker, of trying to put one's little grain to the pile and to try and improve Gibraltar either touristically or to improve tourism in Gibraltar. I think this is regrettable. I honestly question what his real motives are in bringing the motion to the House. I mean, what is the Honourable and Gallant Member trying to do, what is he trying to achieve in bringing this particular motion to the House. And after four years being shadow to my Honourable Friend and not bringing any other motion before. I recall one particular motion which he brought on the amendment in which in fact my Honourable Friend due to personal reasons, was unable to be in the House and I had to speak on the amendment. But apart from that and apart from a few questions as to the state of the toilets at Waterport and the state of the toilets at

Market Place, I do not honestly recall any constructive suggestions or any reasonable contribution made by my Honourable Friend Mr Peliza as to tourism in Gibraltar. And as I say Mr Speaker, I honestly regret that. And I say that sincerely. I have heard Mr Bossano use a certain phrase and I will use that when he says is the idea of the motion or I think he said I am not prepared to support the motion on the basis that I am trying to buy votes under false pretences. I think those were the exact words used, I think I see him nodding, buy votes under false pretences. What is the mover of the motion trying to say? That he can do better if he was Minister for Tourism? Which brings me to another point. The only thing that I recall the mover of the motion saying over the last four years, is that the Government want to make better use of the Tourist Office in London. In fairness, I admit that that is what I honestly recall him saying during the last four years. Well, I haven't, Mr Speaker, I haven't yet said that I agree that that is the constructive suggestion. What I am saying is that that is my recollection. The only thing that I honestly recall, that the mover of this motion has brought to the House time and time again. Extend the use of the London Tourist Office, over and over again, he has used that. Which again brings me to my original question. What is the real motive behind the mover in bringing the motion to the House? In Spanish we say Mr Speaker, "se esta buscando la camita" is he looking for a bed to lay on following the next general elections, is it that because he lives in England, he would like to see a London Tourist Office used to a larger extent so that he can tell the Electorate at the elections, I am your man in London, not only for writing letters to MP's, which is done on certain occasions, willing to train himself or is he, is it his idea to portraying himself as the Gibraltar Ambassador in London by extending the use of the London Tourist Office. Let us be sincere and let us be honest about this Mr Speaker. I am sorry because he is a good friend of mine, but I cannot see any other motive after listening very carefully to his long speech which took nearly one hour, we cannot see any other real motive behind moving this motion, other than electioneering! and trying to prepare his bed to lay on for the elections, as the Gibraltar Ambassador in London. I think it is a ploy and I am sorry to say for him, as a good friend of mine, that it has backfired on him due to the excellent contribution of my Honourable Friend Mr Zammit. An excellent contribution by the Minister. Not only did he defend the Government but he clearly and what a pity, that the whole of Gibraltar could not have listened to the speech of my Honourable Friend Mr Zammit, in reply to the Honourable Mr Peliza's. What a pity that we didn't have broadcasting of the House.

MR SPEAKER:

Order, order.

HON B PEREZ:

What a pity, Mr Speaker because if that had been the case none of them apart from Mr Bossano would have had a chance of being elected in the next House of Assembly. I think Mr Speaker, Mr Peliza, and unfortunately his motion has backfired on him which brought, let me say straight away, and it was quite obvious to me anyway, that the Honourable Leader of the Opposition would straight away after the adjournment, make a contribution to this debate. Of course he has to make a contribution. But I want to try and honestly attempt with some home truths, Mr Speaker, to also show up the Leader of the Opposition for the contribution that he has made and for what his views have been on certain matters of tourism in Gibraltar. And I hope I succeed, in fact I am convinced, that when one goes with the truth and nothing else but the truth, you cannot go wrong. And that is what I am about to say now as far as the Honourable the Leader of the Opposition is concerned. Mr Speaker, there are in my view two fundamental matters as far as tourism is concerned. One thing to improve the whole product we have doubt about that, cleanliness and all that I agree with, and I think to a large extent my Honourable Friend not only is he conscious of that, he has taken certain steps to try and improve the home product but of course he is restricted there is no doubt about that both financially and due to the size of Gibraltar, that is clear. There is also to consider the points that have been made as far as advertising expenses are concerned. The point made by my Honourable Friend Mr Bossano, that it doesn't necessarily mean that the more money you spend in advertising, the larger or the bigger the number of tourists that will come to Gibraltar, that does not in fact follow. And of course you have to carry out an analysis, which has already been made, as to how much the Government can spend or can spend with taxpayers money to see how many people it would attract to Gibraltar and how much money those tourists will in fact spend, money that will be generated into the economy. And now I come to the crux of the matter, as far as the Leader of the Opposition is concerned. Air communications is of fundamental importance to Gibraltar's tourism potential and Mr Speaker, how can the Leader of the Opposition have the audacity to stand up in this House and try and defend anything the Honourable Major Peliza said and criticise my Honourable Colleague Mr Zammit and the Government as a whole, when he in fact should have the guts to say in this House that he never supported Intasun to come to Gibraltar.

MR SPEAKER:

No, no.

HON P J ISOLA:

If the Honourable Member will give way.

MR SPEAKER:

Order, order.

HON P J ISOLA:

Of course not.

HON B PEREZ:

He never, Mr Speaker, and I can tell you that, he never wanted Air Europe and Intasun to come to Gibraltar. He wasn't in agreement because he was worried, he was worried, of the effect that it would have on the present carriers we have in Gibraltar.

MR SPEAKER:

No, that has discarded motives, the fact that he was against

HON J B PEREZ:

I know that of my own knowledge, Mr Speaker.

MR SPEAKER:

Fair enough.

HON P J ISOLA:

If the Honourable Minister will give way because he has said that I have opposed Intasun. That is not true. What I opposed and I thought in a confidential atmosphere of the advisory board, what I said was that a schedule of additional scheduled service would not be viable for Gibraltar and I suggested that Intasun should bring charters to Gibraltar and I supported that. So it is untrue for the Minister to say that. And the Minutes of the meeting will show that.

HON B PEREZ:

Mr Speaker, all I can say is that following, what I knew about the Honourable of the Leader Opposition's view as to Air Europe's application, because I was the Government's spokesman for the Government representative at the CAA, when they made their application. I can tell you Mr Speaker, sincerely, that I had to go and see the Honourable and Gallant Major Peliza and I spoke to him to try and convince his leader to change his mind. I can tell you because I did speak to Major Peliza myself and I know that the Honourable and Gallant mover of the motion had to go and speak to his leader to try and convince him that it would be a good thing for Gibraltar for Air Europe to come because we knew of the weight of Intasun. So this is why I say how can he have the cheek and the audacity to come to the House and to speak and to try and bring down the Government as far as tourism is concerned. How can he do that, Mr Speaker? What a shame, what a shame. So on those two vital points on which I think I honestly had to make, Mr Speaker, I now come to the contribution of the Honourable Minister for Tourism. I think the Government's role as far as tourism is concerned is one that one has to proceed cautiously and we have to see how much of taxpayer's money one can invest. It is a matter of judgement and I honestly feel that as far as the Minister is concerned he is doing all that is humanly possible, there is a depression, a worldwide depression as far as tourism is concerned and I honestly feel Gibraltar is not doing as badly as other resorts are doing worldwide, of course one would like Gibraltar tourism to boom. The other point, that I think, I have to make is that we have to consider the points that have been made as far as Gibraltar's tourism is in fact fighting against, the closed frontier, the strength of the pound, the Lisbon Agreement that has been made, the question of costs in Gibraltar and again one must throw the comparison with Malta and Cyprus, so all in all, I think I know this will not be possible, but perhaps the most honourable thing for my honourable friend to do Mr Peliza, I think you ought to withdraw the motion. I sincerely think you ought to withdraw the motion, following the contribution and following the arguments the most cogent arguments that have been put by the Minister concerned. I ask, I plead with the Honourable and Gallant Major not to take any notice of the comments which have been made by the Leader of the Opposition, because I honestly believe, he has made those comments to try and protect the mover of the motion following the onslaught which the mover got from the Minister concerned. I sincerely hope he thinks about that, Mr Speaker.

HON A J HAYNES:

Mr Speaker, I would like perhaps to start by replying briefly to some of the points made by the Honourable Minister for Education

and Housing and Medical and Health Services, the Hon Mr Perez. His first remarks regarding the Leader of the Opposition's view on Intasun in the context of travel to Gibraltar by plane. For a start, it cannot be stressed too lightly that that was a confidential group, the Advisory Board, I would have thought the Aviation body were confidential in their views. Certainly, I would take it as if members of the Public Accounts Committee were to start talking in the street about what the members have discussed amongst themselves. I mean it would be a great prejudice to the only instances of cooperation that we have in a Parliamentary function on a Select Committee basis and I think that the Minister to make known such a matter regardless of whether they can or cannot be defended is a grievous error, he has been tempted into doing it for the mere promise of a little political point. Which is exactly what he is accusing us of, with electioneering, and I heard an aside by the Chief Minister - but everybody knows. Everybody knows because the Chief Minister has told them, I suppose. In any event, now that it has been made public, Mr Speaker, the Air Advisory Board were considering the application by Intasun to bring a scheduled air service to Gibraltar, Air Europe. The matter was rejected on appeal to the Civil Aviation Authority, not a Board to be taken lightly, a body of experts, who in fact, more or less upheld the views of the Honourable Leader of the Opposition. Nothing personal against Intasun but did it make economic sense, or were they promises, empty promises, which could not be fulfilled. It is also of interest to know, Mr Speaker, that the Civil Aviation Authority found as a matter of fact that to allow the Air Europe enterprise would also be a serious jeopardy to Exchange Travel. A firm which has been supporting Gibraltar for over fifteen years, because there was not capacity or room in their service to allow for more scheduled services, unless the infrastructure in Gibraltar is improved. Furthermore, Mr Speaker, the matter was then taken on appeal once more to the Minister for Trade and again rejected. So it is not a matter of the Leader of the Opposition putting a spoke on the wheel, but of his dissenting voice being upheld by the experts at all levels and even if presuming they were all wrong, Mr Speaker, what are we to go by. Intasun comes out, makes some promises and within a month they haven't got any planes. Planes, Mr Speaker, the exact point the Honourable Member was trying to put forward. If one turns however, because at this stage I will try to avoid the heat and the personal animosity that has been shown in this debate so far and turn just to the motion before the House, rather like my Honourable Colleague Mr Bossano. We are stating that this House holds the Government responsible for not taking sufficient effective action. It is palpably clear to all those who have any dealings with tourism in Gibraltar, who have any form of our dependancy connection or whatever on tourism that things are not going well. In fact

things are gradually getting worse. I don't know if we can attribute the decline to the appointment of the present Minister of Tourism but certainly datewise it wouldn't be far off. This has not been suddenly discovered by the Opposition today. It has been brought up on a number of occasions and the last one, again in May of this year, a mere few months ago, my Honourable Colleague Mr Scott brought up the matter of the dirt, filth in the streets, in this connection. And the first point that I would like to tackle Mr Speaker, sufficient effective action in my view that we cannot even produce a clean product, we are not making any efforts whatsoever. It is disgusting Mr Speaker, to see the streets of Gibraltar, especially Main Street and subsidiaries of Main Street. We have had letters in the Chronicle, we don't know how many letters from tourists saying sorry Gibraltar, you are very dirty. We have had it for years. And we are getting it from local people also, writing to the press. And of course one assumes that they are right, just a tip of the iceberg, they represent what the whole host of the silent majority feel on the matter. We have had a committee of rubbish, I don't know how many years now, they have not collected any rubbish. The disgusting streets Mr Speaker, are there for all to see. Apparently there isn't any more industrial dispute, but the dog excrement is there for you to trip over or stand on at your convenience. It is disgusting, Mr Speaker. And yet, they talk of having done everything within their power. That is even before we talk about the product itself. We have seen remarkably few projects to improve the tourist potential of Gibraltar I know that Gibraltar was never, until the problems with Spain started, considered a tourist centre. I don't claim to be as well informed or as experienced in this matter as are the Chief Minister and the Leader of the Opposition who have been here much longer than I. But I remember hearing since I was much younger, that Gibraltar was always a fortress and the tourism was in Spain. We have had time against us as we have had on housing. We have had a long time now at least 10 years, in which tourism has been the growing economy, the growing part of our economy, the part which obviously requires a tremendous interest and importance. And even more so, Mr Speaker, since the announcement of the closure of the Dockyard. The viable alternative of economy must be tourism, we were told as a result of the first PEIDA Report that a commercial yard is not the answer. We were not given very great promises in terms of economic potential in the commercial yard. We have been told for the last 3 to 4 years that tourism must be the growth area and there has been no growth, Mr Speaker, there has been recession. How can the Government in the face of those facts, over the last four years, say that they have given the matter effective and sufficient either consideration or work. Instead, Mr Speaker, they refer rather sarcastically again out of context to matters stated in 1976-75, what does that matter, Mr Speaker?

That is the kind spurious arguments that you would expect from someone who cannot answer the case in point. And there are a number of areas which still require serious consideration, not only Mr Speaker, not all the projects in mind are of a very expensive nature. If I may bring one point which we brought up on this side of the House at least for two consecutive years it is the Monkey Park. Maybe that the ape park because apes make you laugh, but it is not, it is a very serious matter. There is nothing arranged today for mass tourism to see the apes. There is one tiny row, three cars and it is blocked. And there is no walk, there is very little organisation. Some people came along, made a report and said all you do is make a park area out of the land which is there and not used for housing, it is not being used for anything. You have the nucleus for employment because you have a restaurant, you have a tourist store, you have a watchman, the unemployment and you have a much larger area where you can lure many more tourists and therefore contribute something to the tourist potential product of Gibraltar. And it may also, Mr Speaker, serve as protection for the apes themselves. The apes will be grossly overfed if they are left within easy access to tourists and as the tourists increase in numbers there could be some danger. But I would not like to digress onto this matter. Again, Mr Speaker, there is the question of Princess Lines. Princess Lines is what is normally known as the "jungle" is one of the most exciting places I have ever visited and I only saw it for the first time about three months ago, Mr Speaker. The work there to uncover that was undertaken not by the Gibraltar Government, but by our local Battalion. They have been given precious little support by the Government. And on top of that Mr Speaker, the Government, and certainly the Chief Minister must have known what it looked like, must have seen its potential and yet over the last 10 to 12 years an enormous track of land has been left as "the jungle". And that is what it is. A wasted opportunity. Caroline's Battery Mr Speaker is remarkable only for the litter. These are not areas or spots which are financial or capital intensive. We have had enough complaints about their lack of funds Mr Speaker. So we are looking at a project which is not necessarily expensive. There is the question of the Military museum, Mr Speaker. Gibraltar's military history is ironically the fortress image which was once against tourism, has now become one of the main bastions or hopes for tourism in the future. And not enough, Mr Speaker, has been done in that field. Mr Speaker, then we come to the way the Government treats tourists in Gibraltar. We had Mr Speaker, another motion, a general motion as regards those hydrofoil tourists that came to Gibraltar and were left stranded. That very sorry episode, Mr Speaker, was not one where the Government showed either sympathy or interest. And if I may briefly re-cap, Mr Speaker, what happened on that occasion.....

MR SPEAKER:

No, no, no. You can quote it as an example of the failure of the Government to look after tourists but let us not get involved in details.

HON A J HAYNES:

Well, Mr Speaker, our lack of tourists or interest really reflects that the Government will wash their hands, rather than take on the work that is required in improving the product. It is symptomatic also Mr Speaker, that that same lack of concern over the hydrofoil tourists, is reflected in the yacht berthing, reporting berths requirements. And the way the Government decided to deal with this matter. Yacht tourism Mr Speaker has been a very important financial source to Gibraltar and yet for the most part its here in spite of Government. They do things which are in their interest, in their interests to have a tidier bureaucratic system, not because it can induce more tourists to come Mr Speaker, but because it makes it easier for them to work out their loggings. And that Mr Speaker is not the right attitude. We haven't seen Mr Speaker, any concerted efforts by the Government to break the £50 Departure Tax applicable in Morocco. I would not be averse to see the Chief Minister going to Morocco. Well, Mr Speaker, in potential the product here in Gibraltar are second to none. It is rather like the governing parties ideologies they cover every single possible policy idea that they have, they draft them all, they always say we thought that years ago we have got that as part of our manifesto. We are still waiting for pedestrianisation, Mr Speaker. We are still waiting for housing for that matter, we are still waiting for everything they said they were going to do, Mr Speaker. Pedestrianisation, I think has something to do with the motion, Mr Speaker. We need to build the kind of infrastructure which will make possible a tourist expansion in Gibraltar. Without the infrastructure we can go nowhere. Without all these projects Government will never have the interest, they haven't got their backs into this, Mr Speaker, if they were convinced that these ideas, that these projects, would really have a material effect on the product, if they really knew in which direction to take Gibraltar, they would by now, I am sure, have taken these steps but they do not know what they want to take, they don't know therefore how to approach the matter. And this lack of an infrastructure is something which has been concerning us on this side of the House for some considerable time. And if I may state, in London in March last year when I went to lobby MP's on the "commercialisation issue", I informed them that when in those days the frontier was going to open on 28th of April, Mr Speaker, I said that commercialisation would according to the PEIDA Report review, be extremely difficult

if it was to coincide with the time when the frontier opened. Because when the frontier opens, Mr Speaker, when the frontier opens Government would require all the money, all the resources it has, for creating and building up the tourist infrastructure. We have had a reprieve, Mr Speaker, but there are no signs of anything being done to make the most of that, Mr Speaker, of that opportunity. There is no burgeoning infrastructure for tourism coming into Gibraltar today. All we have got, I think, is to improve the tourists potential in Gibraltar, Mr Speaker, is the promise of the new fountain at the Piazza, that is the only thing I can think of that the Government have done in these last four years. And that was not their idea and it is not their money, Mr Speaker. That is really its sum total of tourists for Gibraltar. The Piazza fountain inspired by the Opposition and the Museum Committee and paid for by Shell. That, Mr Speaker, was the Piazza which we never want to see again. Nor, Mr Speaker, have we seen any serious attempts to answer to the problem posed by the partial opening of the frontier. We all know it is difficult, Mr Speaker, when there are no customs facilities in Spain but we are receiving the visit of thousands of Spanish tourists, Mr Speaker, and we are missing the opportunity of getting some return on those visits. I know that ideas have been floated to the effect of making Gibraltar the cheapest watch selling town in the world. Small items can be passed through the frontiers; certainly we are concerned in improving the site seeing facilities so that when they stay they are not only going to go and see places but it should also be in our interests that sightseers have more things to see of that nature. We have people employed looking after these buildings and there are many buildings of architectural interest, historical military interests which are left unexploited. Which brings me onto another area, conservation is not just for its own sake, but in the interest of the tourist potential of Gibraltar as a whole. And we have got some very slow converts on the Government benches to conservationism, they are slow they are new, Mr Speaker, and they don't really know what it is all about. And so when we had Intasun here Intasun was telling us all about the sun, sex and sea potential and the Minister for Economic Development and Trade was telling us all about the conservation. And they got their lines crossed there, Mr Speaker.

HON A J CANEPA:

If the Honourable Member will give way. It was the Chief Planning Officer who did that. I didn't give them the talk, the Chief Planning Officer did.

HON A J HAYNES:

Well, Mr Speaker, I know it is reputed that Harry Goodman of

Intasun, stated or said of the Minister for Economic Development after he heard him expounding of the possibility of Gibraltar's potential for bird watching holidays, he said when we start selling bird-watching holidays you are not scraping the bottom of the barrel, you have reached the bottom of the barrel. I don't know how many bird-watchers have come to Gibraltar this year, Mr Speaker, but certainly we would not consider that the visit of bird-watchers to Gibraltar to be the kind of sufficient effective action taken by Government to improve tourism in Gibraltar. And, Mr Speaker, we also heard the Chief Minister saying that the size of the tapas didn't matter, and Harry Goodman said that everything was alright. That is not so, Mr Speaker. If we had the Honourable Mr Zammit, Minister for Tourism, who said that this has been you know the be all and end all of his life, he had finally got the big people coming. It wasn't him that brought them out, Mr Speaker, as far as I know. But anyway, he was trying to take full credit for bringing Intasun and 40, 60, 70 tourists and you would imagine what an opportunity in the very first night, Mr Speaker, they got it all wrong. And that is the kind of planning that we have got, Mr Speaker, they couldn't even cater for 40 people with all the management that Government have and the Chief Minister says that they were not appalled of course they would not tell the Chief Minister that but I was hearing it all the next day. Perhaps they didn't know I was in the Gibraltar Government, they were just grousing like mad. And then, Mr Speaker, we come on to the other question of the Honourable Mr Zammit's intervention, I shall come to some of the points he has made. He complains that the Honourable and Gallant Major Peliza hasn't gone to visit him in his office. I don't think that that has any effect, it doesn't mean anything, Mr Speaker, as far as I am aware the Honourable Gallant Major was meeting the people of the Tourist Board and trying to get the Honourable Member of Tourism to meet them. He has been seeing the people who count, Mr Speaker, not the Minister, he has been seeing the ones that matter, the ones that are doing something in Gibraltar. And he is trying to coax the Minister into meeting them himself. And if it was the yardstick, Mr Speaker, if it was the yardstick, to judge by, then what would the House make of the fact that in my own shadow Ministry in Housing, I have been in the Housing Department more than any of the three Ministers who have claimed to be Housing Ministers in the last three years.....

HON H J ZAMMITT:

Rubbish.

MR SPEAKER:

Order, order.

HON A J HAYNES:

More than you, more than your predecessor, more than.....

MR SPEAKER:

Order, order. You will speak to the Chair and not point at people.

HON P J ISOLA:

Mr Speaker, on a matter of order it was only about 2½ hours ago the Chief Minister was saying how his side of the House listened to us in complete silence. We've had eight interruptions in the course of this afternoon from honourable members opposite. Surely what is good for the goose is good for the gander, surely.

MR SPEAKER:

Order.

HON A J HAYNES:

I stand by my claim, Mr Speaker, that I went to the Department and I still go to the Department more than the Minister.

MR SPEAKER:

Order, order. We will have no interruptions.

HON A J HAYNES:

And now I come to the other remarkable debating point, remarkable. This thing about a close relationship commercialisation which is attributed to the Honourable and Gallant Major, well I think it is in fact to his credit, to have that kind of foresight and vision. They talk about electioneering Mr Speaker, this is just a preview the kind of thing we have had from the Honourable Mr Zammit is a preview of the kind of election campaign we can expect from them, Mr Speaker.

MR SPEAKER:

Yes, but.....

HON A J HAYNES:

It is character assassination.

MR SPEAKER:

No, we will not get involved in this.

HON A J HAYNES:

Thuggery.....putting the boot in.....

MR SPEAKER:

No, you will withdraw that statement.

HON A J HAYNES:

I withdraw it Mr Speaker. Are we going to have another campaign?

MR SPEAKER:

I have asked only that it is not relevant to the debate, what campaign we are going to have for the elections.

HON A J HAYNES:

I only seek to bring it in so far as Honourable Members on the other side have made more than one reference to the purpose behind this motion which is that of electioneering.

MR SPEAKER:

It is perfectly in order to refer to the general election as being a motivation of what is being said in the House, it is not in order to try and qualify the kind of campaign that one can expect. That is what I am calling out of order.

HON A J HAYNES:

Mr Speaker, they see it as electioneering, I interpret that to mean it is not fair to bring up the things that we do wrong. Of course it is fair, we are going to bring it up at elections, you can be damn sure. It is really saying that we are holding you to account. We are giving you now an opportunity before the elections, to hear what you have to say.

HON P J ISOLA:

Hear, hear.

MR SPEAKER:

Order, order, order. You shall speak to the Chair or you will discontinue your speech. It is one thing or the other. You can please yourself.

HON A J HAYNES:

I think it is in order, Mr Speaker.

MR SPEAKER:

It is in order to speak to the Chair not to the people across the House.

HON A J HAYNES:

I think it is in order to have a sense of account after a 4 year period. To try and put it off on the basis of electioneering. Well, Mr Speaker, if there is another meeting of the House I am glad to inform members opposite that I will be giving them the chance to defend their record on housing and let them call that electioneering. It is electioneering, Mr Speaker, because that is what our elections is going to be based on.

MR SPEAKER:

No, no, we are degenerating this debate. I am not going to have this. Either you have something to say which contributes to the debate or you just finish your speech. Please yourself.

HON A J HAYNES:

Well, Mr Speaker, we had another sorry debating point made by the Honourable Minister for Tourism, reimbursement for Honourable Members, Mr Speaker. They don't seem to take into account that the most important privilege which is accorded to him is not double the allowance of members opposite but is the opportunity to put things right. He has got the chance to do something and all he is complaining about, Mr Speaker, is that they are not getting enough money. That I think is a disgrace.

HON H J ZAMMITT:

On a point of order, I have not made reference that I am dissatisfied with the money I get. I said that I was paid and I went as far as saying reasonably well paid. I made reference that they were getting half of what I was getting and that the Honourable and Gallant Major Peliza was gallivanting in England drawing half my allowance and doing sweet funny adams for tourism.

MR SPEAKER:

You didn't say the last two words. I would have called you to order. You didn't say the last two words because if you had I would have called you to order.

HON A J HAYNES:

Well, Mr Speaker, I think that tourism is getting nothing like its money's worth from the members salary and all he does is complain that he cannot do anything about it and complain that he doesn't get enough money for it.

MR SPEAKER:

No, with respect, he has not done so in the House, and if that is what you are stating you must correct yourself. He has most certainly not said that.

HON A J HAYNES:

Well, Mr Speaker, I don't think I shall involve myself further in the remarkable intervention made by the outsider.

HON CHIEF MINISTER:

Mr Speaker, I would like to make a personal statement.

MR SPEAKER:

Most certainly.

HON CHIEF MINISTER:

It is completely untrue that I have had anything to do with the dissemination of the fact that everybody knows in Gibraltar that the Leader of the Opposition was against Intasun starting a service of some kind in the air communication. I have had nothing to do with it and the Honourable Member has said that and it is completely a lie.

HON A J HAYNES:

Mr Speaker, my own assumption is based on an aside by the Chief Minister but I am glad to hear that that is not the case.

HON P J ISOLA:

Mr Speaker, on making his personal statement, the Chief Minister

had in fact misrepresented the position, my position. I have never made any representations of any kind against Intasun coming to Gibraltar, what I dealt with in the Air Transport Advisory Board was an application by Air Europe to run a scheduled service to Gibraltar. As back-up to that application it was said that they would be bringing Intasun holidaymakers. My position was very clear. I did not consider the route to be capable of having an additional scheduled service but that Intasun if they were genuine in their efforts to come to Gibraltar, they should come by charter and I further, and I further said Mr Speaker, in that Air Transport Advisory Committee, that if a scheduled service was allowed for Air Europe it would be the end of Exchange Travel, as a charter operator, that had stood by Gibraltar for over 14 years, running charter services to Gibraltar and it was for that reason that I had reservations on the application. I also asked in that committee that there should be more discussion but that was overruled because of the urgency of the matter. I don't take any delights to say that the feelings that I expressed were in fact the substance of the judgement of the Civil Aviation Authority who had an opportunity to hear the Government.....

MR SPEAKER:

No, no, you are not.....

HON P J ISOLA:

And was also upheld by the Secretary of State for Trade and Industry.

MR SPEAKER:

Fair enough. Mr Canepa are you going to be long?

HON A J CANEPA:

Mr Speaker, it is now five to five.

MR SPEAKER:

Are you going to be long?

HON A J CANEPA:

At what time are you hoping to.....

MR SPEAKER:

I was hoping to have a short recess for tea and it makes no

difference now or in ten minutes time. But if you are going to be more than 10 minutes..

HON A J CANEPA:

I think I am going to be slightly more than 10 minutes perhaps.

MR SPEAKER:

I am going to have a very short recess for tea no more than a quarter of an hour..

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

HON A J CANEPA:

Mr Speaker, I listened with great interest to the personal statement which the Honourable Leader of the Opposition made as to the reason why he had not been able to support the Air Europe application. I think he said it was due to saturation on the route. Again, one other example of the inconsistency from Honourable Members opposite and in particular the Leader of the Opposition, in respect of the policy of tourism, in 1971 in May 1971, during the Budget, he was asking Mr Serfaty whether he did not consider and this was because Mr Serfaty was criticising the insufficient expenditure by the then Government on field sales and advertising, Mr Isola was asking Mr Serfaty and I quote: "Does he not consider -page 156 - does he not consider that the most vital factor in getting our tourists to Gibraltar is having proper and adequate air services". Again, yes of course when it comes to supporting an application for better adequate and better air services then we can adopt a different tack altogether. One thing is what we said in 1971 and another thing is what we say in 1983.

HON P J ISOLA:

Will the Minister give way.

HON A J CANEPA:

I am going to give way on this one occasion, I am not giving way again.

HON P J ISOLA:

I am very grateful to the Minister. I don't think he appreciates at all the difference between a schedule air service and charter operation. What I have always said and I

said it in the Select Committee on Air Communications if he would care to look at the report, that there has to be a balance between the scheduled and the charter services. The proposed application by Air Europe for a scheduled service because of the nature of it and the way it was intended to operate it, meant with almost certainty that the only other company running a charter service Exchange Travel, would be done out of business and its because the balance would have been upset that I objected, but I equally supported an application for a charter operation. I want to keep my position clear, because I have been consistent for about 15 years on this and the Minister may find quotations that may give a different impression, but I would ask him to read the report of the Select Committee on Air Communications on which I served under the Chairmanship of Mr Serfaty and my intervention throughout these years on the subject of Air Communications.

HON A J CANEPA:

And then we have the Honourable the Leader of the Opposition and the Honourable Shadow Minister for Tourism, who also shadows Postal Services complaining about the difficulties in getting air mail to Gibraltar, when it is the scheduled carriers who are supposed to be doing that, and who don't put on sufficient flights to Gibraltar, and then when somebody else is prepared to put on more scheduled flights and bring air mail more days of the week, that cannot be supported. Mr Speaker, I think we have seen today in this House, one of the most weak an pathetic performances from the Opposition in the last four years. We have Major Peliza, being caught with his pants down by my Honourable colleague Mr Zammitt, and we have had Mr Isola trying to bail him out in his usual bluff manner and then we have the weakest, most pathetic performance of them all from Mr Haynes rambling on from one inanity to another as one point or other happens to occur to him without any rhyme or reason, no cohesion in his speech, lowering the whole tone, of what until then, I thought had been a pretty constructive and a pretty good debate. I am now beginning to understand Mr Speaker, why Major Peliza wants an index for Hansard, I think it is to enable him to check on all the contradictions that he has been making in this House since 1969. Mr Zammitt today has given him a beating, the like of which I certainly haven't seen in nearly twelve years in this House, but Mr Speaker, if you spit vertically upwards into the air often enough, it falls on your face. That is what has happened to Major Peliza. Major Peliza in this House speaks on everything under the sun. I am amazed how he can get up on every subject and have his say and the Honourable Mr Haynes is beginning to do the same. They are experts on virtually everything, Mr Speaker, I don't dare get up and speak on subjects about which I know little or next to nothing, but they are quite happy, have their say, on anything

at all. In the case of Major Peliza, I am now sure that I know what the reason is why he does that, he does that to get coverage in the media, because the more often that he stands to speak on whatever it is, on any piece of legislation, he knows something, he has got a certain point to make, and the more often he does that, the more often he will get mentioned on television and the more the public thinks that he is making a contribution to political life in Gibraltar. The Honourable Mr Haynes is doing something similar, his view is, it is better to get talked about, than not to be talked about, as Oscar Wilde said, "I start getting worried when they don't talk about me" and that is a fact that Mr Haynes is adopting, I think he is going to be successful. I have a feeling that Mr Haynes will do relatively better in the next general elections, than he did in the last one, and that would cause problems for Members opposite, because Mr Haynes is ambitious. Mr Haynes and Major Peliza haven't quite made up their minds whether trade promotions are an important aspect of the marketing of tourism or not. Mr Haynes has scoffed at the number of occasions that the Honourable Mr Zammitt has been on trade promotions in the United Kingdom. He describes the man's jollies, the Honourable Major Peliza consistently on this occasion has been pressing for more trade promotions, because he considers that trade promotions are important. I would like one or the other of them to tell me who is the official party spokesman for tourism and when they have anything to say on tourism, are they speaking on their own behalf or are they promulgating, are they stipulating what is DPBG party policy on the matter in their speech. I haven't given way Mr Speaker, I don't propose to do so. What has happened today Mr Speaker is, that Horace Zammitt, has proved that he is no longer fair game for the Opposition, who has been indulging in the sport of Zammitt bashing for far too long. I remember the Honourable Mr Tony Loddo, who is not here today when Mr Zammitt was appointed Minister for Tourism, because he had been acting for a while, making a remark to the effect, Zammitt is now going to be let loose on tourism. Well, Mr Speaker, it has all backfired, because he has confounded them all today in a true major tour de force, not the minor tour de force that we have from the Major opposite but a real major tour de force. A well researched speech, well put together, full of relevance and not just vindicating himself and his party, but giving the lie to the empty, fatuous, hypocritical apology for what cannot even be termed a policy in particular to Senior Members of the Opposition opposite. I heard during the course of this House, one or two references on some Government measures that have been adopted for other reasons to the fact that these were tantamount to electioneering by the Government. I think it is Major Peliza who has been proved today to be doing precisely that. He has shown very little interest, very little real interest over the years on what has been going on in his shadow field. Other than when he descends upon us like Moses

from Mount Sinai, only that Moses had to, I don't think that they had aeronautical means of travelling in those days like he has. Descends upon us, like a good tourist boosting our good tourist figures of arrivals, no doubt, and betraying that opportunism which has backfired on him today. I think when the Honourable Leader of the Opposition four years ago, shortly after February 1980, when he had to allocate Shadow Ministries I think he had a real problem. He must have asked himself what on earth am I going to do with Bob Peliza, there he is in London, what do I give him to shadow. I cannot give him Public Works, I cannot give him Labour and Social Security, I cannot give him Housing, so what do I give him. And Mr Peter Isola had the brilliant idea, ah, we give him tourism and then he can be shadowing trade promotions, virtually on an internal trade promotion in the United Kingdom and as the bulk of our tourism comes from the UK, we can justify him there because he is doing a good job there for tourism; just like he does a good job with Members of Parliament by writing letters to them which could also be written from Gibraltar, because letters can be written from Gibraltar and you don't have to live in London to write letters to MPs. I challenge the Honourable Members opposite, Mr Speaker, if they seriously consider themselves as an alternative Government to tell the public, to tell the people of Gibraltar what Ministry Major Peliza is going to receive if they are elected to govern. Tourism again? And then as I say, he can stay over there and he can have a constant trade promotion, and then just before and just after meetings of the House of Assembly, he could come over and attend once in a while a meeting of Council of Ministers and no doubt they will find some excuse to justify what marvellous contributions he would be making to public life. Let them tell the people about that Mr Speaker, or else of course, the alternative is that he should pack his bags, reintegrate himself with Gibraltar and then face the music constantly like we are having to do here in Gibraltar day in and day out facing our constituencies in the very energetic manner which the Honourable the Leader of the Opposition has referred to. Fortunately Mr Speaker, there is little likelihood of that happening, I think the Opposition lacks credibility, and I don't think that anybody seriously in their senses can visualise them as an alternative Government. All that they have achieved in four years has been to polarise politics in Gibraltar in a manner which has been unknown here for about thirty years. The Leader of the Opposition naturally tried to bail Major Peliza out. There is no doubt about Mr Isola being a good advocate, I will say that for him. He spoke about the lack of coordination that there was between the Minister for Tourism and the Tourist Industry. I have had meetings myself with the Minister for Tourism in the last two years or so with various groups in the Tourist Industry and I am frankly amazed at the wide diversity of views that there is

amongst people in the Tourist Industry about, first of all what are the problems of tourism what are the questions, I don't think they agree on the questions, let alone on the answers. What needs to be done to improve the tourist product and how more tourists could be attracted to Gibraltar. I am frankly amazed, no two people that one speaks to, who are involved in the tourist industry seem to have the same view about what needs to be done. Some people say the military aspects of Gibraltar are important like the Honourable Mr Haynes. The military history of Gibraltar, I tend to agree with him, I would have thought that Gibraltar had something unique to offer, along comes an expert, the Director of Intasun, Mr Goodman, nonsense, rubbish, sex, sun and what is the other thing sea, that is what matters, but somebody else from Both Worlds like Mr Sam Alper will tell you, history, that is very important, military museum, conservationist and dinners and luncheons are arranged so that we can't talk about it, but Mr Goodman doesn't agree. Mr Solomon Serruya says something completely different, Mr Serruya is a prophet, he says something completely different and no one seems to agree. I am glad, I can tell the Honourable Members that I am not Minister for Tourism because I think people would be driving me round the bend and I don't like to be driven round the bend. What I am confirming Mr Speaker, is that there are different views amongst people intimately involved in the tourist industry about what the Government's policy on tourism ought to be. The Government policy is the one that has been expounded by my Honourable colleague today in a clearer manner than anybody has done since the time of Mr Serfaty. Mr Isola challenged that there had been any increase in tourist expenditure by this Government. Where is it stated he says, not in the estimates, whereupon he compares the figures, the revised figures of 1982/83 and the approved figure for 1983/84, conveniently forgetting that we brought to the House a sizeable supplementary estimate during the financial year 82/83 in order to launch a winter campaign because of the disappointment of the non-opening of the frontier and we lost the winter campaign and we came here for supplementary expenditure. On a once and for all, yes a winter campaign in 1982, you have a short memory, but I don't. That is why the revised estimates for 82/83 is higher because it was a one and for all to a winter campaign especially laid on, but if you examine tourist expenditure over the years there can be no doubt that the increase has been very considerable and 98% in the last four years as the Honourable Member spoke and in comparing one year with another, I don't think it is correct to speak about, to take a proportion. What is a proportion of tourist expenditure in the overall budget because, for instance, in any particular year you might have to spend, like we have had to spend this year £800,000 on importation of water, and that distorts the picture. Or you might have, what we now find, that

the Consolidated Fund Charges today, which are over £4m are a far greater percentage of the overall budget than what they were 11 or 12 years ago and so the size of the budget is inflated and as a percentage of that, tourist expenditure may appear to have gone down, it is a smaller percentage of the budget, but there is another test that has to be made as to whether it has been increased or not and of course in those days I think it was the year that you were talking about 1971, the Honourable Member opposite, the Government of the Honourable Major Peliza had been able to transfer a huge sum in those days, like £350,000 of the Consolidated Fund into the Improvement and Development Fund, if we were able to do that today, we would have to be transferring over £4m, because it was 10% of the then budget, and because we are not able to do that, what is happening is that we have a greater borrowing commitment than in the past, so you have huge Consolidated Fund Charges and that is why I think that it is not realistic to take the proportion of the total budget. The other way of looking at it is this, in 1972 the Government of the Honourable Major Peliza were spending £106,000 in their tourist budget, now since then, the rate of inflation has been 367%, for what should you be spending today, so that in real terms you are spending no less on tourism than what you were then, you should be spending something of the order of £378,000. What in fact are we spending today, we are spending on tourism £650,000, 72% more than the figure which would give you the same rate of expenditure in real terms of tourism. Again look what can be done with statistics, but if inflation goes up by a certain figure over a period of time, and you are spending much more than what the rate of inflation is, I don't think anyone can deny that in real terms. You are putting more into marketing tourism, regardless on what has happened with Labour and Social Security, with the Public Works Department or with any other item or Head of Expenditure in the Government's budget.

HON P J ISOLA:

Parity would also have had an effect on statistics in this respect.

HON A J CANEPA:

Yes, parity has had two effects, parity has had an effect on the cost of living and parity has had an effect on inflating the overall budget of expenditure because wages and salaries have gone up enormously, naturally. So that is why... what might be an interesting calculation to make is to do away with all expenditure on wages and salaries and then find out, what are you spending on tourism as a percentage of the rest. That is a very difficult exercise to do, it is time consuming, but that is another way of looking at it. I am just saying that

there is not one simple way of looking at the matter. Now Mr Haynes, really the way he rambles on Mr Speaker. Princess Lines, little support from the Government. I think I saw an exchange of correspondence between Mr Featherstone and Mr Loddo, which really settled the matter. Mr Loddo was saying exactly the same thing in the columns of the Gibraltar Chronicle. And my Honourable Friend took him up on the matter, and what is more, I think there was a letter from the Commanding Officer of the Duke of Wellington's Regiment, clearly proving that they had had all the support that they needed from the Government. Unless the Honourable Member opposite is saying that Col Cumberledge was lying, or that somebody at pistol point got him to write a letter to the Chronicle, because we must not upset Mr Featherstone. Is that what he is suggesting.

HON A J HAYNES:

Well on the question of Princess Lines Mr Speaker, I was personally involved in this matter. I went to visit them at the time when work had been already in progress for about 2 or 3 months on clearing that area and they had not been visited at that time by any single Member of the Government. They had also just been vandalised Mr Speaker, the expensive railway system to remove the rubbish which they had been collecting had been vandalised. Up to that day, Mr Speaker they had not received one penny of support or one man of labour support. And that Mr Speaker is what I think is meant by not helping. If the Minister wants to call that anything else, he is free to do so.

HON A J CANEPA:

Mr Speaker, that is not correct. I think at that time the support that was being given was by way of removing the debris, by way of providing Public Works transport and labour in order to remove the debris. The vandalism that there has been in the Moorish Castle Estate area has not been caused by Government. It is not members of the Public Works Department that go there to vandalise the work of the Duke of Wellington. It is the general public and it is an area seriously prone to vandalism. Because we took over 3 married quarters from the Ministry of Defence and they were being seriously vandalised and we had to spend over £20,000 in putting them right, in spite of constant complaints to the police that there have been on the matter. But the vandalism is not caused by Government. What I am aware that the Dukes were seriously disappointed about was the lack of public support, not the lack of Government support, the lack of public support. But if the Honourable Member opposite is scared, has not got the guts to say that, then I will say it. The Dukes were disappointed about the lack of general response that there was to what they were doing, and in particular the extent to which their work was being undermined and frustrated by people

living in the vicinity of Moorish Castle Estate. That is the reality of the matter. And the motive, I don't know, whether it was just vandalism or whether it was sheer bloody mindedness, because some people were aggrieved that their chicken coops had been removed, I don't know. Yachting, he said that in spite of the Government, yachting has picked up. I don't think that that is true. Unless the world was discovered in 1980 when the Honourable Member opposite came on the scene. We, who have been in Government, have been able to witness at close hand the strenuous energetic efforts of Mr Serfaty, to see that Bayside Marina became a reality. I myself have given Sheppards Marina a considerable amount of support during the last 2 or 3 years, whenever they have approached me in order that they have been able to expand the facilities that they have there, including the reclamation of land which is taking place now and the hoist which they have set up and which is bringing in a lot of business to them and to the economy. As for our plans, the East-side Reclamation Scheme, what is supposed to go there if not a Yacht Marina amongst other things. And in our plans for the development of Queensway as the Honourable Member will be able to see shortly when the development brochure is produced he will see that there is provision there for yacht marinas, I don't think that there is any difference in approach. There is no difference in approach. Yachtsmen spend a lot of money and they are good for the economy, and I don't see that why bring up something on which there is a general agreement when you cannot even score a debating point, because what you are trying to say does not square up with the facts. The Marina is in fact a monument to the work of Mr Serfaty during his time as Minister for Economic Development, and to me anyone can challenge that and the faith in Gibraltar of the people who have put their money there, undoubtedly.

HON A J HAYNES:

Mr Speaker, I made no reference to Bayside Marina. I made reference to the Yacht Reporting Berth. The Minister has been asked a number of questions, as to the difficulties posed to incoming yachtsmen from Waterport Yacht Reporting Berth, and these are questions that the Minister will himself remember over the last few months, since the Waterport Yacht Reporting Berth was introduced, and it was to that that I referred to in my intervention specifically. To talk about Bayside is to be perfectly obtuse.

HON A J CANEPA:

He said in spite of lack of Government support, yachting is going ahead he said, and then he directed remarks about the Yacht Reporting Berth. I have been there on a number of

occasions. I make it my business to go there whenever I go to the Port and I ask people, and initially there were teething troubles, and I got people intimately involved in the world of shipping to write to me and let me know what those teething troubles were, and I think they have been smoothed out. I don't think that there are complaints about the Yacht Reporting Berth any longer, even though let me say it is not my direct responsibility, because it is mainly Immigration and Customs, for which I am not responsible there is a Port Boarding Officer, and it is a joint responsibility. He said that the Government has not plans on infrastructure, doing nothing about infrastructure. Well, what is the Queensway Development all about. Is it not about expansion of the tourist infrastructure, I mean I am not an expert on tourism, I only picked up the jargon recently. In the early years some of the younger Members of the House, were very amused by some of the tourist jargon talk of Shoulder Months and Attack and Marketing and so on, I mean if one is going to be Minister for Economic Development and once you are a number of years in this House, you learn about it, and I think I know what is meant by tourist infrastructure, and I think that that is what we are trying to do with Queensway, I think that that is what we tried to do with Alexandra and Napier Battery, when we put it out to tender for development as an hotel. I think that that is what we are trying to do with the controversial Parsons Lodge, whether people agree with it or not. We have tried to increase the size and improve the tourist infrastructure because it is important, and I come now to my conclusion. Why is it important, why do we attach importance to tourism perhaps today, far greater than in the past. And if there is somebody that I think that cannot be accused by Members Opposite of a lack of consistency of his philosophy of tourism, it is Mr Serfaty. I have heard him speak on both sides of the House and his message has always been the same. He has been a visionary in that respect about the importance of tourism, when a lot of people used to make fun of him, Members in this House in particular, because he was visionary and he was an optimist about the importance that he attached to tourism and there has been complete and utter consistency in the AACR policy on tourism as expounded by the chief spokesman. And Honourable Members can look through the Hansards and I don't think that they will find any lack of consistency between Mr Serfaty or between Mr Zammitt or what in happier days Mr Abecasis, used to say and what his policy was. But why today, more than ever in the past? First of all I think we were all somewhat surprised by the fact that in cold statistics the Input and Output Study carried out 2 or 3 years ago showed the enormous contributions, far greater than we were led to believe, which tourism makes to the economy. Secondly, of course the closure of the dockyard has made it abundantly clear in the

studies that have followed about diversification of the economy that it is tourism and the Finance Centre activities which appear to be the only two growth areas. And thirdly of course, the fact that prime sites, ideal for touristic orientated development will become available in the future. Sites, which we have always wanted, which Mr Serfaty has always been after, because in all the years that I was a Member of the Development and Planning Commission whenever we had meetings with MOD people, and he was Minister for Economic Development, he used to hammer away about the fact that the Western Seafront of Gibraltar, which was the prime area for touristic development full of Ministry of Defence Establishments, and when we got something we had to put a school there because we had nowhere else to put the school, and they only gave that, not because they knew that there was to be a school there, not for touristic development, you could not have it for that, it had to be for a school. So the Ministry of Defence have had this short sighted approach about the problems of the economy of Gibraltar and we have never had the sites that we needed, and now, because unfortunately of the closure of the frontier we are able in a not too distant future, I hope, to get our hands on sites which I am sure that Mr Serfaty, when he started his public life 30 years ago, would have loved to have been able to get his hands on it.

MR SPEAKER:

The closure of the dockyard.

HON A J CANEPA:

The closure of the dockyard, thank you, very grateful. The closure of the dockyard unfortunately, has brought these matters to a head. I think Mr Speaker, in our tourist policy we know where we want to go. We know what has to be done. But unfortunately, in Gibraltar it seems that there is confluence of forces acting at one and the same time, we are being hammered on all sides. The dockyard closes, there are problems with the frontier, Moroccans who were coming here and spending a lot of money in Main Street, they are also hitting hard. And I think that there is a limit which any Government, particularly a Government in a territory, the small size of Gibraltar, lacking the resources that we have there is a limit to what can be done. And, it is only because when things goes wrong that a scape goat has to be found, but of course the convenient thing is for everybody to jump on the band wagon and make the Government the scape goat. But I have no doubt that if this debate in the House today has shown anything, and we should all be grateful to the Honourable Major Peliza for the opportunity that he has given us to hammer him and hammer others

over the head, it has been to show the clarity of purpose and resolution that there is on the Government benches about the importance which tourism has for the economy and about the way ahead. Thank you Mr Speaker.

MR SPEAKER:

Are there any other contributors? I will then call on the mover to reply.

HON MAJOR R J PELIZA:

Mr Speaker, if the object of my bringing this motion to the House was to get people to talk about me for better or for worse, I must say I have succeeded, and if the Minister for Economic Development who was the last speaker, thought so, he has acted with childish naiveness, because he has been one of the greatest contributors in that way. In fact, Mr Speaker, if it weren't because they have brought ancient history into the debate, they would have had nothing to say. If it weren't because they had made personal attacks on something that has nothing to do with the motion, myself. The facts of the motions have not been tackled at all. The Minister has not disproved any of the facts presented in the motion, neither has the Chief Minister, nor has the Minister for Economic Development. They have not gone point by point of the motion and said, we are not responsible for tourism in Gibraltar, they have not said we have taken effective action to prevent industry suffering a very serious decline. They have not proved that the trade have not suffered seriously. That they have not done at all, Mr Speaker. They have not spoken on the motion, and in fact, if they have agreed to what I said before at the beginning, to accept the motion and let us go home that would have been a much better exercise. Because quite honestly, the points have not been debated at all. That is the fact of the situation. And if they were to be instead of politicians here a jury I have no doubt that that would be the verdict. A pity indeed that this has not been televised, a pity indeed that this has not been heard by wireless. And of course, if that is not so it is not the Opposition that has objected to that, it is the Chief Minister himself who deliberately has been putting off the day of televising and broadcasting the sessions of the House for the very good reasons because then the Government will be shown for what they are. That is the fact of the situation. Mr Speaker, with that preamble I would like now to go into the points that were raised by the different members. The message that came clear to me from the Minister for Tourism was the following; it is not true, we are not to blame, we can do nothing about it. That is the loud clear message that came from the Minister, right through his long and I think completely off the point intervention. He went to the extent of saying

that I was not listening because I was not using this thing. Let me tell him that I heard every word that he said. In fact, he became so excited, perhaps as a man who was guilty, so excited, and his voice went so loud that I could not use this thing. Otherwise I would have gone really deaf. And so, Mr Speaker, he can now be sure that I heard every word that he said. And if I am a little bit hard of hearing, perhaps hard of hearing, perhaps he should know why. I volunteered at the age of 18, Mr Speaker, as a Member of the Gibraltar Defence Force, a gunner, called out a day before the war, served for 20 years in the army, most of the time I was an instructor in gunnery and therefore Mr Speaker, I was all the time by the side of the gun, and as a result of that I now have what you call "gunner's ear". That unfortunately, is my situation, but it is certainly of my own making and I am afraid that I find difficulty perhaps he can put up with that. But let me tell him that on this occasion I heard everything entirely. He need not be worried that I am sick either. I can tell him that I run every day 4 or 5 miles. I can run from Penny House to the frontier and back, and I do that when I come here, and if he wants he can join me any day, and see who can do it better. So in that respect he can also be at ease, I am not sick, and hopefully, Mr Speaker, I will carry on being in this House. As to the other point that came recurring all the time that I was in Britain, I was never here, when I came I never went to his office, let me start by saying why I do not go to his office. I do not go to his office because I do not want to be identified with his position in Government in any way whatsoever. I do not want to be a bird of the same feather at all. It would destroy my image I think with the other people who come to me, to put the points about tourism, to see me walking into his office and having cups of tea with him, they might think we are in cahoots and that of course is the last thing that I am. What I do like and he does not, let me tell you that is that I go round to the people who matter, to the hotels to see the managers of the hotels, that is my business and that is what I do. And he should not expect me to come to his office at all, no matter how many times, perhaps he wants me to, perhaps that is the idea, perhaps he might say, but look he is coming, he knows all about it, he is doing nothing about it. No he cannot charge me in that way, because I am not, I am not interested and I will not go. As to questions, how many questions I have asked, I have asked many more questions than he has said, but it doesn't seem to have registered in him yet that the question about cleanliness and that is a province which obviously comes under the Minister for Public Works. They are just as important for tourism as if I ask him, but very cleverly he never puts those in the list, perhaps he doesn't realise, in fact that is not my job, Mr Speaker, if I were him, I would have kept going round Gibraltar every time, looked at those places that I have

questioned about and urge the Minister for Public Works to have it done properly. I remember, well it is still there, I have not looked this time, but Jumpers Bastion was a point that I kept asking the same question time and time again and it wasn't ever done. The other one is overlooking the Secretariat itself, I don't know whether that has been done. There was an old fridge lying there for ages. Well if it has been cleaned up now, it has taken about six months or more, Mr Speaker, and I pressed it every time I came to this House. That was the job, Mr Speaker, of the Minister for Tourism, if I had been him, particularly having been a Sergeant Major in my days, I would have made it a point of going round and seeing that my product was in proper order. So, Mr Speaker, if he wants to know what I do in the short time that I come here, I do many things, many more things than all the time that he is here apparently, because it is not a question of being in a place, it is a question of getting things done. Now to put the Minister of Economic Development at ease, perhaps in fact, it will not put him at ease. Let me tell him that if I am elected for Government, I will of course come to Gibraltar and that is when the Opposition would ask me to go back to England, in fact, I don't think they are very keen on having me here all the time, even now in the Opposition. Because if I am capable of stirring up what has been stirred up today here, the amount of talking that they have done simply because I come here once, every time there is a House of Assembly, imagine what would happen if I was here every day for 24 hours a day. Perhaps the Government wouldn't be on that side and then they would be afraid. Now let me tell you another thing, whatever the Minister for Tourism may think and the electors don't think so, I was elected, I left for England in 1972, unfortunately I had to do it. Very much against my wishes but it had to be done for reasons I think people generally know. I stood for election in 1976, because I thought it was my duty. I am not a quitter, therefore I thought I will stand for election, and if the people think that they do not want me they will not vote for me, if they think that I should remain in the House of Assembly, they will, they voted for me. That was for four years and then came the next elections Mr Speaker, and I stood again and I was elected again with more votes than six members of the Government, one of which was the Minister for Tourism. Now the cheek of standing up and talking the way he did after the elections had pronounced what they did on two occasions. No I will not give way, Mr Speaker, I will tell you why I won't give way. The Government had plenty of time to face the facts and answer the motion as they should have done. They have decided not to do so, they have gone round in circles, they have been looking at ancient history, I am not going to give them another opportunity now, they had their opportunity, so let me tell every Member of the Government I am not going to give way. Now, Mr Speaker, lets go into ancient history, it is not the first time, that some-

thing goes wrong and the Government is defenceless, the first thing they do is, they blame the IWBP. 1969 to 1972, that is in one breath. In the other breath you were no good, you were only there a little time and you were chucked out, but every-time there is something wrong twelve years later, IWBP. In this instance, they pick up the Hansard and they looked at it, it suits them to look. Perhaps if Mr Zammit had been there in those days, he would have seen what the discussion was all about. Mr Serfaty was completely obsessed with tourism. The MOD did not count. I remember a phrase that I used which I think annoys them very much particularly the Minister for Economic Development, that you should not bite the hand that feeds you. I didn't like that when I said it and the reason why I said it was because they were attacking all the time the MOD and the MOD, Mr Speaker, right from the beginning of the history of Gibraltar has been the provider for Gibraltar and today I still hope they never go. For two reasons. One is defence and the other one is the income that is coming out from them, so if they were to go, not only would we be penniless, but selling peanuts in the streets, but we would be defenceless and we would not last 24 hours. This is why I said and I repeat now, do not bite the hand that feeds you. That I think annoyed at the time those attacking MOD. In that debate that we were talking about, Mr Serfaty said no, no Dockyard, not important, MOD not important, we have got to turn this into a Monaco, find space for all sorts of things. I of course, realise that tourism was bringing an income and we wanted to keep it, but more important still as I have said before, we are in isolation, it was important to bring people from outside into Gibraltar to keep us in contact with the outside world. In that respect I said, we have got to look at tourists in a realistic way. And in that way I looked at it then, and in that way I look at it today. There has been no change at all in my policy. The fact remains, that whatever the Minister for Economic Development and Trade may juggle around with figures that we were spending more money percentage wise of the total estimates, that they are spending today. But that is not important. What happened in those two short years, no 2½ was it? We got off the ground two hotels, Holiday Inn started then and the other one is Ocean Heights. At the time when they closed the frontier and they stopped labour coming into Gibraltar and when I had to fight very very hard to get aid for Ocean Heights because they had not only closed the frontier, they had also withdrawn the ferry and the people who were going to put the money in were very reluctant, because they saw this as the end of the line. Anyway we managed to get the two hotels off the ground. In our time, in our very short time, how many hotels have been built since then by the person who was going to turn Gibraltar into a Monaco. How many, I can't think of one. So, Mr Serfaty who has this wonderful dream and his

successors and party who were going to turn Gibraltar into a Monaco have not put one brick on top of the other to produce another hotel. No I am not going to give way, I said so before. So, Mr Speaker, this is the great Monaco, the great dream of the AACR and even the Marina, if I may say so, even the Marina, and I suggest for the Minister for Economic Development and Trade to check this, was set down by the Planning Commission in our time. Thanks to Mr White, who had the courage to put money into the ventures without any aid whatsoever from the Government. Now, as to the Dockyard, no question about it Mr Speaker, I say so to this day, the Dockyard is the mainstay of our economy, if it goes, we are going to be in serious trouble, but in order, in order to be able to convince the other side that tourism should be seen in its true perspective and when I was forced to say "someday they will have to close the Dockyard", it is obvious that if that happens inevitably perhaps it would not have been closed if there had been another Government on that side. Let me say that because the Government is the one who has given in, not Gibraltar, not the Opposition, not the Unions, it is the Government of Gibraltar who have been acting in a way and have accepted the closure of the Dockyard, so perhaps the closure would never have taken place if Sir Joshua had not agreed.

MR SPEAKER:

You mean the closure of the Dockyard?

HON MAJOR R J PELIZA:

The closure of the Dockyard. Let us remember that, but if it happens, Mr Speaker, then it is obvious and as has been proved by all the consultants that the only alternative we have in Gibraltar, is to make full use of our harbour facilities. I would not have put, in any case, all the eggs in one basket. I would not have gone for shiprepair only. There was another scheme in which there was some justification and in that way, if shiprepair business was going well, fair enough, make use of that. If by any chance you have a bad time, and it is a business that goes up and down, even the consultants say so, you will always have the ups and downs in the Shiprepair world. Well what is going to happen when it goes down, Mr Speaker, surely there are other schemes transshipments, as the other company was suggesting.....

HON A J CANEPA:

Is not the Member introducing into his moving speech, new material transshipments and so on?

MR SPEAKER:

It is not a question of new material, insofar as his original contribution is concerned, the new material which is not in answer or in reply to any matter that any other member has raised in his reply.

HON MAJOR R J PELIZA:

I am glad that you have made the ruling, Mr Speaker, because the question of the Dockyard is a complete red herring as far as this is concerned. I never mentioned the Dockyard, Mr Speaker, in my opening speech. There was absolutely no relevance to the motion, it was brought up as a red herring, its all ancient history, looking back to 1969 and obviously if that is the accusation that is made, I have got to defend myself, and thats all that I am doing, what I am saying is, the closure of the Dockyard possibly would never have been closed and if it had had to be closed, then we would have used another way, making use of that area, to have diversification. Therefore what I said then in that aspect, not in the one that was put on before, the relevance to the arguments that have been produced in this House. In connection with the London Office that is a question my friend, Willie Isola, brought up. Now one good thing about Mr Isola is that he was also a realist, and what he was saying about the London Tourist Office wasn't that he didn't want to spend money on it, his contention always was that there was no need to have a ground floor office because it was a waste of time, because of the cost and he failed, he failed. But the money would have been better spent on other Government spending, rather than purely and simply on the premises by having an office on the ground floor on something else, and in fact, all the other offices and I know of small territories like Cayman Island and places like that, they don't have a ground floor office, because people don't go there to buy their tickets. The place that you need is the place where the agents go to, the tour operators go to, that is what you need, but if you are going to have a ground floor, then you have to make total use of it.

MR SPEAKER:

Yes, but we are not going to get into that.

HON MAJOR R J PELIZA:

Mr Speaker, we have been attacked that we were.....

MR SPEAKER:

You are speaking on the London Office in general terms.

HON MAJOR R J PELIZA:

The London Office, Mr Speaker, we have been told that I wanted to use it for my own purpose, Mr Speaker, that I think is most unfair, and I have got to say this.

MR SPEAKER:

You can refute the allegation. You can do that.

HON MAJOR R J PELIZA:

So, Mr Speaker, Mr Willie Isola, did start a lot of activities with the tour operators, very effectively and perhaps, the best way of finding out is asking those who are today in the tourist trade. He took immense interest on the product... particularly and some of the little schemes that still thrive coming in into town from Waterport, that was his idea, he had imagination for that sort of thing, Mr Speaker, and he put it to the best of his ability and it did start producing results and I have no doubt that if he had been able to remain in office and carried on being Minister for Tourism, the product today would be entirely different to the one we have, with tremendous appeal, with a lot of character, as in fact you see his own little patio at home, with a tremendous amount of character that the whole of Gibraltar would have had, without spending any fabulous amounts of money. The Minister for Medical Services said that I have not been constructive, now obviously he must not have been listening because I did develop the whole question of how in my view, Gibraltar should be made to look a different type of town than what it is today, and without going into details, because even you Mr Speaker, would not have allowed, I said as much as it would have been possible in what I have to say. But if the Minister for Tourism looks back, I can tell him, that he is the first one that needs to have an index for the Hansard, because he says, that I have never brought a constructive motion to this House. In fact, I have, I have certainly talked on tourism on every occasion of the budget, and I go into great detail there. Now that is coming round once a year, and there I spend a lot of time, and there I am very constructive, and there I managed to get subsidies for the hotels who still haven't paid their bills, to enable tourists to come to Gibraltar. That was my pressure that did it. I enabled them also, Mr Speaker, to spend a little bit of more money on advertising, through my pressure, not very much, but a bit more and on every single occasion, I have tried

to be as constructive as possible, that is the appropriate time, Mr Speaker, to bring in in a constructive way, not with any question of making political capital because that is the time when it is proper to discuss this matter. Why should I bring more substantive motions which I have in fact, if the Minister looks on the 4th November, 1980, I brought a substantive motion of the question of setting up a Tourist Board. Now that cost me tremendous trouble, Mr Speaker, to get it off the ground. And God knows how many months later, eventually, eventually, I succeeded in having a board. Probably it was my idea but it was also what the tourist trade also wanted, but of course, you can take a horse to water, but it might take a miracle to make him drink, and the miracle I think has just happened, because, he has not, the Minister for Tourism, he has not made any use of that Board. Now, if that is not constructive Mr Speaker, what is constructive. I should say that when the other motions were brought on the 7th July 1981 more support to industry and tourism, and on the adjournment on November 81, and I think I have on other occasions, but I have not got the records, we have not got the index unfortunately, Mr Speaker, although I am trying very hard as you know, that this should be available as soon as possible. When I spoke about the lack of coordination, Mr Speaker, I mentioned that the Chief Minister had obviously lost confidence in the Minister when he appointed his Administrative Secretary to carry out an inquisition on tourism. But to my surprise now, we hear from the Minister that it was not the Chief Minister, but in fact that it was himself, that he suggested to the Chief Minister that he should do that. So in fact it seems that the Chief Minister was really not interested, but that it was he himself, now is it that he has lost confidence in himself and in his adviser, was it necessary to have an Administrative Secretary who has nothing to do with tourism, who has never been involved in tourism to start looking at this when he could have been able to have all the facts and figures with all the knowledge of what was going on. With everything that was happening and gone with the plan to the Chief Minister to say "Now that you are going to make a supernatural effort to try and bring tourism to Gibraltar, here is my plan. This is what I have always wanted to do". But of course, I realise that it was not possible then, because you were not prepared to let me have the funds and so on and so forth. However, now that you are going ahead here they are. No, Mr Speaker, he has no idea at all of what he wanted to do, and what he did then was, let us get the Administrative Secretary to start going round again. The Chief Minister then said because this is to get the other Heads of Departments involved. Mr Speaker, every Head of Department has got a Minister above him. What you get is the Ministers together and then, they involve the departments. Not the other way round. Are the Ministers going to be run by

the Administrative Secretary at the end of the day? That is the situation in Government, Mr Speaker. Little wonder that things are not going as they are, because it looks as if in the Ministerial setup there is no leader, no coordination, understanding, direction, to make changes of this nature if they are going to make it effective. Now, Mr Speaker, I mentioned the world market. I was told that was not it, it was much more. Well I can tell him that unless the person who I asked, and he was paying for that little stand, was telling me a lie, he was in fact, the man responsible for the Cayman Islands, representing the Cayman Government in Britain, running it for the Tourist Office, unless he was telling me a lie, he knew what he was saying. He told me what other people were saying, and the Manager who, was inside, also told me. That is what he said that it costed. And equally, with the other smaller ones it came to about £3,000, Mr Speaker. Now he said, well whether it is that money or whether it is not that money, it is a matter of judgement. Well everything, Mr Speaker, is a matter of judgement, and this is what I criticise the Government for. That on the question of tourism, since they have been wrong in the judgement, they must have been wrong in their judgement, because if they were going to create a Monaco back in 1972 and they have been incapable even of building a hotel, or increasing the tourist in any way, their judgement must have been wrong. Since that was their aim. The then Minister with so much vision was going to do so much. He must have had a lot of vision, but in fact, nothing happened.

The time as I said before, when the Minister should have addressed himself to the fact of the motion was before, and if he has done that I would gladly give way now, but as he ignored those points completely, completely ignored the facts of the motion to his convenience, no doubt, I am not going to play to his game now. Now he will remember too, Mr Speaker, that in my, I think it was the last time, I gave him a word "bomps" if he remembers rightly, that of being constructive, and I said what it stood for. For products, for operators, marketing, prices and for services, none of that has been taken or hinted on, nothing has happened. Is that not being constructive. I wonder if the Minister for Medical Services is listening to me who said that I have not been constructive at all. Now I suggest that he looks at those Hansards that obviously they have very cleverly avoided looking at to see if I have not been constructive in this House all along, Mr Speaker. Now, Mr Speaker, I had another attack from the Chief Minister, but quite honestly, he said so little about what he supposed to talk about that I did not even bother to take notes of what he said. Because most of the things was to do with the Dockyard, of which he says that what I had said then and what I was saying today, and I think I have answered the point already because it was more or less a repetition by reading, in fact, the same little

piece of paper and quoted the same things. It shows, Mr Speaker, that they were really scraping the barrel, they had nothing to say. So I think we will let it go, except to say one thing about Intasun. I never went to see the Leader of the Opposition to convince him as to what he had to say about Intasun or about Air Europe. He is capable enough of knowing what he has got to do. It is true that the Minister for Medical Services had a chat with me, Mr Perez, an informal chat, and I am surprised in fact that he brought it out here. It is most unethical to do a thing like that. And one will have to be very careful when one speaks to anybody informally to be sure of what one says. I was very surprised to hear that and hope it never happens again in this House. Because then the informality that we happily share as friends will disappear. Something that from the first day that I came to this House I have tried to encourage. So I must tell him that I never ever spoke to my friend about that. I have my views even today about air communications, they are well known. They are well known and they were well known in 1969. They still are. I think that Gibraltar should have an airline of its own. I believe that. That is what I believe in. Not owned by the Government, because that would be disastrous, owned by someone, a consortium or whatever you like of Gibraltarians whoever they may be with Government participating. So that we knew exactly what was happening and we took account of the difficulties that the airline obviously come across, but at the same time ensure that Gibraltar got a fair deal in that respect. I have always thought so, I still believe that. Now that of course, is perhaps the impossible dream and I accept that, it is a difficult task. But that is still my view. But you have got to take account of what the Leader of the Opposition very sensibly said. We have established operators in Gibraltar, who have been giving good service. We have lost a few Mr Speaker, which I did not mention before. Why have we lost them? We lost OSL, we lost Ellerman, we lost Thomas Cook and we lost Wings. In the time that they were going to turn this into a Monaco, in the last few years, Mr Speaker. Has the Minister asked himself why he has lost them? And has he done anything to make sure we are not going to lose any others. And this was the fears that my Honourable Friend on the left there, that if we started tampering again we might even lose Exchange Travel. That was the fear of my Honourable Friend. But at the same time he wanted to make sure that Intasun could come here if they wanted to. And this is the way he has been juggling with the ball in a diplomatic and sensible way.

MR SPEAKER:

Gentlemen order.

HON MAJOR R J PELIZA:

And what did he do. He said, well scheduled is dangerous, but charters, let them come in. And in fact it worked. Come in on charters and schedule if the situation improves. I have no doubt that the Civil Aviation Authority will grant them a licence. I do not believe that the Civil Aviation Authority was in any way biased one way or the other, unless the Minister thinks that they are. I do not believe they are, I cannot believe that an independent body in Britain is going to be biased one way or the other. I do not believe it, particularly when they have even pressure from the Foreign and Commonwealth Office, who I suppose must have supported the Government of Gibraltar. Now do you think that a tribunal of that nature, which they must have had an affection for Gibraltar, for being British, because, I mean, whatever we may say, our difficulties with the Dockyard, but this is force majeure, this is because they really have to do it within departmental constraints and difficulties. But by and large, even the people who are closing the Dockyard have affection for Gibraltar. This is why I have always said in this House that whatever may happen, whatever may happen, I will always stand and remain British, truly British, because it is within myself. It is more than just the subsidies that you might get for this or the other it is the value that goes with being British. Nothing to do with that, I do not believe therefore that the people in that tribunal were in any way biased one way or the other. And there may be judgements which with the best of their ability and knowledge they did - rightly or wrongly - I am not saying. But, lets point it out, already we are having difficulties, even on charter planes. I hope it does work, for the sake of Gibraltar and also for the sake of the people of Gibraltar who have invested in that because we have a local company who must be spending money on that. And for their sake, if for nobody else, I hope they are successful and I am sure they will get the full support of the Government and they certainly can count on the full support of the Opposition to make sure that they get a fair deal. Now, the question of the Gibraltar Tourist Office that I wanted for my own sake. Mr Perez again. That was ridiculous, childish and under the belt I would say. Why? I mean, thank God, I don't even need to be in politics to be fully engaged. I have a big family, I have got my own hobbies, in fact, I am always occupied, always, whatever may happen. My ambitions are not politics in the full sense of the word, my ambitions are general and therefore, what I say is "Here we have a Tourist Office in England, we need support in England from every quarter, politically, commercially, tourist wise. This is what I say, it makes sense, it has nothing to do with me. Let us develop that to its full use. I keep bringing it out every year, and then to be told that I am doing this just

to gain more votes at the elections, or purely to find myself a job in England. I can tell you that if I am elected I will be here, there is no question about it. I said it at the last elections and I am saying it now, and I hope that the press reports it so that the people know it. Because that in fact, may even get us to win the elections. I don't think it registered last time, I said it but I don't think it was reported. I do hope that the press will report it, at least I hope that our paper does so. And I have not brought it out. It has been brought out by the Government, by the Government, and I hope they say what the Government said because I think the people will believe it, and they won't believe what Mr Perez has said, they know me too well in Gibraltar to think that I can come down so low as that. Now if you look around the other offices in England, Mr Speaker, Falkland Islands. Falkland Islands now have got a Falklander who was in fact an elected member who is now representing the Falklands in England.

MR SPEAKER:

No, with respect you are not going to expand.

HON MAJOR R J PELIZA:

Mr Speaker I have got to defend my position.

MR SPEAKER:

Yes but not on a reply to a debate with due respect.

HON MAJOR R J PELIZA:

The other one would be the Cayman Islands who have done exactly the same thing, and if you go through the small territories, they now all have in the United Kingdom representatives from their own territories and representatives of the Government. We have got none. Therefore, when it comes to arguing the point with the press, with anybody, we have got nobody there. That is the fact, the position is accepted by the Government. And when I try to change the situation, they say I just want it for myself. No, thank you very much it is not my idea, in fact I am not in Government, I would not be able to do it, but I think that in future times, whoever may be in Government should be able to have that facility and that opportunity. Mr Speaker, we talk about schedule and air charters, the person who really introduced air charters and was always longing, because he thought it was necessary for tourism was Mr Serfaty himself, he always wanted it, so what is wrong with having air charters to bring people to Gibraltar. What was

my Honourable Friend doing wrong, that Mr Serfaty was not before. Why a negative now in that respect, if not just another red herring to avoid answering the motion. Mr Speaker, I have got many more points I think but I have more than excoriated my position, and I am just coming back to what should have been the debate which I have introduced and to which I stuck religiously in my opening speech, and with which I want to end. And I am going to end it with a man who on this occasion perhaps, was impartial, and that is my Honourable Friend Mr Joe Bossano. I don't think that he was taking either the side of the Government or the side of the Opposition. But what did he say, I am not going to say what I said. What did Mr Bossano say? He said that this was factual. He did not believe in tourism any more than I do to the full extent that tourism is the be all and end all. Because tourism will never be able to provide for Gibraltar. It will be something that is going to come in, welcome, and we have got to make the best of it, but in reality that is what it is. It will never be a substitute for the Dockyard, it will never be the substitute for the Base. Let us have no illusions about that. But it is a good income and we have got to make the best. With the open frontier, if it opens, we shall make a bit more with the money that they spend here. But remember that with an open frontier, our whole standard will be going down. The fact that I put parity before tourism is a clear sign of my belief. The fact that the Government was against parity, I don't know why. And it is parity through the MOD that has enabled Gibraltar to go through the very difficult years in the past, because I know that before parity came in, businesses were dying, and if parity had not come in to try and keep up with the amount of inflation that had risen because of the cost of all our imports that are required in Gibraltar, we would never have managed. Tourism would never have been able to provide that money, never, nor will it in the future, let us have no illusion. But of course, we have got to make the best of it. And it is in that spirit Mr Speaker, that I have always spoken in this House about tourism, not with the illusion that this is going to be a mana, no, but with the hope and determination to make it a good cost effective holiday resort which will bring a reasonable income into our economy. And that should still be our aim. I think we could double, we could double the amount of money that is coming in from tourism. I believe that it should be possible to make about £20million plus for Gibraltar. Because if we are now working at less than 50% of the occupancy of the beds and we are getting about £11million, if we managed to get about 100%, then we stand a chance of making about double of what we are making today, and that would be very welcomed. It would be about £2 million to the Government. But the Government must remember that they are not there to make money themselves from tourism. And any money that comes in through revenue, would if they were good businessmen, put it back into an investment. So that if

you get £1million coming in in revenue, you should put it back into the business and you would be surprised how quickly, you would be surprised how quickly that would start multiplying and bringing in more and more money in the situation that we are today. Mr Speaker, you are not going to talk to the stone-age man about the social situation of the 20th century Mr Speaker, that is ancient history. Things are moving in the world every day, or are we going to be so foolish that what is happening today it has got to happen tomorrow, it has got to happen in 10 years time. That is total absurdity. No wonder they are getting nowhere, Mr Speaker. In fact, as a gunner, an anti-aircraft gunner, I know that you never fire at the plane, because by the time the shot gets there the plane is somewhere else, and this is what the Government is trying to do. So what you do is that you point ahead all the time. You look ahead. What is going to happen, nothing is happening today, what is going to happen tomorrow, and this is the way. At least I have something up my sleeve, which the Government does not seem to have. We have got to see this in its true perspective. And seeing it in a true perspective we have got to ask ourselves, to what extent, to what extent has the Government proved that what I have said in the motion is not true. To what extent? None at all. They have not been able to disprove it. They have not even attempted to disprove it. That is what the Hansard will read like. And so I ask, again is it true that the Government is responsible for tourism in Gibraltar. The answer must necessarily be yes. Is it true that they have not taken a sufficient effective action to prevent the decline in the tourist industry. The answer must be yes, because the facts are there. And, Mr Speaker, what does the man who in this occasion is a neutral. He is neither one way or the other, he is neutral. Neutral, Mr Speaker, I don't think he is one way or the other in this issue. And what does he say. He says, I will go with the motion not because I am interested in tourism, of course, he has to defend that point because he must be shown to want the Dockyard to carry on. I can see his point. It is in his interest to do that. Obviously he is going to strengthen that position. Perhaps he would have been more outspoken if that issue had not been implemented. But what did he say. Although, in fact, if anything he was against it, he was trying to say although I am not a believer in tourism, I believe that what is stated there is a fact, they are facts. And I cannot go against stark naked facts like that, I can't. Because I can't convince anybody that they are not. And therefore, Mr Speaker, I still hope that this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far.

MR SPEAKER:

I will then put the question as put by the Honourable and Gallant Major Peliza which is :

"That this House holds the Government responsible for not taking sufficient effective action to prevent the tourist industry from suffering a very serious decline during its term of office so far".

Mr Speaker then put the question and ruled that the motion was a motion of no confidence in the Government and consequently the ex-officio Members of the House were precluded from voting in accordance with the proviso to Section 44(1) of the Gibraltar Constitution Order 1969.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A T Loddo

The motion was accordingly defeated.

HON P J ISOLA:

Mr Speaker, before my Honourable Friend moves the motion standing in his name, I would like to raise a matter. And that is that on Friday evening a report on Gibraltar Television, reported the Honourable Mr Perez as having said in this House during the course of the debate that I had professionally opposed the application of Air Europe for a Scheduled Licence, and certainly I don't recall the Honourable Mr Perez having

said any such thing, and if he had, of course, at the time I would have got up and objected. Because as you know, Mr Speaker, had I been professionally engaged in opposition to Air Europe, obviously this would have had to be declared as an interest. So I would like to get confirmation from my Honourable Friend that he did in fact not say that. And if that is so, I would like you Mr Speaker, to ask GBC to publish a correction of their report.

HON J B PEREZ:

Mr Speaker, I would like to confirm that I never said or made such a statement in the House, nor did I make the statement, neither did I give the impression by way of innuendo that had been the case, and I am quite prepared, in fact, to make that public.

MR SPEAKER:

Well I think in the circumstances, there is a representative of GBC in the Press Gallery and I am sure that a correction will be made, if not I will make sure and will contact GBC myself.

HON G T RESTANO:

Mr Speaker, I beg to move the motion standing in my name, which states "that this House condemns the manner in which the Government has failed to discharge its obligation with regard to the Electricity Undertakings since 1976 with any degree of proper management, efficiency or foresight, resulting in enormous unnecessary expense and inconvenience to the people of Gibraltar, and accordingly expresses its feelings of no confidence in the present Minister for Municipal Services and the Chief Minister".

Mr Speaker, this is the third DPBG motion on electricity since the 1980 elections and together with the numerous questions that we have put down, and the lengthy discussions at Estimates and Supplementary Estimates time, shows the degree of importance which my party gives to this matter. I must also mention, of course, that Mr Bossano also put a motion. The two previous motions that we have put down, one was asking the Government to form a Commission of Enquiry to look into the Electricity Undertaking, that was in November 1980 and in October 1982, another motion of no confidence which was put by my Honourable Friend Mr Isola. I propose, Mr Speaker, first of all to go through the sequence of events of what has happened in the Electricity Undertaking since 1976, when a Report was received by the Government from Messrs Preece, Cardew and Rider who were consultants and who made certain proposals to the

Government. The Report was received in April 1976 and to date it has been kept by the Government in total and absolute secrecy. Nobody but itself and the subsequent Committee which was formed, has been able to have sight of this document. And I think it is important to mention this because the non implementation of that Report was the basis of all the problems that have been encountered since 1976. Some do say, and have said, that the source of the problem goes back to 1972 when there was industrial action, but I think the real source was the non implementation of the Preece, Cardew and Rider Report. Since 1977 till 1982, Gibraltar had to suffer power cuts, considerable power cuts, some lasting up to 3 hours. As I said I am just going through the sequence of events, and even now, in the not too distant past, we have had short power cuts since the Waterport Power Station has started operation. Since 1978 a Committee, a Working Party was formed, a joint Working Party was formed between the Gibraltar Government and the MOD to look into the possibility of a Joint Power Station, which was, I understand one of the recommendations of the Preece, Cardew Report. Nothing came of that, it was rejected by the Ministry of Defence in England, and in October 1979, following a very uninformative Ministerial Statement, so uninformative in fact, that it pushed my Honourable and Gallant Friend on my right here, Major Peliza, into putting an amendment motion to this House. And during that, an adjournment motion, rather, and during that adjournment motion, out of the blue, without any warning, the Chief Minister stood up in this House and said: "Oh, no, we have everything under control and we are buying a new 5mw Engine". Then there were the elections, and after the elections, Mr Bossano, put in a motion asking for urgent attention to be given to building a New Power Station. He was told during the motion that in fact, the Government had already taken the decision, although as far as I know, no decision had been announced by the Government. In August of 1980, there was an announcement by the Government that it proposed to purchase some Skid Mounted Generators to tie them over the periods when they felt that more power would be necessary. In November, 1980, the House was told that the Government had had an option to buy or to purchase a second MW Engine and also that the New Station would be at Waterport. In November 1980, again, the Skid Mounted Generators arrived. And in that month too, it was quite a busy session we had on electricity in November, 1980, we had a motion in this House asking for a commitment of Public Enquiry into all aspects of the Power Station. This was defeated by the Government although the Government agreed to implement a Committee of Enquiry whose reference of course, Terms of Reference were quite different to those of the Commission of Enquiry which the Opposition had asked for, in so far as the Commission of Enquiry would have (a) been public (b) looked at all aspects, past, present and future, whereas the Government's Committee

Terms of Reference were merely to ignore the past, and just look to the future. I will be going into that aspect into more detail later on. In March 1981, we had a Ministerial Statement giving dates for the conditioning of the two sets at Waterport Power Station and we were told then that No.1 set would be commissioned on the 8th of May 1982, and that the second one would be commissioned on the 17th August 1982. Around October 1981, again, there were further difficulties and there was an announcement that a Trailer Mounted Generator would be brought to Gibraltar. In April of 1982, we received the Interim Report of the Committee of Enquiry, and in the same month at Budget time, it was announced that there had been slippage in the dates for the commissioning of the Waterport Power Station sets. From May 82, No.1 was then supposed to have been commissioned in September of 82 and the second one from August 1982, we were now told that there was slippage, and it would not be commissioned until October 82. In June of 1982, we had the Final Report of the Committee of Enquiry. One of the recommendations of the Committee of Enquiry was that a Steering Committee for the Electricity Department should be formed, and that particular Steering Committee, from the recommendations of the Committee of Enquiry which finalised in June 1982, the Steering Committee was not set in motion until September 1982. In October of 1982, we had the motion of no confidence which was defeated by the Government and in November 1982, the reliability period of the Second Engine was completed at the Waterport Power Station. Slight, slight slippage only one month. But in the following month, in December, we were told that there was a further slippage on No.1 engine, which may I remind Members we had originally been told was going to be commissioned in May of 1982, and in December of 1982, we were told they had still not finalised its reliability period, and that there was further slippage. In April of this year, the Skid Mounted Generators were repatriated. And late in 82, we had further Consultants coming out to Gibraltar, Consultancy of the British Electricity International Company. In June of this year the reliability period of the first engine was completed. But since November 1982 when the second engine was commissioned, the Government was unable to take over the running of the Waterport Power Station and was unable to run it as was its duty to do. That I think, Mr Speaker, is the sorry sequence of events that we have had since 1976, which is from where I want to start again, going into further details. In 1976, Preece, Cardew and Rider, reported, were commissioned and made a survey into the Electricity and Water production requirements of Gibraltar until the year 2000. The cost of that Consultancy was borne by the ODA and we were told in this meeting of the House that it was confirmed that the cost was approximately £8,000. Although the report has been held in complete secrecy, one knows that Messrs Preece, Cardew and

Rider gave various options for the Electricity Undertaking to last Gibraltar until the year 2000. One of them was, as I have mentioned earlier, the possibility of running a Joint Gibraltar Government/MOD Power Station. Other possibilities that were recommended was that the Government, should itself, on its own, build a Second Power Station, to take over when King's Bastion's life span ended. Whichever of the recommendations Messrs Preece, Cardew and Rider said that immediately new machines had to be purchased. Whether it was for a Joint Station, or whether it was for a Gibraltar Government Station. That recommendation was certainly not taken up by the Government. The Government tried for a Joint Power Station with the MOD, it was rejected, it was rejected sometime in either late 78 or early 79, but Government did not take up the recommendation of immediately purchasing a New Set. When it eventually did, when there was that panic announcement by the Chief Minister in this House during the adjournment motion, the Chief Minister had no idea where he was going to put that set. One thing which surprised me earlier in this meeting was that the original Preece, Cardew and Rider Report, which was an extensive Report, and an extensive Report that covered Gibraltar's requirements until the year 2000 and cost £8,000. And yet, that was paid by ODA, and yet when the Gibraltar Government engaged Preece, Cardew and Rider directly on the Waterport Power Station, the cost of that consultancy was £279,000. Which to me it seems, more than questionable. That the figure of £279,000 of course, has been put into the project of the Waterport Power Station. But during that adjournment motion, off the cuff, ad hoc, clearly without having studied the matter in detail previously, the Chief Minister said: "I am going to have a 5mw Engine". It is very convenient for him to have to make this announcement a few months before a General Election of course. And, in fact I would like to remind the House what he said on that occasion. It was in October of 79. He said "first of all, let me say, when I was in the Engine Room having a word with our Chief Electrical Engineer, I heard that the Honourable and Gallant Member said that we were not going to have an engine until 1984". He was not far wrong either. "That is absolute nonsense" he said "we hope that by 18 months from now, 18 months from October 1979, a 5mw Engine can be installed which is really what is wanted for the next 3 years". And he went on to say "anyhow, all I say at this stage is that the question of the installation of an extra engine, be it, at King's Bastion, where I would not like to see it, but where it may have to go in lieu of the old engines, that will have to be scrapped or be it somewhere else. A new Engine of about 5mw can be, and will be, we hope, in operation within 18 months at the most from about now". So clearly, he hadn't the faintest idea where that Engine was going to go, and he hadn't got the faintest idea either of the timing when that Engine would be in Gibraltar. And may I say that at

that stage he had taken no decision, neither had his Minister on building a New Power Station. So that Mr Speaker, was in October of 1979. In March, as I said of 1980, as I said earlier going through the sequence, Mr Bossano put down a motion asking that urgent attention should be given to the building of a New Power Station. And he was told, he was told by the Honourable Mr Featherstone, who has just arrived, he was told by the Honourable Mr Featherstone, and I quote him "I am happy to inform the House and I assure the Honourable Mover of the motion that work has already started which was a good announcement, may I say. And we were told, at the same meeting by the Minister, that Preece, Cardew and Rider had been engaged directly by the Gibraltar Government as this would save money. Well, when I see the comparative figures of £8,000 for a consultancy in 1976 and £279,000 in 1981/82/83, I find that those figures are, as I said questionable. And was it in fact the right decision to get for the Government itself, to engage Preece, Cardew and Rider, or would it not have been a better idea to have asked ODA. But even then, even then, that announcement, we were told at the same meeting by the Chief Minister that there was slippage, that was the first slippage announcement that he made, that he said, he said two things. He had been accused by my Honourable Friend, the Leader of the Opposition that there would be slippage, and he said "Anyhow, all I say at this stage is that the question of the installation of an extra engine, be it at King's Bastion where I would not like to see it, but where it may have to go", he is quoting perhaps from the same as he quoted in 79 "Or it may have to go in lieu of the old engines that will have to be scrapped or be it somewhere else, a new engine. of about 5mw, can be and will be, we hope, in operation in 18 months at the most from now" he was quoting. A lot of weather has been made this morning about whether it is 18 months or not. In fact, strictly 18 months would not be when the Engine would be really required. Another shift. Because 18 months, on my understanding would take us to April or May, and about that time there would not be any need to supplement and in fact, two or three months afterwards we have the Skid Generators, and what we say now is having regard to the new set of circumstances that it will be in operation for the winter of 81/82. And in fact, it was not even in operation in the winter of 82/83, and my understanding of the winter of 81/82, and you could strictly say that it would be in operation for that time, even if it had come within 18 months. Is from about September to October 1981, that is the winter of 81/82 and not October of the following year, and taken 2½ years as the Leader of the Opposition is trying to make. That is what the Chief Minister had to say in October 1980, and if one talks of vision, I think the vision of my Honourable Member on my left here is far clearer and far more accurate than the vision of the Chief Minister. An amendment was put into that motion

of 1980 asking for a review to be made of past responsibilities to the disputes that had come about, and the Chief Minister challenged, directly that amendment and said a categorical no, to any research into past responsibilities at the Waterport Power Station. And at that time he also said that he was satisfied at the good industrial relations that existed in the Waterport Power Station. I don't know if that was a direct result of the elections and this was a sort of a honeymoon period, but anyway, that is what he said at the time. Of course we have been contradicted at later dates as I will show. So then in November 1980, which I could almost call the Skid meeting of this House because a large amount of time was spent in discussing the Skid Mounted Generators, we were told in this House, that the Government had decided to hire four Skid Mounted Generators to tie Gibraltar over the period when power cuts were being experienced, and that the cost of hiring these Skid Mounted Generators, which would be required for, or we were originally told 12 to 18 months and as a maximum 24 months. We were told that the hire charges would be £395,000. The Opposition questioned the Government closely on this matter and wondered whether in fact, it would not be cheaper to buy them outright rather than to hire them, and the Government said no, and at subsequent meetings when we again asked they said no, that they had taken the right decision and the decision to hire was a cheaper method and would cost Gibraltar less. In the event, because there was slippage, after slippage after slippage, and the 24 months, well the 12 months were exceeded, the 18 months were exceeded, the 24 months were exceeded, in the event, the total cost for the life of those generators was not £395,000, it was in fact nearly £100,000 more. The figure was £486,371. So there again, once more, the Government made an error in judgement. And we were told in fact, we were told at that meeting of November 1980 that the expected life span of those four Skid Mounted Generators, if not used too much, if only used at peak periods, would be five to six years, but that, if they were used for relatively short periods, they could last even up to 10 years. And when eventually they were repatriated, we were told that the book value at the time of repatriation was £285,000. Now what had actually happened, is that by not purchasing these engines and hiring them, it has cost Gibraltar £486,000 with nothing in return to show for that. If those engines had been purchased outright from the beginning we would have had to pay only £395,000 and at the end of the day we would have had Engines, I am not saying that they are worth their book value, I am not saying that, let us say half the book value, so half the book value would have been round about £100,000 plus, so we would have paid £100,000 less for purchasing than what we paid in hire and we could have got an extra, another £100,000 by selling off those engines which would have been used really only at peak periods. We were

told in fact, that the Skid Mounted Generators on the advice, or after consultations with Preece, Cardew and Rider, and, that there had been no charge for that particular consultancy. Now I wonder how and why it is that a firm of consultants advises its clients and does not charge them for this. Was that charge later put into the Waterport Power Station expenses, for those consultancy fees? But what came to light after the Skid Mounted Generators were received in Gibraltar was that this Government, and the Minister with such little foresight had not even thought of consulting his staff to see how those Skid Mounted Generators were going to be operated. And as a result, the Skid Mounted Generators arrived, and there was an industrial dispute and the men said "No, we are not going to run them, you have brought these engines, you have not consulted us as to how we are going to run them", and there was industrial dispute, and the first Skid Generators that arrived was here for one month without being able to be used. And then, in February 1982, Mr Speaker, we had power cuts and we were told that two of these sets that had been brought to Gibraltar were not able to be used to prevent the power cuts because they were out of order, not only the engines at King's Bastion were out of order, but these sets, which were only here to help out at peak periods, they too were out of order. And so after that little fiasco of the Skid Mounted Generators and the Trailer Mounted Generator which came later, they were repatriated, not as I say 12 months, or 18 months or 24 months, but 29 months after they had been brought into Gibraltar. And in 1980, in November 1980 we also had at that particular meeting, a motion asking His Excellency the Governor to appoint a Public Commission of Enquiry into the past, the present and the future of the Electricity Undertaking. And we were told, certainly, by the Government, certainly we will not, we will not accept any proposal to look into the past. The past is something which has gone, must be forgotten, and to suggest, that one should look into the responsibilities of what had happened in the past would be adding fuel to fire. And they said "No, we will have a Committee of Enquiry, you see, we are responsible", and I suppose there would never have been a Committee of Enquiry if we had not proposed from this side of the House that there should be a Public Commission of Enquiry. But anyway that Committee of Enquiry was born out of that motion, and the Terms of Reference, were I think, quite wrong, in that it was behind closed doors, and it was given strict instructions not to look into the past. But of course, the outcome of that Report showed what inefficiency there had been in the past, and I will come to that in a moment. This side of the House, or at least the DPBG side of this House disagreed with those Terms of Reference, we felt that there should be an Enquiry into the past in order to get the future on a proper basis, and we therefore felt that the Terms of

Reference were completely wrong and we refused to give any evidence to that Committee, and I think that our views were vindicated by the subsequent events and the cost of those events. The events of how much it has cost us in the hire or in the payments to Hawker Siddley Power Engineering because the Government was unable to reach any form of conclusion with its staff. In the Report of that Committee of Enquiry, although their Terms of Reference had been not to look into the past, in fact, their recommendations, one could see from their recommendations what had gone wrong in the past, because they were saying, in the future you must do a, b, c, d, e, f, g, they went on, and I am not going to read what they said, it is a Report which is public, which has been made public, but by saying that you have to do this and that and the other, it shows that those things were not being done before, and those were the reasons which led to all the industrial disputes. The Interim Report of that Committee was perhaps, very justifiably so, a panic Interim Report, because they had been asked to look at the future. The future was the Waterport Power Station, and that Report which was published, that Interim Report in April, 82, was just one month before the first Engine which had been stated in this House, would be commissioned, and the Committee saw that the Engine was about to be commissioned, and that the Government had absolutely no plans, the Department had absolutely no plans to look into, to see how that particular Engine was going to be operated. And they said, "Get going immediately, and get together with the unions, get together with the staff, find out how you are going to run this station". And the City Electrical Engineer was, it was recommended that the City Electrical Engineer should go full time to the Waterport Power Station. No plans had been made by the Government, no plans by the Minister. The Final Report was in June of 82, and I think it is clear from the recommendations in that Report that no consultations had occurred between the Government and the staff of the Generating Station for the running of the Waterport Power Station. And in fact the Committee recommended that there should be a Steering Committee to include members of both management and staff to see how the Station was going to be operated. And they even recommended, they went further, they said that once the Steering Committee had reached agreement as to how the Waterport Power Station should be run, that a Works Council should be set up. A Works Council to cover any future possible disputes in the Station. And one must remember that the Minister himself had set up a little Committee which I think he used to call it the Minister's Committee to try and sort out the problems. And what did the Committee of Enquiry recommend? The Committee of Enquiry recommended that the Minister should not be involved at all, either in the Steering Committee, or the Works Council. That can only mean

Mr Speaker, that the Committee of Enquiry felt that the Minister was quite incapable of serving any useful purpose in any Committee between management and staff to solve problems at the station. In fact the recommendations of the Steering Committee can be taken as nothing less than a condemnation of how things had been run in the past. In October of that year, in October of that year, my Honourable and Learned Friend put down a motion of no confidence in the Government for their lack of foresight and so forth. And the Minister replied that the Opposition was talking or was speaking from hindsight. He said "Oh it is very easy for you today to say there has been slippage, but you are speaking from hindsight". Now I would say to the Minister that if he went back to October 1978, 4 years previously, he would have seen a DPBG Press Release saying that the Government had the responsibility of giving a continuous power supply to Gibraltar and when I myself when I went on television to be questioned about that particular Press Release, I said on television then, in October 1978, that machines, more machines, more machines, more sets had to be purchased. So when the Minister says four years later that the Opposition was speaking from hindsight, of course he was completely wrong. We have seen from this side of the House, and we did not have the benefit of having seen the recommendations of Preece, Cardew and Kider, we were saying it 4 years previously, before the Chief Minister had announced his ad hoc decision. Interesting information was revealed during that meeting. We were told that the 5 mw Engine which has been spoken about all along could never have been put into King's Bastion. This was said by the Minister, and I will tell you what he said. The Minister said "That unfortunately for us, the Electricity Department had just then reached a crucial stage in its history after Engine No.13 was commissioned and there was no room for expansion within King's Bastion". That was said by the Minister. So when one thinks and one recalls that the Chief Minister had said that that 5mw engine, he did not like it, but it might go into King's Bastion, he just did not know what he was talking about. The Minister also told us in October 1982, that the situation at the Electricity Department, as far as industrial relations were concerned had become virtually disastrous. Quite a change from what the Chief Minister had said a few years back. Eventually, the Steering Committee got off the ground. It commenced in September of 1982. Now, let us see what the Government thought the Committee was going to cost, at least the Chairman of that Committee. They said that it would require about 6 weeks work, and it would cost about £23,000. 6 weeks after the 9th September 1982. The Steering Committee is still sitting today I understand, and from £23,000 the cost is now over £100,000, for the services of the Chairman of that Committee. And again, total secrecy about what was happening within that Committee,

total secrecy. We were told that quite a few months later, we were told in December, that it would be prejudicial to say, for the Government to say, what areas of disagreement there were. Prejudicial to successful negotiations. We were told in March 1983, that no, they could not give any information because after all that information was confidential. In May of 83, 6 months, no, 8 months afterwards, we were told that it would not be in the general interest to reveal what was happening in that Committee, but yet Mr Speaker, the costs were mounting and mounting. It was only in October of this year that we were told that one of the problems was a question of rotation. And yet we had been told all along "Oh, no, the Committee is progressing successfully". How a Committee can progress successfully, Mr Speaker, and not reach agreement as to how to run a Power Station, which only has 2 sets over one year. We were told at this meeting of the House that agreement has now eventually been reached and that it is hoped, I think that this week there will be a document signed by both sides. I hope so, and I hope also that the recommendations that have been agreed by both sides include recommendations as to the Works Council which is to take over from the Steering Committee and prevent, hopefully, any industrial disputes in the future. But we were also told earlier at this meeting, for the first time, after we had been questioning, and questioning and questioning on this Steering Committee, that there were also sub-committees, and not only were we told that there were sub-committees, but when I asked the Minister how many of them there were, he did not have the foggiest idea. He had to go back and phone the department and say "Tell me quickly, how many sub-committees are there?" Is that the way to run a Department Mr Speaker; the Waterport Power Station, is I think the greatest single project that has been carried out by the Gibraltar Government. The cost is approximately £8million. I think I said earlier that the original contractual dates, we have been told for the commissioning of two Engines there were May '82, and August 82. One of them from May 82 was not in fact commissioned until, I think it was, April of this year, a year later, a year later - good planning, very good planning. The other one was commissioned earlier, there was much less slippage, from August of 82 till November of 82. Now in November 82 when that set was commissioned, it should have been the responsibility of the Government to start running the Waterport Power Station, but they were unable to do so because no agreement had been reached between them and the staff as to how that Station was to be manned. So what happened? Those sets were required, they were badly required, the power that they could produce was essential for Gibraltar, otherwise we would have had power cuts. But Government was not in a position to take over the Station. So what did it do? It told the contractors please run it for us and they have been

running it for Gibraltar ever since. At enormous cost, which I will go into in a moment. The actual Official Opening of the Station we were told sometimes, once we were told April 83, then we were told the Autumn of 83, but I think that the Autumn now is well past and in fact it does not require the contractors to be out of there for Government to take over that Station. Mr Speaker, the motion says "the House condemns the manner in which the Government has failed to discharge its obligations with regard to the Electricity Undertaking since 1976 with any degree of proper management, efficiency and foresight". I think that I have proved that part of the motion at any rate. And then the motion goes on to say "resulting in enormous unnecessary expense and inconvenience to the people of Gibraltar". Well I think that every single person in Gibraltar knows to what inconvenience he was put through during the time of the power cuts. I am not going to go through all the areas of inconvenience, but I think that it is obvious and people know about that, and that the Government knows about that. As far as the cost of the Government's incompetence, let us go through it little by little. The Skid Mounted Generators which had to be purchased obviously because the decision had not been taken in 1976 to buy new sets, the hire of those Skid Mounted Generators amounted to £359,068. The installation cost etc, £89,303, and the repatriation £38,000. Total £486,371. The Trailer Mounted Generator hire £120,020; installation costs, etc £40,184; repatriation £4,211 - total £164,415. Payments to Hawker Siddley Power Engineering to run Waterport Power Station because of the Gibraltar Government's inability to do so on account of the failure to reach agreement with their staff since the Engine passed their reliability tests and this figure is to the 19th December 1983, no less than £1,304,147. Then on industrial relations, the payments to the Steering Committee, the payment for the chairman of the Steering Committee, this is to last November, so it is clearly more now, I would imagine, £110,915.

MR SPEAKER:

I think you said 18th December 83, I am sure you meant 82.

HON G T RESTANO:

No, no 83, the Chairman of the Committee until November 82.

MR SPEAKER:

It is projected till the 19th December.

HON G T RESTANO:

It was projected so there may be more payments, I do not know.

MR SPEAKER:

No, but we are today on the 12th December that is what I am saying, and you projected until the 19th December.

HON G T RESTANO:

That is right. 19th of December is the Hawker Siddley payment, and the cost for the Chairman up to November 1983 is £110,915. There may have been more payments since then I do not know, these are the latest figures that I have, which in fact, I will be circulating to Members in case there is any query, on any of the things. And then the cost until October of 83, for the Members of Government employees within and working in that Steering Committee, we were told that that figure was £4,000. And the cost of the consultancy to the British Electricity International Company Limited Consultancy, and they came to advise the Steering Committee how to do things. They got £4,900. So the total cost of this particular operation was £119,815. And then, over the years, Mr Speaker, because of Government's inability to provide adequate power to Gibraltar we had to purchase some from the MOD. That again, the cost of that is as a result of Government not having taken the recommendations of the Preece, Cardew and Rider. And what is the cost of that? From 1976 to 1980, the MOD were paid £62,240. For the remainder of 1980 £70,642. And from 81 to the first three quarters of 1982 £19,509. Total paid until the third quarter of 1982 to the MOD £152,391. Earlier in this meeting we were told of yet another Consultancy, this time Cooper and Lybrand, that cost £25,200. Total cost of Government's incompetence, £2million.

HON CHIEF MINISTER:

Mr Speaker, if the Honourable Member will give way, I think he is misquoting the figures in such a way. I will not interfere with the rest of what he has said until I answer, but the latest thing has nothing whatever to do with the Power Station, it is only a question of the future of tariffs between water and electricity, it has nothing whatever to do with what was done or what was not done, the point is to find out the fairest way in which tariffs in the future can best be charged.

HON G T RESTANO:

I take that point entirely, Mr Speaker, but I still consider that it is part of Government's incompetence, I don't think

we need to pay £25,200 to get people to come out here to tell us what we have to charge and what our tariffs rates should be. I think that the Government should be able to find that information with no difficulty, and this to my mind is a further evidence of Government's incompetence, of which the total, Mr Speaker, the total of the cost of the Government's incompetence has been £2,252,339, and I will let the Chief Minister have a copy of this so that he can refute anything which he disagrees with. £2¼ million. But what is the cost of the suffering to the people, of the inconvenience, the loss of goods, that, I suppose Mr Speaker, is unquantifiable. So, Mr Speaker, I come to the last part of the motion which is "and accordingly expresses it's feelings of no confidence in the present Minister for Municipal Services and the Chief Minister". They, particularly the Chief Minister, has complete responsibility for what has happened in the Electricity Department. He has taken it upon himself time and again to deal with the matter, and the Minister who has been there, since I think about 1978, has been responsible, I think, for the fiasco of Skid Mounted Generators and must take responsibility for that, and the fiasco of the Steering Committee and the fiasco which has cost over £1million for not being able to run the Waterport Power Station and having to pay £1.3 million for somebody else to do it. Mr Speaker, I beg to move.

Mr Speaker then proposed the question in the terms of the motion moved by the Honourable Mr Gerald Restano.

HON DR R G VALARINO:

Mr Speaker, Sir, this motion is similar to that of the 3rd October 1982, moved by the Honourable the Learned P J Isola. Again, it goes back to 1976, which in my opinion does not make much sense since the original motion was defeated by Government. It would have made sense to have brought the motion up to date, and not go back to 1976. But obviously the reason why the motion goes back to 1976 is because the Opposition want to bring up again the subject on the Preece, Cardew and Rider Report, which has stuck in their throats, literally, stuck in their throats, because they have not read it, they have no knowledge of what it contains, and what Mr Restano says about non-implementation of the Report, it is sheer and utter fabrication as he has no knowledge of anything connected with the Report, apart that it says that we would need further generating capacity for the years ahead. Mr Speaker, the motion, in itself has no substance, and it is entirely motivated by political opportunism as they continue to flog a dead horse. Now in my last intervention in 1982, I dealt at length with the reasons, so I would like if I may and not wishing to take up too much time in repeating some of the details that were

absolutely necessary to emphasise the points I made at that time.

HON CHIEF MINISTER:

If the Honourable Member will give way, a paper has been circulated, which does not, which has something which has not been mentioned in the debate I think it is most improper. It talks about loss of goods, loss of trade, expenses incurred in respect of cooking, I think that has not been mentioned by the speaker, other than a general statement of inconvenience, and I think that it is most improper that a paper should be released by a Member of something which he has alleged to have said in the course of the debate and which he did not mention.

MR SPEAKER:

Well, may I make the position completely and effectively clear as to how circulation of papers are concerned. Earlier on in this meeting we were circulated with an exchange of correspondence between the Financial and Development Secretary and Mr Bossano, may I say that any paper which is circulated, is not referred to in Hansard in any manner at all. It is merely by a way of convenience, and what has been said in the House is reported in Hansard but not what has been circulated.

HON CHIEF MINISTER:

Yes, Mr Speaker, but this precedent is very dangerous, because you cannot prepare something and you may have forgotten to mention it and then release it and to the press, it looks as if it is part of the proceedings and we have to be very careful about this. Well, strictly I don't mind because he has been mentioning them, I will look at them on their merits, but when he starts talking about cost of suffering, inconvenience, loss of goods, loss of trade, expenses incurred in the purchase of heating apparatus lighting equipment etc, he has mentioned nothing of that. And it is I think a case of practice of the House to circulate something of what you might have said and you did not say, and it looks as if it is part of the record. I appreciate that it does not go into Hansard, I appreciate

that, but that is not appreciated either by the public or by the press.

HON G T RESTANO:

Mr Speaker, may I say that I said that I was not going to repeat what had been said often in the past.

HON CHIEF MINISTER:

Well, then you should not have put the motion in at all, you have repeated everything, you have said it in 72 and 82.

HON G T RESTANO:

I said that I would not repeat all the details of all the suffering.....

HON CHIEF MINISTER:

Alright but don't circulate it.

HON G T RESTANO:

But I think that I have every right to circulate it, Mr Speaker, I have every right, and if the Chief Minister is denying anything that is in this paper, has he denied?

MR SPEAKER:

I will not enter into a controversy as to what Members should or should not do or how they should do it. The media is in the House, and I will sound a word of warning that it is one thing for Members to circulate information which they want disseminated, but it must not be taken that it forms part of the proceedings of the House. I take it that the position has been cleared, and once the media quotes the proceedings of the House they have got to be careful that they are quoting what has openly been stated in the House and not necessarily papers that have been circulated. Unless of course they have been laid on the table, that is another matter.

HON DR R G VALARINO:

Mr Speaker Sir, talking about the statement of the Honourable Gentleman, I do not honestly mind factual figures being shown to other Members. The last paragraph tends to imply certain things, not to ask on this side of the House, maybe not to them on that side of the House, but it could well be picked up by the media and used as a campaign issue by the Honourable Mr

Restano. Now, I was at the time, when I was saying that I did not want to go too much into what I said in 1982, and to just make the absolutely necessary points in order to be able to defend the debate. At that time, I mentioned that against the background of the financial climate brought about a fuel crisis with the resulting trebling over a short period of time of fuel oil prices which had a disastrous effect on the operational costs of small, and I repeat small electricity supply undertakings all over the world, because unlike the large national utilities, Gibraltar cannot fall back on hydro, nuclear or coal power stations. In the case of Gibraltar, this was confounded by the high increases in wages and salaries brought about by the introduction of parity. Mr Speaker, Sir, there was never any doubt in anybody's mind that additional generating capacity was going to be needed, hence the DCP Report of 1976. The bee in the bonnet of the Opposition. A number of options were available, and it was considered logical and prudent that they should be explored before taking any final decision on the project with major financial implications as represented by the building of a completely New Power Station, and which we knew had to be financed from Government resources, since the various attempts made by the Financial and Development Secretary in order to obtain development grants from a variety of sources, including the European Development Bank, had met with a negative response. We have gone over and over, here in the House, the various alternative options open to Government, and for the record I shall repeat what they were. They were basically three, the first one was to increase the size of the Engines at King's Bastion. This would have meant removing a 2.2mw Engine which was working at the time and changing it with a 5mw Engine. The other two, needed the help of the MOD. One was a Joint Power Station at the present site of the Waterport Power Station and the second was an expansion of the Inter Services Generating Station. Now, talking about King's Bastion, this was ruled out after considerable thought, because it meant retaining the same working conditions which exist at King's Bastion, and very possibly even aggravating them. Increasing pollution in the heart of the city and there were inherent difficulties of working within an operational station within the confines of the military bastion. The two other alternatives, necessitated approaching, as I said before, the Ministry of Defence for their cooperation, for both of them. This particular exercise took a very long time, since whilst discussions were held here in Gibraltar and at such times meetings were attended by officials from the UK who came out specially for them, the final decision rested with MOD in Britain. And as we have said before the various proposals were finally rejected and in the end Government was left with no alternative but to proceed on its own with a construction of the Power Station and with all the implications which such a decision carried. The Government,

can therefore not be accused of either lack of foresight or proper management, for all this work was in hand during the period 1976 to 1979. But, I would admit that because negotiations of this nature do involve consultation with other parties and administrations, they often take much longer than might have been anticipated in the first instance. Let me suggest this simple example. The difficulties experienced by Government in their appointment for the Steering Committee, as the Chief Minister has previously explained to the House, only serves to highlight the delay that is going to occur in such processes despite consistence and maintained efforts on the part of all concerned. Mr Speaker, much has been said about the 5mw Engine mentioned by the Chief Minister in the previous debate. And, I think, this debate presents me with an opportunity to clarify a point which the Opposition has laboured on repeatedly, as an example of the term lack of planning and on the spot decision making and which has never been really explained properly. The decision of the Chief Minister as stated to the House during the course of an adjournment debate in 1979 to the effect that a 5mw Generator would be in service within 18 months. That was really not an on the spot decision taken by him on the spur of the moment. In fact it was a valid statement of fact which would have applied as being part of one of the options already mentioned and would have been the case if we had decided to proceed with the re-engaging of King's Bastion. It was indeed estimated that the second 5mw set additional to No.13 would have been in service within that period. However, in spite of the commitment given by him and for which he has claimed full responsibility in the past, it was later, when we were returned to office in February 1980 that Government decided to proceed with the construction of a New Power Station in the full knowledge that a longer gestation period would be needed. That, Mr Speaker, is responsible Government. Because that decision was in the best long term interest of Gibraltar, and I have no doubt in my mind whatsoever that we took the right decision even though as things turned out, it became necessary to import temporary generating plant, never an ideal situation and at a cost penalty. But common to small territories in order to meet the shortfalls in generating capacity which resulted. Now, let us turn to this temporary generating plant which the Honourable Member says it has cost us so much. I would like to remind him of an answer given by the Honourable the Financial Secretary, and I am quoting from Hansard the 22nd February 1983, when the amount was queried and he said, "You cannot really look at it from the point of view of establishing whether an amount has been reached. If the Skids had been brought outright, we would have been paying the full amount on day one, and that amount would have obviously been borrowed or loaned. If you attain it through time obviously, it will be discovered at the end of the day you pay less, but the financial

analysis show that if you needed to have the skids, but the financial analysis shows that you need to have the skids for about 5 years or more before it would be really worth buying rather than hiring them". So, the Skids did actually cost less, the hiring of them, I haven't looked at the little paper that the Honourable Gentleman has passed around, but obviously he has included certain items which are basic to either hiring or buying the sets, which means the installation of the sets etc, etc. Now if we put down installation costs £89,000. Now those installation costs would have been the same whether we would have hired the sets or we would have bought them. So, the fact that he has put them in there only serves to highlight the point that he wants to make political capital out of it. He has forgotten one very important, in fact, I look now at the Trailer Mounted Generator, installation costs, £40,000. He has forgotten one very important factor, that Government was able to manage to recoup the greater amount of the money through electricity bills.

HON MAJOR R J PELIZA:

I do not understand.

HON DR R G VALARINO:

I will explain the last part. I said that even if we hired the sets, the sets were run, therefore they produced electricity, and therefore produced charges for which we were able to get back Government revenue. So the fact that he said that the high charge was that much, he has got to decrease that higher charge by the amount of which the Government made during that time.

HON MAJOR R J PELIZA:

Could I just ask another question? Would it not be the same wouldn't you get money from the running charges?

HON DR R G VALARINO:

It would have been exactly the same.

HON CHIEF MINISTER:

Except that they would have said we have saved wear and tear in our other Engines.

HON DR R G VALARINO:

And not only that, if the Honourable Member had listened, we

would have also saved as I said before, the fact that the money would have to have been borrowed to some extent, and the borrowing would have cost Government an additional amount of money. Now all this, Mr Speaker, is now past history. But, it is quite obviously in the Opposition's interest to keep this alive as a hope that they should be able to bring this up at election time, but our own objective has always been a forward looking one. In fact, forward enough, that we now have 2 Engines at Waterport, which are running perfectly well, and as I think I mentioned previously in the House, we have approached ODA for a third engine of the same magnitude to continue the expansion of Waterport Power Station, which will eventually take over from King's Bastion. He questions why did we bring Trailer Mounted Generators. He forgets that at the time I mentioned that No.8 Engine, one of our most reliable engines had a total breakdown, through a crack in the column line, and it was necessary for a short time to bring a Trailer Mounted Generator. He then goes on to say, he talks about the Minister's Committee, that the Minister's Committee did nothing, that the Minister's Committee was a waste of time, and.....

HON G T RESTANO:

On a point of order Mr Speaker, I never said that the Minister's Committee was a waste of time. I said that the Steering Committee had suggested that the Minister's Committee should be done away with. That is a fact.

HON DR R G VALARINO:

Yes, Mr Speaker I accept what the Honourable Member has said. Now let me deal with this. Although we do not necessarily share the Opposition's view, in fact, Mr Restano, laid considerable importance to the fact that in view of the Committee of Enquiry there was no adequate departmental machinery within which to discuss the Government's proposal for the manning of Waterport Power Station. And he obviously felt that the Committee of Enquiry has made the right recommendations in proposing the setting up of such a Steering Committee. So it was they as Mr Restano, has just said, that they felt a Steering Committee should be set up. Government followed the recommendations and if it had done otherwise, no doubt the Opposition would also have been critical. Now let me mention about the Minister's Committee, and I shall quote the Honourable Mr Isola, because he quoted directly from the Report of the Committee of Enquiry. He said about the Minister's Committee "The Committee", this is the Committee of Enquiry, recognised that the present Minister's Committee has served the useful purpose in overcoming the immediate need to improve both the industrial relations and the working conditions at King's

Bastion, both North and South. It is not considered, however, that this Committee can usefully continue its present form. All the evidence we have heard predicates against it, and without wishing in any way to revert any established order, we are unanimously of the opinion that the setting up of a more appropriate representative committee is advisable. This will allow all the staffing negotiations for both Waterport and King's Bastion North to proceed in a more constitutional form". These were words of the Honourable the Learned Leader of the Opposition, and as a result the Steering Committee setup. Well, Mr Speaker, the Government having followed this proposal had considerable difficulty in appointing a Chairman. But this was finally done in September 1982. No one, not even the Members of the Committee of Enquiry could possibly have been under the illusion of the magnitude of the work assigned to the Committee. In fact, the Report recognised this by stating that its work should be completed within 9 months. It has taken longer than that, true, but its work, I am happy to say, is almost complete. The staff have been difficult, because it has involved the introduction of practices which are new to Gibraltar. Such as the change from the existing three shift cycle roster, to four shift cycle roster with relieving shifts and the introduction of round the clock shift maintenance capability. These are practices which are quite common elsewhere. This had been considered necessary by management for a long time and were recommended by the Committee of Enquiry. In fact, if one looks at the Committee of Enquiry, and the draft document of which staff and management have agreed, almost entirely, and will be signed in the near future leading to the introduction of full Works Council, one can compare the two and find like by like, find all the points being covered, and find something which we have never found in Gibraltar - a complete understanding between two completely different sets of people. In addition to this, the Steering Committee has also been involved in negotiating the constitution and the composition of the future Works Council which will be the final answer, a Departmental Dispute Procedure, Manning Levels, Revised Job Titles, Management Structures and finally Procedural Agreement for the future introduction of Synthetic Data Based Productivity Schemes. All these things do take their time, especially in a small place like Gibraltar where individual involvement and concern is far greater than is normally experienced in similar negotiations carried out in an industry in a national context like the United Kingdom. And I have already stated many times how often the Steering Committee has met, how often the many sub-committees under the Steering Committee have met, and all this just goes to show that it is Government's intention to hasten the arrangements as soon as possible, so that the satisfactory conclusion is reached. So that we can look forward to the manning of the Waterport Power Station, to the

full manning of the Waterport Power Station, because there are already people there, as soon as possible. Now, there are a couple of other things which the Honourable Mr Restano mentioned, he mentioned about slippage of the engines, he seemed to mistake this with reliability periods, which I dealt with extensively in answer 128 of 1983. He mentioned many red herrings, which is not uncommon coming from Mr Restano, and then he mentioned the fact that HSPE are running the station and thereby costing the Government a fair amount of money. Let me say that if HSPE were not running the station Government would be running the Station themselves, and in fact, I have mentioned in the House that the cost of running the station by local employees would be approximately half of what we are now paying HSPE. I am afraid to say that the Honourable Mr Restano has never asked me to come and let me show him Waterport Power Station. He is probably waiting for the full opening and only once has he been to King's Bastion, and that was probably too often. Yes, and there was trouble. I had to get him out before they lynched him. So how can a Member of the Opposition honestly bring in a motion like this, if he has not visited the place himself. But I mean, the same thing happens when my Honourable Colleague Mr Zammit, answered the previous motion by Mr Peliza. Members of the Opposition do not go and visit departments, most, not all of them, do not go and see the departments concerned. They do not take an interest throughout the year. They are only interested when they are here, they attack Government but it is heard outside, in the press, over GBC, although Members do not wish us to pay GBC their payments, but it is heard over GBC, and in other newspapers. Mr Restano, unfortunately is getting his Hansards wrong, of late. I have corrected him twice in the last meeting and in fact, he was corrected once in this meeting I believe by the Honourable Mr Perez. Now, he mentioned something about power cuts, that we are still having power cuts despite having new engines and a great deal of additional power. Now, I would not call them power cuts, because they are not power cuts. Let me explain the system how it works. Let me take the United Kingdom. In the United Kingdom you have got a Generating Station of coal, nuclear, oil, maybe hydro electric power coming into a grid system, and at that time in the grid system they spend 15% of their capacity. When this comes into town, if they need any extra power, the power is available. Here in Gibraltar, the power comes directly from the engines, and if by any time, the engines have to be shut down, quickly and immediately, a momentary power interruption may occur. Now even if we had 20 engines, this would still happen, because there is no grid system in Gibraltar. Because we are running Gibraltar like we are running, and we do have to run Gibraltar unfortunately, because of our neighbours. We are running Gibraltar as if we were running a much larger concern. We have to run electricity, water, public works, GBC, everything alive. Everything alive, medical services, everything, which one would find not in a

small town of this number of inhabitants in the United Kingdom, but in a very large town. I mean in a town, this small in the United Kingdom, one would not find the quality of consultants that are at present at St Bernard's Hospital. And this is the way that we have to run Gibraltar, because we have neighbours over there that we cannot trust. So unfortunately, this is the way power cuts arise. Power I mean Electricity power, and not literally power. Now, Mr Speaker, I have dealt with most of the points brought by the Honourable Member in his speech, he says that there was no degree of proper management, efficiency or foresight, when I have shown that there was degree of proper management, there was efficiency, there was foresight, resulting in enormous unnecessary expenses. I dispute that as well. And the inconvenience to the people of Gibraltar. And because he is electioneering he puts the last paragraph in a little paper which he has turned round. Therefore Mr Speaker, in order to sum up let me say that Government is content that it has fulfilled its obligations in a responsible manner and now adhered to the recommendations it has received. We feel this motion is nothing more than electioneering and the wish to flog a dead horse for the benefit of the Opposition. Sir, Government will be voting against the motion.

HON MAJOR R J PELIZA:

Mr Speaker, the performance of the Minister was no better than I expected, which is total rubbish, Mr Speaker. Here is a motion, of tremendous seriousness, of which Gibraltar is well aware, there is no hiding from fact. Tourism might be got away with since the people do not know enough about it, but electricity Mr Speaker, does affect every home in Gibraltar. It has affected every home in Gibraltar. And, therefore, Mr Speaker, everything that we stated in that motion are facts and in this case, are supported by very carefully worked out figures that my Honourable Friend has been able to put together. And what have the Ministers done in this House today, to satisfy, forget about the Opposition, we are trying to make capital out of this, but to satisfy the people of Gibraltar. Let us forget about good judgement, but satisfactory I think in the circumstances, that if anything, he has made matters worse, not better. He has been making a few statements, Mr Speaker, which really confirm what my Friend said. First of all let us take the question of committees. It is a well known fact that when a Minister or a Government or a Department is in trouble, the first thing they do is, how can we pass the buck and throw a cloud over the whole thing. The answer, Mr Speaker, which a good Civil Servant would recommend, get a committee going. Set up a committee and the whole thing is so confused at the end of the day that nobody knows whether they are coming or going and in this respect we must say that the Government has been absolutely first class. The only thing is, Mr Speaker, that

in this case it drags on a bit more, because the so called Steering Committee which was going to put matters right so quickly has become really bogged down and it is a very costly committee. Mr Speaker, it is still there, it sticks out like a sore thumb. Now, what has the Minister said to convince this House that it has taken so long for this Committee to come to a final conclusion and settle whatever is the dispute or whatever you wish to call it, between the workforce and the management in getting to man the New Power Station which has cost a fortune and which we must be very careful we do not throw away. Because one thing that was said by the Enquiry was that no less than the City Electrical Engineer should be there all the time. That in itself, Mr Speaker, the fact that it has called the man who is responsible for the Department to leave his work and concentrate on this particular installation, Mr Speaker, proves the importance of the situation and the chaos in which it is in. I cannot understand how for some time the person responsible was taken away from the central chair and put down to a site office, as you might say, to deal with that problem. Steering Committee, Mr Speaker, all we know, even today; when the Minister is facing a motion of no confidence, including the Chief Minister as well is facing a motion of no confidence. All he says is "yes, it is nearly ready, and it will be ready as soon as possible". But soon as possible, Mr Speaker, for this Minister does not mean a thing. It does not mean a thing at all. It could be tomorrow, I suppose, or it could be in 6 month's time. We just do not know. We have no idea at all because we can no longer take his word for it. That is a fact. This is why we are saying no confidence. Now when my Honourable Friend quantified the figures, in my view we left out one very important one, which perhaps is unquantifiable. And that is that because of the bad judgement of the Government, the purchase of the generators were done a number of years later and because they took so long, they obviously cost a good deal more. And they cost a good deal more not only in its cost, in their intensive costs, but in transport, bringing it over, and labour in having the Station done. So that figure, which my Honourable Friend has very kindly omitted and yet we have the Chief Minister, questioning £25,000 or whether this Committee was indeed, responsible or necessary or not necessary for the sake of the installation. Well he should be thinking of a £1million or £2million that this has cost Gibraltar by simply not buying the Generators in time. And I would like to see what the Chief Minister has got to say about that. It is rubbish, please note this because it is very important for the record. It is rubbish to say that when you buy capital equipment delayed for a number of years the cost is the same as what it was before. That is wrong. The question of the inflation does not come in. That is rubbish. If that is rubbish, well ask any person who is investing how important

it is, to buy as quickly as possible because otherwise your cost goes up. If, this were not a public corporation being paid for by the public, a Public Undertaking being paid for by the public, if we were a business competing with another business it would have been a disaster, a total disaster. They would have been out of business, if it had been proper competition with another firm and of course the Director would have been sacked but not here because we cannot sack. We have to wait for the next elections. And then you try and bring this to the public, which is very justifiable, because after all this is why the Opposition is here . . . to try and clarify the situation, this is what they are doing, bring it out into the open. They say it is electioneering. Making political capital. This is not making political capital, Mr Speaker, this is carrying out the functions, our functions, this is why we have been put here on this side of the House and this is all that we are doing here today, Mr Speaker. Now, we find that my Honourable Friend, in order not to repeat what is common knowledge in Gibraltar did not read the end of the statement on the cost of Gibraltar on the delay in implementing these recommendations that we know were made in 1976. We are talking now about 1976, to which my Honourable Friend refers. And because of that, because the Government in its wisdom did not act on that Report, not only have we lost money, the people in Gibraltar will have to pay more, either directly by the charges of the electricity units going up or indirectly through Income Tax. This generation for the amount that they will pay, and future generations for the interest on the payment back of the capital expended on the generators. Apart from that, there is the inconvenience and added costs to which My Friend again said, perhaps could not be quantified. First of all I think the cost of suffering in some cases. We may have an old person who on a cold day just cannot get the heater on or cannot have a cup of tea or a hot meal or the baby cannot have his hot bottle or milk bottle, and so on. I mean there are lots of little things that in this modern life we expect in our standards of living to be there without questioning. When the Minister says on the question of the grid that we as a small town obviously have not got at our disposal the different sources that a bigger nation has, where you can switch on from one to another, when one is out, the other one comes in and helps you but this has never happened before. One thing that we could be proud of is that there were very seldom any blackouts in Gibraltar. Why is it that they now suddenly start happening. It must be a big question mark. I mean it is not entirely true either that we cannot get something from other sources. We have the MOD to which we can plug for repairs of engines going out and so on. There might be instances that because they are supplying a naval ship in the harbour they may not be able to do it; that may be the case. But by and large, they can come and give a hand and the fact is as I

said, the proof of the pudding is in the eating, it used to be alright before 1976. And if for any particular reason one district went out for a couple of hours, it was understood and nobody complained. When the complaints started coming in was when this was consistently happening. Whether it was the engines that were at fault, the labour which was not performing properly, the levanter, or whatever it might be, there is plenty levanter, this is a usual thing in Gibraltar, whatever it might be, the fact is that it never used to happen before. Is it because of that, because of the consistency of breakdowns, if I may say so, we kept pressing the Government to do something about it. And on this particular occasion of 1979, October 1979, after pressing the Government very hard that it was necessary to put in new engines, and they said no, no need we are alright for 3 or 4 years because that was the reply we kept getting all the time after consistent pressure. I put a motion on the adjournment and this was the great surprise, the rubbish that the Chief Minister got out of the hat just like that, oh, not to worry, we are now going to install a 5mw Generator and it is going to be done within 18 months, just like that, categorical like that. He took over responsibility at that very moment, apparently in the ante room when he had a little chat there, the decision was made. So all the story that we have heard. from the Minister of the very careful consideration, of options going on for year after year, the Chief Minister must not have even known about it. Because if all these careful consideration had been given year after year, on that particular occasion we would have heard there and then, "No" we are bringing an Engine of 5mw, not what was decided in the ante room on the spur of the moment. This is instant Government of which the Minister for Economic Development so much dislikes. And I agree with him, it is terrible to have instant government of that nature, but of course, cornered, when he knew that he could hold the flood no more, he had to come out with any rash statement, and of course, it has proved to be rash because we have seen what happened, even today you might say we are not running our own Station. That is a fact. We are still at the mercy of Hawker Siddeley. If tomorrow Hawker Siddeley, for any reason went bankrupt or anything happens, and they left just like that, I suppose we would then have a blackout, or we would have to pay through our nose for overtime for whoever it was that would have to go there. That is the situation today, Mr Speaker, having paid, as my Honourable Friend very rightly said over £2million plus, what I said before of not having bought the equipment in time. So, Mr Speaker, apart from the suffering and the inconvenience you have firms who depend on freezers, if they go out for a little while they can suffer losses, I don't know if they have or if they haven't but certainly in the home, no-one in the house is going to start claiming whatever it was that he had in the freezer. that has gone bad. Or he would even have to eat it

in a hurry, whether they liked it or not, but how they were going to cook it I don't know, because they had nothing to cook with, since we have no gas. We also have the question of loss of trade. It was a shame to see how long Main Street, most or many shops with little generators going on to try and keep the lights on. Have we forgotten that? I haven't. Nor have the tourists who probably never came back after that. So when we say loss of trade as my Honourable Friend said, I think you can include that as well. I don't know what excuses managers in hotels had to give their guests. Certainly, whatever they said, it did no good to the image of Gibraltar. And if we were spending money in advertising Gibraltar that was also going down the drain. All losses, Mr Speaker, that cannot be quantified. And then there are of course expenses of families buying cooking apparatus. Well I know that lots of them did. They bought gas stoves, gas bottles.....

MR SPEAKER:

Well with respect I think, with due respect, you can talk about the inconvenience and the expense but not in respect of what the people actually bought. With due respect.

HON MAJOR R J PELIZA:

Mr Speaker, I just repeat this for the sake that no one, so we have losses in respect of cooking apparatus, heating apparatus, lighting equipment, generators for lighting in the shops, all to cover lack of continuous electricity supply from 1977 to 1982. All due to Government's lack of foresight and planning. I hope that that satisfies the Chief Minister. So if newspapers publish that, I think they can be absolutely safe in saying it, because I have said what my friend, for the sake of not boring the House did not say. The Minister, Mr Speaker, I thought, would have had the courage of standing up and challenging the statements that my friend has done, explaining and proving beyond doubt that there was no mismanagement. Surely, I mean, misjudgement in the end, is mismanagement. They go together, a good manager is a man who has good judgement. A bad manager is a manager who has no judgement. There was no good judgement, no foresight, and consequently, Mr Speaker, what we have had is a total disaster in the supply of electricity in Gibraltar for a number of years. And we are still not out of the woods. Now I would have liked, the Minister said that Skid Generators would have cost the same. Forget about figures, Mr Speaker, the facts of the matter are even if they have cost the same, the facts of the matter are that now, we would have those Skid Generators here in Gibraltar to be used in the future. Now we have not got them.

HON CHIEF MINISTER:

We do not need them.

HON MAJOR R J PELIZA:

We do not need them now. I said I don't believe that we are still out of the wood, I hope so, I touch wood, Mr Speaker, but it is good to have those reserves, what is going to cost him nothing, so that because we do not need them we just throw them away, not knowing what tomorrow is going to bring for us. Mr Speaker, I think it is absurd to say that and buying them in this instance was the same and that they cost exactly the same, and I say it is not. We don't have the equipment. If we had bought them at least we would have them. The fact remains that we would have them here, and you never know we might have been able to sell them to someone else. Because I believe that they are very difficult to get those Skid Generators or were very difficult at the time, and perhaps they are difficult to get in other places that might need them. But I am not going to expand on that. And so, Mr Speaker, we go down the list, we go down the list and we find finally the electricity supplied from MOD. Now, no one, again Mr Speaker, can say that if we had been running our business in the proper way, this amount would have had to be paid. But there is no explanation of just proving that this, whether or not the generators have come here, the good ones have been there installed in time, we would still have had to require this from MOD. This of course does not make sense. If that generator would have been working properly, we would not have required this supply from MOD. I feel one little thing here and there, maybe, but not that amount. Not £152,000, Mr Speaker. Now I don't think that the Minister has in any way, convinced anybody that he has control of the situation or that he has ever had any control of the situation. His performance in this House right from the beginning is absurd. And then the Chief Minister could have seen long before that there was a case, but perhaps he can't because his hands are really tied. He cannot change the Minister for Tourism, he cannot change the Minister for Municipal Services. We have a Mayor who is not a Minister.

MR SPEAKER:

No, no.

MAJOR R J PELIZA:

Mr Speaker, there is a Committee which is performing the duty of Government in Gibraltar, because obviously the Ministers

are incapable of tackling the work that they have to perform. This is the true situation. And as far as the electricity is concerned, we have seen it clearly as the motion to the adjournment, it was he who came along and made the announcement. The usual announcement of the 5MW generator. It was he, he had to take this matter in hand. Surely those are the things that the Minister should have done, notwithstanding the failure up to that point, he allowed the situation to continue to this day, Mr Speaker. And this is why I agree to the motion, and I hope he can prove, and I hope he makes a better performance than the Minister to try and disprove everything that has been said in the motion, and above all, to bail himself out of the situation that he has got himself into. And this we shall have to hear, Mr Speaker. But I really congratulate my Honourable Friend for the interest that over the years he has taken on the Generating Station that he did not want to go and see the new one, I do not blame him. I would not like to identify myself with the Minister for Municipal Services any more than I do for the Minister for Tourism, I said so clearly the other day. I cannot see what shame he can bring to the Department by the Opposition visiting his office. Is that going to put matters right. Oh, no, what is required is that the Minister should walk out of his office and allow him to take control. That I agree with entirely. But to go to the office and perhaps even say, later, "Well we knew all about it, and they did nothing about it" that is a terrible situation to get into. One that I would not get with Tourism, and I don't blame my Honourable Friend that he did not. He said that when he went he was going to be lynched. Why did he want to be lynched? Why? I mean the Minister does not know, but was it because he was going to put order? Is it because in fact he was going to start governing was that why he was going to be lynched. For what other reason could he be lynched. Was it that they feared that if they took over, there was going to be some firm direction in the Station. I would like to know if the Minister can amplify that matter. Why lynched, maybe the Chief Minister might say so. Because I have never heard my Honourable Friend say anything here which is insulting to anybody in the Generating Station, except to bring out the salient points which I think is his duty to do. And which he has done, I think, excellently. The amount of information that the Member here has is much more and we have seen it here, much more than that of the Minister, and he has no civil servants to back him, no readily available papers from the Government. He has done it all by asking questions and then compiling together all the information. I think if I may say so, my Honourable Friend has got to be congratulated, and I think that Gibraltar does owe him a debt. Because God knows what would be the state of the Electricity Undertaking today, God knows, what it would

be, if my Honourable Friend had not been pressing his foot in the way he has. So, Mr Speaker, I think that in this instance, the Opposition has performed its part to the best of our ability, with sincerity, objectively with the only intention of trying to make the Government to put its service on a proper footing, a service which in our daily lives is vital to everything that goes on. Especially to hospitals, Mr Speaker, to the elderly people, to commerce, in every direction that you look, Mr Speaker, in this day and age, electricity is vital to keep up our standards of living, and even our necessities. This is why I think the Opposition has done its best to try and make the Government conscious of their duty and unfortunately, I must say that we have not succeeded as quickly as we had hoped.

HON CHIEF MINISTER:

Mr Speaker, the other day in the Tourist Debate, I said that I often wondered how a man who has held this post as Chief Minister for 2 years and 10 months, speaks with such crass ignorance of things in Government, and it has been confirmed today. The Gallant Member stands up and he speaks whatever rubbish, amounts of rubbish, he thinks, and I will show him how much rubbish he has spoken. In the last debate, in last year, in October, I said, I used the word which my Friend has picked up now, that the Leader of the Opposition was flogging a dead horse, well he is still flogging it, they are still flogging it, and I think it must be unique in the annals of parliamentary democracy, that after winning an election, despite all these problems that the Honourable Member has nearly made us cry about the power cuts, because the bulk of the power cuts were before the 1980 elections and after winning an election, then we are being brought here, on a vote of no confidence for something that happened in 1976, when had those votes of no confidence been attempted they would have been successfully beaten by the electorate as shown by the results. I do not know, maybe in the year 2000 they will still be talking about the Preece, Cardew and Rider Report of 1976, from that side obviously. And what is this about the Government needing a vote of no confidence, the Government needs a vote of no confidence from 6 power hungry politicians who want to be re-elected with 2 others in order to be able to oust the Government, that is what it is all about. It is a little Debating Society we are having today because all that they are doing at this stage, which they can do nothing effectively, is trying to see whether they can determinate and bring back in people's memories the difficulties we had in 1979 and 1980. Of course, it is likely that there is to be an Election, certainly before May, and perhaps some people think before, and therefore, this is the time to bring in all motions on all sides, to be able to show what wonderful things

the Government or the success of the Government who were never able to make it for a whole term could do. And for the Honourable and Gallant Member, to look at these figures as debt losses, show his crass ignorance, for example, he spoke about the £152,391 paid to the Ministry of Defence for power. That is exactly the amount that we collected from consumers, we have not lost a penny there. Not one penny, and here he is quoting on the debit side. If you are buying electricity and selling it at the price that it is costing you to produce, you are not losing a penny, so that figure is out completely. Then he talks about the Skid Mounted and the other Generators. They produced electricity. Unfortunately we have not got figures, not only available, but figures without much research as to the relative production of those, perhaps the advantage of tying us over a difficult period, but it is not just another amount to put on the debit side, those generators produced electricity. In fact, we are being told, we should not have sent them away, they should still be spoiling the view of the Line Wall, in order to be there just in case. Well I am sure that it could be proved that that was not the case. Now the payment of Hawker Siddeley Power Station, that has been said here, there again, that is not a complete loss. It would have cost us about half that money to have run the station ourselves. There is one area which requires a little elaboration. Before that I will deal with one other bit of nonsense on the part of Mr Restano, in respect of comparing the seven or eight or nine thousand pounds on the Preece, Cardew and Rider Report of 1976 and the cost of £200,000 odd of Preece, Cardew and Rider, in respect of the New Station. And this shows a complete and utter lack of understanding and ignorance of the difference between a consultancy for producing a Report as opposed to the involvement in an engineering project worth over £7million requiring change, checking of designs, calculations by contractors, production of drawings, attendance at sites, and manufacturers works and meeting inspections of equipment and site works including witnessing of tests. In fact a continuous sustained involvement of many engineers, inspectors and drawing office staff, during the design, manufacturing etc, of the works and warranty periods. Two years, two years work of servicing a project worth £7million. A slight difference between that and writing a Report which is just produced after getting figures and getting a few Consultants to write the Report. That shows the ignorance that the Honourable Member has, or his total blindness in order to be able to make some case in his hobby horse of the Power Station. And in fact, by comparison, the Consultancy for Waterport is cheaper than the 75/76 Report. Specially since it involves direct responsibility for the performance of plant and building which could carry very heavy financial costs in the event of any failure through any fault of their own and not a case of just an

Advisory Report. So that is another aspect. Now there is one aspect which I think, and the other thing of course is that in the last debate, I noticed that I made rather a long contribution and I would refer for the record, to what I said, I am not going to read it. But I do not propose to go over all of it again, I do not propose to waste the time of the House by repeating everything I said up to, except one point with which I will deal now and which is applicable today. Because Members opposite choose to repeat motions of censure, even in respect of periods prior to the last election, which was the worst time we ever had, I am not going to play that game. There is one aspect of it, which I think it ought to be plain, not only for the benefit of Honourable Members opposite, which in any case do not pay any attention to what we say here, unless it can be used against us, but for the purpose of the public. And that is the prolonged period of gestation of the Steering Committee. First of all, as the Minister claims, there was a difficulty in getting a Chairman, and finally through the offices of the Industrial Society, which is a big prestigious Society in the United Kingdom which provides the know how in respect of people, we were able to get the Chairman. Let me make no apologies to say that it has been an expensive experience. Whatever time it would have cost, the cost has been expensive. But let us see what is on the other side, what the lack of getting the thing properly run would have landed us into. And that is that over the years because of the difficulties, because of the going back to 1972 and because of the muscle that certain members in the Power Station could use which really ended up by producing power cuts, that we had to make sure, we had to make sure that the Work Practices that had developed over that period, some of which, really, are very cumbersome, and not likely to produce good results, it was necessary to ensure that the practices exercised at the Power Station at King's Bastion should not be perpetuated at Waterport Power Station. Now I know it may be unpopular. I know it can be said that we have spent £100,000 on its Chairman. First of all, the Committee of Enquiry thought that it would take about 9 months and we have just gone over that, and I hope it will be much longer. I think that everybody does wish that the work of the Steering Committee should finish. But it has been very difficult, very, very difficult indeed to get through and get what is required which is a Work Charter accepted by the workers of productivity systems that will ensure that the Power Station on which we have spent so much money is run properly and free from unnecessary industrial disputes and unnecessary problems with the workforce. It was to ensure, and it is to ensure that the Work Practices which led to such disasters in the 70's, the end of the 70's should not be reproduced in the New Power Station. To have completely different Work Practices, Productivities, Measurements and

so on, because it is a very important Power Station, to which we may soon be adding another Engine. And that is going to be the source of electricity supply except for King's Bastion North, that is going to be the source of electricity supply for a very long time to come in Gibraltar. And we have to make sure that the people went there with Work Practices that had been negotiated with them, away from Work Practices which had developed in the Power Station, unfortunately through difficulties with the power. As for which, if I may say so though at times with some set back from the workforce, certainly the trade union leadership and Mr Bossano is not here, but I have no hesitation in saying that he has been instrumental in helping the men to negotiate acceptance of the Work Practices. And the proposed Agreement of which I have seen a draft and which is a rather heavy document which the Union will hopefully agree to and which sets out the practices beyond any doubt. So that there is not only a workforce that will not create problems but that it will be a workforce which in new surroundings, in a beautifully designed and well equipped Power Station, with all the facilities possible, there will be no need to have any problems in the future. That is really the reason for the time taken by the Steering Committee and which requires a public explanation which I gladly give. Because that is something that has arisen since October of last year, since by the time that the debate was taken in October last year, the Steering Committee was about to start. Now, going back on the question of the marvellous production of figures by the Mover, most of which have been made negative completely by the explanations I have given except to the extent that there is no income out of the industrial relation heading of the Chairman of the Steering Committee, but would be in the long term a very great saving if the New Power Station is run on terms that does not produce problems, like in the past, with the workforce, the hire of the generators as I have stated have produced electricity and helped the payment to Hawker Siddeley until we have the workforce in condition to take over its just about double of what the cost would have been if we had not had that. The electricity supplied by the Ministry of Defence which is completely negative by the fact that that produced electricity which was billed. In fact, the units billed in the year 78 to 79, were £1,928,342.49. That year the budgetary contribution was £634,000 odd, I am not going to circulate this as a piece of propaganda and the surplus was £176,452. In 1979/80, the amount of electricity billed was £2,821,798 and the, that is interesting and the budgetary contribution was about half £350,000, and there was a surplus of £217,248. And in 1980/81, the amount of electricity billed was £3,336,053, the contribution was £289,000 and the surplus was Nil. And this year, of course, the 81/82 the bills the units billed amounted to £6,612,525 and the budgetary contribution of £623,400 and a

surplus of £135,722. Well, I think it has been accepted generally as a matter of policy and I think this has certainly been supported by one Member of the Opposition, and that is that if we are a self contained unit, as we have to be in electricity, the cost is higher than is normally the case where you belong to a bigger grid, as the Honourable Minister was explaining before, and therefore to the extent that that is something beyond the power of the consumers, the general body of tax payers make up for that healthy contribution which have not been in fact objected to in the past, hence the contribution in water, hence the contribution in housing. It is the contribution that the general body of taxpayers pay for the provision of these essential requirements of the community which need help from the general body of taxpayers. And therefore, Mr Speaker, at this stage in the proceedings, with an election which took place in 1980, which put behind all the suffering and all the cups of tea and all that to which the Honourable and Gallant Major was referring to, they made their best at the 1980 elections and were unable to move out in respect of our status in the community and I am quite sure that the same will happen this time, if and when, or when we have an election, there may be a coup, I don't know, if, yes we may have a coup, a coup from the Majors, the flying Majors, so the rest has been left behind in 1980, why bring back Preece, Cardew and Rider in 1983, end of 1983 when the 1976 Report was flogged to the limit in the 1980 Elections and the people did not pay any notice, despite the fact, and I must say, that this in no way diminishes the concern and the suffering that the people, unfortunately, went through. Circumstances beyond our control for many reasons, that we need not go into, if we are going to look to the future with a sense of confidence. The continuity of supply is going to be the same as in the days when we run the City Council when a stoppage of supply of 3 minutes required a minute justifying it. But we are living in different times now, Mr Speaker, and we have to make sure that the Work Practices and hence the £4,900 which is set out for bringing the British Electricity and National Consultancy, that is one consultancy for producing productivity which was specifically recommended in the Committee of Enquiry Report presided over by Sir Howard Davis. We are doing no more than that, and in so far as putting the £25,200, again, as a weight, this is something which will help to provide the electricity with the necessary know how. For a former Chief Minister to say "you do not need to appoint someone just to know what the tariffs are going to be". Of course you need to know the extent of the cost per unit, the time of the day, the amount of power you must have at a particular time, the flow of the month the flow of supply, and so forth. You must have experts to tell you whether you are on the right lines, even to get the same amount, moving one kind of structure from the other. To put that there is

the advent of folly and ignorance and cross disregard to the intelligence of other people. Mr Speaker, it is no question of saying we are not going to support this motion, of course we are not going to support the motion of six people who want to try and bring this Government down at the last moment, or knowing that they won't try to make the best of it in this forum. And perhaps giving another opportunity for the Gallant Major to show his lack of having learned anything in the 2 years and 10 months of glorious IWBP Isola Group mismanagement.

HON P J ISOLA:

Mr Speaker, yesterday, sorry, on Friday, I think it was on Friday, the Honourable and Learned Chief Minister was congratulating his Minister for Tourism on his well researched and cogent argument expressed in a lengthy speech in reply to the motion of my Honourable and Gallant Friend Major Peliza. I am afraid that we cannot make such remarks about the speeches of either the Minister for Municipal Services or the Chief Minister. They have obviously not been researched, they have not been prepared carefully with a view to rebutting the very well researched opening of my Honourable Friend Mr Restano when he moved the Motion. There has been little or no attempt to answer the gravamen of his statement. Well, I have a certain amount of sympathy for the Government in this one, I have a certain amount of sympathy because I appreciate that this is one of these motions which are highly embarrassing to any Government especially when there is really no answer to the Motion. The Government has to vote against, of course, it is a motion of no confidence, how can they vote in favour of a motion of no confidence. And I am surprised that the Chief Minister with his long parliamentary experience should complain that the Honourable Mr Restano should have moved a motion that must inevitably be lost, and that therefore he is moving it purely for election purposes. Well, how does a democracy work, how can a parliament work? How many times do oppositions in every parliament in the world put motions of no confidence and get defeated? Time and time again. But the purpose of the motion of no confidence Mr Speaker, is to express the concern of one part of the community at the situation, the part represented by the Opposition. It is a way of expressing our concern at a situation that is highly unsatisfactory Mr Speaker, by any standard. Yes, the Motion is coming barely three months or two months or one month before the dissolution of the House of Assembly and fresh Elections. It is necessary in those circumstances to remind the electorate of this more scandalous situation where Power Generation is concerned. Mr Speaker, it does not come any nearer to an election than the statement of the Chief Minister at the end of October 1979, telling the public after a bit of a consultation in there that there would be a 5mw Generator in operation within 18 months.

Was that electioneering? Looking with hindsight, it must have been electioneering, because the Minister for Municipal Services has today told us that they acted as a responsible Government, when after looking at everything after the elections, and after their majority in votes had dropped dramatically, they have looked into the matter carefully, and they have behaved like a responsible Government, by deciding on the construction of a New Power Station. But where does that leave the statement of the Chief Minister in October, 1979, Mr Speaker, as a highly irresponsible and inconsiderate statement. When he said we would have a 5mw generator in operation within 18 months, and did not tell us that it would be part of the new Waterport Power Station and so forth. You cannot have it both ways, Mr Speaker, you cannot say something is irresponsible, when the Opposition say, it and not irresponsible when a Member of the Government side says it. And I would dispute very strenuously the statement made by the Honourable and Learned Chief Minister that we are flogging a dead horse, that all the power cuts took place before the last elections. That is not so, Mr Speaker, a lot of power cuts took place during the period of 1978, a lot of power cuts took place during most of 1979, but miraculously halted, miraculously halted at the beginning of December 1979 at what cost to the consumer no one knows, miraculously halted at the beginning of December 1979, and stayed halted, until February 1980, 3 months later, just after the Elections. But that was not electioneering, but after the elections, Mr Speaker, but after the elections Mr Speaker, we had during 1980 a whole set of power cuts, or have the Government got such a short memory. And let me put it to the Honourable and Learned Chief Minister and to the Minister for Municipal Services, is it unreasonable for a responsible opposition to put down a motion of no confidence when after those periods of the whole life of the parliament, the power situation has still not been straightened out. Is it irresponsible? They may have good reason for this. The Honourable and Learned Chief Minister has talked of the problems he has had with the Steering Committee, we do not know about them by the way, Mr Speaker, because the Government hasn't told us a thing about it during the last 2 years, in question time, they have not been able to, they have refused to tell us what have been the problems.

HON CHIEF MINISTER:

Perhaps the Honourable Member will give way, and I will tell him why, and this has been said here over and over again. And that is that when you have negotiations between management and workers, until they are finished you do not debate, you want to have them succeed, and that is the very simple reason. And it has been stated many times, but the Honourable Member, when he chooses he does not, but he may remember the power cuts of February 80, but he forgets all the other statements that we have made about that.

HON P J ISOLA:

I thank the Chief Minister for his explanation, Mr Speaker, but the fact remains that four years of this Government, four years, they have still not solved the Power Generation problem of Gibraltar, and they are still talking of having to have an additional generator in Waterport.....

HON CHIEF MINISTER:

I am sorry but I think he has got it wrong. No, no, no, I said that that was an extension for the future to add one more, I did not say that it required now, I only said that the plans were being made for the future that is what I said.

HON P J ISOLA:

But we have been told that application has been made to the ODA, I think it was the Minister for Municipal Services, who said it, for another generator there. And the Chief Minister tells us, Mr Speaker, we are flogging a dead horse with the Preece, Cardew and Rider Report, that Report of 1976, well if it is a dead horse, and if it is a Report that is so ancient and no longer relevant to our modern needs, why does not the Government publish it, it wasn't published in 1979, because as the Minister for Economic Development pointed out to the House then, they were not going to give ammunition to the Opposition for the elections, but the elections went past, the Government got re-elected, perhaps they might not have been if the Preece, Cardew and Rider Report had been made public, but anyway, they got re-elected, 4 years have gone by and the Preece, Cardew and Rider Report, still remains a closed secret. So it must be relevant to the Gibraltar of today when the Government refuse to publish it. And of course, it is the root of the problem as far as this subject matter is concerned, the Preece, Cardew and Rider Report is the root of the problem. There were the recommendations about what the Government of Gibraltar should do, and the Government of Gibraltar did not do it, and thereby, Mr Speaker, hangs the tail of the Power Station. But this motion, Mr Speaker, only goes back to 1976, and to the problems of 1979. Because it is necessary to do so, historically, so he is complaining of what has happened ever since this Government got elected in 1980. Their term of office is about to die and they have still not sorted out a problem which they said they would sort out, that the Chief Minister said so in October 1979, that he would solve it in 18 months. And they have not. And all they can say in this House today is talk of a Draft Agreement in the Steering Committee, and we do not know, Mr Sepaker, we just do not know (a) whether this Draft Agreement will be signed, (b) we do not know when the Government is going

to officially take over the Waterport Power Station, we still do not know that, we do not know that today. I am sure there must be a tremendous amount going on behind the scenes trying to get the staff side to sign this Agreement so that the Government can rush into occupation of Waterport Power Station and show it to the public just before the election. But that would not be electioneering, Mr Speaker, that must be a moment which the whole of Gibraltar must be proud we will be told. And of course, as the whole of Gibraltar must be proud of the new Waterport Power Station, if only they can see it. And, the Honourable and Learned Chief Minister, Mr Speaker, attempts to discredit the research that has been made by my Honourable Friend, the mover of the motion, in his little paper, which he has circulated to Members opposite and which I hope he will make available to the press, because it does give such a clear picture of the situation, of the cost, I hope my Honourable Friend will make it available to the press, I hope that my Honourable Friend will make the paper that he has circulated available to Members opposite, on the cost of incompetence to the press. I hope nobody can object to that. Certainly, as far as I see no one can. Because it does identify the cost to the taxpayer. The Honourable and Learned Chief Minister, Mr Speaker, has been talking about the budgetary contributions from the general body of taxpayers and so forth, to electricity over the years, and he says it is quite right like in Housing and so forth, and no one would quarrel with that statement. But the fact of the matter is that the budgetary contribution has to be that much bigger if the Government is incompetent. And the trouble is that the general body of taxpayers do not really appreciate, that by wasting or throwing away a couple of million pounds, prevents them, prevents them from getting new houses, prevents people with elderly pensions with having them free of tax, and presents a whole lot of social improvements. And the Members opposite laugh and say "come on". I don't see how they can dispute that. That money, these £2.2million have come from the general body of taxpayers. These £2.2m could have been used....

HON CHIEF MINISTER:

No, no, ten times no.

HON P J ISOLA:

Could have been used to reprovide the St Mary's Infants School at Town Range sooner than it has been done today, and a generation of school children 6 - 8 could enjoy those facilities, Mr Speaker. That is the burden of the motion of my Honourable Friend, and that is the reason for the cost of incompetence in the paper that he wished to circulate.

HON CHIEF MINISTER:

Did the Honourable Member hear what I had to say about the item of MOD.

HON P J ISOLA:

I did...

HON CHIEF MINISTER:

Or does he not understand when he does not want to. Or is his mind so twisted that he does not realise that there are truths that he does not like.

HON P J ISOLA:

And I am going to deal with that Mr Speaker. The Honourable and Learned Chief Minister gets very excited on occasions.

HON CHIEF MINISTER:

You would make anybody excited with your arrogance.

HON P J ISOLA:

If he would let me continue I will explain what I mean. The Honourable and Learned Chief Minister says electricity supply from MOD £152,391, but we have got electricity for that. Of course we got electricity for that.

HON CHIEF MINISTER:

And we got money for it.

HON P J ISOLA:

Yes, but the overheads of the Government in the Electricity Department were just as high throughout the period of time that we were buying electricity from somebody else.

HON CHIEF MINISTER:

It avoided the run down on our station.

HON P J ISOLA:

It avoided the run down. Now, Mr Speaker, let me carry on. Let me carry on. The criticism of the Skid Mounted and Trailer Mounted Generators and the reply, "but we got

electricity for it". Yes, but our overheads stayed the same, we still had to pay for these electricity generators. We have had to pay for all that because, because the Government did not provide the people, did not provide people of Gibraltar with a necessary generating capacity, and in 1979, Mr Speaker, when the Chief Minister goes back to the last elections he did not tell the public in the hustings that two months after the election the Government would have hire Skid Mounted Generators at expense to the public, he did not tell them that. What the Government said in the elections, 'don't worry, the electricity situation is under control. Look you have had no power cuts, December and January, and we are getting a 5mw generator. That is what they told the people in the elections, but as soon as they come back to this House after the elections, they incurred public expense of £660,000 in obtaining temporary generating capacity. Now, Mr Speaker, if that is not a legitimate cause for concern by an elected Opposition, I do not know what is. And I think that what my friend has put down there is perfectly justified and perfectly appropriate in the circumstances of this motion. And then, Mr Speaker, the payment to Hawker Siddeley Power Engineering. I have not heard, I have not heard during this year in this House a cut in expenditure in the Electricity Department to reflect the fact that most of our power is being generated by Hawker Siddeley. I have not seen a cut in the vote of the Electricity Department. If there has been, perhaps some gentleman opposite will point them out. The cost estimated here for running the Generating Station in Gibraltar for 1983 and 1984 has not been reduced by the fact that Hawker Siddeley is in fact working these two engines themselves, and producing at the time 80% of the power required in Gibraltar. What is happening, how is it that a department that produced before 100% subject to a few purchases from the Ministry of Defence, 100% of the generating capacity or 100% of the generating power required in Gibraltar, costs us exactly the same when they are only producing 20% or 30%? Now should not my Honourable Friend, isn't he being rather charitable to the Government in his cost of incompetences, should he not have added a figure for that as well? I am sure he did not forget about it, he is a very fair man, and he wants to be as fair as possible. But, Mr Speaker, for the Chief Minister, or for the Minister of Municipal Services to say quite glibly, to say quite glibly, £1,300,000 to Hawker Siddeley. Well it would have cost us half that if we were running the power station ourselves. So it is only costing, you, the tax payer £6,000,000 odd. Is that not an amount to be concerned about, Mr Speaker? But the truth of the matter is, Mr Speaker, that he is completely wrong in these statements. The truth of the matter is that Hawker Siddeley is being paid £1,300,000 or has been paid so far this amount, and we do not know how far it will continue for, £1,300,000, whilst the

Electricity Department still costs us the same to produce much less power for the community than they may have been doing in the past. Does the Government have an explanation for that? So it only leaves me Mr Speaker, to comment on the last question, the cost to the tax payer of having a Chairman of a Steering Committee, that has been in post for 66 weeks. Well over a year, well over the 6 weeks stated in this House originally, when we were told the cost of it, well over the period of 6 weeks, as stated originally in this House by either the Minister for Municipal Services or by the Chief Minister. Well over that, 60 weeks in fact, was it not the Minister, I am told, well then it must have been the Chief Minister. Well over the period of 6 weeks stated here, and well over the period of 9 months that the Committee, not just over, Mr Speaker because when you are talking of somebody that costs you £2,400 a week, then an additional 12 weeks is quite a lot of money, and this man has already cost the Gibraltar tax payer £110,915. And, we have the Committee of Enquiry, the final Report that was made, summarised the recommendations into 37 recommendations. We don't know what the Government has done or what has been implemented or what has not been... implemented. But what we do know, is that our power situation problems are still not resolved in the areas that matter, but we still, what we do know is that because the present administration has not dealt with the power problems efficiently, or in accepting recommendations made by a Report, it has cost the general body of taxpayer's in Gibraltar over £2million of money that need never have been spent on this if the Government had acted responsibly in the question of power generation. It need never have been spent, that money could have been spent in housing, it could have been spent in social amenities, it could have been spent on a lot more things, far more usefully, Mr Speaker, than just being thrown away. And why is the Honourable and Learned Chief Minister censured, as well as the Minister for Municipal Services in this motion. Because I suspect that it would be unfair in this case to put all the blame on the Minister for Municipal Services because it is quite clear ever since this problem was brought to the fore by my Honourable and Gallant Friend Major Peliza, back in October 1979, it is quite clear that the Honourable and Learned Chief Minister has taken a leading role on this issue, as rightly he should, because it is a vitally important issue to the community. And it is at the end of the life of this parliament, the problems relating to power generation and the management and the staffing and the manning levels of the Generating Station has still not been resolved, then Mr Speaker, by any standard the motion of censure by my Honourable Friend Mr Restano fully deserves the support of this side of the House and of the people of Gibraltar, even if the Government cannot of course, support it. Thank you, Mr Speaker.

MR SPEAKER:

Are there any other contributors? I will then call on the mover to reply. Are you going to take long or you might wish to start and then leave it because we have got about 5 minutes to go...

HON W T SCOTT:

Mr Speaker, perhaps I would not have intended to speak on this part because I would have wanted to spend a little bit of time in my contributions.....

MR SPEAKER:

Well I did ask for contributors.

HON W T SCOTT:

Yes, Mr Speaker, but on that basis I was caught a little bit off hand so perhaps I might be able to shorten it, and I might finish before the recess.

MR SPEAKER:

I do not wish to see you speaking and being inhibited by time. I was hoping that if there was no other contributor that the Honourable Mr Restano should have exercised the right to reply. If this is not the case, perhaps we can now recess till this afternoon at 3.15 sharp.

The House recessed at 12.55 pm.

The House resumed at 3.20 pm.

MR SPEAKER:

I will remind the House that we are still on the motion as moved by the Honourable Mr Restano.

HON MAJOR R J PELIZA:

Mr Speaker, there is one point I would clarify in the motion if you will allow me to clear one point in the debate, on the motion that I brought to the House on Friday. It is only a question of clarifying a point which I think inadvertently no doubt, the Minister I think has misled the House.

MR SPEAKER:

That he has got a matter of clarification in respect to a

statement made by the Minister on the debate on Tourism and he would like to clarify it.

HON MAJOR R J PELIZA:

Mr Speaker, the Minister said that in October, the Rock Hotel had been full. In fact, I made enquiries and the best night in the Rock Hotel was the 20th October 1983, in which there were two groups which overlapped and that filled up 83 rooms, there were others in 34 rooms in house use which is rooms that they could not let. They said of course that is perhaps where the Minister might have got it. They informed their office in UK not to send any tourists in quantities, because of course they overlapped and they could not fill them. But, but, there were therefore 40 rooms which could not be occupied.

HON H J ZAMMITT:

Mr Speaker, I am grateful that the Honourable Member has raised that. I raised that because we were informed from England that the Rock Hotel had given instructions that they were not to offer big parties because they were full. I was aware that they were not full for the complete month of October, and I hope that I did not give that as a matter of implication. I did say in trying to put forward the fact that we had encouraged during the shoulder month conferences of which the Rock Hotel in particular had had a particularly good session. I was aware that there were a few empty rooms, but I was aware that the Rock Hotel, was for the first time ever, unable to take up big parties.

MR SPEAKER:

Right are there any contributors to the debate? Yes, Mr Scott.

HON W T SCOTT:

Mr Speaker, it is since 1976, that the motion says that there has been a mismanagement, or a lack of proper management within the Government, and it is that in fact, which I would hope to take some points that have already been mentioned by members on my side of the House and develop perhaps one or two of them. But I think it is necessary before I do this, and I feel bound to say that our understanding of the functions of this House, on both sides of the House, as indeed I think other legislatures in democratic countries, is to provide a forum, a public forum, where the public accountability of the representatives of the elected representatives of the people should take place. And it is within that ambit, very much to that ambit that the

motion and similar motions are brought to this House, and on that, Mr Speaker, I remember very distinctly that in Friday's debate, the Minister for Tourism and Sport accused my Honourable Friend, the Honourable and Gallant Major Peliza of not bringing enough substantive motions to this House. He was later proved wrong, but I feel quite frankly at a loss for words to understand, how on Friday a comment like that is made, and yet earlier on this morning, an accusation is made of my Honourable Friend Gerald Restano, accusing him that it was unnecessary to bring a motion like today's to this House. I mean, it is very hard to understand what the Government thinks the role of the Opposition should be. And quite frankly, Mr Speaker, if one is to judge from the performance of this Government in the Electricity Undertaking, I feel bound to say that I don't think they even know what the role of the Government should be, let alone the role of the Opposition. Mr Speaker, this morning, the Chief Minister in trying to justify the expenditure of £270,000 which I think has been paid to PCR for their consultancy, he mentioned, and I think quite rightly that they had been responsible for the constant monitoring of the work, probably from its inception, they had drawn up comprehensive detailed specifications, they had provided on site facilities they were acting generally on behalf of the Government and protecting Government in its entirety, but he did say one thing that I don't think is quite correct, according to our information. And if one is to accept that that project, Waterport Power Station was a turn key project, or be it with very detailed specifications submitted by the consultants, all tenderers, tenderers were responsible to a very high degree of the design of that Power Station. And the Chief Minister said that detailed designs and drawings had been prepared by Preece, Cardew and Rider, which I think is not entirely correct.

HON CHIEF MINISTER:

I have actually the words I used, because I had a brief on this one which I had asked for, and I did say "requiring changes, checking of design calculations by contractors, productions and drawings". I did not say they had done it.

HON W T SCOTT:

I am grateful for that because that was my understanding and I am grateful for that correction. Mr Speaker, the Honourable Minister for Municipal Services, also, I think himself, very quickly, after having accused the Honourable Mover of having thrown a number of red herrings, I think threw one himself when he compared a small undertaking like Gibraltar to that of the national grid in the United Kingdom. When he talked about a

subscriber in London might perhaps be fed by a power station in the North East of Scotland, or words to that effect, and he said that of course, as soon as one machine goes off there is a power cut, and I don't think that is true either, and it certainly wasn't true until such time as we had these massive power cuts from 1978 onwards, we had never had power cuts, even if one machine went off or three, and that was very definitely a red herring.

HON DR R G VALARINO:

We did have power cuts, but the problem was that we had far smaller sets in those days, therefore, the amounts of power cuts were to some extent unnoticed by the general public, whereas now we have much larger engines, therefore the power cuts affect much larger districts.

HON W T SCOTT:

Mr Speaker, I remember very distinctly that when perhaps one engine went off stream, there was a voltage reduction and no power cuts, and I think we all remember if we were watching television how our screens used to go a little bit smaller. There were no power cuts as such, and that is what we are talking about, power cuts, not a cut, not a cut in the voltage to the home, but I do not want to get too technical. Mr Speaker, I feel I also must mention, I think it also occurred on Friday morning when the Chief Minister interrupted one of his own Minister's contributions, and I think it was directed at me, and he made a remark to the Chair, saying that it was not within the conduct of the House to grin every so often, or to whisper asides, or words of that nature, and after having said that Mr Speaker, I was very surprised to see not only the number of occasions on which the Honourable and Learned Leader of the Opposition's contribution was interrupted this morning, but the manner in which he was interrupted, even without being asked to give way, as I have done just now on two occasions. I make no hesitation in giving way again, should any other member want to interrupt me. Mr Speaker, but the point I would like to develop was that which was originally mentioned by the Honourable Mover, taken a little bit further by my Honourable and Gallant Friend on my left. That was that the cost of incompetence as we see from the sheet is £24million, and I would venture to suggest Mr Speaker, that this figure can perhaps quite comfortably be tripled. And I will explain why. When it was first found out, and I have no doubt over this, that Gibraltar, because of its development projects was very quickly being taken to a situation where there was not enough power that could be generated, and I think this occurred as a result of the Report,

or because of the Report in 1976 by PCR, Government obviously did not take the required recommendations of that Report and at the end of my contribution I will make perhaps two comparisons why I think this was so. But coming to 1979, because the decision had not been made by the Government, which could have been implemented in the 78-81 Development Programme, included within that Development Programme, money coming from the ODA for a New Power Station, and perhaps a better sited Power Station as well, and not in the area of the port, but in years to come could well be used to earn Gibraltar much needed money, that decision not having been made, money did not come from the ODA, the Power Station was not built, leading to a situation where in 1980, the resources of Government determined that not enough cash was available, but yet the Power Station had to be built at a cost approaching £7million. Money that had to be borrowed, money that had to be borrowed with its consequential servicing interests, and if we look at the Consolidated Fund Charges, even this year, between interest in repayment it is in excess of £1 million. Last year £½million. How far into the future do we project ourselves? The Station costing the tax payer £7million or is it nearer £12million or £13million. And we are not talking about 76, we are not even talking about today, we are talking about for very many years in the future. Not £2½million, Mr Speaker. And I think that the Honourable mover was very kind to Government to limit his figure to £2½million. And that is an inheritance that the local Government has given the people of Gibraltar for many years to come. Mr Speaker, coming back to the two alternatives that I mentioned could have possibly been within the PCR Report in 1976, I can only draw one of two conclusions. If in 1976, Preece, Cardew and Rider recommended that there were no further power requirements for Gibraltar and that no Power Station should have been built, then they obviously have been proved wrong and they should not have been re-employed by Government at a cost of £½million. The only other alternative that one can read into that Report is that PCR did recommend that we should need more power requirements immediately after 1976, and not in 1980, or 81, 82 and 83. And that is the indictment Mr Speaker that the Government has and is the substantive element of the motion that my Honourable Friend has brought before this House today. Thank you.

MR SPEAKER:

Are there any more contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, as the previous Minister for Municipal Services in 1976, I think I should contribute something towards this

motion. To me there was never any doubt in my mind that Gibraltar was reaching a stage that because of its development we were going to require extra power facilities in the future, I go with what the Honourable Member opposite has said. But when one is in Government it is far more difficult to get things going than one realises from the opposite side. I have never been on the opposite side, but one always has to look at things in the context of economies, of the whole economic situation of Gibraltar, etc, etc, who the personalities involved are etc, etc, etc, because we are a small community, we are a small government, personalities come into it. I think, and not because he is not here, but I have said it when he was here, I told him whilst he was here, we were delayed to a considerable extent and it has probably been mentioned in the debate already. We were delayed in the implementation of extra power in the Generating Station as early as 76/77, by the then Financial and Development Secretary, who every time we talked to him about money, he would say no there is no money. We were also delayed by an Economic Adviser, a Scottish chap, who kept insisting that we should not do anything on our own, we should do it with the Spanish mainland, and his arguments were all in fact, that we did not need a Power Station in Gibraltar, that all we had to do is connect with the Sevillana and come to an agreement. The third obstacle which delayed the question of the buying of extra sets for the Generating Station was at least a 9 months delay, initiated by the then Financial and Development Secretary on a then Joint Services Scheme, to provide power for the Ministry of Defence and ourselves. I am just telling you how it was, I am not denying that there was a need in the growth of power, I am just saying the ways the Government was trying to do it, to try and find the best possible method of doing it, as economically as possible for the benefit of Gibraltar. But there were delays, and delays, and the answer was that we did not have any money, any money, any money. And to my knowledge, money suddenly came available because we had a Financial and Development Secretary, who gave it a totally different approach as to the way and how and the extent that we could borrow money. Which was contrary to the way the previous Financial and Development Secretary was thinking. So, as soon as this man came on the scene, and I think that Honourable Members should know that the money that has gone into this New Waterport Power Station was not paid by Overseas Development Aid, it was paid by money raised by us, through the ability of the Financial and Development Secretary to prove to himself and to us that we could do it, whilst the other chap kept saying that we could not do it, backed by an Economic Adviser, who said we should switch on to the Sevillana. And it is true, I mean that is the truth because I was involved, as early as 76. I think we have all tried on the Government part to restrain ourselves from putting the

blame on one person or another or to one group or another, except for myself, I just blamed two persons. But on the whole the Government approaches that as a Government we had to consider other problems which could have gone out of control and we thought it best that we would take a moderate and unemotional stand on the question of the manning levels, etc, or the Work Practices, or the different Shift Systems and to try and negotiate in the best possible manner for the future. Whether that was the right decision or not, that is a matter of judgement but the Government's approach to this question of power and the New Power Station, is that the planning stages of work Practices, of Shifts, must be established now for the future, so that in the future, we do not have the problems that we have had before in the relationships that management have had of staffing levels and with Work Practices. And any money that is being spent and produces good Working Practices, good Systems of Shifts, a fair day's work for a fair day's pay, is money well invested for the future. And we are all the time talking of the future because what we are trying to build up is the future of Gibraltar. Now, with relation to figures and monies, I mean I am not an Economist, and I can never claim to be an Economist, I am not a Technical Expert, but one can play about with figures left, right and centre, if you are an Economist like Mr Bossano, he can play it one way or if you are like Mr Traynor, you can play it the other way, like the instance we had on the ratio and the percentages of the projection of the commercial side of ship repair yards. But, I have to clear one point. The Honourable Member has mentioned extra costs about interest and all the rest. I have to clear one point. And that is that on the question of the hire of the sets, which is £359,000, that is a payment but that is also an asset, because it produced electricity which people paid for.

HON W T SCOTT:

If the Honourable Member will give way, but I did not mention the Skid Generators at all, I was talking about the servicing of a loan, and the interest charges to that loan, not the Skid Generators.

HON MAJOR F J DELLIPIANI:

I am not answering the Honourable Member, I am answering other people, the way the figures have been presented, you know, you have added more, and I am taking some away. As I said the hire of the set, whatever the cost also produced credit. Because we were selling that power produced by the hired sets to the public. The question of the installation costs which came to £89,303 which was a hobby horse of the Honourable Deputy Leader of the Opposition, Mr Restano.

Whether you bought the sets or you hired them, installation would have still been the same. The technical man over there would agree with me, that where you hire the set or you buy the set, the installation costs are still the same. Having made the decision to hire and not to buy, the question of repatriation of the sets whether it costs £38,000 is problematic, because if you had bought it, the reputation might not have come into it, or it might have on the price that you sell. But to the people who might have wanted to buy, we do not know that. So the only true figure, as I see it, which stands in respect of the extra sets that we got was the hire of both of them, of both the Skid Mounted and the Trailer Mounted less what was produced and what we got back through revenue. I mean that is the way I am interpreting this. I agree that the question of the Hawker Siddeley running the Power Station, the present Power Station has been costly, that the cost of running it by our own man power would have added to the cost, and if you add that, if you take away that cost it would come to 50%, or almost 50% of what it is quoted here. So we are not talking of £1,300,000, but we are talking probably of £½ million. The £4,000 that is mentioned of Government employees in the Steering Committee, well that we would have still have had to pay for that because it was working hours, whether you were on Committee or not, they could have been doing other work, granted, but the £4,000 would still have been there. The question of £4,900 for the British Electricity International Company Limited consultancy, that was a recommendation of the Enquiry, whether it is good or not, whether it will prove effective or not, time will tell, but that is £4,900 of the recommendations of the Enquiry. It was also mentioned, the question of electricity supplied from MOD. This electricity was supplied to us at cost. But this electricity, we do not keep it in our pockets or store it, we sold it back, we sold it back to the people of Gibraltar, and they are paying for it. So that, I do not see as a cost. Now we talk of the other one, the Cooper and Lybrand Consultancy. I think it has been mentioned before. It really has nothing to do with the Power Station or the Electricity. It is a study which you say could have been done in Gibraltar by us, I don't know it is in fact a detailed study of tariff structures, both in electricity and water, possible solutions as to how best to find the most equitable way of doing it, and is a question of amortisation or whether it will be us, the present generation who is going to pay for it all, or whether the capital investments which have been involved should be spread over a number of years. It has nothing to do really basically with the question of the Power Station. But what is most important is that one which I think has concerned Members of the Opposition more than anything else, and that is the cost of the Steering Committee, which has been mentioned by the Honourable Member opposite, Mr Gerald Restano. I can under-

stand his feelings of frustration at having to vote for money and he does not know what is going on. I think the Honourable Chief Minister has mentioned it. When there are negotiations of this kind between union and management, it is very difficult for anybody else to start interfering with that process of negotiation. But the Steering Committee is, in spite of the cost, but I agree with the Honourable Member that there has been quite a substantial amount, if it proves to my satisfaction, to the satisfaction of the Government that we will be able to establish the right kind of atmosphere which didn't exist, and still does not exist in the old Power Station, the right kind of atmosphere of Work Practices, of Shift Systems, etc, etc, then it is money well invested for the future, because the problems that we have had in the past will not be there in the future. Thank you, Mr Speaker.

HON A T LODDO:

Mr Speaker, I was disappointed to hear the Honourable Major Dellipiani, make reference to a Financial and Development Secretary who is no longer with us, and to an Economic Adviser who is no longer with us. The accusation that the Financial and Development Secretary at the time, kept telling the Government that there was no money, I don't think is a valid one. All the Financial and Development Secretaries say that there is no money. I have yet to meet one who says "Go on lads, you can spend freely, there is no problem here". As to the reference to the Economic Adviser, who suggested linking up with the Sevillana, if that is not a political decision, I don't know what is. And it is not, Mr Speaker, up to an Economic Adviser to the Government, no matter how brilliant he might be, to dictate to the Government, these political decisions. So I don't think those two gentlemen, need have been brought it to the House.

HON CHIEF MINISTER:

Of course it was not, and it did not happen, but it happened then that it was an ODA Economic Adviser, and therefore his advise with regard to ODA funds, were very relative to the nature of his thinking.

HON A T LODDO:

I thank the Chief Minister for that clarification but I still believe that as the elected Government of Gibraltar, he can turn around and tell the Economic Adviser "No thank you", no linking, you change your way of thinking, because we won't". Right, now having cleared up those two points, I will carry on. Mr Speaker, the motion before this House is a very serious

accusation on the Government. It speaks no less than of condemnation. I have on a number of occasions when dealing with motions admitted that I tend to be over-simplistic, not being an economist or a lawyer, or anybody like that, just an ordinary man in the street, I tend to over-simplify. But I think that by and large when you over-simplify you really get down to the grass roots of the matter of the problem. Mr Speaker, the Government in power today has been in power practically, continuously for 40 years. Some people might say they have been there far too long, but that of course is a matter of opinion. The question I would like to ask here is - in these 40 years has this Government had any power problems. And the answer is no. There has been no power problem in the past 40 years. Except for the last 10 years or so. Since 1976, definitely there has been power problems. There is no denying that. The question next that follows is why? And here we come to the second important word in the motion - foresight or the lack of it. Has there been lack of foresight? The Government claims that there hasn't. Well, if there hasn't been lack of foresight, why the problem? Has it been because the advice that was given to Government has been disregarded or shelved? But certainly we have established that there has been a power problem. If there has been foresight, there has been lack of efficiency. If there has been efficiency, there has been lack of foresight. But we cannot have them both. Mr Speaker, we come to the other important part, unnecessary expense. In trying desperately to provide a semblance of service, Government have been forced into an expenditure of £2½million. The Honourable and Gallant Major Dellipiani tries to cut down, the Minister for Municipal Services attempts to minimise this by saying that some of the money has been recuperated because the Skid Mounted Generators were producing. Mr Speaker, here we talk of millions as if they were nothing. But to the man in the street, the taxpayer, who has to pay up at the end of the day, they do mean a lot. So whether it is £2½million, £2million, £1½million, it does not matter, the fact remains, Mr Speaker, that the people of Gibraltar, at the end of the day have had to foot a Bill which has been an unnecessary one. Four years ago, Mr Speaker, when I stood for election to this House, one of the issues at the time was the power situation. And yet, today, that problem still remains unresolved. True we have a Generating Station which has cost the tax payer, or will eventually cost the tax payer around £8million, but, although we were promised an official opening of that Generating Station in November, it is now December, and unless we have it as a Christmas present, I think we will go into the New Year without an Official Opening. And so we come to the last important bit in the motion. An expression of no confidence in the Minister for Municipal Services. There is very little else we can do. We can hardly give him a pat on the back. This House cannot have any confidence in the Minister for Municipal Services,

who after 4 years certainly, is still as much in the dark, literally and metaphorically as he was 4 years ago. Of course; this lack of confidence reflects on the Chief Minister, not because he is directly responsible for Electricity, because as Captain of the Ship of State, he must bear the final and ultimate responsibility. Mr Speaker, I have no hesitation whatsoever in supporting the motion.

MR SPEAKER:

Well, if there are no other contributors, I will then call on the mover. Yes, Mr Bossano.

HON J BOSSANO:

Mr Speaker, whilst I have not been here to listen to all the contributions that have been made in respect of the motion, I think I can say that I am fairly confident, because they were sufficiently predictable for me to know the points that have been made on both sides of the House. I did however, catch what the Minister for Labour and Social Security had to say about the work of the Steering Committee, and I feel that perhaps just so as to put the situation on record, I ought to say what my own position as a Member of this House representing the GSLP is on this issue, and indeed on all the other consultancies and expertise that we buy so expensively in Gibraltar. Also the position of the people who work in the Generating Station, not because I am here elected specifically to speak for them, but because I happen to be in a position to know what their role is in this situation, and the part that they have played. I think I can speak with a confidence that there is probably not any other Member in the House, who is in that position, to be able to say that he knows precisely what the view of the staff side in the Generating Station is because I happen to be employed precisely to advise them in that role. So, if I just deal with that latter point, to get it out of the way, let me say that the initiative for conducting the Enquiry into the Working of the Generating Station and the Electricity Department came from the Government and that the unions and indeed my own party agreed to provide evidence to that Enquiry, in fact the unions have not asked for an Enquiry into the departmental efficiency as such, it was an initiative of the Government, the unions agreed to go along and put their points of views and their grievances and their shortcomings as they saw it from the shop floor, and when the Enquiry recommended setting up a Steering Committee and the Steering Committee eventually, as it were dovetailing into a Departmental Works Council, again, the unions agreed to take part in it, but made it clear from the beginning that as far as they were concerned, there was already in existence adequate negotiating

machinery through the office of the Industrial Relations Department of the Government to deal with that situation. The unions would not boycott the Steering Committee because they did not want to be accused either of having anything to hide, or of putting a spanner in the works. I do not want to go into any of the details of what has or has not been discussed in that Committee, I don't think I have the right to disclose to the House what effectively is privileged information, as far as I am concerned, and which is not my responsibility to report to this House. Although I can say without fear of contradiction that throughout the working of the Steering Committee, in the one year that it has been in existence, the changes that have been agreed have all been initiated by the Government side, that is by the management side, it isn't a question, I think this is the only point I want to make because I want that to be clearly understood. I think it is only fair to the workforce that it should be clearly understood. There is no question of the workforce having come along and having said to the employer "If you want us to work in Waterport, those are our terms" and I have not heard anybody held to ransom. What has happened is that the Government has said "We would like you to work in Waterport different hours, different rosters, a different organisational set up from the one that you have got today. And since the initiative for a change came from the employer, the period of time that has taken place has been to the extent that the change was not acceptable as it was originally proposed. How far was the employer prepared to move. One could say one was the position of the workforce who says "we are prepared to take over Waterport Station on exactly the same terms and conditions as we are employed at the moment". The position of the employer saying we want a new system introduced in the new station, and I think the year that has gone by has been a process of trying to find somewhere in between which was acceptable to both sides. I think that the important thing to understand is that if the Government had come along and said "right there is no change, the workforce will simply be transferred to the New Station, there was no claim and no argument from the workforce that something extra had to be paid for working at the New Station. Whether in fact, the changes that have been required, which in the main have been accepted by the workforce are either necessary and desirable is a matter of judgement. Certainly, the workforce didn't think they were desirable or necessary and that is why they resisted.

HON CHIEF MINISTER:

During the Hon Member's absence this morning, I did mention that it was the result of wanting to have new Work Practices that the Steering Committee was set up.

HON J BOSSANO:

Let me just say as well, Mr Speaker, that my own view, and I think perhaps the Government, my own view in the Steering Committee, certainly recently, when, I would say practically 98% of the matters had been agreed is that it is impossible in any committee to reach a point when 100% agreement in fact, has been reached, if it were so, the whole idea of the Steering Committee being succeeded by a Works Council would be unnecessary, because there would be nothing for the Works Council to do, so that the concept of phasing in one into the other of necessity must be that there are some things which are still under discussion whether discussion will continue in the Works Council and unless that is done the Steering Committee might just well never finish its work, because there will always be some point or other that somebody has thought about since the last meeting and then the whole thing is re-opened again. So I think, in any committee, at any one time, when you are dealing with Industrial Relations, I don't know what it is like in other fields, but when you are dealing with Industrial Relations, there are things to discuss otherwise there would be no need for machinery to air differences between management and workers. If it were possible to produce a master plan which would take care of every eventuality in the future, then the machinery would not be required. So, I think that in fact, it is again a matter of judgement at what point the Steering Committee can be said to have completed its work and the Works Council be ready to take over. In my view, it cannot because it would mean there would be no need for a Works Council and that there was nothing left to discuss. Now, going back to the manner in which the Electricity Undertaking is managed. And I am not sure in fact, to what extent the excess degree of proper management, efficiency and foresight, I am not sure to what extent this is a criticism of the management in the Station. I assume, since the House is seeking responsibility, political responsibility, then in fact, although words like management and efficiency and so on, are being used here, in fact, they are intended to be a political criticism on the politicians and not a criticism of whether the managers in the Generating Station are good, bad or indifferent. I don't think anybody in this House is qualified, quite frankly, to pass judgement on this. But, to me, it is clear that there are a number of factors, historical factors in the past, which certainly have been factors working against the efficient running of the Electricity Generating Undertaking. It seems to me, Mr Speaker, that one can point to 1969 as one obvious turning point in the fortunes of this Electricity Undertaking, and if I am not mistaken, the amalgamation with the Government which was intended to produce huge savings by introducing more efficient and centralised control of the Municipal Services, has proved to be the very opposite of what it was intended to do. I am not of course

familiar with what went on in those years, but I am in fact familiar to some extent by hearsay more than anything else, about the deficit that the City Council, passed over in its accounts to the Government. I think it was £600,000. Now, of course £600,000 is absolute peanuts, compared to how the Government itself has run the Municipal Undertaking, so whatever criticism one might have made about how the City Council run them, by comparison, one has only got to remember that when proper accounts, so called proper accounts, were finally produced in 1976 there was a paper deficit, not of £600,000, but of £2.2million. This had to be written off the Municipal Services and the House will remember, those Members of the House that have been here since 1972 will remember how in every budget, starting from 1973 when I first of all accepted the need to raise Electricity Charges because I was told there was a statutory obligation to do so and then I had to do 180 degree turn and vote against it because the party told me that I was not supposed to say things like that if I was a politician. Well, it is the only regrettable instance that I have had to obey party discipline against my better judgement, Mr Speaker, because I felt that I could not very well vote against an increase in rates if the explanation given at the time was that we were required by law to balance the books. I thought how could the House of Assembly vote for a Government to act illegally, to vote for a law to be changed, how can it vote for a Government to act illegally, that was my understanding of the situation. Anyway, I did what I was told then, and I watched my step after that. But, I nevertheless questioned the validity of the way of producing accounts year after year, where we were given an estimate of the expected outcome but we were not given an account of the historic outcome, so that every year a new set of accounts was produced starting with zero. There was no carry forward balance of a deficit or a surplus, and it seemed to me that since every year, it was on what the Financial Secretary used to call Notional Accounts, that the rate was fixed, and the Notional Accounts assumed that the undertaking had broken even the previous financial year because it did not show any surplus or deficit, we were being asked to vote on a basis which one couldn't question. One had to accept the premise that the Notional Account was an accurate assessment. In fact, when the Notional Accounts were scrapped in 1976 and replaced by a set of accounts showing the historic costs, we found that the undertakings, that is the Municipal Undertakings, Water, Electricity and Telephone had accumulated a £2.2million paper loss. In 1977, the Government announced that now that it had proper accounts, it was now embarking on a policy of making the services self financing and since they announced it, the deficit has got bigger and bigger. Well I not sure how one should take these things. I remember that I put up a very heated argument against the

announcement of that new policy of the services being self financing and I need not have worried, Mr Speaker because they have never been self financing. In fact, the deficit since they were announced to be self financing have been much bigger than when they were not supposed to be self financing. I also think, Mr Speaker, that there are two factors in the actual running of the Generating Station. One cannot forget, and I think again there, there is a clear political responsibility of the Government and I am not saying that the Government did not do what it thought was the right thing at the time. I think that on more than one occasion since they have argued that with the benefit of hindsight they might have done something different but that the advice that they had at the time impelled them in the direction which they went. But, it does certainly, those two periods which were the Pay Reviews of 1974/78 in the dispute over parity, and the 1972 Pay Review had a very important bearing on the Generating Station, on the management of the Generating Station, on the running of the Generating Station, and on Industrial Relations in the Generating Station. With regards to the equipment, there was the 1972 General Strike provoked by an offer of 40p. I mean I do not know whether that was what it was, but I do know that it was an offer of 40p which was subsequently defended as the most that Gibraltar could afford and which led to a General Strike, which in turn led to a payment of £1.50. As well as a huge surplus, in spite of the fact that £2 million, was put into the Improvement and Development Fund retrospectively to 1971/72 and in 1973 we finished with a surplus in the Improvement and Development Fund of £2 million which was a half a million that was already there, a quarter of a million was already there and a half a million that had been put in. I am just saying that, Mr Speaker, not because it is directly relevant to the motion, but because I don't think it serves in 1976. I think in 1972, that period, the military intervention in the Generating Station created a major lack of trust and comradeship between the line management and the people on the shop floor which has never entirely been recovered. The fact that initially it was the line management who kept the Generating Station going, whilst the workers were out on strike, and did their work for them and the subsequent military intervention had an enormous damaging effect on industrial relations in that department from which the department has not entirely recovered. It recovered a great deal of the debt I think in the 1974/78 period, precisely because in that period when the issue was one of parity with UK everybody was on the same side. Including management yes, and a lot of the first line managers and PTO's who in 1972 had appeared to the workers to be against them in 1975/76 were fighting for parity and were prepared to take industrial action themselves.

MR SPEAKER:

Mr Bossano, please are you for or against the motion.

HON J BOSSANO:

I have not said yet, Mr Speaker.

MR SPEAKER:

Yes I know.

HON J BOSSANO:

So I think that second period, and I don't think in fact the date of 76 in the motion, is related to the problems that arose at that period. But I think in that period one of the practical consequences of a very long period of work to rule and go slow and also that there was an enormous backlog of maintenance for which there had to be a catching-up exercise in 78 and post 1978 and which, I think, again was something that hindered the efficient running of the system. I am saying these things because I think all these things are in fact real factors, which without accepting for one moment that it was the responsibility of the workforce the consequence of a period of industrial dispute is in fact that at the end of the day there is a backlog of work and that is inevitable. Now I am in fact supporting the motion Mr Speaker, but perhaps my reasons for supporting the motion are not the same as other people have given. I mean you know I think that the period of bad management in the sense that I have explained and I am not sure in what sense it is intended to be read here, goes back a very long time and quite frankly I am sceptical that the work of the Steering Committee is going to result in any dramatic transformation. I have taken part in it, I think I have done my best to try and get an agreement there professionally that is acceptable to both sides, but my knowledge of the situation makes me think, you know, that some of the proposals that have been put forward are in my view not desirable, and will prove to be unworkable. I think in fact, that the responsibility of necessity must be carried politically. Just like of necessity in other issues, for example, I mean, I think that when we are talking about a Government Department or not, if it is not a private concern where the consumer can vote with his feet, if it is, and it has to be something like Generating Electricity which has to be a monopoly situation, has to be publicly owned, then in fact, there must be somebody to answer politically if it goes wrong and Government will have to answer politically. For example, if the ship repair yard were ever to go into existence. So I think you know, whether the Government say that they are

doing what they think is best or what their advisers tell them or not, even if it is bad advice that they get, they still have to answer for it in this House, and I will support the motion.

MR SPEAKER:

I will now call on the mover to reply.

HON G T RESTANO:

Mr Speaker, I am grateful to the Honourable Mr Bossano, for his support of the motion, and he did have a few queries during his intervention. It was a pity of course that he was not here this morning when he would have heard what this side of the House had to say. What he has just said is that 1972. I think, Mr Speaker, that if Mr Canepa wants to speak he should ask me to give way, and I am not giving way, he had the opportunity of intervening in this debate, he has not done so, so he had better shut up now. Mr Bossano was saying, Mr Speaker, that his reasons for supporting the motion was, or rather, one reason that he slightly disagrees with the motion was that in fact, he did not think it should be from 76, but that it goes back to 1972. I would like to explain to Mr Bossano the reason why 1976 is in the motion and not 1972 when there was a strike as he has correctly said is that in 1976 the Government received recommendations from consultants to carry out certain works and "they" did not accept these recommendations, and as far as I am concerned, from 1976, the fact that new generating plant was not introduced by the Government and the working conditions in King's Bastion Generating Station, which we all know was very, very poor, was the main reason why there have been all these problems in Gibraltar in the Electricity Undertaking. Now, this morning Mr Speaker, the essence of the reply given by the Minister for Municipal Services and the Chief Minister were not in any way concrete to what the motion had said. The main essence was saying that the Opposition had brought in this motion for the purposes of electioneering. Those were the two main points made by the Minister and the Chief Minister. In introducing the motion this morning, Mr Speaker, I said that this was not the first, nor the second but the third motion of the DPBG on the Electricity Undertaking. And to say that at the last moment we are introducing a motion for the purpose of electioneering is clearly trying to mislead people. When one considers that the motions, which this side of the House have put down, one asking for "the reasons and causes for the failure of the department to ensure continuous supply of power to the consumers of electricity over the years, over the last four years", this was the motion of 1980, asking in the same

motion "to examine the recommendations of the Preece, Cardew and Rider Report, and to consider whether the recommendations contained in that Report was adequately and promptly dealt with by the responsible Minister and also to enquire into the short and long term plan of the responsible Minister to provide for a continuous supply of electricity to the public of Gibraltar and to report whether such plans are adequate to service the needs of the community now and in the future". That is in 1980, we were not accused then of electioneering, Mr Speaker. We were not accused then, we were merely accused then of trying to add fuel to fire, and then again, in October of 82, the second motion that was then produced was a motion of no confidence, again on the lack of planning and foresight, the lack of proper provisions for staffing at Waterport Station, the manner in which it has in this House misled the Opposition and the public as to the true state of industrial relations in the generating station, the lack until the report of the Committee of Enquiry was submitted, of adequate consultative machinery, we were not accused of electioneering then. It is only now. Our concern has been all along, Mr Speaker. I think that deals adequately with the fallacy and the myths produced by both the Speakers on the Government side this morning, that all that this side of the House was doing was trying to use this for electioneering purposes. We have been concerned all along with the problems of electricity and the lack of continuous supply. Now the Honourable Dr Valarino said that it did not make any sense to go back to 1976 and that all the Opposition was worried about, was I think he said the Preece, Cardew and Rider Report, stuck in our throats. Well, Mr Speaker, that may be the level of importance that the Minister gives the Preece, Cardew and Rider Report. He makes, he tries to make it a debating point, and he fails entirely. That Report, had it been adhered to, and the recommendation of that Report, had they been adhered to by the Government in 1976, would have ensured that by 1978, two years before the last election, we would have had a new Generating Station in Gibraltar, and all the problems that we have had, and all the cost of the incompetence, which I will deal with in a moment would not have arisen. Ah, yes, on talking about the Trailer Mounted Engines, the Minister said that the reason why that one had been brought in was that No.8 Engine, in the Generating Station had packed up. But I put it to the House that by the time that that No.8 Engine packed up, it should have been disposed of, at least as far back as 1976. And that is in the Preece, Cardew and Rider Report. He mentioned that I had mentioned a lot of red herrings but he did not give a single example. He did not give a single example, I think it is very easy for a Minister to get up and say "Oh, the Opposition is coming out with red herrings all the time" and not mention one single one of them in the same way that he said that I had been

corrected on inaccuracies on two occasions during this House, he said that Mr Perez had corrected me in an inaccuracy. Well, again, he did not give any examples of any times that I have been corrected. So I disregard those statements entirely. Then, he accused me of not having gone to visit the Waterport Power Station. Now I will give the Minister my reasons for not having gone to the Waterport Power Station, and there are two, basically. The first is that I do not intend to visit the Waterport Power Station until such time as it is being run by the Gibraltar Government. I don't see that there is an awful lot that I can gain from going to visit a Station which is being run by consultants and it is costing us £1.3million on account of Government's failure to operate that Station. And the second reason is, and he in passing said that I had only been once to King's Bastion. And I must say, I have not said this before in this House, but I will say it today. There are limitations imposed on Members of the Opposition when they go and visit certain Government Departments. One of the limitations where the Generating Station is concerned, is that if I have to go there the Minister has to accompany me. Now, this did not happen for example, when I visited the Medical Department, where the Minister asked me whether he wanted me to be accompanied by him or whether I wanted to go on my own. And I said to him, I thanked him for his offer, and I said that I would prefer to go on my own. Where the Generating Station is concerned, the Minister flatly refused that I should go on my own and insisted that he should accompany me. Now, I have been approached, or I was approached shortly afterwards, after having gone round the Generating Station with the Minister, by members of the Station, saying "Look, we would have liked to have spoken to you about this and about that, but we were certainly not going to speak to you about this and that in front of the Minister". They did come and tell me afterwards, incidentally, but I think it is a sham for a Member of the Opposition to go to such places like the Generating Station and not being able to have the men approach directly, without the fear that somebody might hear what is being said. I must say, Mr Speaker, that I was surprised to hear the Minister saying that the Government ran GBC. I don't know whether the Chief Minister can confirm this but I think he will have the opportunity at a later stage, but I think it is important, because he did say that.

HON CHIEF MINISTER:

Of course not by a simple slip of the tongue on the way that things were run, I have tried over and over again in reply to questions opposite to say we have nothing to do with GBC that it is a Statutory Body, that it is independent and that we have nothing to do with running it. Now the Honourable Member knows about it.

HON G T RESTANO:

Well I am grateful for that Mr Speaker, I hope the Chief Minister will tell the Minister for Municipal Services that he should be a bit more careful, that he should be a bit more careful when he comes to this House and starts speaking.

That is a pretty important statement, I am glad that it has been qualified and rejected by the Chief Minister, and quite rightly so. But I think he should tell his Minister that he should be far more careful when he gets up and makes statements in this House. Particularly when they are not written for him. Now he says that in 1980 the Government had done the right and responsible thing, they had taken the right decision on the Generating Station. And I would agree, it was the correct decision to build the Generating Station. The only trouble is that it was 4 years too late, that is the trouble. Now the Chief Minister I am afraid did not have all that much to say on this occasion, and he did I am afraid rather tend to repeat what had been said by the Minister for Municipal Services. He just made, I think 2 or 3 points that had not been raised before by the Minister. One was when he was talking about the Steering Committee, and he said that Work Practices that had developed during the previous period, those were bad Works Practices, and that the Government had to ensure that these Work Practices, would not be perpetuated. Well, Mr Speaker, to me, the way I interpret that particular statement is that the Government considers that it had allowed the situation in the Generating Station to revolve to such an extent where proper management and efficiency was not occurring. And that is in fact the vindication of part of the motion. Now, he also said he questioned the figures that I had circulated. He said that it was unfair to say that the Skid Mounted Generators had cost £468,000 on the one hand and £164,400 on the other hand because the Skid Mounted Generators, as with the Ministry of Defence electricity supply which cost £152,000, had been recouped by money which had been charged to the consumer. Now, as far as the Skid Mounted Generators is concerned Mr Speaker, that is a misleading statement. It was a totally misleading statement made once again.

HON CHIEF MINISTER:

No, because I think it shortens, I hope it shortens the area of debate. I did not put them together. I said one of them had produced and the other was exactly what we had got.

HON G T RESTANO:

Right, well I took him to mean, if it wasn't, it certainly, the Honourable Major Dellipiani made that statement as well, or made that particular statement. But it is certainly mis-

leading to think or to say that the money for the hire of those generators had been recouped, because they were not used for all the time, they were used for a few hours. In fact, it was a total of 29 months I think they were used, for about 3 months. Now, as far as the MOD supply is concerned, again, I think that point was explained in his intervention by the Honourable and Learned Leader of the Opposition. There was no reflection in the estimate of a decrease in the overheads of the department. No, we were paying for the same overheads plus the amount paid to the Ministry of Defence and only that piece was being passed on to the consumer. So it is part of the cost of incompetence of the Government. In his intervention, Mr Dellipiani, I think tried to make a very honest appraisal as he saw it, although he did bring to light one thing where he says that the Government was delayed whilst he wanted to have more generating units in Gibraltar, the Government was delayed both by the then Financial and Development Secretary and the Economic Adviser who had said that Gibraltar should be linked through La Seviliana. Mr Speaker, this is entirely the view that I take and I have taken in presenting this motion to the House. Who was governing Gibraltar? Was it the Chief Minister and his Ministers or the Financial and Development Secretary with the Economic Adviser? It seems to us on this side of the House very frequently that the people who are running Gibraltar are not in fact the Chief Minister and his Ministers. Well in this particular instance, Mr Speaker, it is clear by what Mr Dellipiani says. "He said that the delays were caused by the then Financial and Development Secretary not the present, that the then Financial Secretary, that he was the one who was dictating to the Chief Minister". Well, if that is the way the Chief Minister is running his Government, it is no surprise that we should have the difficulties that we do encounter. Lastly, Mr Speaker, the Honourable Major Dellipiani, said that what seems to frustrate me most was the payment of £110,000 for the Chairman of the Steering Committee. Well that is not really what annoys me most. What annoys me most is £1.3million, which has been paid by the Government for Hawker Siddeley to run a station because the Government was unable to do so. And for the Chief Minister to say "Oh well, £1.3million, that is not a correct figure, he said. That is not a correct figure. Because if we had taken over the station then it would have cost us half". But that of course, is not reflected in the estimates, Mr Speaker. If the Government had thought as they obviously did, and I said it this morning and I am not going to repeat it, that the Waterport Power Station would be taken over end of 1982, and then there was a bit of slippage, but by the time 1983/84 estimates were presented to this House, if the Government thought that they would be in a position during this financial year to run this station, and that it would cost

about £650,000 I would imagine that that would have been included in the estimates. But it has not been included in the estimates, because from the approved figure for 1982/83 of £4.07million, the estimates, from the revised estimates of 82/83 of £4.27million, the revised estimates for 1983/84 is £3.87 million. So there is no reflection in the estimates, that Government has any intention either to take over the Waterport Power Station, or if they did so, that it would cost £660,000 more for them to run the Station. Mr Speaker, Sir, I think I have covered all the points except perhaps, oh, yes, except perhaps for the question of the Cooper and Lybrand Consultancy which some Members opposite have objected to so much. Well Coopers and Lybrands consultancy, £25,200 is being paid to do work which I am sure we have enough competent people in Gibraltar to do, and we do not need to spend that amount of money on work which can be done with our current and present resources. Mr Speaker, I beg to move.

Mr Speaker then put the question and ruled that the motion was a motion of no confidence in the Government and consequently the ex-officio Members of the House were precluded from voting in accordance with the proviso to Section 44(1) of the Gibraltar Constitution Order, 1969.

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

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

The following Hon Members voted against:

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

The motion was accordingly defeated.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause. (1) the Auditor's Registration Bill, 1982; (2) the Supreme Court (Amendment) Bill, 1983, (less clauses 2 and

6, which have already been dealt with); (3) the Law Revision Miscellaneous Amendments (No.2) Bill 1983; (4) the Criminal Offences (Amendment) Bill 1983; (5) the Immigration Control (Amendment) (No.2) Bill, 1983 and (6) the Landlord and Tenant Bill 1983.

THE AUDITOR'S REGISTRATION BILL 1983

MR SPEAKER:

I will remind the House that we are still on Clause 4 of this Bill, we did the first three clauses, so we are at clause 4. I take it that the Honourable and Learned Attorney General did move the amendment, which was the omission of sub-clause 2 and the substitution therefore for a clause of which notice has been given and I read at the time.

HON P J ISOLA:

Mr Speaker, what we were discussing was an amendment that I proposed to the Honourable and Learned Attorney General.

MR SPEAKER:

That he has adequate knowledge and experience of accountancy and audit.

HON ATTORNEY-GENERAL:

That is right.

MR SPEAKER:

In other words, you were, if I remember well, suggesting that that clause which was intended to be substituted should be deleted, is that right?

HON P J ISOLA:

Sub paragraph C.

MR SPEAKER:

Sub paragraph C, that is completely and absolutely right and clear in my mind. So I will remind the House where we are, an amendment to clause 4(3) was moved by the Honourable the Attorney General, which consisted of a new sub-clause which had several sub-sub-clauses, and now there is an amendment before the House, that sub sub-clause C, should be deleted and substituted for a sub-clause to read "that he

has adequate knowledge and experience of accountancy and audit".

HON ATTORNEY-GENERAL:

I may be repeating myself, but in view of the adjournment of the Bill in Committee, it may be very helpful if I recap my position on the amendment to the amendment.

MR SPEAKER:

I beg your pardon?

HON ATTORNEY-GENERAL:

It may be helpful perhaps even though I run the risk possibly of repeating myself.

MR SPEAKER:

Well we are in Committee.

HON ATTORNEY-GENERAL:

Mr Chairman, on the amendment to the amendment, the position is this, that talking about qualifications for auditors, not for accountants but for auditors, as the Honourable and Learned Leader of the Opposition has himself pointed out, areas for the proposal in the first place, was an order to secure the appointment of auditors for company and tax work and really I can see no reason at all why the reference to an adequate knowledge of company and tax law should not form part of the qualification for registration, and I will stress again, that nothing in the original Bill, or in the amendment which has been proposed from this side of the House stipulates that you must have a knowledge as gained by an examination. It is not that precise requirement. The original amendment simply says that you must have a knowledge, an adequate knowledge of the law relating to companies and taxation, no more and no less. And for that reason Mr Chairman, I would not be in favour of the amendment to the amendment.

HON P J ISOLA:

Mr Chairman, perhaps I should recap what I said on this. That amendment has come as a result of representations to the Financial and Development Secretary or to the Honourable and Learned Attorney General. The reason why we oppose that particular amendment is because it changes the intent of the Bill. As I understand the position, this Bill was introduced to try and regularise the position of people who audit accounts,

of people resident in Gibraltar who audit accounts and try and give those audited accounts recognition by the fact of authority to act as auditors in Gibraltar, and more importantly, Mr Chairman, to exclude a whole lot of people who are today Gibraltarians resident in Gibraltar, who are today making a little money from part-time work. Now, as soon as all those people are excluded, the people who are going to benefit are the chartered accountants. And I would like to remind the House that chartered accountants of Gibraltarian origin, in Gibraltar, are very, very few. We are mainly invaded by, invaded is perhaps the wrong word to use, Mr Chairman, but Members should be conscious of the fact that those are the people practising in Gibraltar, chartered accountants, who do not originate from Gibraltar, and there is plenty of work from what I think I have seen for everybody, because the firms who are established are increasing the number of partners working in Gibraltar. Now the net effect of this Bill will be to exclude a number of people, and it may be quite a substantial number, who earned a living from auditing accounts and filing them for income tax purposes, etc. Now what the Bill was intended to do was, rather what has happened with dentists. Those who do this regularly as their livelihood, and not as a sort of part-time occupation or whatever, will be recognised as auditors. Now, that was the intent of the Bill as explained to this House by the Honourable and Learned Attorney General, who then comes along and puts in an amendment to change it. That is the objection that we have. And our objection becomes greater, when the amendment comes as a result of talking to chartered accountants. So this is a reality, Mr Chairman. Now, what we say is that if the amendment as proposed by the Attorney General is passed, then the board that recognises accountants and auditors will set a higher standard than this House intended should be set. We are not going to ask them whether they have passed exams or anything else, but they are going to set a higher standard, and they are going to be given the excuse to say no, to an accountant and deprive him of his livelihood. That is what is going to happen, Mr Chairman. And I don't know whether there is an appeal under this against a decision of the board to refuse to register anybody.

HON ATTORNEY-GENERAL:

Will the Honourable Member give way.

HON P J ISOLA:

Yes I will give way, I have been giving way on this for a long time.

HON ATTORNEY-GENERAL:

I don't think he has really, Mr Chairman, I am trying to help. There is a right of appeal. I don't feel anything has been said about the effect of this amendment, but all that is doing is making more particular what the original intention was, but if they feel so strongly about it, we will not pursue it.

MR SPEAKER:

Do I understand that you will not pursue the objection to the amendment to the amendment.

HON CHIEF MINISTER:

No, we are going to withdraw the whole amendment circulated, and leave it as it is in the Bill.

MR SPEAKER:

Well let us be clear on what we have to do now. The Honourable and Learned the Attorney General has to obtain the leave of the House to withdraw his amendment to the clause.

HON ATTORNEY-GENERAL:

Perhaps, Mr Chairman, may I merely give information on what I am going to do, but I will at the appropriate stage seek...

MR SPEAKER:

It is now the appropriate stage.

HON ATTORNEY-GENERAL:

In that case, Mr Chairman, may I seek leave to withdraw.

MR SPEAKER:

No. In the full knowledge that the Learned Attorney General is intending to proceed in the manner he has explained, you might seek the leave of the House to withdraw your amendment to the amendment.

HON P J ISOLA:

Mr Chairman, I would like leave to withdraw my amendment.

Mk SPEAKER:

Is leave to withdraw given by this House? Yes. Now you can ask for leave.

HON ATTORNEY-GENERAL:

Mr Chairman, may I seek leave from the House to withdraw my amendment?

This was agreed to and clause 4 stood part of the Bill.

Clauses 5 to 12 were agreed to and stood part of the Bill.

HON P J ISOLA:

Mr Chairman, I beg to move the amendment standing in my name that the Bill be amended by the addition of a new section to be numbered 13, and to read as follows. "Section 13(1) of the Companies Taxation and Concessions Ordinance, 1983 is amended by the addition of the following words at the end thereof or is a person or a firm whose partners are registered under the Auditor's Registration Ordinance". Mr Chairman, the main effect of this Bill as coming to this House is to enable auditors, persons who are registered as auditors for the purposes of this Ordinance, to be able to audit the accounts of a company registered under the Companies Ordinance for the purposes of income tax, for the purposes of the revenue of Gibraltar. They are in effect, what we are doing in this Ordinance, is what was done in England shortly after I think the Companies Act of 1929, to allow people to exercise their profession or exercise the profession which they have learnt through experience, rather than by examination.

Now under our law, therefore, it is intended that for the purposes of Gibraltar, people who are registered as auditors can act, and have the full powers of auditors. Now, if we do not allow them to act as auditors for the purposes of the Companies Taxation and Concessions Ordinance of 1983 we are reducing their chances in Gibraltar, and I stress in Gibraltar. It is rather like a dentist, Mr Chairman, who was allowed to practice dentistry as a result of experience and who was legalised under our Medical and Practitioners Legislation some years ago. If they had been told, right you can take teeth out of Gibraltarians, but you can't take teeth out of visitors to Gibraltar. You know, you are either an auditor, or you are not. That is the reality. Under the Companies Taxations and Concessions Ordinance Section 13 states, "a person or firm shall not be qualified for appointment as auditors of exempt companies unless he or it is approved by the Governor for the purposes of this section and is a member or is a firm whose partners

are members of a body of accountants, established in the United Kingdom and for the time being recognised for the purposes of the Companies Act by the Department of Trade". That is the test under the Ordinance for being an auditor of an exempt company, that is the test. You have got to have approval by the Governor, and secondly they must be chartered accountants, or accountants recognised under the Companies Act by the Department of Trade. All I am saying in this amendment is that people who are recognised by us as auditors should also be auditors. Let me explain something in this connection. Let me explain the practice as I find it in Gibraltar. The practice is that you can have a person who is a chartered accountant, who is resident in Jersey, Guernsey, Isle of Man, United Kingdom, America, if he is a British chartered accountant, if he is qualified as an auditor of any exempt company in Gibraltar. All you do is that you write a little letter to the Governor or the Financial and Development Secretary, somebody from the Department looks up a book on chartered accountants and if his name is there it is approved. We know nothing about the man at all, but he is approved. He has not read the Companies Taxation and Concessions Ordinance in all probability but he is approved. That is the position that is the practice and I know that from experience. I know auditors of Exempt Companies that I have applied for, who are chartered accountants in Jersey, in the Isle of Man, and who have not got the foggiest idea what their duties are under the Companies Taxation and Concessions Ordinance. But they are approved and they become the auditors. And that is a fact. The magical word is that you must be a chartered accountant.

MR SPEAKER:

May I because we are in Committee ask a relevant question, is it not in the letter of acceptance of an appointment of a chartered accountant for the purpose of the Companies Taxation and Concessions Ordinance, that they have to give an undertaking that they will comply with the requirements of the Companies Taxation and Concessions Ordinance.

HON P J ISOLA:

No, I beg your pardon, well my experience is, my experience Mr Chairman is what the Financial and Development Secretary wants is a letter saying that they agree to be appointed auditors of that company.

MR SPEAKER:

And comply with the Companies Taxation and Concessions Ordinance.

HON P J ISOLA:

Well, that I don't know but if you say so, that is it, but I have never been asked for a copy of the Companies Taxation Ordinance from any auditor, that I can tell you Mr Chairman. And let me say another thing, I have never seen the certificate that they give to the Financial and Development Secretary either. I have never seen the certificate that they give to the Financial and Development Secretary, because what he has got to do, what his duties are, under the Ordinance are very restricted. The auditor has to, before the 30th June every year, submit to the Commissioner of Income Tax, a list of the full names of any resident of Gibraltar, who has during the period of a year ending on the 31st day of March, made any loan to the company, and on the full name of any person other than a resident who has during the period ending on the 31st made any loan to the company secured upon any property situated in Gibraltar. So that if they, an auditor, if a company hasn't made a loan, or hasn't taken a loan from a Gibraltar resident, or hasn't invested money in property in Gibraltar, he does not have to give a certificate at all. Now, Mr Chairman, it is also a well known fact that exempt companies don't have audited accounts. That is also a well known fact because the Gibraltar Government is not interested in their accounts. The Income Tax Commissioner is not interested in their account, as long as they pay their £225 a year, that is all the Gibraltar Government is interested in. And if there has been no loan to a Gibraltar resident or loan taken from a Gibraltar resident, and there has been no investment in immovable property or in any business in Gibraltar by that company, there is no need for the auditor to write anything. Now I ask this, Mr Chairman, I ask the House this. Who is more likely to comply with Section 13 of the Companies Taxation and Concessions Ordinance. Clearly a local auditor. Because an auditor who is in the Isle of Man and who is not actually auditing the accounts, he is just the auditor for the purposes of the Companies Taxation and Concessions Ordinance, that person will probably be appointed never hear any more about that company, unless it blows up in a newspaper. This is a reality. He does not sign, but there is no, there is nothing, there is no duty to submit anything. No, Mr Chairman, if the Honourable and Learned Chief Minister will look at Section 13 of the Companies Taxation and Concessions Ordinance he will see it. He has got to send a letter to the Commissioner of Income Tax only if certain things have happened. If they have happened he has no letter to send. And it is a well known fact that a great number of exempt companies, in the majority, are not audited. The accounts are just not audited. So the only reason I can think for a local auditor not being allowed to take on this particular duty which is not very

onerous, can be carried out much better by an auditor resident in Gibraltar than an auditor resident in Guernsey, or Jersey, or the Isle of Man, or the United Kingdom quite outside the jurisdiction of the Commissioner of Income Tax, the Governor and everybody else I can see no reason why such an auditor should not be allowed, why a local person who can audit accounts for the Commissioner of Income Tax, in respect of raising revenues for Gibraltar, cannot be entrusted because that is the real, that is the real issue, cannot be trusted to write a letter to the Commissioner of Income Tax telling him whether any resident of Gibraltar has invested in an Exempt Company, or made any loan to the company, or whether that company has invested in immovable property in Gibraltar. That is all they have to do under the Companies Taxation and Concessions Ordinance. Of course, I would imagine that here again we have the question of competition, the question of protected interests and so forth. Obviously it is not good to a certain extent for chartered accountants, or people who are recognised for the purpose of the Companies Act by the Department of Trade to have competition from auditors resident in Gibraltar. They probably don't like it, and they can probably find good reasons for opposing it. But I must remind the House that under this Ordinance we are qualifying certain people to act as auditors under the Auditors Registration Bill and we should allow them to act in Gibraltar at least fully as auditors and to be able to give the certificate. Of course it is still open to the Governor not to approve their appointment as auditors, it is open to the Governor and he may well do so, and to remove the approval, if they find that a particular auditor has not been doing his job. And the Governor can do it far more easily I can assure Honourable Members in this House that we have auditors resident in Gibraltar, than auditors that come from the Isle of Man or Guernsey or Jersey, our competitors, or the United Kingdom, Mr Chairman I commend the amendment to the House.

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

HON CHIEF MINISTER:

Well my understanding, Mr Chairman, of this Ordinance was to regularise, and in fact, the argument which was being used earlier by the Leader of the Opposition is really up to a point more relevant now than what was being done in the Ordinance was to regularise the people who were here. Now that it is proposed to regularise those registered under the Auditors, now you are giving them additional powers. Now I am afraid of the question of the international aspects of the Finance Centre, and the fact that whether an auditor allows

his name to be given, and this is what I understand now happens he is subject, if he is a Chartered Accountant, he is subject to the discipline of his body, and he is answerable to them if he does something wrong. Here, and I am not suggesting that things should be done wrong, but here, there is only the sort of disciplinary procedure of being removed by Government and by not belonging to a body to which you have to answer and from which you can be struck off and that is I think the extent of the present Ordinance, that is why I did not want to pursue the other amendment, because it had been agreed with the other Chartered Accountants. They are after all very much interested, and that had been agreed and that was good enough. But to add to it another dimension now seems to me rather dangerous and as far as we are concerned we are voting against it.

HON ATTORNEY-GENERAL:

It may help also, Mr Chairman if I draw attention to a certain point. If this Bill had not been introduced into the House, if this Bill had never come forward, the position would be that in law only some people, not all people who practice auditing but only some of those people would be permitted by law to function as auditors under the Companies Concessions and Taxation Ordinance. So in that sense if the present Bill does not incorporate the amendment now being proposed, it will not be changing the position. Now the other point that the Honourable and Learned Chief Minister has already emphasised is that we are concerned here with off-shore business. That is a matter of perhaps special sensitivity, and the information I have is that if anything the tendency elsewhere is to make more stringent the requirement for the role of an auditor in relation to such business, that is a factor in the whole matter. The other factor is this that the Honourable and Learned Leader of the Opposition himself mentioned the original intent of the proposals put forward for this legislation. I think that they are actually a little wider than simply for taxation purposes, but nevertheless, they started off as a limited scheme, a limited concept, and I think that at this stage to widen that concept in Committee would be going too quickly. I think the proposal which now they put forward is in itself a substantive proposal. There will in fact be a Registration Board, under this Bill, there will be a Registration Board under this Bill, that will have powers of removing auditors who are registered, who are even exempted, and there will be machinery to that end. But I think at this stage, it would be too quick and introduce an entirely new additional concept into the original proposal to say that not only can we make provision for the registration of persons under the new Bill, but they may also perform functions under

the Companies Taxation and Concessions Ordinance. This is purely my personal thoughts, I would not like to take this on more than that, but perhaps after the new scheme of registration has been in force for some time, the position could be different.

HON P J ISOLA:

Mr Chairman, I am amazed at the attitude of the Government to this amendment. I can understand the attitude of the Honourable and Learned Attorney General, don't trust a native.

HON ATTORNEY-GENERAL:

I think that is the most unhonourable thing to say.

HON P J ISOLA:

Well, perhaps I should not put it that way, but it is particularly colonialistic in approach, it is an anti-Gibraltarian stand that the Government is taking. And I will explain why. A chartered accountant is subject to the Society of Chartered Accountants. Well, then a Gibraltar Auditor is subject to an Auditor's Registration Board, in a Gibraltar that has its own House of Assembly and his own Disciplinary Body in Gibraltar to deal with the matter. Why is the Society of Chartered Accountants or something, well we have got them in the Board haven't we? And the Honourable and Learned Chief Minister, and with the greatest respect the Honourable and Learned Attorney General don't seem to understand what the function of an auditor is under this Ordinance. It is quite clearly laid down in 13(2). And that is all that he has got to do. Nothing else. In a public company he has got something else to do. But in a private company which is the great majority, he has nothing more to do than to protect the Gibraltar Government, the Gibraltar tax payer from Gibraltarians taking advantage of the Companies Ordinance, and from Exempt Companies investing in Gibraltar. It has nothing to do with the off-shore image of Gibraltar. That off-shore image, Mr Chairman, with great respect has been severely damaged by scandals like the Signal Life and the Cavendish Insurance, and they had chartered accountants presumably as auditors. But that did not save them. That is what damages the image of Gibraltar, not whether an auditor is a chartered accountant or an auditor registered in Gibraltar. It amazes me, Mr Chairman for the Honourable and Learned Chief Minister to say "We will not support this thing" why then when the question of necessity raised, why is a person who is registered under the Auditor's Registration Board, including chartered accountants, why should that person not be trusted with telling the Financial

and Development Secretary or the Commissioner of Income Tax "Look here, watch this company". My Honourable and Gallant Friend or the Hon Major Dellipiani or somebody else has made a loan to this company. He cannot be trusted with that. But we are going to trust him with certifying the accounts of Gibraltar Airways or Blands, that is alright, but he cannot be trusted with notifying the names and addresses of any resident of Gibraltar. The truth of the matter Mr Chairman is that being an auditor under the Companies Ordinance is a very profitable sinecure. I say, sinecure because nobody in Gibraltar would lend any money to an exempt company when most of them are in the names of nominees or hidden under management agreements, management company which the lawyers all produce. Who in his senses in Gibraltar is going to lend money to an exempt company. So it is a sinecure. And what exempt company is going to invest in an immovable property in Gibraltar and pay 50% tax or 40% tax to the Gibraltar Government. But you want to guard against that, I accept that, but that has nothing to do with the reputation of Gibraltar as an off-shore centre is damaged when the exempt companies hit the limelight as these two companies, and I had the misfortune to be listening on last week on BBC radio on a money programme and they were telling people they must not invest on false off-shore funds because since the scandal of Signal Life and Cavendish it was not advisable to do so. That has nothing to do, Mr Chairman, with auditors, the reputation of Gibraltar as an off-shore centre, has a lot to do with other things. And here we are depriving Gibraltarians whom an Auditor's Registration Board has said they can act as auditors, depriving them of what is in fact a sinecure becoming an auditor of an Exempt Company. Mr Chairman, the last time I raised this which was at the second reading of the Bill, the question of insurance companies was raised. they can be auditors of insurance companies. That is now a red herring Mr Chairman, because the Government is spending a lot of money, a lot of public money on an Insurance Adviser to advise them on what should be done about Insurance Companies, and I am sure the Insurance Adviser is not going to say it is crucial to an Insurance Company that the auditors should be a chartered accountant. He would say a lot more things like complying with EEC directives, lots of other matters like giving security, like the Department of Trade does in respect of English Insurance Companies registered in England. That is the sort of security not whether an auditor is a chartered accountant or an auditor under registration. That was raised in the second reading and I raise it again in case it is in the mind of Honourable Members opposite, because I can't think what possible reason they can have for voting against this amendment except either to protect the chartered accountants in Gibraltar, because I am sure they do not want to vote to protect the chartered accountants in Jersey, Guernsey and the Isle of

Man who don't have such feelings of fraternity for Gibraltar. It must be either to protect the Chartered Accountants in Gibraltar, most of which have increased their numbers from people coming out from England, not from Gibraltarians. Gibraltarian chartered accountants, how many have we got, two? I think that is all we have got. Two or three or is it four. Right four Gibraltarian chartered accountants and how many other chartered accountants are there in Gibraltar. More than double that number, Mr Chairman, more than double that number. I can think of a firm in Gibraltar, Mr Chairman who had one person here, three years ago, and now has three chartered accountants. A firm like that is very welcome, and I am not going to say that we should put restrictions of course not but what I am saying is that our own people, whom we recognise by law to be competent to act as auditors once they have passed through the formalities of the Auditor's Registration Board should be allowed to be auditors and tell the Government whether Gibraltarians have lent money to the company or whether the company has invested in Gibraltar. That, Mr Chairman, is a purely domestic matter, aimed at protecting the local revenue, it is not as protecting the image of Gibraltar as an off-shore centre, the duty to tell the Gibraltar Government whether a Gibraltarian is lending money to that company, or whether the money has been invested by that company in property in Gibraltar. People who deal with off-shore companies, Mr Chairman, registered in Gibraltar, could not care less whether the company gets a loan from a Gibraltarian resident, they could not care less whether that company has invested in Gibraltar in immovable property. It is entirely irrelevant, on the contrary if we are concerned with the image of Gibraltar as an off-shore centre then we should be thinking of putting on the auditors a much greater number of duties than we do under our own Ordinance. And of course we know perfectly well that if we did that we would not have any exempt companies in Gibraltar. Mr Chairman, I would like the Government to reconsider their position on this amendment, because frankly, in my view, the grounds that have been put forward for objecting are irrelevant and they constitute an insult to the integrity of the person who gets registered by the Auditors Registration Board under the terms of this Ordinance.

HON MAJOR R J PELIZA:

Mr Chairman, I have been listening very intently to the discussions that have been going on, because as the House knows, I am very keen in seeing Gibraltar progressing as a financial centre, no one can deny that. From the arguments that I have heard from both sides it seems to me that there is nothing at all in the suggestion of my Honourable Friend or in any way detracting from any advance in that direction. And I would

very much like to hear the Chief Minister, whose objection was precisely that one, whether he could enlarge to prove the fact that my Honourable Friend is wrong in what he is suggesting.

HON CHIEF MINISTER:

Well, I am not an expert in this, but it is true that we have one or two options. We might have to withdraw the Bill and pursue the discussion with the Chartered Accountants or the Finance Centre Group who have had a say in this matter. But that would do much more harm to the people that it is intended to protect than that. I think the way ahead, if I may say so, is the way that the Attorney General has suggested and that we had better have this now, as you were saying when talking about dentists, and you say the people who are working as dentists were not qualified and allowed to do that, right, that is what the Bill does, but you say, no, now that we are going to give them that we are going to give them an opportunity to do another kind of surgery within the mouth but which was not within what is dental surgery. And that is what it is intended to do now. That either we withdraw the Bill now and take it back or I think, the best way to get it through which gives added status to the people who can now register, and see how the thing works and then we can come again, but we have to go back to the Chartered Accountants.

HON P J ISOLA:

Mr Chairman, it means that if the Commissioner of Income Tax today retires from his job, he would not be able to be an auditor under the Companies Taxation and Concessions Ordinance. The Honourable and Learned Chief Minister, what he is saying really is look before I take this step, I want to clear it, it is what happened last time, when I brought my original amendment to this Bill, I had to consult with the chartered accountants. It is like saying that we are going to make a change in the law that affects the lawyers. I have got to consult with the lawyers. If that happened in England, look at the row that is going on in England about the solicitors, people being able to do conveyancing other than solicitors but

here we have a position, Mr Chairman, when we are allowing people to be registered. This is the Government refusing to, this is the Association of the Advancement of Civil Rights refusing to take a.....

MR SPEAKER:

Order, order.....

HON P J ISOLA:

Refusing to allow Gibraltarians the right to.....

MR SPEAKER:

With respect, Mr Isola, we have exhausted the argument, we have exhausted what each side was asking for and I am the sole judge as to when matters are to be brought to a head and I am going to bring it to ahead now. I am going to put the question to the House and let the House express its views.

HON P J ISOLA:

Well, Mr Chairman it is your priviledge.

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The amendment was accordingly defeated.

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

The House recessed at 5.25 pm.

The House resumed at 5.55 pm.

THE LAW REVISION (MISCELLANEOUS AMENDMENT) (NO.2) BILL, 1983

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 7 be amended by omitting it and substituting the following Clause, Amendment of Ordinance No.12 of 1983, 7(1) Schedule 2 of the Law Revision (Miscellaneous Amendments) Ordinance 1983 is amended by omitting the item "Magistrates' Court Ordinance Cap (95) Item 3 Schedule (2) Subsection (1) shall be deemed to have come into operation on the 31st day of March 1983". Mr Chairman, this is a correction of an error which crept into the first Law Revision Miscellaneous (Amendment) Bill which went through, Members may recall March of this year, and the opportunity is being taken to redress it.

Mr Speaker put the question which was resolved in the affirmative and Clause 7, as amended was agreed and stood part of the Bill.

Clauses 8 to 33 were agreed to and stood part of the Bill.

HON ATTORNEY-GENERAL:

I move that a new clause be added after Clause 33. "Amendment of Cap 49, (34), the Employment, Injuries Insurance Ordinance to be amended by omitting from Section 24 the words "under 20 years of age". Mr Chairman the whole purpose of this Bill is to make miscellaneous amendments to the statute law of Gibraltar for the purposes of the Reprint of the Laws,

which cannot be done under the powers conferred upon the Commissioner for the Law Revision, under the Revised Revision of the Laws Ordinance, 1981, in other words, he has certain editorial powers, but if substantial changes are made, it must be the subject of a Bill. Mr Chairman, I would like to say inevitably, at the end of the exercise, there are always, tail-end charlies, if I may use that expression. This Clause, and the following Clauses, so that miscellaneous improvements to the law which we would like to have made, if the House will agree, and before the reprint is completed.

New Clauses

The Hon the Attorney-General moved that the Bill be amended by adding, after Clause 33, the following new clauses.

"Amendment of Cap: 49. 34. The Employment Injuries Insurance Ordinance is amended by omitting from Section 24 the words "under twenty years of age".

"Amendment of Cap. 89. 35. The Legitimacy Ordinance is amended by omitting from paragraph 5 of the Schedule the words, "not exceeding in the aggregate ten shillings".

"Amendment of Ordinance No. 5 of 1973. 36. The Medical and Health Ordinance, 1973, is amended by inserting in section 45(2)(1), after the word "Codex" the words "which was last published before the date on".

"Amendment of Cap. 134. 37. The Public Trustee Ordinance is amended by adding to section 15(2) the words "and liable on conviction to imprisonment for 2 years".

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment which was resolved in the affirmative and New Clauses 34, 35, 36 and 37 were agreed to and stood part of the Bill.

Schedule

The Hon the Attorney-General moved that the Schedule be amended by omitting in the first column the figures "156" and substituting the figures "157" and that the Schedule be placed after Clause 37.

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

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

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

THE SUPREME COURT (AMENDMENT) BILL, 1983

(Less Clauses 2 and 6 which had already been dealt with).

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

Clause 3

The Hon the Attorney-General moved that Clause 3 be renumbered as Clause 2.

Mr Speaker put the question which was resolved in the affirmative and Clause 3 was accordingly renumbered Clause 2.

Clause 2 (old Clause 3) was agreed to and stood part of the Bill.

Clauses 4 and 5

The Hon the Attorney-General moved that Clauses 4 and 5 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clauses 4 and 5 were accordingly omitted.

Clause 7

The Hon the Attorney-General moved that Clause 7 be renumbered as Clause 3.

Mr Speaker put the question which was resolved in the affirmative and Clause 7 was accordingly renumbered as Clause 3.

Clause 3 (old Clause 7) was agreed to and stood part of the Bill.

Clause 8

The Hon the Attorney-General moved the following amendments:

- (i) to renumber Clause 8 as Clause 4.
- (ii) to omit paragraph (b), and to renumber paragraph (c) as paragraph (b).

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 4 (Old Clause 8) as amended, was agreed to and stood part of the Bill.

Clause 9

The Hon the Attorney-General moved that Clause 9 be renumbered as Clause 5.

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

Clause 5 (old Clause 9) was agreed to and stood part of the Bill.

Clause 10

The Hon the Attorney-General moved that Clause 10 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clause 10 was accordingly omitted.

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

THE CRIMINAL OFFENCES (AMENDMENT) BILL, 1983

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

Clause 3

The Hon Attorney-General moved that Clause 3 be amended as follows:

In new section 4C(2) on page 190 to omit "4A" wherever it occurs and substitute "4B".

In new section 4D on page 191, to omit "4A" and "4B" and substitute "4B" and "4C" respectively.

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

Clauses 4 to 12 were agreed to and stood part of the Bill.

Clause 13

The Hon Attorney-General moved that Clause 13 be amended as follows:

In the new section 223D(1), to omit the words "Justice of the Peace" and substitute the words "police officer".

In the new section 252A(3), to omit "subsection" and substitute "section".

Mr Speaker put the question which was resolved in the affirmative and Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

The Hon Attorney-General moved that Clause 14 be amended as follows:

In the new section 252A(1), to insert after the words "where a person" the word "owing".

Mr Speaker put the question which was resolved in the affirmative and Clause 14, as amended, was agreed to and stood part of the Bill.

Clauses 15 and 16 were agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 17b, be amended by omitting 20 and substituting 21. If I may explain, this Bill contains the provision earlier on, Clause 4, which defines the crime of murder, statutorily, whereas previously up till now, as at this moment it is defined by common law, and because it is a common law definition, and because in the way in which attempts to murder are dealt with by a law, there are provisions in the Criminal Offences Ordinance, mainly Sections 17 to 20, which have statutory definitions of an attempt at murder, and so does section 21. But, when this Bill becomes law, and in view of other provisions that have been enacted, are being enacted, I should say, there will no longer be a need for separate statutory definitions of attempted murder, because they will be caught by the general provision on attempts in our law, and we consider that not only does this apply to Section 20, but it can also equally apply to Section 21, which is another head of statutory attempted murder. So in other words, this is really a consolidation exercise, eliminating unnecessary references.

Mr Speaker then proposed the question as moved by the Honourable Attorney-General.

HON A J HAYNES:

Mr Chairman, this is one of a general nature.

MR SPEAKER:

No general principles, you had plenty of time to do that on the Second Reading.

HON A J HAYNES:

Well if I may ask the question, Sir. Given the numerous and substantial amendments, is the Attorney General proposing that these amendments should be left as an auxiliary to our Criminal Law, or is he proposing at a later stage to introduce a New Criminal Offence Ordinance, given the confusion that may arise from the most important aspect of Criminal Offences and which relate to murder and treason as being part of this amendment.

HON ATTORNEY-GENERAL:

Can I explain, I understand the point being made. This is an amending Bill. We have a Criminal Offences Ordinance, as the Honourable Member knows. This will be an amendment to that. This amendment will pass by the House this year, and as from the beginning of next year there will be a Reprint of the Laws. In the reprinted version of the Criminal Offences Ordinance, the Commissioner for the Law Revision, for the Law Reprints, has within the editorial powers already given to him under the revised provisions of the Laws Ordinance 1981 restructured the Criminal Offences Ordinance, and these amendments will be incorporated into it. We need these amendments because they are more than simply editorial amendments, they contain an element of substantive representations about them.

HON A J HAYNES:

Would it therefore be possible for the editorial to remove the numbering and change the numbering, rather than have 252a's and 252b's etc.

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, this is being done now to take away from that and of course the new reprint of the laws of Gibraltar will have new numbering completely. I thought the Honourable Member was going to ask me about the index but I have already spoken about this.

HON A J HAYNES:

One last question, who is the person in charge of reprinting? The Commissioner? I am not quite sure.

MR SPEAKER:

Is that not Sir John Farley Spry.

HON ATTORNEY-GENERAL:

Yes, the Commissioner for the Reprinting of these Laws, the Statute Laws of Gibraltar is Sir John Farley Spry.

HON A J HAYNES:

It would be Sir John who would do the editorial work on this.

THE IMMIGRATION CONTROL (AMENDMENT) (NO.2) BILL, 1983

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

Clause 5

The Hon Attorney-General moved that Clause 5 be omitted.

Mr Speaker put the question which was resolved in the affirmative and Clause 5 was accordingly omitted.

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

THE LANDLORD AND TENANT BILL, 1983

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

Clause 2

MR SPEAKER:

There are several amendments to Clause 2, is that correct.

HON ATTORNEY-GENERAL:

I think there is an amendment which precedes mine.

MR SPEAKER:

No there isn't. The first amendment for the Honourable and Leader of the Opposition is to Clause 3(9)(11).

HON ATTORNEY-GENERAL:

I am sorry, I am wrong. Perhaps I should move the first amendment of that section.

MR SPEAKER:

Which amendment are you first going to move? You have got two amendments.

HON ATTORNEY-GENERAL:

I would like to take first the major one which is the one that forms part of the lengthier amendment Mr Chairman.

HON P J ISOLA:

Could we have some clarification before the Honourable and Learned Attorney General starts moving his amendments. Are we right in thinking that the amendments that have been circulated today include the amendments that were previously circulated except for another amendment that we got this afternoon? We only have to look as far as the Honourable and Learned Attorney General is concerned, at two documents, is that correct?

HON ATTORNEY-GENERAL:

Mr Chairman, can I explain how the matters are being presented so that Members do understand what is proposed. There are two documents at present before the House, the two notices of motion I have given to amend this Bill. The two bear today's date, the 12th September, 1983, Mr Chairman, in the case of the more substantial amendments I have taken the liberty of attaching to the front an explanatory note for the convenience of Members. If I can deal with a more substantial amendment first, can I make the point that for convenience of reference they incorporate all the proposed amendments which were distributed last week. They also incorporate two other kinds of amendment. The first and most substantial is referred to in paragraph 2 of my explanatory notes, and that is revised transitional provisions which will be found on page 9 of the amendments and they affect the Fourth Schedule. The second are a number of amendments of a drafting nature which I will explain as I come to them. Apart from that, Mr Chairman, the second notice of the proposed amendments relates on to Clause 2. Mr Chairman, I have to say that I have four other very minor amendments which are purely consequential on references which have been made and I will deal with those at a later stage.

MR SPEAKER:

Over and above the ones you have given me?

HON ATTORNEY-GENERAL:

Yes, they are four little references that have to be dealt with.

MR SPEAKER:

It is very confusing to have thrown at one so many amendments because one is trying to conduct proceedings without having been given notice of what is happening. In any case we will try and cope. We have been thrown amendments without notice whatsoever and I think this is unfair, particularly to the Chair, not to be given at least some notice of what is expected. At any rate we will try and do our best, certainly.

HON ATTORNEY-GENERAL:

I appreciate that, Mr Chairman, and I apologise to you. As I come to them you will see that they are very minor matters. Mr Chairman, may I move in relation to Clause 2, I propose to take first what I would call the larger list of amendments. May I move in relation to Clause 2 that it be amended in the following respect: In the definition "court" to insert after "Part IV" the words "and the Third and Fifth Schedules". And in the definition "current tenancy", to omit "means a tenancy referred to in" and substitute "has the meaning assigned to it by". To insert after the definition "mortgage" the definition "net annual value" has the same meaning as it has in Section 310 of the Public Health Ordinance. And in the definition "rateable value" to omit "first day of January, 1984" wherever it occurs and to substitute in every case "commencement of this Ordinance". In the definition "statutory rent" to omit "section 11" and substitute "this Ordinance". Mr Chairman, none of these amendments arise out of anything that has been said in the Second Reading debate. They are all what I see as drafting improvements necessary. Drafting improvements to the definitions in Section 2 of this Bill for greater clarity or for greater precision.

MR SPEAKER:

Now, before I put the question to the House, I would like to ask the House two things. Does any Member wish to speak on the consequential amendments that are being proposed and do you want separate votes on each of the amendments?

HON P J ISOLA:

Mr Chairman, I would like to make a general comment.

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

HON P J ISOLA:

Mr Chairman, the comment that I would like to make, very short, is that we have received a number of amendments from the Hon and Learned Attorney-General on Friday and now we have had some more today, and I myself have spent a weekend trying to look at this Bill. We have voted against it, for the reasons that we have already stated, the reasons we voted against it are obviously shown to have weight with the number of amendments we have had from the Attorney-General, over 27, I have put 27 down and goodness knows what other amendments should be made, I can think of three or four that I have not put down purely and simply through pressure of time. What I want to say is that we are making an effort to improve this Bill as much as we can but we are voting against it for all the reasons that have been said. We will not vote against every amendment as we go along but we will be voting against the Third Reading of the Bill and we think that it is utterly wrong that the Government should push this Bill, with all the amendments and all the problems that will arise as we go through the amendments as I will endeavour to indicate at this meeting of the House. If it sees that the Government does not intend to have another meeting of the House it is understandable but if the Government is going to have another meeting of the House in January, then I would urge the Hon and Learned Chief Minister to defer consideration of the Committee Stage of this Bill until then.

HON CHIEF MINISTER:

Mr Chairman, the way I look at this amendment, first of all, I think we must try and concede that this Bill has suffered a lot of hiccups and there has been now plenty of time. The Bill was published on the 29th November and there has been plenty of time in the long weekend in which to look at it. The way in which we would look at the amendments proposed by the Leader of the Opposition is that one or two affect policy and we would like to have them discussed and say the reasons why we accept them or not accept them. The others, according to what my Learned Friend the Attorney-General has told me, are amendments which he does not advise the Government to accept, they are not of substance but they are of drafting and with the greatest respect to whoever tries to make amendments, we must be guided by the Attorney-General in these matters. I think perhaps our own amendments could first be considered and let us see whether the amendment on the same Clause by the Opposition should be looked at.

MR SPEAKER:

There are very few amendments which clash, I think there are only two instances.

HON CHIEF MINISTER:

I think that according to the notes that the Attorney-General has prepared for me, there are only six or seven all in the first page which go to the substance, the rest is a matter of definition and drafting.

MR SPEAKER:

What I was trying to say was that whilst there are amendments to the same clauses being proposed by both the Learned Attorney-General and the Learned Leader of the Opposition, in substance the amendments do not clash with each other, let us put it that way.

HON ATTORNEY-GENERAL:

I have had the opportunity of going through these amendments proposed by the Hon and Learned Leader of the Opposition. In many cases once the Government's amendments are heard, I think it will be seen either that they subsume the points which are being made or that there are reasons why the Government does not wish to adopt them. I think I may have misled the Hon Chief Minister in the sense that there are some points which I see as points of policy being proposed by the other side of the House. I do not think they are all on the first page, I think they go a little bit beyond the first page, but there are a small number which are of policy.

HON P J ISOLA:

I cannot agree with that statement at all. For the Hon and Learned Chief Minister to say that we have had plenty of time over the weekend to deal with a complicated Bill with a number of amendments when the Government has had I don't know how many months to deal with the matter and it is still amending it, is absurd.

HON CHIEF MINISTER:

I said the Opposition has had the weekend not us.

HON P J ISOLA:

Yes, and it is still amending its own Bill. I have put in 27 amendments and the Hon and Learned Attorney-General has put in 37 amendments to his own Bill, and to expect this House to produce from that a sensible piece of legislation to my mind is asking too much and it will not be a sensible piece of legislation. I can assure the Hon and Learned Attorney-General there are a number of points that I raised in debate and a number of drafting points that I would have liked to have more time to have dealt with which it just has not been physically possible and I am sorry that a Bill which is so controversial and a Bill that has such an enormous consequence for landlords and tenants in Gibraltar, is being rushed through.

MR SPEAKER:

Well, in fairness, the points have been made, it is obvious that Government intends to proceed with the Committee Stage of the Bill, we will therefore proceed and see how we go through it. I will then put the question because I do not think anything of substance has been raised on the actual amendment which is being proposed to Clause 2.

HON P J ISOLA:

Mr Chairman, I would like to ask the Hon and Learned Attorney-General in Clause 2, in the definition, where he says in the definition of "statutory rent" to omit "Section 11" and substitute "this Ordinance", that is quite a substantial amendment, is it not?

HON ATTORNEY-GENERAL:

Mr Chairman, in view of the complexity of the matter, I would like to explain each of the amendments point by point.

HON P J ISOLA:

In the definition "current tenancy" means a tenancy referred to in subsection 1 of section 44. Now it reads: "has the meaning assigned to it in subsection 1 of section 44".

HON ATTORNEY-GENERAL:

I will be happy to explain, Mr Chairman.

HON P J ISOLA:

But section 44(1) refers to a tenant's request for a new tenancy. What does that mean?

HON ATTORNEY-GENERAL:

Well, I will be happy to explain, in fact, in the existing Landlord and Tenant (Miscellaneous Provisions) Ordinance, there is a reference in the corresponding section to the definition of what the words "current tenancy" means, and "current tenancy" means a tenancy which is coming up for review either by way of opposition by the landlord opposing a grant of a new tenancy or by the tenant seeking a new tenancy so that word is defined in the existing Ordinance in the relevant section and will simply be brought forward into this Bill where it is defined in Section 44. If the Hon and Learned Member looks at Section 44 he will see that there is a definition in there of "current tenancy". The only reason for the proposed changes of committee, Mr Chairman, is that

there is a slight looseness of language in the way I had originally defined it in Section 2, I had said that it means a tenancy referred to in Section 44(1) but that is not precise enough. What it has got say, is that it has got the same meaning as it has in Section 44(1), it is purely a drafting point.

MR SPEAKER:

Are you now happy, Mr Isola?

HON P J ISOLA:

Yes, thank you.

MR SPEAKER:

And now Mr Isola, you wanted to speak on this particular amendment which is in the definition "statutory rent" to omit "Section 11" and substitute "this Ordinance".

HON P J ISOLA:

I just wanted to ask why he is omitting "Section 11" from the definition because it seems to me there are other sections that deal with the "statutory rent" like the new Section 15. I would just like an explanation and then if it is wrong, well, there it is.

HON ATTORNEY-GENERAL:

I will be happy to explain, Mr Chairman, Clause 11 of this Bill is the basic clause which says what the statutory rent is. That is the starting point of saying what is the statutory rent of this dwelling-house. But there are other provisions in the Bill, for example, Clause 12, which deals with adjustments for rating, Clause 13 which deals with adjustments for improvements and Clause 14 which deals with adjustments for subletting and even other Clauses later on where that statutory rent can be varied one way or the other. I think it is clear that where you have one clause saying that the statutory rent is so and so but you read on and you see that there is provision for modifying it, I think even there there is a reasonable implication of interpretation if that is to be taken as modifying it but as Members rightly pointed out this is an important Bill and it is one on which there will be a lot of argument, there is always argument over landlord and tenant law, and so all I am doing in the definition is to make it clear that it is not necessarily the rent prescribed under 6 and 11, it is the rent prescribed under the Ordinance, having a look at the whole scheme of the Ordinance, so it is really just a drafting device to make sure that there is no conflict.

Mr Speaker then put the question in the terms of the Hon the Attorney-General's amendment which was accordingly carried.

HON ATTORNEY-GENERAL:

Mr Chairman, I also move the amendment of Clause 2 by having the following additional subclause "(3) For the purposes of this Ordinance, where - (a) any premises are held by a company or other body corporate, and (b) it is material for any purpose of this Ordinance that such holder of the premises has transferred or assigned or ceased to occupy the premises - then unless a court of competent jurisdiction otherwise determines, any transfer of the shares in the company or other body corporate, or any change in its membership, shall constitute such a transfer, assignment or cesser of occupation, as the case requires". The purpose is to avoid the provisions of the Ordinance being got around where somebody, either a landlord or a tenant, holds by the device of a company and the company remains the landlord or the tenant, as the case may be, but in effect the shares change hands and the idea is that where it is material that there has or has not been a change of ownership or a change of occupation, the idea is to prevent this being used as a device to get around the provision and I think in point of fact this is one of the examples I was referring to before, Mr Chairman, which touches upon the same ground as the amendment proposed by the Hon and Learned Leader of the Opposition.

MR SPEAKER:

Being in Committee and being of the legal profession, too, may I ask does this mean that the transfer of a single share in a company would fall within this definition?

HON ATTORNEY-GENERAL:

Unless the court otherwise determines, as drafted here.

MR SPEAKER:

Most certainly, unless you go to court and the court makes a declaration but the mere transfer of a single share would bring the company within this definition.

HON ATTORNEY-GENERAL:

Yes, indeed, as it is drafted that is how wide it is. If it was felt that in practical terms there was no real change in ownership, it would be open to a party to go to court and say: "We submit that even though there is a transfer of shares it is of no material consequence".

HON P J ISOLA:

Mr Chairman, I have put down amendments under my name to Clause 48 of the Bill and I think it appears somewhere else, Clause 68, and in my view, the amendment should be there and I will say why. This particular section does not really achieve what I think ought to be achieved. The general idea in this, as I see it, is that if somebody buys shares in a company that has owned a property for five years, he should not be able to claim possession of that property until he has been owner of these shares for five years. That is a simple principle which everybody will agree with. Equally, in fairness, if somebody is going to sell a business, under the provisions in the Ordinance he has got to pay two years rent to the landlord. And equally that person could get round that provision by selling the shares in the company. The two amendments that I put down were intended to deal as fully as possible with that situation because, Mr Chairman, it is not as simple, I am afraid, as it is made out in this particular Clause proposed by the Hon and Learned Attorney-General. It is quite easy not to transfer the shares. There are a number of ways of getting round it so that the thing that has to be got at is the beneficial ownership of the shares, not the fact of transfer. In other words, that if somebody proves, because it may not be easy to prove, but he must have the chance to prove it that the beneficial ownership in fact rests still with that shareholder and there are different ways of showing the beneficial ownership has changed, Mr Chairman. For example, directors are changed in a company indicating new ownership, shares could be held by the same person and things like that. It is a very complex question and I think that it ought to be in the section that you are dealing with rather than in a section at the beginning. The Government proposes in its amendment, by the way, to do away with three of the sections in that Clause and we do not agree with that, Section 48. Section 48(2) is the one where a landlord cannot oppose an application if he has bought the interest at any time at the beginning of a period of five years. I am, in fact, suggesting an amendment in this Clause that if the landlord in fact decides to take the premises for himself and pay compensation, he should not be able to let it to somebody else the next day and the effect of the amendment proposed by the Hon and Learned Attorney-General will bring that about. I say that because it is necessary as a background of what I am saying now. And, equally, if a landlord wants possession because he is going to redevelop the premises, the right of the tenant existing presently in the Ordinance to have premises in the redeveloped premises also disappears in the amendments proposed by the Hon and Learned Attorney-General in the Bill. So that somebody could come along and say to a tenant: "I will pay you my ten years", and at the same time that he is saying that he could have his new tenant lined up to pay him the same money and change tenancy. That is not the intention of the Select Committee nor the intention of this House. I say that at this stage because I think this is a very important Section - 48, it is

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a very important Clause because if the amendments that have been proposed by the Hon Attorney-General to that Clause are carried through, then a chap who is a very big developer or anybody with a lot of money can come along and say: "Right, here is your twelve year's compensation", and have lined up the next guy, a bank, or somebody who pays twenty-four years rental value and get the premises and he has done nothing against the law and that is wrong, that is what I am trying to insert back in my amendment to Section 48. The amendment that I am suggesting to Section 48, if I can find it. For the purposes of subsection 2, that is, where the landlord wants it for himself, in the case of a limited company which is a landlord, the interest of that landlord shall not be deemed to have been purchased or created before the beginning of the period of five years that ends with the termination of the current tenancy if the beneficial ownership in that company shall have changed at any time during the period of five years immediately before the termination of the current tenancy. I say the beneficial ownership of that company because I think it is important that we should go to the root of the problem which is the beneficial ownership of the company and I do the same thing in the assignment of leases. This particular amendment, for example, as I read it, the one now proposed by the Hon and Learned Attorney-General, would seem to be an amendment that only affects the tenant and not the landlord because it says "for the purpose of this Ordinance where any premises are held by a company or other body corporate", it is not "are owned by a company or other body corporate", but "are held". That indicates tenancy and it is material for the provision of this Ordinance that the holder of the premises has transferred or assigned or ceased to occupy the premises. Then "unless the court otherwise determines any transfer of the shares in the company or other body corporate or any change in its membership should constitute a transfer, assignment or cesser of occupation". It seems to me that that captures the tenant but not the landlord, that particular amendment, and I have made provision for that sort of amendment in the clause that deals with assignments. I don't say it is perfect, what I say is: "for the purposes of this section where the tenant is a limited company, any transfer or change in the beneficial ownership of any of the shares of the company shall be deemed to be an assignment and subsections (1) and (2) of this section shall apply".

HON J B PEREZ:

In order to save time, if the Hon Member will give way. I do not understand how the Leader of the Opposition says that this proposed amendment does not catch the landlord. I fail to see his argument.

HON P J ISOLA:

Well, if you hold premises, that does not mean you own them. Bland Limited holds premises in whatever it is, in Irish Town, it does not own them.

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MR SPEAKER:

It will catch the lessee but not the owner.

HON P J ISOLA:

But not the owner. I do not say my drafting is absolutely accurate, looking at it now, and I would like to change it myself but of course there is the time factor.

HON CHIEF MINISTER:

May I just interrupt, in respect of this and another aspect of it which I have discussed with the Attorney-General. I realised it before but we have not given it sufficient time. In the present Ordinance, in my view, there is a distinction between wanting the premises for yourself and wanting to reconstruct because in reconstructing you do not need all the premises in any case and you may reconstruct and not want it for yourself. In the present Ordinance and as a result of an amendment which I proposed when it was first passed in 1959 and that is the Landlord and Tenant Act in England which provides for an owner to obtain the premises for himself, pays compensation whether it is for himself or for purposes of reconstruction. In respect of our law, it remains the same as in England when it was wanted for himself but in respect of reconstruction precisely because of the lack of space particularly if you have been accredited in a particular area, there is a provision which says that in the case of reconstruction at the end of reconstruction, the landlord is compelled to give to the tenant premises similar in area and occupation which means that if you want to reconstruct a whole big building and you have one tenant who wants to remain, who has not agreed to compensation or what have you, he has to be given premises more or less similar, that is, if in Main Street it cannot be in Irish Town and if it is 840 feet it does not matter if it is 800 or 900. I would like that to remain in the Ordinance, I want that to remain but not in lieu of the question of the owner wanting it for himself. That is separate, and for two reasons, I think, it ought to remain. I have told my Learned and Hon Colleague that that was not given too much thought in the recommendation of the Select Committee because they had this rather overriding provision of alternative accommodation. I think, in my own view, first of all because it is unfair to the tenant and, secondly, because it deters development if you cannot make reasonable arrangements for alternative accommodation and therefore I would suggest that we go on to less controversial clauses now or rather less fundamental clauses, they may be controversial but not fundamental, and we have time over the adjournment to see what kind of amendment we can bring to cover those points, which is one which we are interested in covering.

MR SPEAKER:

There is no reason why we should not defer the Committee Stage of any given clause.

HON P J ISOLA:

Well, this one might well be deferred, Mr Chairman, because my own view when a person wants to redevelop is that the tenant, and I have not had time to draft that, I have drafted 27 amendments which is the most I have been able physically to do in the weekend that I have had on this. I think that the present provision for giving the tenant premises should stay but I think it needs changing that is why I did not do it I did not put it back in. I certainly think that if a landlord is going to redevelop premises, any tenant in those premises should have a right to premises in the new development and the arbiter of what is a reasonable size etc, should perhaps be the Rent Assessor or somebody else but that provision disappears from this Ordinance at the moment, it has been taken out of the Bill, and I just put back what I think is a glaring injustice that a landlord can buy himself out of a tenant by just giving him compensation and no provision prohibiting him from letting it to anybody else without first offering it to the tenant. I know all this is in Section 48. Clause 48 of the Bill, as far as business premises are concerned, is the crucial section and I think that so that there will be no trouble, no doubt as to what the legislature means, the question of what the landlord or the interest of the landlord is in cases where shares in companies pass and not properties, that is where it should be, in Section 48. I do not think that this particular Clause meets what I think it is intended to meet and I do not think it does. I personally think it meets the position of a tenant. For example, under a later clause, a tenant who sells his premises has to give the landlord two year's rent, and it is equally fair that a tenant should not be able to get round this by just selling the shares and not giving the two month's rent so I make an amendment in that clause specific to that clause. I do not think there is anywhere else in the Ordinance that you need that definition changed but I am afraid that this particular clause doesn't meet, in my view, anyway, what it apparently intends to do.

MR SPEAKER:

Well, perhaps, the answer might be, as has been suggested that we should defer this clause until a later stage.

HON CHIEF MINISTER:

It is one in which we seem to have the same idea but we do not seem to get the right answer.

MR SPEAKER:

Well, then we will call Clause 3.

HON ATTORNEY-GENERAL:

I would simply like to explain for the record why I put it in Clause 2. It was that I saw it as a provision of either general application now or potentially general application. In other words, there is more than one place with the question of whether or not there has been a transfer of ownership was material. The only reason that it is in Clause 2 was that I felt that that was the general part to put it but that is really a matter of presentation.

Clause 3

HON P J ISOLA:

I have got an amendment to Clause 3(2).

MR SPEAKER:

Yes, but there is one to subclause 1(a) by the Hon Attorney-General which he might move first.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that subclause 1(a) be amended by inserting after "subtenant" the words ", and any person from time to time deriving title under the original tenant". That is bringing forward the words which are already in the existing Ordinance but which because of the way in which the new Ordinance is represented in layout, had been split up in different places. If I can actually refer the Hon and Learned Leader of the Opposition to the relevant Clause if he were to wish us to look at Section 2, subsection (2) of the existing Ordinance he will see where that amendment comes from.

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

MR SPEAKER:

Now Mr Isola, you have got the next amendment, which is Clause 3(2).

HON P J ISOLA:

Mr Chairman, in moving this Clause, I will touch on Clause 3(4) if I may as well because it illustrates the amendment that we are seeking to this Clause and I have got another amendment to my amendment.

MR SPEAKER:

You have not moved it so you can read it the way you want to move it now.

HON P J ISOLA:

It says: In Clause 3(2) delete all the words after the words "Tenant's family" in that sub-paragraph and substitute the following "means a member of the deceased tenant's family who has lived with the deceased tenant" - and now I am bringing in a change - "for a period in the aggregate of not less than six months during the period of twelve months immediately before the tenant's death". Mr Chairman, in moving this amendment I am conscious of the fact that we take away 'son or daughter' and we are just talking about a member of the tenant's family as is generally understood. In the next subclause there is provision as to how you decide if there is dispute between members of the family, you decide how that is done, if they cannot agree then they go to the court or to the tribunal, I think it is the court. The reason why I say this, Mr Chairman, that it should just be a member of the tenant's family, the reason why I say this is very simple. Normally, it would be the son or daughter but you can have two sisters living in a house, a flat. One sister gets married and the husband comes to live in that flat and they have a son or they have a daughter and the sister who has got the daughter dies. It seems to me that the son does not have a prior right to become the tenant over the other sister who has been living there all her life, that is just one example, and like that I think you can find lots of examples. Mr Chairman, in my view, at the end of the day there should be no problem in deciding who should be the tenant because if the members of the family do not agree, it is unlikely to happen, each conflicting member or each member in conflict could go to the court and the court will decide, it would look at the circumstances of the case. But it seems to me utterly wrong that an aunt, a spinster aunt or a spinster or a bachelor uncle who has been living all his life in that flat should not be entitled by law to be a tenant but it should pass on to somebody who is probably 18 years old, wanting to marry and so forth. If I may at this point explain my amendment to Section 3(4) where I again

MR SPEAKER:

Is it related?

HON P J ISOLA:

It is related because it fits again into this picture.

MR SPEAKER:

Yes, but may I warn you that you are proposing an amendment to a subsection which is going to be deleted and substituted by another one.

HON P J ISOLA:

I know.

MR SPEAKER:

As long as you are happy to talk on that one.

HON CHIEF MINISTER:

It will have the same effect one way or the other.

HON P J ISOLA:

The point of principle I am amending here is that the question of who is entitled to be the new tenant should be a matter for the people living in that house, a member of the tenant's family. I have given you the example, Mr Chairman.

HON J B PEREZ:

Under the example that you gave before, the husband, the man married to the sister, would have been entitled to the tenancy on his wife's death.

HON P J ISOLA:

Sorry, I don't quite get that.

HON J B PEREZ:

In the example that you gave before, which I am again quoting, you said that one of the children would not benefit, would be unable to claim the tenancy. Of course not because the tenancy would be claimed by the husband, by the father.

HON P J ISOLA:

That is a bad example, I agree.

HON J B PEREZ:

The point is that the principle behind the drafting, whether it is the Attorney-General's drafting or the amendment proposed by the Leader of the Opposition the intention is two

transmissions, this is what we are saying. I understand the principle of the 18 months, that is a different thing altogether. What I do not follow about the argument that is being put from the other side is what are you trying to change in your amendment? Forgetting the 18 months.

HON P J ISOLA:

The only principle that I am trying to change is that a son or daughter should not have the priority that this section gives them. I think it should be a member of the tenant's family and, therefore, if there is an aunt or an uncle or other people who should be considered it should be open to them to be considered. It is more important in the next one. In the two transmissions, subsection (4), it is much more important, the point I am making is far more relevant in that sub-paragraph because in that sub-paragraph you only rely a transmission a second time to a son or daughter but not to an aunt or anybody else living in the house. What I am saying now is far more relevant to the second transmission because under the proposed draft of the Hon and Learned Attorney-General, the second transmission only takes place in favour of a son or a daughter but not in favour of an uncle or an aunt or anybody living there, they are all thrown out. The point on my amendment on this one, Mr Chairman, is purely and simply, I can see it, that it should not be a period of eight months, it should be a period of six months over a period of 12.

MR SPEAKER:

In other words, your amendment to 3(2) still stands.

HON P J ISOLA:

That is it, but the two points of principle contain who is entitled to become the tenant when there is not a widow or a widower should be a member of the tenant's family and if they cannot agree amongst themselves then leave it to the court to decide.

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

HON M K FEATHERSTONE:

Sir, I feel we must resist this amendment because it is getting away completely from what was debated very seriously and over quite a long period in the Select Committee. The Select Committee's feeling was that if it was becoming reasonably obvious that a certain tenant was liable to die within a fairly short period of time, one did not want the indecent haste of somebody moving in to be able to take over the tenancy upon that death. Initially the Select Committee,

I believe, thought that the person who should be able to take over should have lived there for a period of three years and after a reasonable discussion it was reduced to the period of 18 months. But if we accept the 6 months, even on the aggregate of 6 months in the 12, it would still mean that if you knew that somebody had, for example, a terminal cancer, they could move in in the last 6 months and they would therefore have been there 6 months on the aggregate of the previous 12 months and they would qualify with just the 6 month period. The other point, Sir, that the Hon Mr Peter Isola has made does not go exactly as far as the transfer to a member of the family with what the Select Committee felt. The Select Committee felt that in all circumstances the spouse and then the children should have the first right and the Government modified it in the instance where you did not have a spouse but you had another member of the family living there, say, a sister or what have you, and the children were under age. Then it could of course pass to that sister but on her death it would go back to the children of the original tenant because you might get the instance in which you had a sister who took over the tenancy, she then married herself, she had children and those children would have the right over the children of the original tenant which is the persons that the Select Committee thought should be in the most favourable position.

HON P J ISOLA:

That is not the case, Mr Chairman, this is precisely the point I am making. That is why I say it should be a member of the tenant's family because you can get a situation where the child has the right to that tenancy under this provision and a sister or an aunt or somebody who has been living there all her life is then ousted, not ousted but does not get the right, the child dies and she is ousted. What has been done, I think, in the legislation in England is precisely to allow the members of the family to decide it and then put the case to a Court or a Tribunal if there is disagreement. Because the instant case that the Minister has referred to, it could be fair on what he has said to those original people but it could also be unfair to the others. It is a matter that you cannot have a rule of thumb. You cannot say son or daughter finish because you have got to look at in what circumstances the father or the mother became a tenant. That is why I think it makes much more sense to say a member of the tenant's family. Usually there should not be disagreement, Mr Chairman, usually, and if there is then let everybody put their case. What I am trying to indicate is that not in every case should it be a son or a daughter. For example, an aunt is left high and dry who has lived there all her life, and a son comes in, marries whilst he is a tenant, has children, and that aunt loses all her right and the son dies then. What happens? I am going on the practical side, I have had experience of these situations. In other families, for example, the family agrees, yes, let us make the spinster the tenant because she has always lived there and she goes

and gets married and leaves the house or brings in the husband. It is impossible, in my view, to set priorities. That is why I think it is much better to leave it to the family to decide and in the absence of agreement let the Tribunal decide. But in some cases it may be absolutely unjust to make a son or daughter a tenant and that is why I suggest that. On the question of the period of time, with the greatest respect to the Select Committee, that they should have suggested three years, that has been very harsh I think. In England it is six months and I do not see anything wrong with that, six months is quite a period of time. And I said six in a period of twelve months in the aggregate because you get situations where people may have given up the house to go and live with the in-laws.

HON MAJOR R J PELIZA:

Mr Chairman, the suggestion of the Leader of the Opposition is a much more equitable one, I would have thought. This objection of departing from what the Select Committee recommend, well, I think there are plenty of precedents already in this Bill where the Government has departed from the Select Committee's suggestions.

HON W T SCOTT:

Mr Chairman, if I may make a point arising out of Clause 3(2), it seems here that within the eighteen month period mentioned, it does not protect a set of circumstances where a daughter is living with a widowed mother, for example, in this particular tenancy all their lives. The daughter decides to get married and because the chemistry is not right between the son-in-law and the widowed mother, the young married couple decide to live in cramped conditions with the son-in-law's family. Within a few weeks the widowed mother dies and according to this the daughter has lost all her rights by moving out having lived there all her life.

HON CHIEF MINISTER:

There is one point with regard to the question of period of time which clashes somewhat with the forms of tenancy agreement of heavily subsidised housing which is that a tenant should reside at least 270 days in the year otherwise he is liable to forfeit his tenancy so somebody can come in and in six months acquire the right which a tenant, a full tenant in Government dwelling living less than nine months can forfeit his tenancy.

HON P J ISOLA:

It could be changed to nine months and then that actually coincides with the Government policy on tenancies, it could be nine months. I think eighteen months is very long, frankly. Nine months out of the previous twelve.

HON CHIEF MINISTER:

What makes it even worse is to have bits and pieces making it into one period. That lends itself more to artificial acquisition of rights than a period, be it nine, twelve or eighteen.

HON P J ISOLA:

The trouble, Mr Chairman, with that is that I am a bit worried as to how the Courts would regard a situation where somebody is living, say, for a whole year before the death and happened to go away for a month. What would happen then? That is why I would rather have a period in the aggregate.

MR SPEAKER:

Do I sense acquiescence by the Government if we forget the words which were added by the Hon and Learned Leader of the Opposition to his own amendment and we substitute the word "six" for "twelve"?

HON CHIEF MINISTER:

Yes, but not in the terms of the proposals which they did from the proposal of the Select Committee and of the Government. We may be prepared to agree to twelve months but not in pieces and not in these terms.

MR SPEAKER:

So what is the proposal?

HON CHIEF MINISTER:

Well, Sir, insofar as our amendments are concerned, wherever eighteen months

MR SPEAKER:

No, no, let there be no confusion because otherwise we will not know where we are. There is an amendment proposed by Mr Isola. It could be amended to bring it within acceptance by the Government. I would like to know how the Government wishes to amend it so that we can compromise.

HON ATTORNEY-GENERAL:

Mr Chairman, the amendment which the Government would be agreeable to would be a much shorter amendment altogether. In fact, to do it by way of an amendment to Mr Isola's amendment would be a lengthy way of doing it. Can I put it shortly? The amendment the Government would agree to would be simply to amend Clause 3(2) of the Bill to change eighteen months to twelve months.

MR SPEAKER:

From eighteen to twelve, is that right? Mr Isola would that be acceptable?

HON P J ISOLA:

No, Mr Chairman, because the trouble with the

MR SPEAKER:

Because otherwise he could withdraw his amendment, that is the only reason why I am asking.

HON P J ISOLA:

The trouble with the amendment, if the proposal is to leave it and just reduce eighteen to twelve, then I am faced with the problem of the actual section.

MR SPEAKER:

Fair enough, I will put your amendment and then another amendment can be proposed.

HON P J ISOLA:

I think that the question of saying that when there is no widow or widower, it should be a son or daughter, I think it is not right.

MR SPEAKER:

Fair enough, we are clear. I will put the question before the House.

HON P J ISOLA:

And there will be an amendment on this one, I am sure, one day.

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

MR SPEAKER:

We might then perhaps have an amendment from the Government benches.

HON CHIEF MINISTER:

I move now that subclause (2) of Clause 3 in the third line the figure "18" be substituted by the figure "12".

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

HON P J ISOLA:

Mr Chairman, I would like to ask on a purely drafting point on that subsection (2) where it says that the tenant's family is not defined and it is left to the general law.

HON ATTORNEY-GENERAL:

I can explain that, Mr Chairman. The tenant's family is not defined in England. Member of the family is not defined in England. It is defined in the sense that if there is a son or daughter of full age, then that will be an exhaustive definition, that is quite clear, that is the policy. But if there is not a son or daughter of full age, then we fall back on the ordinary meaning of the words "member of the tenant's family" and in that respect, once the second leg operates, once we get to that stage, "member of the tenant's family" simply means what it means in England and the law in England says that it is not defined specifically, the reason being that it considers it more desirable to rely on the ordinary meaning of the word allowed to be developed by case law and

it is approached in that way. The point of defining it here is in another context, it is simply to make the point that if there happens to be sons or daughters who are of age, then that is the exhaustive definition, if they are not, then we fall back on the wider definition.

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

MR SPEAKER:

Now we come to the next amendment to this Clause and we have got a clash, as I said before, in that Mr Isola has moved an amendment to the Clause as it stands now but it is going to be amended in any event, notice of which the Hon and Learned Attorney-General gave before. I would suggest that you do move your amendment first because I think you have told me that it makes no difference to your amendment in any event and then you will be amending a Clause which you know will still be in the Bill.

HON ATTORNEY-GENERAL:

If I may say so, Mr Chairman, I think that once the Government's amendment is put, it subsumes part of the Opposition's concern, and it also makes clearer what the Opposition is seeking to amend in principle as a result.

HON P J ISOLA:

We are in substantial disagreement on this.

MR SPEAKER:

Will you move your amendment to subclause (4) of Clause 3?

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 3 be amended by omitting subclause (4) and substituting the following subclause: "(4) On the death of the tenant, under a statutory tenancy (in this subsection called the "first successor") whose right to retain possession by virtue of Part III of this Ordinance arose on the death of the person who had been the tenant under a tenancy to which that part applied, if any son or daughter of the last mentioned tenant is alive and of full age, that son or daughter or (if more than one such son or daughter) the one of them determined or designated in the manner specified in subsection (3) shall be the second successor for the purposes of this section and the right to retain possession by virtue of Part III of this Ordinance shall pass to him". There is only one purpose to this amendment by the Government, Mr Chairman, I won't say it is a

purpose against my better judgement, I can say the reason we have adopted this, it is because the existing subclause (4) in the Bill is intended to secure the second succession and, in fact, this present replacement subclause is intended to do the same thing. But the replacement subclause follows, not literally, the English subclause on the second successor. I would like to be quite clear on the policy of the subclause. If I could run back over the whole gamut of the arrangement. I am a statutory tenant, if I die and I leave a widow, my widow becomes the statutory tenant. If I die and I leave no widow but sons or daughters who are over the age of 18, one of them becomes the statutory tenant. If I die and I leave neither a wife or children of age, a member of my family who has been living with me for twelve months becomes the statutory tenant. All that is the first succession. Once that member of the family dies, if I, the original tenant, have left children and those children have now become of age, under this subsection (4) it comes back to those children. That is the scheme of it, that is the intention of it. In other words, that is the second succession according to the policy behind the proposal.

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

HON P J ISOLA:

Mr Chairman, the qualification that is made in this section changes substantially the Gibraltar position from the United Kingdom position. It is just not justified in Gibraltar, much less justified than in the United Kingdom where you do not have uncles and aunts, people living together in large flats like you have in Gibraltar. This question of protecting a second generation just does not occur. It only protects the son or daughter, no other member of the family. In the United Kingdom, the members of the family are protected for a second generation. Let me give you a very simple example. Now I can give my example and the Hon Members opposite may reflect on the wisdom of having passed Section 3(2). Two sisters together, one of them marries the other is a spinster. The one who marries has one son. The husband dies, or somebody dies and it goes to the son. He dies, what happens to the spinster, out. She has lived all her life in that flat. Why should it be, Mr Chairman, why should a second succession be limited to sons or daughters, this is not the second succession. In Gibraltar, at the moment I think there are a great number of families that are not protected by the Landlord and Tenant existing Ordinance because the statutory tenants have died and nobody is protected, the trouble is that no one has bothered to go to court to start turfing them all out. But they will now, they will now with this Bill, if not they have to wait for the first lot to die. I am not sure if that is the position, I am taking the word of the Hon Member opposite. But, surely, Mr Chairman, it is wrong to limit the second succession to a

son or daughter because it is in the second succession, it is in the situation of a second succession that you can get people aged 75 and people aged 76 and 82 being thrown out. The Hon and Learned Chief Minister says no.

HON CHIEF MINISTER:

People do not throw out relatives because they are not statutory tenants.

HON P J ISOLA:

But it is not the people throwing out relatives, it is the landlords having the right to throw out. I am not talking about the tenants. My goodness, Mr Chairman, I hope Hon Members opposite have not got the wrong impression. I have never suggested, nor do I think it is possible in Gibraltar, where the family is still a strong unit, and hopefully it will stay that way despite the amendments to the Matrimonial Causes legislation. I am not thinking of a son turfing out an aunt, I am not thinking of that. The real problem we have to address ourselves to is that when it comes to the second generation you could get a situation where an elderly aunt or uncle or grandmother or grandfather could be turfed out because the protection is only limited to the son or daughter. Another example, Mr Chairman. Let us suppose there isn't a son or a daughter, what happens then? Let us suppose it is two sisters living together all their lives, a husband is brought into the house, he dies, they have got no children so his wife because the tenant. Then she dies, the other one gets thrown out. Is that what the Government proposes should be passed in this House? And that is a very big possibility in a lot of houses in Gibraltar, Mr Chairman, where there are no children. The protection will be limited to one generation and a woman who has lived all her life, or a man who has lived there all his life will be chucked out under the amendment proposed by the Hon and Learned Attorney-General today and supported by the Government. We cannot go along with that amendment at all, especially in Gibraltar.

HON CHIEF MINISTER:

What is the present protection now? Only one and it must be son or daughter living at the time. This idea of a member of the family never came into call.

HON P J ISOLA:

Mr Chairman, the protection now has not been altered before because there have not been cases and this amendment has come about because people were cottoning on to the fact that second generation was not protected and there were some cases in Courts of people being thrown out. That is why it has been brought in but is it fair that we should pass a law now,

a law that is going to be the law for the next decade? I doubt it very much, Mr Chairman, but anyway, that is said to be the law for the next decade, that you are going to get a situation where without children in the family elderly people are going to be thrown out.

MR SPEAKER:

I think you have made the point.

HON P J ISOLA:

Mr Chairman, I would ask the Government to reconsider that, to reconsider the fact that they are producing a situation by referring to the second transmission, limiting it directly to a son or daughter, they are putting a lot of elderly people at risk of being ejected under the law. I am going to suggest an amendment.

MR SPEAKER:

To what?

HON P J ISOLA:

To the amendment proposed by the Hon and Learned Attorney-General.

HON CHIEF MINISTER:

I think he had better do that in writing and we will look at it.

MR SPEAKER:

You can propose an amendment to the amendment, most certainly, but not an amendment to the original clause.

HON P J ISOLA:

I am going to propose an amendment to the amendment as follows:

- (a) delete the words "son or daughter of" and substitute "member of the family of the".
- (b) delete the words "son or daughter" in the seventh and eighth lines and substitute "member".
- (c) delete the words "such son or daughter" in the eighth line.

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

The House recessed at 7.45 pm.

The House resumed at 9.20 pm.

HON CHIEF MINISTER:

Mr Chairman, the two matters which were left over before we recessed should I think, beneficially, be left over till tomorrow morning. Not just the amendments themselves, I think we have virtually agreed to a formula which I think will probably meet the point which was being made earlier in respect of the question of the definition of family. The Attorney-General wants to make sure that it has no other repercussions. Equally, with the other question which he has now got the spirit of what we want, which is the question of the reconstruction, Section 51 of the present Ordinance. Both those matters I think could be safely left, the rest though a matter for discussion are not of such importance that we cannot make good progress on them, so I suggest that we leave Clause 3(4) for the moment and go on with the rest which are less controversial and see whether we can make progress. There are some amendments proposed by both sides but I do not think that the amendments proposed by the Leader of the Opposition are such that cannot be argued, I mean they are certainly not elaborate, it is a matter of looking at them and dealing with them as we go along.

MR SPEAKER:

We have got to come back to Clause 2, in any event.

HON A J HAYNES:

Perhaps the Chief Minister will state whether we will be considering tomorrow under Clause 3(4) the question of full age.

MR SPEAKER:

What?

HON A J HAYNES:

The question of full age which was raised by the Leader of the Opposition.

HON CHIEF MINISTER:

Yes, it is all being considered.

Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 4(4) be amended by omitting the words "or of the Fourth Schedule". I would like to say that I apologise for the quality of this amendment but I assure Members of the House that it is entirely consequential on the substantive amendments to the Fourth Schedule where all the transitional provisions are being proposed and it is simply unnecessary in subclause (4) to refer to the Fourth Schedule.

MR SPEAKER:

Does any Member wish to speak on the amendment to the Clause?

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

Clause 5

HON P J ISOLA:

Mr Chairman, I have the honour to move an amendment.

MR SPEAKER:

Yes, it is Clause 5(1).

HON CHIEF MINISTER:

We have an amendment on 5(2).

HON P J ISOLA:

5(1), I have the honour to move an amendment to that subclause. Add, after the word "Assessor", the following words: "and may in his discretion appoint more than one person to discharge the functions and powers of the Rent Assessor". The purpose of this amendment, Mr Chairman, is to make the provisions of this Ordinance that is proposed, and which we are voting against, anyway, but at least to make it more workable because I think in the context of the whole Ordinance it is absurd to think that a Rent Assessor is going to be able to deal with any sort of efficiency in the first year or two with all the problems that will be brought to him and, therefore, I do not see how anybody else can be appointed a Rent Assessor unless there is provision in the Ordinance for appointing an additional one.

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

HON ATTORNEY-GENERAL:

Mr Chairman, we think this is a good suggestion and proposal because clearly in the introductory stages of the new measure, there is likely to be an unusual amount of work to be got through. If I can pick up the words of the Hon and Learned Leader of the Opposition that we are talking about the first one or two years. We see this as a transitional provision, in other words, that there is a need to have a power to temporarily appoint a Rent Assessor and, in effect, my major amendment dated the 12th December contains such a provision on page 7. In the proposed new Fourth Schedule which will be the transitional provisions for this legislation and paragraph 6 of the Fourth Schedule does in fact provide for additional Rent Assessors on a temporary basis. While we agree in principle with the proposal made by the Opposition on this, I think it is a matter of presentation and as a matter of concept, can I say that I prefer to see it put as a temporary provision in the transitional provision.

HON P J ISOLA:

Mr Chairman, of course, this particular amendment I think only reached us this afternoon. I am not so sure whether it should be there because although everybody envisages that there will be a need for more than one Rent Assessor, I think the Hon and Learned Attorney-General is being optimistic if he thinks it is going to be only for a period of one or two years. I think it is going to be for a much longer period. Secondly, Mr Chairman, I think it should not be a transitional period because I think in practice, it may well

HON CHIEF MINISTER:

There is no period.

HON P J ISOLA:

Well, it is, it is in the transitional provision, it is being proposed in the transitional provision. I think, in practice, it may be found necessary to have on a permanent basis more than one person. I suspect that will be the position with one Rent Assessor sitting in the Supreme Court, advising the Judge, another one dealing with all the complaints of tenants, another one dealing with the Rent Tribunal. This legislation, Mr Chairman, is going to produce a lot of work and I think it should not be looked at as a transitional measure but one that might well be of a permanent nature so I think the proper place to put it is here but then of course if the Government does not want it there they have got the majority.

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

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

The following Hon Members voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull

The following Hon Member abstained:

The Hon J Bossano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon B Traynor

The amendment was accordingly defeated.

MR SPEAKER:

Mr Attorney, you have got an amendment to 5(2). I would suggest that before it is proposed we might save ourselves a fair amount of time if we could find out whether you are ad idem on this one. There is very little difference between what one is suggesting and the other is suggesting.

403.

HON ATTORNEY-GENERAL:

If I can just explain my position, Mr Chairman. The title should be changed to the Director of Crown Lands because that is the current title for the office. I think the point of the amendment proposed by the Hon and Learned Leader of the Opposition is very clear, that the Director of Crown Lands is not to be saddled necessarily with the job of having to do a Rent Assessor's work, but I think there are two points to be taken into consideration. One is that we contemplate appointing a Rent Assessor at an early date and, secondly, in principle I would prefer to see the fallback appointment in the name of the Head of the Department.

MR SPEAKER:

All I want to find out is if there is a chance of a compromise, if not you will most certainly be entitled to move your amendment. Can you meet the Opposition's requirements on this one as stated in the amendment to be moved by Mr Isola?

HON ATTORNEY-GENERAL:

Not the sense of the amendment, Mr Chairman, but in practical terms by delegating into the Interpretation and General Clauses Ordinance if necessary.

MR SPEAKER:

It is suggested that by interpretation under the Interpretation and General Clauses Ordinance it would be tantamount to doing what you want. Is that correct?

HON ATTORNEY-GENERAL:

Of course, only if the need arises if there were a Rent Assessor from the outset the problem would not be there.

HON P J ISOLA:

Yes, but the section is there precisely in case there isn't one. So in the event of there not being one because nobody wants to take the job, for example, then the Director of Crown Lands would have to do it. My amendment again seeks to make the work easier because everybody knows jolly well that the Surveyor and Planning Secretary or the Director of Crown Lands would be completely incapable of doing one assessment, never mind a thousand so we put there, again to be helpful, such person or persons as the Director of Crown Lands shall designate in writing. If the Government does not think it is necessary, well, as long as we have made the point, that is it, they can reject it. We hope to see an active Director of Crown Lands do it.

404.

MR SPEAKER:

But there is a fundamental difference between your amendment and the Government's amendment to the extent that your amendment precludes the Director of Crown Lands from being the Assessor.

HON CHIEF MINISTER:

And in an emergency he might have to be.

HON ATTORNEY-GENERAL:

If I may say so again, Mr Chairman, that is so but we also understand the point which is being made.

HON P J ISOLA:

That he cannot do it.

HON ATTORNEY-GENERAL:

I understand the point that is being made. We are satisfied we can achieve the exact results under the existing law, anyway.

HON P J ISOLA:

Mr Chairman, I do not agree with the Hon and Learned Attorney-General because the Director of Crown Lands we know perfectly well cannot do it. What the amendment seeks to do is to allow him to appoint people, not just one, but more than one, to carry out this work. If in fact there is going to be a Rent Assessor and everything else, then Section 5(2) is superfluous, let us do away with it. But if it is intended to be there to fulfil a purpose, ie that nobody may want to take the job on, then I think it should be

MR SPEAKER:

It is obvious that you are not ad idem, would you then move your amendment?

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 5(2) be amended by omitting the words "Surveyor and Planning Secretary" and substituting the words "Director of Crown Lands". The point of the amendment is to refer to the current title of that office and I reiterate that if the Director of Crown Lands personally is too busy to do this he has power under the Interpretation and General Clauses Ordinance to delegate.

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

HON P J ISOLA:

He may have the power to delegate but it would be to one person and not more than one and what we are trying to seek here is that there should be more than one person because the flood of people who will be affected will be so great, the applications will be so many, that the Director of Crown Lands, or any substitute he appoints, will be quite incapable of dealing with them and that to me seems to be the reality. I would propose that the amendment proposed by the Hon and Learned Attorney-General be further amended by inserting before the words "Director of Crown Lands" the words "such person or persons as" and after the words "Director of Crown Lands" the words "shall designate in writing".

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

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

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon B Traynor

The Hon P J Isola's amendment to the amendment was accordingly defeated.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon B Traynor

The Hon Attorney-General's amendment was accordingly passed.

Clause 5, as amended, stood part of the Bill.

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

Clause 7

HON P J ISOLA:

I beg to move that Clause 7(2)(c) be amended by the substitution of the word "three" for the word "five".

MR. SPEAKER:

That is it?

HON P J ISOLA:

In support of the amendment I ought to mention that I am also suggesting an amendment in a further clause that the people in the Tribunal be paid because no one is going to do this job for nothing unless they are all civil servants and paid with parity. The reason why I say that, Mr Chairman, is because you will see that under sub-paragraph (5) the quorum is stated to be three for a sitting of the Tribunal.

MR SPEAKER:

We are going to get confused. With respect, we could have separate votes on each amendment.

HON P J ISOLA:

Do they agree? Well, then I do not say anything more.

MR SPEAKER:-

Well, what is the Government agreeing to? That is what I want to know. To 7(2)(c) or to the two amendments?

HON CHIEF MINISTER:

No, 7(2)(c) only.

MR SPEAKER:

If the Attorney-General wishes to say why we will be delighted to hear him.

HON ATTORNEY-GENERAL:

Mr Chairman, the original idea of having a panel of seven was that in the past there were difficulties, certainly I remember in 1979 there were difficulties in making up a sufficient quorum and the idea was that we would have a body of seven people to choose from, including either the Chairman or the Deputy Chairman, but even five I think is an improvement on the present situation. We have already widened it by not limiting it to public servants, whereas I think a lawyer under the present law must be an official. I agree it does look a bit odd to have a panel of seven and only have to draw on three of them which is why I have myself proposed this amendment to underline the nature of the panel.

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

HON P J ISOLA:

Mr Chairman, I now propose an amendment to Clause 7(3). I propose that Clause 7(3) be amended by the addition of the words at the end of that Clause "and shall be entitled to such remuneration as the Governor shall determine". The purpose of producing this amendment is merely to express the view that this Rent Tribunal as envisaged by the Ordinance is going to be a very busy Tribunal. It is an on-going Tribunal, and if the Government and the litigants and Action for Housing and the landlords and the Rent Assessor are going to

expect the Tribunal to sit as often as may be necessary, it must not be on a voluntary basis. I don't know who it is proposed to appoint as members of the Rent Tribunal but if, for example, the Stipendiary Magistrate is appointed as Chairman, that is fine, but the Deputy Chairman also has to be a legally qualified person and I imagine he would have to be paid if he is not a civil servant and members of the Tribunal, I don't know what plans Government have for the composition of the Tribunal but certainly if it is people.... I don't know whether the Minister for Economic Development likes sitting after nine o'clock, he seems very Bolshy tonight, Mr Chairman, but, anyway, assuming that the three other persons are not going to be lawyers, but are going to be public

HON A J CANEPA:

Mr Chairman, what I object to by being here tonight is that I am just doing work for the benefit of the Hon Members and yours and the Chief Minister's legal profession. All for your benefit. You all have an interest to declare.

HON P J ISOLA:

Well, Mr Chairman, if they will bring legislation that is going to produce three times the litigation that exists today, they only have themselves to blame. I don't know what the comprehensive Tribunal is going to be but if there are going to be people from the ranks of the public, a business man or a man representing workers, or a man who represents

MR SPEAKER:

It does not matter.

HON P J ISOLA:

They should be remunerated like the Members of the House are remunerated, the same way that the Chairman of GEC should be remunerated and the Chairman of the Steering Committee is remunerated.

HON CHIEF MINISTER:

I hope the Hon Member will accept to substitute the word "determine" by "prescribe". It is more in accordance with legal jargon.

MR SPEAKER:

Do away with the word "determine" and insert "prescribe".

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

Mr Speaker then put the question in the terms of the Hon P J Isola's amendment, as amended; which was resolved in the affirmative and the amendment was accordingly passed.

Clause 7, as amended, was agreed to and stood part of the Bill.

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

Clause 10

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 10 be amended in paragraphs (a) and (b), and in the first place where it appears in paragraph (c), by omitting the word "dwelling-house" and substituting the word "house". I preferred my own language when I started but I think that in view of the comments which have been made I will play safe and follow the existing laws.

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

HON P J ISOLA:

I cannot quite understand. Dwelling-house is the expression used right through the Ordinance. Why is it just "house" in this Clause?

HON ATTORNEY-GENERAL:

Except in one place. In the existing Ordinance, Mr Chairman, under the English legislation in this particular place, the word "house" is used where I propose that it should be, too. If I can read it just to get the sense of it. "Subject to the provisions of this Ordinance this part shall apply to dwelling-houses but only to the following extent, namely, it should apply to every house which has been erected on or before the 1st day of January, it shall apply that such a house whenever it is so let but only if it is let as a separate dwelling, it shall apply to every such part of a house, it would be part of such a house because although it is a separate dwelling, it is as if that part were a separate dwelling-house". I think that matches the English provisions.

HON P J ISOLA:

It may match the English Act but on the other hand the word "dwelling-house", for example, appears in Clause 9, it appears all over the Ordinance. I am very, very shy about this one.

HON ATTORNEY-GENERAL:

I really intended to leave it as it is, anyway. I am happy to have it as it is in the Bill and I am also happy to change it. The distinction occurs only in one place in the Bill and I do not think it is really a significant distinction. Clause 5 of the Ordinance, the existing Ordinance, says: "Subject to the provisions of this Ordinance, this part shall apply to a house or a part of a house which is a separate dwelling, with a rateable value of so much, with the annual amount of rent so much, with the rateable value so much. And every such house or part of a house shall be deemed to be a dwelling-house to which this part applies", and thereafter and, indeed, beforehand, the whole of the Ordinance talks about a dwelling-house.

MR SPEAKER:

Do you wish to withdraw this amendment?

HON ATTORNEY-GENERAL:

Yes, I will.

The Hon the Attorney-General's amendment was withdrawn with the leave of the House.

HON ATTORNEY-GENERAL:

My second amendment I do wish to pursue, Mr Chairman. To add after paragraph (c) of Clause 10(1), the words "that every such dwelling-house or part of a dwelling-house shall be deemed to be a dwelling-house to which this part applies". Those words appear in the existing legislation and I do think that they should be brought forward to this paragraph and put there.

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

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11

HON ATTORNEY-GENERAL:

I move that Clause 11(1) be amended by omitting the word "The" and substituting the words "Except where otherwise provided in this Ordinance, the". Mr Chairman, I explained when amending the definition of statutory rent in Clause 2, the reasons for that and this is really consequential upon that. In other words, Clause 11(1) lays down the practice in statutory rents but there are provisions throughout the Ordinance whereby that can be varied one way or another and I think those words of qualification which I am now proposing should be there.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I propose that Clause 11(2)(b) be amended by inserting after the words "dwelling-house" the words "(other than works described in subsection (3) of Section 13)". Subsection (3) of Section 13 will, when amended, refer to work done pursuant to notices served under the Public Health Ordinance.

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

HON P J ISOLA:

I now have another amendment.

MR SPEAKER:

You now have another amendment to Clause 11(2)(b).

HON P J ISOLA:

That is that the words: "In the circumstances specified in Section 19" be deleted and insert the word "substantial" immediately before the word "repairs" in the second line. That really comes in before the amendment of the Hon and Learned Attorney-General.

MR SPEAKER:

It makes no difference in any manner or form because one amendment does not affect the other.

HON P J ISOLA:

No, it does not. But I think one amendment is inconsistent unless the other one takes place.

MR SPEAKER:

Why?

HON P J ISOLA:

Because the second one specified in Section 19 is a Court order to carry out repairs.

MR SPEAKER:

Mr Isola, you can proceed with your amendment. Do you wish to speak in favour of it?

HON P J ISOLA:

Mr Chairman, the purpose of this amendment is really to cut the work of the Rent Assessor a bit. Landlords should know that there have to be substantial repairs carried out. It is no use going to the Rent Assessor because you have painted one side of a room or anything like that. And then taking away the question of pursuant to a Court Order it should be substantial repairs on or before the 1st January, 1986. This would seem to me to be the intent of the Committee.

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

Clause 11, as amended, was agreed to and stood part of the Bill.

Clause 12 was agreed to and stood part of the Bill.

Clause 13

HON P J ISOLA:

I have an amendment to that, Mr Chairman, and that is in Clause 13(1). To insert the word "substantial" immediately after the word "incurred" in the fifth line. Again, this is to prevent application except in circumstances that are justified. Minor expenditure obviously does not qualify for an increased rent but you do not want the Rent Assessor being plagued with lots of applications that he is not going to agree.

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon E Traynor

The amendment was accordingly defeated.

MR SPEAKER:

There is a further amendment to be moved to this Clause by the Hon and Learned Attorney-General to Clause 13(3).

HON ATTORNEY-GENERAL:

Yes, Mr Chairman, I move that Clause 13(3) be omitted and the following subclause substituted: "(3) Where the works have been carried out by the landlord in consequence of a notice served on him under the Public Health Ordinance on the ground that the dwelling-house is not in all respects reasonably fit for human habitation, or that its condition constitutes a nuisance, the Rent Assessor shall not under subsection (1) increase the statutory rent in respect of such expenditure unless, on application by the landlord, the Rent Assessor is satisfied - (a) that the condition of the dwelling-house is due wholly or partly to tenants neglect, default or breach of express agreement or (b) that for any other reason it is equitable that such an increase should be made". Mr Chairman, that follows the existing law, it is to be found in Sections 6 and 8(a) of the present Ordinance, more particularly in the second proviso to it, and the reason it is necessary to change it back to that is that when Clause 13(3) of the Bill was drafted the flavour of the second proviso to Section 8(a) was mistranslated really because of the way the proviso was expressed but I have looked through them again and what I am now proposing is the way it should read.

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

HON G T RESTANO:

I just have a question to ask on this one, Mr Chairman, it is the adjustment for improvement but can the Hon and Learned Attorney-General say if there are any adjustments where the tenant himself has made improvements following, shall we say, a lack of improvements carried out by the landlord and which have imposed upon the tenant the necessity to repaint the interior and so on, and is there nothing in the Ordinance to adjust the tenancy and the rent where the tenant has in fact had, through no fault of his own, to spend money in improving his home?

HON ATTORNEY-GENERAL:

There is no such provision. There is a provision which is similar to this but lacks the element of compulsion, that is in the First Schedule, that the tenant takes it on himself to do the bathroom, he gets the benefit of that for a certain period but that is not quite the situation that the Hon Member is thinking of. There is no general principle that if a tenant is obliged to do work he can recover the costs of that by way of a reduction.

HON G T RESTANO:

May I then ask is this not somewhat loaded on the side of the landlord?

MR SPEAKER:

No, with due respect, we are now going into the general principles.

HON G T RESTANO:

In this particular Clause there is provision for the adjustment and increase in rent that the landlord can impose on the tenant

MR SPEAKER:

On the contrary, this section limits the right of the landlord to have an increase of rent because he has been compelled to carry out repairs under a Nuisance Order.

HON G T RESTANO:

Yes, but if that Nuisance Order has resulted in the landlord carrying out repairs and necessitating the tenants

MR SPEAKER:

What I am saying is that that is a general principle which should have been discussed on the Second Reading and perhaps a new Clause brought in for the purposes of providing for it but it does not come under this Clause.

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

Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

HON P J ISOLA:

Mr Chairman, I have an amendment to make here and it is a very simple one and that is to delete the figure "50" and substitute it by the figure "25". I don't know whether it is a Select Committee recommendation or what but I find, Mr Chairman, the provisions of this section as well as Clause 25 for eviction of a tenant who sublets is particularly vicious and I will say why. The question of subletting accommodation was one that was fully recognised in the Landlord and Tenant Ordinance of 1959. At that time there was a tremendous amount of subletting going on but it was the only means of livelihood of the people and the law reserved the right to sublet. We have gone a long way since 1959 and I think that the number of sublets that exist today must be very few. I also believe that in most cases they are cases of elderly people who cannot make ends meet, who may or may not be getting anything, who sublet. Mr Chairman, nobody can like having strangers in their home. If people sublet it is because they have a need to sublet. They need the money, Mr Chairman, they may need the money. Does the Hon Member know how much it costs to keep body and soul together for older people? Heating, telephone charges, electricity, water. It is a lot of money. A person who sublets, in most cases of subletting the person who is subletting, is paying for the electricity of the sub-tenant. He is paying, possibly, for the water the sub-tenant uses in washing himself and drinking and cooking. And when you do a sublet, all these extras go in. And to say that the landlord should pay 50% of that, in my mind, is oppressive. I do not mind saying it, I think it is oppressive. I am sure that the Select Committee agreed to this figure because they were not aware of, or they were not made aware of the fact of what a subletting is, and I take a subletting as a subletting in somebody's home. Where people live in a home, an old couple, people who have not got a job or whatever, and they have to take in what they call paying guests. I do not think anybody does that unless they have to. To take 50% of the rent they collect is inordinately high bearing in mind that they have to pay water, electricity.

Say 50% if you like, after deduction of the cost of water, electricity and so forth, and you may find it is a lot less than the 25% that I am suggesting. I think that the House should show a bit of compassion here and understanding, understanding of what is involved in the majority of cases of subletting. No one sublets just to make money, Mr Chairman. People sublet part of their homes because they have a need for that money and I commend the amendment to the House.

HON CHIEF MINISTER:

There is a difficulty, Mr Chairman, about putting in except electricity and so on (a) because in some cases there may be separate electricity or water provisions and then it would not be possible to make the inclusion, the subtenant would not be expected to pay for that. I would like a division on this one.

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Clause 14 stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, before I move my amendments. The second of these amendments is closely tied up with a matter we have already agreed to leave for the moment until tomorrow which is the amendment to Clauses 3 and 4. So I will propose not to deal with this.

MR SPEAKER:

To leave Clause 15 in abeyance.

HON ATTORNEY-GENERAL:

Well, you may prefer to leave the whole Clause in abeyance.

MR SPEAKER:

Oh, yes, I would rather do that so we will not deal with Clause 15, which will be left in abeyance until tomorrow and we will deal with all relevant amendments then. We go on to Clause 16.

Clause 16

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 16(3) be amended by omitting the figures "£100" and substituting "£1,000". Mr Chairman, this is the first of a number of amendments all of which are intended to increase the monetary fines to which a landlord is liable for infringements under the Ordinance. This particular one is an increase from £100 to £1,000. I think I am correct in saying that they are all increases of this order.

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

HON P J ISOLA:

Mr Chairman, this question of increasing the fines from £100 to £1,000. In some cases they are justified, in others they are plainly not and it seems to me odd that we should introduce fines of £1,000 here. For example, the Control of Employment Ordinance is £300 or £500. I think there should be some uniformity in punishment. I think on this particular case of the Sinking Fund, the proposed amendment to £1,000 is possibly justified on the grounds that if the landlord does not put money into the Sinking Fund or withdraws money he should not, if something really goes wrong with the property,

especially in properties outside Main Street, it is quite irrelevant, really, to Main Street but, anyway, properties outside Main Street, there might not be the money there to do the work and possibly in this case the fine of £1,000 might be justified. I personally feel, it is a purely personal opinion, that the figure of £1,000 being put by the Government on a number of these Clauses is really to disguise the tendencies in this Bill to protect the landlord rather more than the tenant and this is meant to redress the balance and I personally feel that a fine of £1,000 in most of the cases just is not justified. In this case, I cannot see any Court that has got Magistrates who are sensible, imposing fines of this magnitude but still, if the House wants to do that they can do it. In this case I do not mind, in others I think it is quite disproportionate and the fine is being put purely to hide the tendencies that the Bill really has.

HON ATTORNEY-GENERAL:

Perhaps I may reply, Mr Chairman. That is not really the purpose of the increases in the fines but can I just say that this Ordinance was enacted in 1959, which is now over 24 years ago. The fines were £100 then but they are going up £10 in 24 years.

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

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

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly passed.

Clause 16, as amended, stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by adding the following subclause: "(3) Notwithstanding subsection (1), where an increase is permitted under Section 12(1) (which relates to rates) only 2 weeks' notice of the landlord's intention shall be required". This does bring forward a provision of the existing Ordinance and I think I am correct in saying that Clause 12(1) of the Bill deals with the case where a landlord may claim an increase in respect of a communal services tenement. Under existing law he is only required to give 2 weeks' notice instead of the usual notice.

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

HON P J ISOLA:

Mr Chairman, the only comment I make on this is the comment I made under Section 14, how tilted this is in relation to subletting. No notice is required for that, increases shall be due and recoverable as from the date of subletting but in other cases three month's notice has to be given but subletting you knock them straightaway. Fair enough, that shows the colour.

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

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

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon B Traynor

The amendment was accordingly passed.

Clause 17, as amended, stood part of the Bill.

Clause 18

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 18(9) be amended by omitting "Fourth" and substituting "Third". This is something that has crept forward from the previous draft, it is correctly a reference to the Third Schedule and not the Fourth Schedule.

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

Clause 18, as amended, was agreed to and stood part of the Bill.

Clause 19

HON P J ISOLA:

I have the honour to move the amendment standing in my name and that is that Clause 19(1)(c) be amended by deleting the word "alternative" in the first line and substituting the word "temporary" and inserting immediately after the word "tenant" in the second line, the words "at a rent not in excess of that being currently paid by the tenant". I think it is inappropriate to use the word alternative because suitable alternative accommodation has its technical interpretation and I think what this section seeks to do is to enable the Court to make an order to get a tenant out of premises temporarily whilst repairs are carried out and, equally, the temporary accommodation should not be available at a more expensive rent. I so move.

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

Clause 19, as amended, was agreed to and stood part of the Bill.

Clause 20

HON A J HAYNES:

Mr Chairman, I have a comment on Clause 20.

MR SPEAKER:

Most certainly.

HON A J HAYNES:

What does it mean "not exceeding three months", that you can only get three months rent or what? I do not understand how it will operate. Can this be explained to me? It is a departure from normal legal principles.

MR SPEAKER:

Acceptance of rent vitiates a notice to quit, by legislation it is being said that if you accept rent for the first three months the notice to quit will not be effective.

HON A J HAYNES:

Surely it should be the other way round. You show that you are not accepting a renewed tenancy by not accepting rent initially and thereafter you can take it as mean profit.

HON CHIEF MINISTER:

No, it is the other way about.

HON A J HAYNES:

I know, but it seems to me to be the wrong way round. Is there any legal precedent from which this is taken?

HON ATTORNEY-GENERAL:

Mr Chairman, I do not think this is something sui generis, I think this is something that was brought forward from the previous law. I would like the opportunity to check it.

Clause 20 was agreed to and stood part of the Bill.

Clauses 21 to 24 were agreed to and stood part of the Bill.

Clause 25

HON P J ISOLA:

Under that Clause it appears that if a tenant sublets part of his dwelling-house and that he charges rent for subletting exceeding the rent recoverable he can be chucked out. It seems to me to be very odd that a tenant sublets, alright, and he pays the penalty. Why should he not just be prosecuted? Why shouldn't he just commit an offence? Why should it not be the same as if the landlord charges excessive rent for accommodation? He could be fined so why must a tenant who sublets be thrown out of his accommodation? It is, I think, very unfair. What I think should be there

is a section to the effect that if a tenant sublets and charges more for the subletting, let him be liable to a fine of £1,000. Why should he be treated differently to a landlord who overcharges? This is persecution of the tenant who sublets and if one looks at the people who sublet, one will find that they are all very deserving cases and people do it because they need the money, or a lot of them are.

HON CHIEF MINISTER:

This is taken from Section 53 of the Ordinance.

HON P J ISOLA:

It seems to me absolutely wrong. If the House believes that because a person overcharges for subletting he should be thrown out and a landlord who overcharges all he gets is a fine, I think that is wrong.

HON CHIEF MINISTER:

But like so many other provisions in the Ordinance it is up to the Courts to decide whether it is equitable or not.

HON P J ISOLA:

Yes, Mr Chairman, it may be up to the Court to decide but you may get a hanging Judge. You do get Judges who are very firm and you get Judges who are very soft and if it is a Judge who is stern he throws the family out of the house, or throws the person out of the house. I would like this section to be left over so that I can draft the appropriate amendment to give effect to what I feel should be done in a case like this, if the House agrees. So far everything that we have left over has been at the request of the Government, not on our side. I am requesting that this be left over because I think that it is basically wrong and unjust that a tenant who sublets at a rent that he should not should put his home at risk, whereas a landlord who lets at an excessive rent all he gets is a fine.

HON CHIEF MINISTER:

Well, we will leave it until tomorrow.

Clause 26 was agreed to and stood part of the Bill.

Clause 27

MR SPEAKER:

There is only one amendment to Clause 27.

HON P J ISOLA:

Yes, but I did not amend because I was told amendments were going to be brought.

MR SPEAKER:

Are you disappointed?

HON P J ISOLA:

Well, of course, I am. I thought amendments were going to be brought. I was told they were going to be brought to (b) and (c) because I have only amended 27(4)(a). I move that after the word "dwelling-house" the following words should be inserted "(but not its contents)".

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

HON P J ISOLA:

Mr Chairman, I made a point in the Second Reading on (b) and (c) that there was a difference between landlord's fixtures and tenant's fixtures, and that it would seem to me that there is no reason why the landlord should be liable to maintain tenant's fixtures and there is no reason why the tenant should be liable to maintain landlord's fixtures. I got the impression that amendments were going to be brought to those two sections to clarify but they have not been brought. I would move under sub-paragraph (b) the insertion before the word "electrical" and after the word "all", "to maintain all landlord's electrical fixtures" and in (c) the tenant be liable to maintain "all tenant's interior fixtures and fittings" and let the law decide which is whose.

MR SPEAKER:

Mr Isola let me make sure that I know what you want. You want to amend sub-clause (b) by the insertion of the word "landlord" between the words "or" and "electrical". Is that right?

HON P J ISOLA:

All electrical installations.

MR SPEAKER:

All landlord's electrical fixtures in good repair. Is that it?

HON P J ISOLA:

Well, I do not mind "all electrical installations".

MR SPEAKER:

You do not need the word "landlord".

HON P J ISOLA:

Change the word "fixtures" to the word "installations".

HON CHIEF MINISTER:

And then the other one follows with your amendment.

HON P J ISOLA:

Well, the only trouble is that there are a number of interior fixtures and fittings.

MR SPEAKER:

Well, may I suggest that perhaps the way to put it right is to include the word "tenants" between the word "interior" and "fixtures".

HON ATTORNEY-GENERAL:

I am just speaking in a purely technical manner of course. I do not agree with the proposal, Mr Chairman, and I will explain why. We are talking about fixtures because the policy of this section as it stands, this clause as it stands, is that notwithstanding the ordinary law, as to who

MR SPEAKER:

Are you talking about sub-clause (b) now?

HON CHIEF MINISTER:

Sub-clauses (b) and (c).

HON ATTORNEY-GENERAL:

Both, 27(4)(b) and (c). The normal law is of course, as has been said, that fixtures are the responsibility of the landlord, normally. The point of this provision, as I understand it, this is the way I have drafted it, is to say if the fixture is an electrical fixture then under this Ordinance the landlord would be responsible for it. If that is not the policy then it can be changed but let me explain this, too,

that I do not think the word "installation" is necessarily good enough because that may or not may include a fixture and if it does not include a fixture, if it starts to include something less than a fixture we may be interfering with the tenant's own property so I think care is needed. This is purely a working suggestion but I think that if the intention is that as a matter of policy one wants to place liability on the landlord for certain kinds of fixtures, namely, electrical fixtures, the use of that term is right. If, on the other hand, one wants to place a liability that he would not otherwise have on the tenant for certain kinds of fixtures, namely, other interior fixtures, well, it is right as it stands. If that is not the desired policy of course then it is a different matter.

HON CHIEF MINISTER:

I think the point mainly is, and this is one on which I would like guidance from the Attorney-General, if what he is saying is that fixtures and fittings have got a special meaning in law to what is landlord's fixtures and tenant's fixtures, then we do not have to describe anything.

HON ATTORNEY-GENERAL:

Mr Chairman, the danger, I think, is that one wants to be careful that the landlord is not burdened with responsibility for things which as a matter of ordinary meaning may be installations. For example, is a television set an installation?

MR SPEAKER:

I think that when one speaks of an electrical installation in a dwelling-house, one is talking about the conduits that gives electricity. The fixtures and the fittings are completely different.

HON CHIEF MINISTER:

I do not know whether it would be any help if it says such fixtures as the electricity authority may require because they are the ones who say that certain points are low, other points should be strengthened. In fact, only yesterday I dealt with a case in which there was a cut out in the house and a tenant complained about it and when they went they found that it was because the tenant had overloaded the installation and yet it was the responsibility, certainly in this case, of the landlord to put it right.

HON A T LODDO:

Mr Chairman, perhaps the word that we should be using is the wiring, because I think that we are in fact using the Spanish word, or rather thinking in terms of the Spanish word. The installation, the whole wiring of the installation, I think that is what we had in mind in the Select Committee. The whole wiring of the flat, not the installation such as television sets or radios, or whatever.

MR SPEAKER:

Anyway, we must take a decision on this one.

HON W T SCOTT:

Mr Chairman, in my experience, the electrical installation of any building is that which forms part of the permanent structure. Any appliance which is connected to the building, even to the extent of a water heater, are normally the responsibility of the tenant. But there is a peculiarity because although the electrical installations, as I understand the law up to the moment of passing on to the tenant, is the responsibility of the landlord, yes, it is the tenant who is the consumer not the landlord and I have always felt that there was a little bit of grey herring involved between the one and the other.

HON M K FEATHERSTONE:

The intention of the Select Committee was the installation as suggested by the Hon Mr Scott which would be the main fuse unit, all the wiring, the plugs, or what have you that are fixtures and anything that is put on to those things is classified as the tenant's even though it is a fixture insofar as it is screwed on to the wall or what have you.

HON ATTORNEY-GENERAL:

I would recommend the phrase of "electrical supply installation".

HON CHIEF MINISTER:

Under the old law unless otherwise provided, the tenant is responsible for the renewal or repairs to broken or defective switches, plugs, lamp holders and fuses. The rest is the landlord's. Is there anything wrong with using the words "electrical installation"?

HON W T SCOTT:

No, not at all, the only thing is so long as it is defined in the sense of permanent and non-permanent fixtures, like the example of the water heater and cookers and perhaps television sets and any other electrical appliances in use which do not form part of the electrical installation.

MR SPEAKER:

Perhaps the answer is to say "permanent electrical installation" and if that solves the problems of (b), what about (c)?

HON ATTORNEY-GENERAL:

I would not propose to make any amendment to that.

MR SPEAKER:

Because one excludes the other, in other words.

HON ATTORNEY-GENERAL:

I think it would be safer to leave in the words "subject to paragraph (b)". I therefore move in Clause 27(4)(b) to omit "electrical fixtures" and substitute "permanent electrical installation".

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

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

Clause 28

HON CHIEF MINISTER:

Here I am quite happy to reduce the proposed increase from £1,000 to £500. I think that £500 would be quite enough.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 28 be amended by omitting the words "one hundred pounds" and substituting the words "five hundred pounds".

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

HON P J ISOLA:

I think that the fine should have stayed at £100.

MR SPEAKER:

Yes, that you have already said before.

HON P J ISOLA:

There is a Rent Assessor, there is a Rent Tribunal, there is Action for Housing, it seems to me a question of measurement. If the landlord makes a mistake there is a fine of £500, it seems to me to be persecution. I want to put an amendment there and that is the one I have given notice of, to put the words after "supplying" in the fifth line the words "without reasonable excuse". Since the landlord can be made liable to a fine of £500 for not giving the tenant the correct rent which the tenant can easily find out himself by measuring, it is a question of measurement, it seems to me that a material particular would be the wrong rent and it seems to me that if there has been a genuine mistake made in measurement or anything else, in other words, if there is a reasonable excuse for the wrong statement, in the same way as if he has got reasonable excuse for not giving a statement within fourteen days, equally, if he supplies a statement which is false in any material particular.

HON CHIEF MINISTER:

"False" is not "incorrect".

HON ATTORNEY-GENERAL:

Surely, the words "without reasonable excuse" can avert problems?

HON P J ISOLA:

Well, if they do I would withdraw my amendment but I do not think it does, does it? It says here "and if without reasonable excuse he fails within 14 days to do so, or supplies a statement which is false".

HON CHIEF MINISTER:

You take away one and you leave the other.

HON P J ISOLA:

Does the Hon and Learned Attorney-General feel that it covers both?

HON ATTORNEY-GENERAL:

I feel it does because of the fact that it comes first and this is a penal clause and can surely be construed that way.

HON P J ISOLA:

I beg to move that Clause 28 be amended by inserting the word "either" between the words "he" and "fails" in the fifth line thereof.

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

Clause 28, as amended, was agreed to and stood part of the Bill.

Clause 29

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 29, sub-clause (4), be amended by omitting the expression "£100" and substituting the expression "£500". This is the penalty to which a person is liable for failing to keep a rent book. Clearly it has a close relationship to the preceding penalties for failing to state the statutory rent and it would be logical that it should be the same. That is the extension of the amendment.

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

HON P J ISOLA:

I do not think this does what the Attorney-General says it does. The penalty under Clause 4 is not for not keeping a rent book, the penalty is "if any person in any rent book makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum which by virtue of this part is irrecoverable, or where any such entry has been made by or on behalf of any landlord if the landlord on being requested by or on behalf of the tenant so to do, refuses or neglects to cause the entry to be deleted within seven days". It has nothing to do with not keeping a rent book.

HON ATTORNEY-GENERAL:

It is related to the keeping of a rent book. It is the second of two offences, the first offence has a penalty of a weekly fine of £10 for failing to keep a rent book but this is ancillary.

HON P J ISOLA:

Clause 5 needs an amendment, doesn't it? It says it should be a defence to a charge under subsection 4 that the defendant believed bona fide that the rent was irrecoverable. Can I ask the Hon and Learned Attorney-General why is it necessary to make this a criminal offence? If somebody puts in a rent book rent as being due that is irrecoverable and the rent is irrecoverable, what does it matter what is put in the rent book if it is irrecoverable? I just cannot see the reason for making this a criminal offence.

HON ATTORNEY-GENERAL:

This comes from the existing law and I as I see the scheme of this Clause, subclause (1) says you have to keep a rent book, you have to give it to the tenant and you have to give a copy to the Rent Assessor if he wants to see it. Subclause (2) says that you have got to keep it up to date, subclause (3) says that if you do not comply with this Clause, you are liable to a weekly penalty, a continuing penalty, in other words, the weekly penalty is £10 so after 50 weeks it will cost you £500. And Clause 4 goes further and says that if you purport to show a tenant as owing rent which is in fact irrecoverable or you do not correct that entry, you commit an offence because obviously otherwise some tenants might see the rent book with this allegedly owing rent in it, they may or may not know it is irrecoverable and they could be misled by it, so the point in subclause (4) is surely to carry the matter into better effect by saying not only must you keep a rent book but you must take care not to mislead a tenant into thinking that he owes rent when he doesn't. And, of course, because there could be a bona fide mistake by a landlord, subclause (5) says that if you charge and you can show that the mistake was made in good faith then you will not be liable but I think subclause (4) is part of the scheme of it.

HON P J ISOLA:

But then subsection (5) says that it should be a defence to a charge that the defendant, that is, the landlord, believed bona fide that the rent was irrecoverable.

HON ATTORNEY-GENERAL:

Was recoverable.

HON P J ISOLA:

Ah, I see, so that has got to be amended.

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

MR SPEAKER:

Perhaps you will bring a consequential amendment to subclause (5), Mr Attorney, to do away with the word "irrecoverable" and substitute it by the word "recoverable".

HON ATTORNEY-GENERAL:

If I could move, Mr Chairman, that in subclause (5) the word "irrecoverable" be omitted and the word "recoverable" substituted.

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

Clause 29, as amended, was agreed to and stood part of the Bill.

Clause 30

HON P J ISOLA:

Mr Chairman, I have an amendment to propose to Clause 30(1), to insert immediately after the word "contract" in the first line, the words "other than a contract or tenancy to which Section 15 of this Ordinance applies". The reasons for this amendment is that Section 15, Clause 15 of the Bill

MR SPEAKER:

With respect, Clause 15 of the Bill has not been considered in Committee as yet.

HON P J ISOLA:

Well, Mr Chairman, I presume that it will appear in some form or other and Clause 15 re-introduces a 7A tenancy, and if a 7A tenancy is being agreed it seems to me that there should not be in Section 13 the right to change it when it has been agreed through the Rent Assessor. I think that amendment is necessary.

HON ATTORNEY-GENERAL:

Mr Chairman, I do not think this is part of the present law in relation to Section 7A agreements and I do not really see what harm it does not to refer to it in this Clause because after all, presumably if anyone thought there was some purpose in the applying to the Rent Tribunal when I cannot really say there is, surely the Rent Tribunal would do nothing more than reiterate what has already been agreed between the parties.

HON P J ISOLA:

Surely, Mr Chairman, that is not right and I say that Section 7A because it is the same thing in a different language in Section 15, the purpose of it is to allow a flat that is vacant to be let at a new rent. If that is going to be made firstly to the Rent Tribunal you get the situation where a landlord and tenant both agree a new rent, in they go, and then they make an application made to the Rent Tribunal to change it. It seems to me that is not the spirit of the new Section 15 and therefore there is a need to exclude from this section such a tenancy from going to the Rent Tribunal either for increasing or decreasing the rent because there has been a 7A tenancy in Section 15. That is why I put "other than a contract or tenancy to which Section 15 of this Ordinance applies".

MR SPEAKER:

What you are suggesting is that a 7A agreement should not be subject to reassessment by the Rent Tribunal.

HON CHIEF MINISTER:

Didn't we say we had left 15?

MR SPEAKER:

We have left Clause 15 for a later stage.

HON CHIEF MINISTER:

I think the Attorney-General has got some reservations, I imagine what it is that there is no equivalent exclusion now in respect of the possibility of other rents going up to 7A level.

MR SPEAKER:

Shall we leave Clause 30?

HON P J ISOLA:

Alright, we will leave it.

Clause 31 was agreed to and stood part of the Bill.

Clause 32

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 32(1) be amended by omitting the figures "1964" and substituting the following: "1954 (not being a dwelling-house to which this Part, other than this

section, applies)". Mr Chairman, the purpose of this whole clause is as follows. So far as dwelling houses built before 1945 is concerned, whether they are furnished or unfurnished they are subject to rent control, but the intention of the Select Committee was that dwelling houses built on the following 10 years after the rent control period would be subject to control, I will not call it rent control but subject to controls on the charges they made for rent. When the dates of the rent controls fall back from 1954 to 1945 it follows that the subsequent 10-year period ends in 1954 instead of 1964, that is the purpose of the amendment.

MR SPEAKER:

Does any Member wish to speak on it?

HON A J HAYNES:

Sir, this is really an amalgam of Section 12 and 13 of the old Ordinance, that is, Section 32(1) and all its subdivisions and I was wondering whether the intention of the legislature is that extortion as indicated under Section 32(2) should only be applicable to pre 1954 dwelling houses because the old Ordinance distinguished between Section 12 and 13, obviously, whereas this one does not and I think that a lot of that distinction is erroneous.

HON ATTORNEY-GENERAL:

It is not quite as simple as that, Mr Chairman. This clause combines with the one section but nevertheless with two distinct parts that used to be sections 13 and 14. Clause 32(1) really brings forward Clause 13(2)(2) which is concerned with what used to be Section 14, and Section 14 uses the word "extortion".

HON A J HAYNES:

I appreciate that but my only concern is that extortion shall only be arguable in dwelling houses pre-1954 when obviously extortion should be extended to it.

HON ATTORNEY-GENERAL:

We are proposing an amendment to say that the period which this whole Clause covers is the period of 10 years beginning in 1945 and ending in 1954. There is no point in having provisions preventing extortion for the rent control which ends in 1945 because they are subject to even stricter controls on rent, anyway.

HON A J HAYNES:

I take the general point but, Mr Speaker, as I understood it, the old Section 14 applies to all dwelling houses.

HON J B PEREZ:

No, the Honourable Member is wrong, both Sections 30 and 40 of the previous legislation only refer to pre-1940 dwellings, if you care to read the Ordinance it is quite clear. It says: "where any person lets or has before the commencement of this Ordinance let any dwelling house to which this part applies". Similarly in Section 14 of the old legislation it says "where any person after the date of commencement lets a dwelling house to which this part applies". Therefore, the old Ordinance dealt with pre-1940 dwellings.

HON A J HAYNES:

I am grateful to them for the distinction but the point still remains, Mr Speaker, that the House should consider whether they think that extortion should only be related to pre-1954 dwellings whereas, whilst I understand the principle of making the comparative rentals as embodied in the old Section 13, now Section 32(1), I don't think that the legislature can exclude post 1954 flats from the charge of extortion. I think that should be applicable to all dwelling houses.

HON ATTORNEY-GENERAL:

I understand the point that is being made Mr Chairman but the reason why it is necessary under the existing law to apply it to all premises including and to go back beyond 1940 and why it is no longer necessary to do so now, is that under the existing law, of course, there is no general principle of rent control of furnished houses. There is a general principle of rent control of furnished houses between 1945 and the whole thrust of the new section, the new clause 32, is directed towards limited control in respect of furniture for the 1945/54 group. There is no need to go back now before 1945.

HON A J HAYNES:

If my Learned Colleague will give way. I take the point. My concern is for houses post 1954, were such an example to apply, that the tenant should be entitled to take the landlord to court for extortion. It could be implied, Mr Speaker, that because the legislature has specifically stated where extortion is a claimable offence that by inference it is excluded elsewhere so extortion would not be an offence in a post 1954 dwelling.

HON ATTORNEY-GENERAL:

The answer is that it will not I agree. What the law is saying is that after 1954 it will offer a remedy, that after 1954 a person who feels aggrieved will have to look for some other remedy as this Bill is not going that far.

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

MR SPEAKER:

Now we have 32(2) from Mr Isola.

HON P J ISOLA:

Mr Chairman, I am not sure whether I want to move this one. I have an amendment in my name to substitute the word "unreasonable" for the word "extortionate" in Clause 32(2)(b). The reason for that proposed amendment is that it seems to me that this is another case of what I call a double penalty. If a person is being overcharged, then the landlord has to repay what has been overcharged to the tenant but in addition, as I understand it, he also commits an offence. It seems to me that if the term is going to be unreasonableness, in one section it should also be unreasonableness in the other section. And then if it is still unreasonable that it is extortionate then, presumably, the fine will be that much higher.

HON ATTORNEY-GENERAL:

I think the answer to that in my understanding, and, I say in my understanding because we are bringing forward provisions which have been part of the law for some time, the answer to that is that whereas under subclause (1) an unreasonable rental may be recovered, in other words, civilly, from the tenant, sub clause (2) does go further and provides what is in effect a common law remedy and I think the rationale is surely this, that it is one thing to make a person criminally liable for extortion and it is another thing not to make him criminally liable for what is merely unreasonable because if that were the case we might all be in jeopardy some time.

HON P J ISOLA:

Mr Chairman, I withdraw that amendment.

HON ATTORNEY-GENERAL:

Mr Chairman I have to move that Clause 32(2) be amended by omitting "£100" and substituting "£1,000". The effect of that is the increase of penalty and that is in line with the comments I made earlier.

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

HON P J ISOLA:

Mr Speaker, before we pass this Clause as amended, I would like an explanation of sub-section 4. I just cannot understand it. As I understand it, Section 32 reads "this part of the Ordinance applies only to dwelling houses built before 1945". Then we get this section and it seems to me that this section, or does it, brings all dwelling houses built before 1954 also to this part. Could I have an explanation because I just don't quite understand it.

HON ATTORNEY-GENERAL:

Mr Chairman, just to recap briefly. Part III as a whole is concerned with property that has been built before 1945 but this particular clause is concerned with premises built after 1945 but before 1954 and it is concerned only to control the charges they make for furniture. The point of subclause (4) is to ensure that certain definitions contained in clause 10 are available for the purposes of this clause. Paragraphs (b) and (c) of subsection (1) of section (10) applies to a separate letting of a property and it applies to every part of a dwelling house that is separately let, the one distinguishing feature between this clause and the general scheme of Part III is of course that you can't apply (10)(1)(a) because these houses by definition are dissolved. The references to sub sections (2) to (6) of section (10) are intended to invoke all the definitive provisions that apply to dwelling houses which are subject to rent control under Part III.

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

Clause 33

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 33(6) be amended by omitting "£100" and substituting "£1000". Again this is intended to increase the penalty in the same way as previously mentioned but in this instance for charging a premium.

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

HON P J ISOLA:

Mr Chairman, I have an amendment to that Clause.

MR SPEAKER:

Yes, sub-section (9).

HON P J ISOLA:

That is, by adding a new sub-section (9) to read as follows. "(9) Nothing contained in this section shall prohibit the grant by the landlord to a tenant in consideration of the payment of a premium of a lease for a term of a years certain of a dwelling house to which this part applies on such terms and conditions as the parties may agree provided that (a) the term of the demise shall be for a period of not less than 42 years and (b) the rent payable throughout the term shall not be in excess of £5 per annum and (c) any service charges, if any, to be paid by the tenant under the terms of the lease shall be such as are fair and reasonable having regard to all the circumstances and in the event of disagreement as shall

be determined by the Rent Tribunal". The purpose of this amendment, Mr Chairman, is to allow the sale of flats in properties to tenants or anybody else, I suppose, in properties which are subject to this part of the Ordinance. Because the premium is illegal, unless this section is passed, it would be illegal for any owner of a flat in any pre-1945 property to sell the flat either to a sitting tenant or to anybody else and I think that it should be possible, in cases where the parties agree, for the tenant to be able to buy his flat from the landlord. I have put minimum conditions here. I think if it is to be allowed it should be for a lengthy period and that is why I have suggested not less than forty-two years, that could be changed to ninety-nine years but I do not know how old these buildings are or how much they have got to go. I put forty-two years which is almost considered freehold by many people. The second condition is so as to avoid any leases that are really contrary to the spirit of this part of the Ordinance, they should not be allowed to charge a rent in respect of a lease of more than £5 per annum so it would be a peppercorn rent, a nominal rent. The third one, it occurs to me that it is possible and it must be so in the cases of a property where flats are being sold from it, there is always provision for the payment of a service charge for maintenance of a property, outside painting, etc, etc, and I think that in those circumstances the service charges, again in order to prevent abuse or getting round what is intended by the Legislature, the service charge would have to be fair and reasonable and in the event of there being disagreement the Rent Tribunal should decide. If you sell a flat there has got to be some apportionment between the landlord and the tenant but by putting it subject to the Rent Tribunal one would be sure that there wasn't any getting round what is the intention of this part of the Ordinance which is to protect the tenant and therefore if there is going to be a sale of a flat it should be a genuine sale, that is what I want to put forward, and I would commend this amendment.

HON CHIEF MINISTER:

Why forty-two years?

HON P J ISOLA:

I said not less than forty-two years because I think it is considered that a lease of forty-two years is almost freehold but I am quite happy to pick any other figure, sixty, seventy-five. I have said forty-two because that is a long period but I am quite easy on the period of time.

MR SPEAKER:

Would the amendment be acceptable to Government if it were sixty?

HON CHIEF MINISTER:

Sixty, yes.

HON P J ISOLA:

I will propose it, Mr Speaker, in the terms standing in my name but substitute 'sixty' for 'forty-two'.

Mr Speaker put the question which was resolved in the affirmative and the amendment as further amended, was accordingly passed.

Clause 33, as amended, was agreed to and stood part of the Bill.

Clause 34 was agreed to and stood part of the Bill.

Clause 35

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the following subclause be added:

- "(5) On hearing the appeal, the Rent Tribunal may, subject to the prescribed terms and conditions, confirm or vary the assessment of the Housing Manager".

That is needed to complete this, Mr Speaker. At present the Rent Assessment Tribunal has these powers on appeal from a decision of the Housing Manager on the question of rent relief and I am bringing that forward.

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

Clause 35, as amended, was agreed to and stood part of the Bill.

New Clause 36

HON P J ISOLA:

Mr Chairman, I propose a new clause immediately after clause 35, a new clause to be numbered 36 and to renumber all subsequent clauses, to read as follows:

- "36. Notwithstanding the provisions of Section 13 of the Court of First Instance Ordinance the Court shall have jurisdiction to hear and determine any action for the recovery of possession of a dwellinghouse to which this part applies".

The purpose of this amendment, Mr Chairman, is to make Part III effective because under the Court of First Instance Ordinance the Court can only have jurisdiction to deal with actions for recovery of possession where the annual value is

£150 or under and I don't think there are many flats in Gibraltar today that have an annual value of under £150, most of them are over £150, and the purpose of this amendment is to ensure that the Court of First Instance has jurisdiction to hear any case that involves Part III of the Ordinance. Therefore I think this clause is necessary if Part III is going to be in fact effective as far as the Court of First Instance is concerned.

HON ATTORNEY-GENERAL:

But surely, with great respect, Mr Chairman, the Court of First Instance Ordinance may say one thing but if another Ordinance of this House confers the jurisdiction on a Tribunal there is no need to have a belt and braces job, as it were. Part III of this Bill confers a jurisdiction on a Court which is defined as being, insofar as this Part is concerned, the Court of First Instance.

HON P J ISOLA:

It is a very important point. This Ordinance says, I think, "Court" in Part IV means the Supreme Court but otherwise means the Court of First Instance". As I read that the Court of First Instance will be the Court to which proceedings under Part III should be brought provided it has jurisdiction to hear them and under the Court of First Instance Ordinance it says specifically that the Court of First Instance only has jurisdiction to hear cases for possession - not for other things - of a dwellinghouse if the annual value is under £150. It seems to me that you can go to the Court of First Instance but if you are going to go to recover possession the only ground is they do not pay rent or that you are giving alternative accommodation or whatever, I think the question of jurisdiction would be quite appropriate if the annual value of the flat is over £150 because all the Landlord and Tenant says if you have a dispute about this you go to the Court of First Instance but that pre-supposes the Court of First Instance has jurisdiction under its constitution to hear it, it hasn't at the moment.

HON ATTORNEY-GENERAL:

The fact that the Hon and Learned Leader of the Opposition himself makes the point makes it worth considering, obviously, but let me be clear that my own view is that it may be that when the Court of First Instance was set up the scheme of it was to spell out the jurisdiction of that Court but certainly I would be staggered if it was an exclusive jurisdiction and what Part III of this Bill does is to confer a general jurisdiction.

MR SPEAKER:

In any event you have been put on notice by the Honourable and Learned Leader of the Opposition as to what his feelings are.

The answer is, perhaps, that the Hon Leader of the Opposition should not press with the amendment and the matter can be considered at a later stage if need be.

HON P J ISOLA:

I am not withdrawing it.

MR SPEAKER:

I understood that you said before that you just wanted to bring to the notice of the Attorney-General the possible consequences of not having such a section in the Ordinance. The Hon the Attorney General has said that he will give it some consideration. There is no reason why an amendment should not be brought later on if it is considered to be necessary. If you want to press with your amendment, you are free to do so by all means.

HON P J ISOLA:

I am putting the amendment forward. What I understood is that the Hon and Learned Attorney-General would like to consider this one further but I am not going to withdraw it.

HON ATTORNEY-GENERAL:

I think I have the answer now actually in the terms of the Second Schedule but it would help me if the Hon and Learned Leader of the Opposition is prepared to indicate this bearing in mind his long experience and relations with this Ordinance, if he could clarify one point for me and that is, the present definition in the Court of First Instance Ordinance, is that sufficient to cover all the dwellinghouses which we at present treat as being under the jurisdiction of the Court of First Instance under the existing Landlord and Tenant Ordinance?

HON P J ISOLA:

No, I think under the existing Landlord and Tenant Ordinance if the annual value is more than £150, I think you have to go to the Supreme Court, that is my experience.

HON A J HAYNES:

Mr Chairman, the net annual value is the figure given by the Government Rating Department and it is my experience that there is no dwellinghouse to which the Court of First Instance applies, the jurisdiction on all cases is now being taken to the Supreme Court. The Attorney-General may also consider having a section towards the end amending the Court of First Instance Ordinance in the same way as the Income Tax Ordinances is amended to increase the net annual value to a figure to be

advised by the Rating Officer, to a figure in the region of £1,000.

HON ATTORNEY-GENERAL:

If it is in fact the practice to oblige people to go up to the Supreme Court in those circumstances, clearly at least one has to contend with the view that is obviously held by the Court. I will look into it. I will look into it.

HON P J ISOLA:

I am prepared to let it stand by until tomorrow. I am moving the amendment, I am quite happy not to move it now. Mr Chairman, we are now going into business premises, is it proposed to sit much longer?...

MR SPEAKER:

Another half hour, I would say, no more than that.

Clauses 36 and 37 were agreed to and stood part of the Bill.

Clause 38:

HON P J ISOLA:

Mr Chairman, I beg to move the amendment standing in my name and that is the amendment by adding a new subsection (7):

"(7) The Register shall be open to inspection by any member of the public on payment of the prescribed fee".

It seems to me that there should be a right among the public to be able to inspect the Register of registered tenancies, on payment of a prescribed fee similar to what is done in companies registry and everything else and I think the right should be there specifically.

HON M K FEATHERSTONE:

The Select Committee discussed this matter and felt that the rent paid by a tenant was a private matter between themselves and the landlords otherwise you could put a parallel that the rent of every private dwelling should be available to the general public. We think that this is not something to be recommended, it was specifically discussed in the Select Committee and it was thought that it should not be available

to the general public even on payment of a fee.

HON P J ISOLA:

Mr Chairman, I cannot understand that because the purpose of having a Register of business tenancies, I would have thought, was to arrive at a situation where eventually, hopefully, there will be some uniformity in rents of business premises and if it is only going to be there for the Rent Assessor to look at you are going to be in the position in the future that rental settlements will be made without going to Court, of business premises I am talking about. The Register is going to be of no use because rental settlements will be made, the rent will be reported to the Register of business tenancies and when there is a case in Court, the odd case there is, and I assure the House there are not many that actually go to Court, when that happens the Rent Assessor will be caught by the rentals that have been agreed between the parties. The purpose, I would have thought, of a Register of business tenancies and making it available to interested parties, the purpose of it was eventually to arrive at uniformity, that John Smith down the road in Main Street pays £600 a month, that John Snooks five doors up will be paying around the same rent and not £1,000 because of the persuasive valuer or the persuasive negotiation or anything else. The idea, I understood, of a Register of business tenancies was to have rents of different places, measurements and everything out and gradually achieve uniformity. But unless cases go to Court there won't be uniformity, but if the Register is open to inspection then somebody comes along and says: "Yes, but John Smith is paying this rent". And another thing I would like to say is that somewhere there is a provision in this Bill under which any tenancy must be for a minimum period of five years. Under the provisions of the law if the lease is for a term longer than three years, by law the lease has to be registered so that anybody can in fact inspect it by going to the registry of Crown Lands, it is open to inspection to the public free but it is a much more laborious procedure but it is available to people so that if all new tenancies are going to be for a period of five years under the new law it means that all rents that are being charged for business premises can, given a bit of trouble, be published and can be searched and ascertained. In those circumstances I would have thought that the sensible course to follow would be to make the Register of business premises open to inspection but make the prescribed fee, possibly, £3 or £4 or £5, so that we do not get people searching just to find out easily what John Smith is paying for his shop. But I think that if you are going to have the Register it will fulfil no useful purpose unless it is open to

inspection as, indeed, the Lands Registry is today and the Supreme Court Deeds Registry is today. I think that if the Select Committee had known that by recommending a minimum of five years for every lease that that in fact has the result that it is open to inspection for the public because they have to be registered, they would not surely have objected to the inspection of the Register of business premises and accordingly I move my amendment.

HON M K FEATHERSTONE:

We are willing to accept the amendment.

HON CHIEF MINISTER:

Yes, we also have a prescribed fee which is sufficiently high to prevent abuse.

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

Clause 38, as amended, was agreed to and stood part of the Bill.

Clauses 39 and 40 were agreed to and stood part of the Bill.

Clause 41

HON ATTORNEY-GENERAL:

Mr Chairman. I propose that this be amended by omitting the figures "£100" and "£5" and substituting the figures "£1,000" and "£25" respectively. The effect of that would be to introduce a basic penalty of £1,000 maximum for not registering or complying with the requirements of the Ordinance as to registration and the subsequent penalty of £25 per day which I may say I think is rather high in normal circumstances and perhaps if the Government has no objection I would like to reduce it. To omit "£100" and "£5" respectively and to substitute "£500" and "£10" respectively.

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

Clause 41, as amended, was agreed to and stood part of the Bill.

Clause 42

HON ATTORNEY-GENERAL:

Mr Chairman, this is a very small amendment but by your leave I would like to leave this one until tomorrow as well, I want to discuss it in the context of other amendments.

MR SPEAKER:

In other words, you don't want to do Clause 42. Clause 42 we will leave in abeyance.

Clause 43

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by omitting everything after the words "the substitution for" and substituting the words "the maximum period of notice permitted under the Fifth Schedule of a period 6 months longer than the length of notice to quit which would have been so required". The intention of this, Mr Chairman, is as follows. Under the existing law, where the landlord terminates a tenancy there are certain stipulations as to the length of time or length of notice that a termination must be given and Section 38 of the existing Ordinance says that the landlord may terminate a business tenancy by giving notice in the prescribed form and then Section 38(2) says that the notice shall not have effect unless it is given not more than 12 months nor less than 6 months before the date of termination specified in the notice. The Bill is changing that to the fact that it shall not have effect unless it is given within the appropriate period specified in the Fifth Schedule but then Section 38(3) of the existing Ordinance has a further provision which says that where a tenancy could have been brought to an end by a notice to quit apart from the Ordinance, he cannot give a date of termination that is earlier than the earliest date of which apart from the provisions of the Ordinance the tenancy could have been brought to an end, in other words, you cannot defeat the contractual date of termination and following on from that it says that where apart from this Ordinance you would have had to have given more than six months notice to quit to bring the tenancy to an end, in other words, more than six months under the contract itself, then you read Section 38(2) of the Ordinance by substituting instead of the maximum period of 12 months you substitute six months more than the actual notice required under the contractual tenancy and the amendment that I am proposing to this Bill, if Members are still with me and

I appreciate if they are having some difficulty staying with me, but the amendment that I have proposed to the Bill is intended to bring that principle forward and include it in the new clause 43(3)(b) that instead of being able to refer simply to the 12-month period, one has to refer to the Fifth Schedule. Mr Chairman, I think I will stop there and await questions.

HON P J ISOLA:

You are not getting any.

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

Clause 43, as amended, was agreed to and stood part of the Bill.

Clause 44, was agreed to and stood part of the Bill.

Clause 45, was agreed to and stood part of the Bill.

Clause 46, was agreed to and stood part of the Bill.

Clause 47

HON P J ISOLA:

Mr Chairman, I have two amendments to Clause 47(2) and Clause 47(3), the same in both cases, and that is to amend (2) and (3) by starting them off with the words "subject as is herein-after provided", where such an application is made. The reason for that is that under section 56 there are more notices and more applications.

HON ATTORNEY-GENERAL:

I am sorry, Mr Chairman, but I do have a view on this. I take the purpose of the amendments to be the extension of time that they are to be read subject to the extension of time provisions in clause 56. I would like to state my own opinion which is that those provisions override section 47 (2) and (3) in any event. I personally don't consider that the amendments are necessary. I am in any event proposing to widen Clause 56 to make it clear that it covers notices, applications and requests. The actual words "subject as is hereinafter provided", I personally do not consider necessary because I think it is clear that section 56 does override everything else.

Mr Speaker put the question and on a vote being taken on Clause 47(2) the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Mr Speaker put the question and on a vote being taken on Clause 47(3) the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon B Traynor

The amendment was accordingly defeated.

Clause 47, was agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY-GENERAL:

Mr Chairman, in relation to Clause 48 which involves the points which have been raised earlier, it is a complicated matter and I think it would be difficult to look at Clause 48 and I would suggest that we leave that Clause until tomorrow.

MR SPEAKER:

Most certainly.

HON P J ISOLA:

Can I, Mr Chairman, just go back one moment to Clause 47 so that the Hon and Learned Attorney-General consider this when dealing with Clause 56 and that is that Clause 47(2) doesn't give a time in which a tenant has to give notice that he would not be willing to give or is that in an earlier Clause? It doesn't give a time and yet in Clause 56, I say that because we were dealing with Clause 56, it allows an extension of time for giving any notice. Under section 47 it says you have got to make an application to the Court not less than two and no more than four months after the giving of the landlord's notice but it does not say when the tenant has to reply to the notice of the landlord in section 47.

HON ATTORNEY-GENERAL:

The time limit within which it must be done is dealt with elsewhere.

HON J B PEREZ:

You have it in section 43, sub-section (5).

Clause 49 was agreed to and stood part of the Bill.

Clause 50 was agreed to and stood part of the Bill.

Clause 51

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by inserting after the words "5 years" the words "and not more than 14 years". This reverts to the original proposals which were to have an upper and lower limit on the terms for which a new tenancy could be granted by the Court and I think this was explained in the Second Reading.

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

Clause 51 was agreed to and stood part of the Bill.

Clause 52 was agreed to and stood part of the Bill.

Clause 53 was agreed to and stood part of the Bill.

Clause 54 was agreed to and stood part of the Bill.

Clause 55

HON ATTORNEY-GENERAL:

Mr Chairman, this is also related, as are a number of subsequent Clauses, to the amendments which will be involved in the consideration of Clause 48 and can I also say that once the amendments to Clause 48 are settled the consequential amendments to this Clause and to a number of other ones which follow very readily so I would like this to be deferred.

MR SPEAKER:

We will defer Clause 55.

Clause 56

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended by inserting after the word "notice" the words "or making any application or request" in subclause (2). The intention of this amendment, Mr Chairman, is to cover all the possibilities so far as an extension of time is concerned. One may extend time for giving a notice or in the case of a tenant for requesting a new tenancy or applying for a new tenancy.

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

Clause 56, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, with your indulgence can I just explain that the amendments to Clause 57 that I am proposing are purely consequential on what happens to Clause 48 and would involve immediate consequential changes and it really cannot be done until Clause 48 has been disposed off.

MR SPEAKER:

So Clause 57 we leave in abeyance.

Clause 58

HON ATTORNEY-GENERAL:

And again with Clause 58.

MR SPEAKER:

Clause 58 we leave in abeyance.

Clause 59 was agreed to and stood part of the Bill.

Clause 60

HON ATTORNEY-GENERAL:

Clause 60(1)(a), Mr Chairman, I move to omit the words "and in the Fourth Schedule" which becomes an irrelevant reference.

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

Clause 60, as amended, was agreed to and stood part of the Bill.

Clause 61

HON ATTORNEY-GENERAL:

Mr Chairman, I move in Clause 61(2)(a) to omit the words "and in the Fourth Schedule" for the same reason.

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

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

Clauses 62 to 64 were agreed to and stood part of the Bill.

Clause 65

HON ATTORNEY-GENERAL:

Mr Chairman, the amendments to this Clause are directly consequential on the amendments to Clause 48.

MR SPEAKER:

We will leave it in abeyance.

Clause 66

HON ATTORNEY-GENERAL:

Again, Mr Chairman, by your leave we will defer this clause.

MR SPEAKER:

We will leave Clause 66 in abeyance.

Clause 67

HON ATTORNEY-GENERAL:

And again and finally, I think, this Clause, Mr Chairman.

MR SPEAKER:

We will leave Clause 67 in abeyance.

Clause 68

HON P J ISOLA:

Mr Chairman, I have an amendment which is related, I think, to Clause 48 but I am quite happy to move it.

HON ATTORNEY GENERAL:

I would suggest, Mr Chairman, if the Hon and Learned Leader of the Opposition will agree, I think even though we are talking about a number of Clauses we are talking about,

basically, two or three points or principle which are probably better considered together.

MR SPEAKER:

To leave it in abeyance until tomorrow.

HON P J ISOLA:

I have quite a lot to say on Clause 69.

MR SPEAKER:

There are no amendments to Clause 69. What is being suggested by Mr Isola is that he has a lot to say on Clause 69 and whether this would be a convenient time to recess, is that right?

HON CHIEF MINISTER:

Could we reserve that one and see whether we can jump up to Clause 75 for which there are no amendments.

MR SPEAKER:

There are no amendments, precisely. We will leave Clause 69 in abeyance.

Clause 70

HON P J ISOLA:

I think Clause 70 should be left in abeyance because in that again compensation is linked with Clause 48, I don't know how it is going to emerge but there was a Clause that was going out which referred to Clause 70. I don't know whether that could be affected.

HON ATTORNEY-GENERAL:

I can perhaps, help, Mr Chairman. It is connected but not integrally, if I may use that word. The other compensation provisions refer to Clause 70 but Clause 70 compensates and is really quite distinct from the compensation under the other Clauses and provided Members are happy this could be considered quite separately.

MR SPEAKER:

In other words, any amendments to Clause 48 will not affect it.

HON ATTORNEY-GENERAL:

My own view is not in any real sense.

MR SPEAKER:

There is no reason why we shouldn't take it now.

Clauses 70 and 71 were agreed to and stood part of the Bill.

Clause 72

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 72(1) be amended by omitting the word "court" and substituting the words "court of competent jurisdiction". The reason for that simply is that the phrase does refer to a court and this could be the Court of First Instance or it could be the Supreme Court so I think we have got to cover that possibility.

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

Clause 72, as amended, was agreed to and stood part of the Bill.

Clauses 73 and 74 were agreed to and stood part of the Bill.

Clause 75

HON P J ISOLA:

I move to delete the words "within three months after the date of termination of a current tenancy" in the third and fourth lines and substitute the words "within four months after the date of a notice of termination of a current tenancy". The reason for that is that under this section the Supreme Court can make an interim order for payment of rent and if you have to wait three months after the date of termination of a current tenancy you are going into, I don't know where you are going into, I don't know when the current tenancy is terminated, certainly after six months so you are talking of a period of nine months or the current tenancy is continued until an order is made by the Court, I don't know. I am not sure this makes sense as it is but what I am suggesting is that within four

months after the date of the notice of termination of a current tenancy enables an interim rent to be awarded within a period of six months because these applications tend to go on for some while but that one is linked with the next section where I am suggesting an amendment that after the word "lease" one puts "or tenancy" because not all premises have a lease. I have got a query on 75(b) as well. Some people have a lease, the lease finishes, some people give notices, other people don't give a notice. Supposing that somebody gives a notice terminating the tenancy after the lease has terminated, is the Court going to be able to go all the way back to when the lease terminated, I would have thought that wouldn't be right. I think the principle of back-dating rent as to when it can be paid must be watched very carefully and I have made an amendment, Mr Chairman, I should tell you that by the time I got to Clause 75 this week-end I was pretty exhausted having tried to do all these amendments and I haven't given Clause 75 the thought that I think it ought to have because it seems to me that current tenancy, subsection (1) of section 44, 'for the tenancy under which he holds.....

HON ATTORNEY-GENERAL:

Will the Hon and Learned Leader of the Opposition give way? There is a reason for this. The intention is to enable an interim award to be made before a final outcome. I wonder, Mr Chairman, by your leave, if this could stand over until tomorrow, this is an important one.

MR SPEAKER:

Clause 75 is being left over until tomorrow.

Clause 76

HON ATTORNEY-GENERAL:

I move that Clause 76(1)(b) be amended by omitting the words "the court" and substituting the words "a court". I think we have to cover every possibility whether the Supreme Court or the Court of First Instance.

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

Clause 76, as amended, was agreed to and stood part of the Bill.

Clauses 77 to 80 were agreed to and stood part of the Bill.

MR SPEAKER:

I feel that that is perhaps a reasonable time to recess until tomorrow morning at 10.30 as usual.

The House recessed at 00.25 am.

TUESDAY THE 15TH DECEMBER, 1983

The House resumed at 10.45 am.

MR SPEAKER:

I will remind the House that we are still in the Committee Stage of the Landlord and Tenant Ordinance and that last night we finished Clause 80.

Clause 81

Mr Chairman, I move that Clause 81 be re-numbered as sub-clause (1) thereof and in sub-clause (1) as so re-numbered to omit the words "for the year of assessment all money paid by him in accordance with section 15 of that Ordinance during that", and substitute "all money paid by him in accordance with section 16 of that Ordinance during the year preceding the". Mr Chairman, would you wish me to speak to this amendment first before I go on to the next one?

MR SPEAKER:

I think it is right that the House should be given the right to vote separately so perhaps it would be better if we took the amendments separately.

HON ATTORNEY-GENERAL:

Hon Members will recall that one of the aspects of the sinking fund is that money paid into it is tax deductible and this amendment is simply a technical amendment following consultations with the Commissioner of Income Tax. The effect of it is that the money deducted in one year will be taken into account in the following year of assessment because rents in a year of assessment are the rents of the previous year and that is the purpose of that, Mr Chairman.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I also move that the following sub-clause be added:

"(2) The Landlord and Tenant (Temporary Requirements as to Notice) Ordinance, 1981, is amended -

"(a) by inserting, as section 1A, the following new section:

"Interpretation. 1A In this Ordinance, 'the appointed day' means the date appointed under section 1(2) of the Landlord and Tenant Ordinance, 1983, for the commencement of that Ordinance".

"(b) in section 2(1), by omitting the expression '31st day of January, 1984' and substituting the words 'the appointed day'.

"(c) in section 3(1), by omitting the expression '1st day of February, 1984' in both places where they appear, and substituting in each case the words 'the day following the appointed day'.

Mr Chairman, the point of this amendment is to consequentially amend what is popularly known as the moratorium so that instead of expiring as it will at present on the 31st January, 1984, it will expire when the new Ordinance comes into force.

HON P J ISOLA:

Mr Chairman, this of course is a substantial amendment which extends the moratorium sine die and I think before we agree to it, I think we ought to have some indication how the Government sees this developing. In other words, are we talking of a period of six months, are we talking of a period of three months, two months, I would just like to know?

HON CHIEF MINISTER:

My hope will be, if we can make arrangements for the Rent Assessor, that the Ordinance would come into operation either on the 1st March or on the 1st April, that is as early as I hope it will be and steps are already in hand for the recruitment of a Rent Assessor.

HON J BOSSANO:

I will support the extension of the moratorium but one thing that I find difficult to understand is since the new law does not apply to the properties to which the moratorium applies, what is the logic of the extension of the moratorium? I support it because obviously as long as there is a moratorium the tenant is going to be protected.

MR SPEAKER:

It does apply to business premises too, doesn't it?

HON ATTORNEY-GENERAL:

Well, I think it is greater and smaller circle. The moratorium applies to every tenancy, the new law applies to a narrower category of tenancy but I think that until that new regime is in force there is still point in retaining it.

HON J BOSSANO:

Mr Chairman, under the moratorium the pre-1940 properties are not affected because in fact under the existing Landlord and Tenant Ordinance they are already controlled. Private dwellings before 1940 which now have a statutory rent irrespective of the moratorium cannot have their rents increased. The dwellings that can have their rents increased are post-1940 properties. Post-1940 properties are not going to be controlled under the new law because the extension from 1940 to 1945, as we found out in the First Reading of the Bill, affects no properties at all because none were constructed in that period.

HON ATTORNEY-GENERAL:

I think, if I can clarify the scope of the moratorium, it applies to every tenancy. It applies not only to post-1940 but to pre-1940 because even though pre-1940 tenancies are rent controlled there is still the possibility of a statutory increase in that rent under the machinery contained in the existing Ordinance so the moratorium does extend to tenancies of all kind. Of course, to repeat myself, really, if it weren't for the moratorium it would only be possible to increase rents of pre-1940 tenancies under controlled conditions but they can be increased.

HON J BOSSANO:

As I recall the initial Bill introducing the moratorium, it stated specifically, did it not, Mr Speaker, that in fact it

did not apply to rent increases authorised under the provisions of the Landlord and Tenant Ordinance, the statutory rent has been increased when the moratorium has been in force, by this House.

HON ATTORNEY-GENERAL:

With respect, I don't think that is correct. There is certainly no limitation in the moratorium Ordinance which excludes its application to a statutory rental increase, I am quite confident of that, actually.

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

HON ATTORNEY-GENERAL:

Mr Chairman, may I speak further on Clause 81, I want to explain a point?

MR SPEAKER:

Most certainly, yes.

HON ATTORNEY-GENERAL:

This Clause deals with consequential amendments to other enactments and I think it is an appropriate point at which to return to the question that was raised yesterday, namely is the effect of the Court of First Instance Ordinance to prevent that Court from having jurisdiction to eject people under this Ordinance? The position, in my view, Mr Chairman, is this. I find it very difficult to see, quite frankly, how the Court of First Instance Ordinance as it now stands, forgetting about this Bill, I find it very difficult to see how as it now stands anybody can go to the Supreme Court under Part (2) of the existing Landlord and...

HON P J ISOLA:

Are you still explaining Clause 81?

HON ATTORNEY-GENERAL:

Yes, I am. What I am saying, Mr Chairman, is that Clause 81 deals with consequential amendments to other enactments and I think this is an appropriate Clause at which to speak to the question of the jurisdiction of the Court of First Instance under another enactment, namely, its own Ordinance, and what I

am saying is the point was raised yesterday or put as to whether or not because of the limitations in that Ordinance, that Court can grant possession under this Ordinance and what I am saying is, before I come to the immediate point, I find it very difficult to understand how under the existing law the view can be taken that if a property has more than a certain value under Part II, in other words, the part dealing with dwellinghouses, if the property has more than a certain value the landlord or the tenant can go to the Supreme Court because, frankly, when you look at the Landlord and Tenant Ordinance and you look at Part II, it is perfectly clear that it is talking about the Court of First Instance and even if there were a limitation on jurisdiction which for the reasons I am about to give I don't think is the case, I cannot see how that can be termed into jurisdiction for the Supreme Court and if people are going to the Supreme Court under Part II of the existing Ordinance, I just don't follow it. But, however, that is really by way of an aside.

HON P J ISOLA:

But if you go to the Court of First Instance and they tell you they have not got jurisdiction and you go to the Supreme Court and they take jurisdiction, the Hon and Learned Attorney-General may not see how that happens but that is what is happening and therefore I think it is in the interest to clarify the situation to leave it beyond doubt, that is what I am saying.

HON ATTORNEY-GENERAL:

I take the point of what is being said. I cannot resist still making a remark though that I don't see how the Supreme Court assumes jurisdiction for a part of an Ordinance which talks about the Court of First Instance. But be that as it may, my view on the present position is that the Court of First Instance Ordinance was passed in 1960. This Ordinance will be passed in, 1983, if the House passes it, so this is a subsequent Ordinance. It is an ordinary canon of statutory interpretation that a subsequent Ordinance even if there is an apparent conflict and I am by no means persuaded that there is, but a subsequent Ordinance is taken to extend or go beyond a previous Ordinance. But more to the point, if one looks at Clause 18 of this Bill, Clause 18(1) says that 'no order or judgement for recovery of possession of any dwellinghouse to which this Part applies or for ejection shall be made or given unless the court considers it reasonable to do so' - I am paraphrasing - "and either (a) the court has power to do so under the provisions of the Second Schedule". If one looks at the Second Schedule that is what it

says and I really cannot myself see that there is any question of a lack of jurisdiction.

MR SPEAKER:

We are in Committee and I had misgivings when you referred to the Second Schedule last night because I think the Second Schedule applies exclusively to possession or ejection without proof or alternative accommodation in certain circumstances and not generally the powers and jurisdiction of the Court to administer the Ordinance.

HON A J HAYNES:

Mr Chairman, I think it would be in the interest of clear legislation *ex abundatia cautela* to ensure that there is no conflict as between the net annual value limitations and the wider scope which is proposed in the legislation and certainly unless the Attorney-General is prepared to introduce a new clause at the end of this Bill which will raise the net annual value because if that is done to say a figure in the region of £2,000, then of course there would be no likely conflict. In the circumstances where the net annual value remains at £150, it may still be open to argument for counsel to question the jurisdiction of one court as opposed to the other because otherwise the Judge would have to take the view that the section in the Court of First Instance Ordinance is repealed in fact rather than by statute.

HON P J ISOLA:

Mr Chairman, we are really dealing with an amendment that isn't here under this Clause but I think what we ought to do at this stage is to address ourselves to this Clause because I can see some problems arising with the procedure that we are following. This Clause extends the moratorium.

HON ATTORNEY-GENERAL:

Perhaps I could try and help the Hon and Learned Leader of the Opposition, we will adopt the amendment he has proposed and perhaps we can come back to that.

HON P J ISOLA:

I am not going to talk about my amendment, I am talking about the problems of this amendment. I will tell the Hon and Learned Attorney-General why. If this Ordinance is not brought into effect before the 31st January, 1984, you get the

situation, do you not, that the moratorium dies on the 31st December and the Landlord and Tenant 1959 Ordinance comes back into effect on the 1st February because this law is passed but does not come into effect until there is a notice in the Gazette.

MR SPEAKER:

Yes, that is correct. For the moratorium to be extended by this law it has to come into operation before the expiration of the existing term of the moratorium.

HON P J ISOLA:

Because the Landlord and Tenant is repealed by this Ordinance but this Ordinance doesn't come into effect until there is a notice in the Gazette.

HON ATTORNEY-GENERAL:

The short answer would be to say in Clause 1 that this Ordinance, other than this sub-section, does not come into force until a date to be appointed, that is the way we would cover the point.

HON P J ISOLA:

We had better not forget that.

Clause 81, as amended, was agreed to and stood part of the Bill.

Clause 82 was agreed to and stood part of the Bill.

Clause 83

HON A J HAYNES:

Can we have some explanation. This is the one that in effect ensures that this Ordinance applies even to a date before the Ordinance is enacted.

HON ATTORNEY-GENERAL:

If I can explain briefly the position. This is a saving Clause. The first part of it saves previous subsidiary legislation until we make new legislation under the new Bill. The second part of it is intended to say that until people apply under the new Ordinance for rate assessment in accordance with that Ordinance it is up to either party to go to the Assessor under the new system and get a review of rent and I am

proposing an amendment, Mr Chairman, because the transitional provisions, some of which are already here, are being taken exclusively into the Fourth Schedule. Perhaps if I can move my amendment, Mr Chairman, which is to omit everything after paragraph (a) and substitute the following: "(b) any rent payable in respect of any tenancy under or by virtue of the former Ordinance (being a tenancy to which Part III or Part IV of this Ordinance applies) shall continue to be the rent payable under that tenancy until the rent in respect of that tenancy is determined on the application of the landlord or tenant in accordance with this Ordinance".

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

HON A J HAYNES:

Mr Chairman, at this stage do I understand it then that (b) and (c) are out?

MR SPEAKER:

Most certainly, that is what I have said and it is being substituted by the new (b) of which you have been given notice and I just read it. You keep (a) and then you delete everything after (a) and you have a new (b).

HON A J HAYNES:

Can I have an explanation? Are these the ones which in effect ensure that this Ordinance really links up as from the old main Ordinance in that there is continuity from one to the other and that this intervening period of two years cannot be a sort of limbo land in legal terms, is that correct?

HON ATTORNEY-GENERAL:

Partly, yes, Mr Chairman. This is saving the existing regulations and it is also saving existing rents until the new Ordinance comes into force. So far as existing proceedings before a Tribunal or a Court are concerned, that is being dealt with in the Fourth Schedule on which I have amendments.

HON A J HAYNES:

How would this affect business tenancies insofar as a number of business tenancies leases have expired in the intervening two years, how would it affect the position of either landlord or tenant in those circumstances?

HON ATTORNEY-GENERAL:

This provision will not but there is a provision in the Fourth Schedule as well to deal with it. In short, it provides for an extension of time. If the matter is being determined so be it but if the matter hasn't been determined that provides for an extension of time from the beginning of the new Ordinance. Perhaps, if I can explain that in the context of the Fourth Schedule.

HON P J ISOLA:

In other words, you are making provision for paragraph (c) in the Fourth Schedule or similar provision.

HON A J HAYNES:

Is this paragraph (a) a sort of standard way of making it retrospective?

HON ATTORNEY-GENERAL:

Paragraph (a) is not retrospective.

HON A J HAYNES:

In any event, is paragraph (a) a standard form of saving clause?

HON ATTORNEY-GENERAL:

Are you talking about paragraph (a) in the green Bill? Well, my experience is that it is.

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

Clause 83, as amended, was agreed to and stood part of the Bill.

MR SPEAKER:

We have now done all Clauses other than those Clauses which were deferred for further discussion. We can most certainly, if it is so wished, do the Schedules now and then proceed with the other Clauses but I think it is right for good order that we should take the clauses which were deferred from last night.

HON ATTORNEY-GENERAL:

Mr Chairman, in that event, by your leave, can we look at Clause 1 again, is that possible?

MR SPEAKER:

Strictly speaking the Committee can do what it likes. A decision has been taken on Clause 1 but it can be re-opened if you want and the House agrees, not otherwise. Mr Isola, is it accepted that we should reconsider Clause 1?

HON P J ISOLA:

Mr Chairman, I cannot but agree to that because if we don't there is going to be chaos.

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to move an amendment, by your leave. The amendment I would like to move is that Clause 1, sub-clause (2), be amended by inserting after the words "This Ordinance" the words "other than subsection (2) of section 81". The effect of that would be that as soon as this Ordinance passes, the amendment to the Landlord and Tenant Ordinance would be effective, the moratorium would be effective.

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

Clause 2

MR SPEAKER:

The Hon and Learned Attorney-General has just circulated an amendment to Clause 2 and I imagine he wishes to withdraw the amendment of which he gave notice yesterday to this Clause or is it exactly the same?

HON ATTORNEY-GENERAL:

If I may withdraw the amendment that I gave notice of yesterday. Mr Chairman, I would like to move that Clause 2 be amended by adding the following sub-clause:

"(3) For the purposes of this Ordinance, where -

- (a) any premises are held by a company or other body corporate as a landlord or as a tenant; and

(b) it is material for any purpose of this Ordinance that such holder of the premises has transferred or assigned its interest in the premises or has ceased to occupy the premises -

then unless a court of competent jurisdiction otherwise determines, any transfer or change in the legal or beneficial ownership of any share in the company or other body corporate (other than a bona fide transfer by way of security only) or any change in its membership, shall constitute such a transfer, assignment or cesser of occupation, as the case requires".

Mr Chairman, I adhere to what I said yesterday that I think it is desirable to have a provision of this nature as a general provision which is why I am proposing to put it in Clause 2. The Hon and Learned Leader of the Opposition will see, in fact; that overnight I have adopted as my own some of his thoughts.

HON P J ISOLA:

I think this is much more satisfactory now because it identifies landlord or tenant. There is another amendment that I am afraid is required - and that I thought about last night as well, and that is of course that one has to put '(other than a bona fide transfer by way of security only)', I think we will also have to make provision in the case of an intestacy of a passing by a will of property.

HON ATTORNEY-GENERAL:

I am sorry, I missed the last point.

HON P J ISOLA:

I think there also has to be a need because one talks of a change in legal or beneficial ownership, I think one has to exclude change of ownership resulting from an intestacy or a will.

HON ATTORNEY-GENERAL:

We are going some distance towards covering a way in which the law can be got around and that could easily be achieved by amending the amendment, by amending the part in brackets: "(other than a bona fide transfer by way of security only or

HON P J ISOLA:

I think it should be 'or a change in the legal or beneficial ownership resulting from an intestacy or by succession'.

HON ATTORNEY-GENERAL:

Can I move an amendment to the amendment?

MR SPEAKER:

I would rather that someone else did. I don't like an amendment being amended by the mover. Perhaps you might draft it and let some Member of the Government move it.

HON CHIEF MINISTER:

I think there is a simpler way - 'or on succession on death'; add the words "or on succession on death" after the word "only" just before the end of the bracket in the fifth line.

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

HON P J ISOLA:

Mr Chairman, I agree that this meets the problem in relation to section 48 and another section. What I am not sure is whether this will create problems in other sections of the Ordinance. I don't know whether there are other provisions where it is not intended that this should occur which might be affected, I don't know, I would have to look through it.

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

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

Clause 3

MR SPEAKER:

Insofar as Clause 3 is concerned I will remind the Committee that we suspended deliberation of this Clause at the point when the Hon and Learned Mr Isola had moved an amendment to the amendment which had already been moved by the Hon and Learned the Attorney-General. That is the first thing we have got to do before we

can tackle anything else. Mr Isola, when we suspended the deliberation of this Clause last night we got to the stage when I was going to put the question, do you wish to say anything further before I do.

HON P J ISOLA:

Is this on Clause 3(2)?

MR SPEAKER:

This is on the amendment moved by the Hon and Learned the Attorney-General to omit subclause (4) and substitute therefor a new subclause which you amended.

HON P J ISOLA:

There is another amendment here.

MR SPEAKER:

I accept that there is another amendment and I have explained that before we can tackle any further amendments we have got to deal with the one that was before the Committee at the time when we suspended consideration of the Clause.

HON P J ISOLA:

Presumably what the Hon and Learned Attorney-General would like me to do is to withdraw my amendment.

MR SPEAKER:

Well, that is not for me to say.

HON P J ISOLA:

I would like to read it first before I withdraw it.

MR SPEAKER:

That is what I am asking that you should do.

HON A J HAYNES:

Mr Chairman, can I ask the Attorney-General a question relating to Clause 3 and that is this question of successors. Do I understand that the law now reads that whoever is in occupation now in a rent restricted dwellinghouse is, for the purposes of this Ordinance, tenant number one and that the Ordinance

proposes that whoever that may be as number one and succession of tenancy rights under Part III will continue to one further tenant whoever it may be unless it be his widow - one now and two more, it is not clear to me, I don't understand that.

HON ATTORNEY-GENERAL:

If I can explain, Mr Speaker, this is very important and I would like to tell the House exactly what my amendment will do because I want everybody to be clear on what it is doing. By virtue of the amendments being proposed to the Fourth Schedule, on commencement, the sitting statutory tenant will be the first statutory tenant for the purposes of this new Bill. If that person dies and has a widow, the property will pass to the widow or the statutory tenancy will pass to the widow, she will be the first successor. Following that through if she dies a member of the family will be the second and final successor under the statutory tenancy. Taking the other alternative, if the first statutory tenant for the purposes of this Bill dies but doesn't have a widow or widower - he doesn't have a spouse - in those circumstances the first successor will be a member of the family. If there are sons and daughters who are members of the family they will have first option if they are full age but if they are not of full age then it will be any other member of the family but that will be the first succession, as it were. Once the person who is holding as the first successor dies, any other member of the family of the original tenant, number one, then has the second succession and, of course, where there are more than one they agree and if they cannot agree then a court decides. The point I want to stress is that in that second situation where there is no widow or widower, on the first succession sons and daughters of full age have first option but that will not be so on the second succession. Once we go past that point the second succession will be available to all the family. That is the effect of what I am going to propose.

HON P J ISOLA:

Mr Chairman, the amendment that the Hon and Learned Attorney-General is proposing meets entirely the points of my amendment so I am withdrawing it.

MR SPEAKER:

Has the Hon Member the leave of the Committee to withdraw his amendment to the amendment. I understand then, of course, that the Hon and Learned Attorney-General will withdraw his original which is before the Committee and wishes to propose a further amendment.

HON ATTORNEY-GENERAL:

Thank you, Mr Chairman, I therefore propose a new amendment which is in Clause 4 to omit sub-clause (4) and substitute the following sub-clause:

"(4) On the death of the tenant under a statutory tenancy (in this subsection called "the first successor") whose right to retain possession by virtue of Part III of this Ordinance arose on the death of the person who had been the tenant under a tenancy to which that Part applied, any member of the family of the first mentioned tenant or (if more than one) the one of them determined or designated in the manner specified in subsection (3), shall be the second successor for the purposes of this section and the right to retain possession by virtue of Part III of this Ordinance shall pass to him".

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

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 15 be amended by omitting all the words after "another Gibraltarian" and to substitute the words "at a rent determined by agreement, the Rent Assessor may approve the transaction and on the letting of the dwelling-house by the landlord, in accordance with the terms of the approved transaction, the rent so determined shall be the statutory rent of the dwellinghouse". Mr Chairman, in moving that amendment I wish to explain that under the existing Section 7A as indeed Members will know better than I do, a key element of the process is that the landlord and a tenant reach a proposed agreement, go to the Director of Crown Lands and he approves the agreement. When I drafted this I thought it was implicit in my draft that it is desired to stress and bring out the need for an agreement more clearly which is what this amendment does.

HON A J HAYNES:

Mr Chairman, as I understand it, the old section 7A used to operate and be binding on all parties until such time as the statutory rent overtook the agreed 7A rent whereafter section 7A will be subsumed by the statutory amount. Is that still

the case with the new section 15 and, if so, can the Attorney-General show me how in fact the agreed rental would be subsumed by the statutory rent as and when the statutory rent overtakes it.

HON ATTORNEY-GENERAL:

Mr Chairman, I think it does that for this reason. Clause 15 says it already but as amended it says that the rent so determined shall be the statutory rent of the dwellinghouse but throughout the whole Ordinance when there are references to statutory rent the whole or Part III contemplates that although you have a statutory rent it can be increased in various ways. As I see it, all that Clause 15(1) does is to say one way you can start off a statutory rent is by having this agreement under this provision but once you have done that you have established a statutory rent and all the provisions of the Ordinance which are related to the review of the statutory rent must surely apply, that is how I see it.

HON A J HAYNES:

Mr Chairman, again, ex abundantia cautela one would like to be assured that a specific provision is introduced to cover this point so that section 15 or the old section 7A would as in the past, Mr Chairman, be wiped off as and when a statutory rent equalled it in the amount and I would like, perhaps, the Attorney-General to consider a further amendment whereby this effect would take place specifically rather than by implication.

HON ATTORNEY-GENERAL:

Mr Chairman, it does actually say that without prejudice to sections 12, 13 and 14.

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

MR SPEAKER:

For the purposes of good order I think there is a further small amendment by the Attorney-General which he might wish to move, at least you had given notice of Clause 15(2)(b) to be amended by the omission of "(ii)". Do you still wish to proceed with that?

HON ATTORNEY-GENERAL:

Yes, I do, Mr Chairman, I move accordingly. I would like to be quite clear on what I am doing and make sure that the House understands and agrees. I suppose we should now start talking about a section 15 tenant but if I can use a more familiar expression of a section 7A tenant. The 7A rental enures for his benefit and for the benefit of certain of his successors to a limited extent and by deleting little "(ii)" what the effect of that will be is that it will ensure for his widow or her

widower and if they don't have a spouse on death it will ensure for the benefit of a member of the family but there won't be a second succession beyond that.

HON P J ISOLA:

That is exactly the amendment I want to bring, Mr Chairman, because it seems to me that the purpose of this section is to enable, in the case of an empty flat, for a landlord and tenant to come to an agreement at a higher rent.

HON ATTORNEY-GENERAL:

If the Hon Member will give way. I understand the principle that he is moving in his amendment. Before we get there, Mr Chairman, as you say for good order we might pave the way by perfecting the first succession.

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

HON P J ISOLA:

I am going to move an amendment, Mr Chairman, under sub-section 15(2)(b) I want to add (4). It says 'any member of his family who succeeds him as the tenant under subsections (1)(b), (2) and (3) of section 3'. I want to add to that '(4)', and I think that has the effect of protecting the second succession. It seems to me, Mr Chairman, that the idea of this tenancy is to allow a landlord and a tenant to come to terms on a rent that is higher than the statutory rent and then once that occurs the tenant is protected under Part III of the Ordinance but I do not see why a distinction should be made between a Gibraltarian who is protected for two generations and paying less rent and not protect the Gibraltarian who has agreed to pay a higher rent to come in and only protect him for one generation. To me it is illogical and I would like to move that in that sub-paragraph (2)(b) we delete the word "and" and add the words "and (4)".

HON ATTORNEY-GENERAL:

I have no comment because I think it is entirely a matter of policy and if it is the wish of the House so be it.

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

HON A J HAYNES:

Mr Chairman, I have a further amendment of a new subclause (3).

MR SPEAKER:

There is notice given by the Leader of the Opposition.

HON P J ISOLA:

Mr Chairman, I beg to move that the Clause be further amended by a new subsection to be numbered (3) to read as follows:- "Where a dwellinghouse to which this part applies has been let pursuant to the provisions of Section 7A of the Landlord and Tenant (Miscellaneous Provisions) Ordinance, the rent fixed under such a letting shall be the statutory rent of that dwellinghouse if that rent shall be in excess of the rent permitted under Section 11 of this Ordinance". The reason for this amendment, Mr Chairman, is that if it is not made, 7A tenancies that have been agreed and certified by the Director of Crown Lands would be caught by the other provisions of the Ordinance and what this seeks to do is to regularise the position of existing Section 7A tenancies.

HON CHIEF MINISTER:

It seems perfectly valid, I think what we are doing is preserving the 7A tenancies that may have been made before the Ordinance, we accept that.

HON ATTORNEY-GENERAL:

I take the point of what is being said, Mr Chairman, but this is really a transitional matter. It would look a little odd putting it. I feel myself that it is covered but if I could look at it in the context of transitional provisions because it would look rather odd to have what is clearly a transitional provision.

HON P J ISOLA:

As long as I have the assurance of the Attorney-General that this would go into the transitional provisions. Is there an amendment to put it in there?

HON ATTORNEY-GENERAL:

Can I put it this way, Mr Chairman. I will either give an assurance that there is no need for it or we will take it on in the transitional provisions.

HON P J ISOLA:

In my mind it is really necessary, that is why.

HON CHIEF MINISTER:

I think we ought to discuss that when we come to the transitional provisions.

HON P J ISOLA:

Can the Clause be left in abeyance then?

MR SPEAKER:

Surely, it will not make any difference to you where it is placed provided it is within the Ordinance and therefore you can make your argument when we come to the transitional provisions.

HON P J ISOLA:

If it is in this section there is no question about it. If it is in the transitional provisions then you will have to refer to the Section 15, Section 11 and all the other sections and I think that this Clause actually stands very much on its own. Why I think it is probably the right place to put it in is because it brings those into this particular Clause for the future as well.

MR SPEAKER:

I would not be prepared to suspend consideration of this Clause because I believe that other Clauses depend on this particular Clause and we are going to find ourselves in the same position as we did last night.

HON P J ISOLA:

I think it has got to be here, Mr Chairman, because Section 15 is a new Section 7A and tenancies of this nature will for the future come under Section 15 and what my amendment seeks to do, apart from bringing them in and not having the position opened up again by a Rent Assessor or a Rent Tribunal because that is not the intention because there has been a certificate from the Director of Crown Lands, is putting them in this lot for the future as well.

HON ATTORNEY-GENERAL:

Mr Chairman, I will give an assurance now that I will move an amendment or agree an amendment in these terms in the Fourth Schedule, it is just a question of presentation.

HON P J ISOLA:

Then I withdraw the amendment because it is going somewhere else.

HON A J HAYNES:

Mr Chairman, I have one further amendment.

MR SPEAKER:

Do you want to read it first?

HON A J HAYNES:

If I may - "Any agreement made under this section shall be

rescinded where the statutory rent as calculated under the First Schedule exceeds the statutory rent agreed to by the parties under this section and substituted by the statutory rent as calculated under the First Schedule".

MR SPEAKER:

It is an amendment to Clause 15 to add a new subclause, I imagine, to be known as subclause (3).

HON A J HAYNES:

Mr Chairman, my concern is that agreements made under the new section 15 will not be automatically overtaken when the statutory rent as calculated by the First Schedule exceeds the section 15 amount. I know that the Attorney-General has referred me to sections 12, 13 and 14 but I don't think that sections 12, 13 and 14 make the necessary proviso. If the proviso were in respect of the First Schedule then I would accept that that is the position. Mr Chairman, if I may warn the House that section 7A in the old Ordinance was designed so that wherever the statutory rent overtook the amount agreed the statutory rent would prevail instead and I am not certain whether in fact this section 15 has the same provision.

HON CHIEF MINISTER:

Do I understand the Hon Member to want to try and introduce into this Clause the existing provisions of 7A which means that it is protected at that rent unless other rents which are controlled crop up and it is not permanent and therefore it is rescinded and then it is merged into the increased rent of the tenant. That is what is existing now, I understand.

HON A J HAYNES:

That is the present position. If a section 7A agreement results in a rent of, say, £10 a week then that rent will be operative until such time as a statutory rent is more than £10 and if the statutory rent is £12 then £12 will apply.

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

Clause 15, as amended, was agreed to and stood part of the Bill.

Clause 25

HON P J ISOLA:

It is a simple amendment, Mr Chairman, and it deletes sub-paragraph (1). I move that Clause 25 of the Bill be amended by the deletion of sub-paragraph (1) and by renumbering sub-paragraphs (2), (3) and (4) as sub-paragraphs (1), (2) and (3). I know this was in the law before but I think it ought to go out. There will be a need for a consequential amendment

to sub-clause (2) where you delete the words "under sub-section (1)".

MR SPEAKER:

Perhaps you should move that all consequential amendments should be carried out.

HON P J ISOLA:

In other words, the purpose of this Clause, Mr Chairman, is to give the Court jurisdiction to decide what is the rent that the sub-tenant should be paying to a tenant and if the tenant has over-charged the sub-tenant or has not done anything, he gets fined for it, he commits an offence and he is fined but not put him at risk of being thrown out of his home because he has been a naughty boy which is what the present Bill suggests. I commend the amendment to the House.

Mr Speaker put the question which was resolved in the affirmative and Clause 25, as amended, was agreed to and stood part of the Bill.

Clause 30

MR SPEAKER:

I think Mr Isola has an amendment which comes prior to the one that the Hon and Learned Attorney-General intends to move.

HON P J ISOLA:

I move in Clause 30 to insert after word "contract" in the first line the words "other than a contract or tenancy to which Section 15 of this Ordinance applies". There is a problem, Mr Chairman, in this one and that is that in Section 15 I have moved an amendment which is now going in the transitional provisions because obviously, it will apply to those as well, the old 7A tenancies, so I hope the Hon and Learned Attorney-General will bear in mind in the transitional provisions to make the old 7A subject to Section 15 so that it links up with this amendment. I commend the amendment to the House.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I move in sub-clause (5) that the words "Notwithstanding any other provision in this Ordinance" be omitted. Those words are superfluous and in view of the scheme of the Ordinance and what I have already said about

Clause 11, I think that they just confuse the issue.

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

Clause 30, as amended, was agreed to and stood part of the Bill.

New Clause 36

MR SPEAKER:

Mr Isola, you gave notice that you wanted to add a new Clause 36. Are you still insisting?

HON P J ISOLA:

I think ex abundantia cautela it ought to go in. I am moving immediately after Clause 35 to insert a new Clause to be numbered 36 and renumber all subsequent Clauses to read as follows:

"36. Notwithstanding the provisions of Section 13 of the Court of First Instance Ordinance the Court shall have jurisdiction to hear and determine any action for the recovery of possession of a dwellinghouse to which this part applies".

Mr Speaker put the question which was resolved in the affirmative and New Clause 36 was agreed to and stood part of the Bill.

Clause 42

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 42(3)(a) be amended by omitting the figures '3' and '6' and substituting the figures '6' and '12' respectively. I can quickly explain this. This requires at present at least three month's notice and not more than six month's notice to be given for the termination of a tenancy which has ceased to be one to which Part 4 applies, business premises apply. My understanding is we want in every case at least six months notice and therefore I am proposing that we change the figures '3' and '6' to '6' and '12'.

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

Clause 42, as amended, was agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY-GENERAL:

Mr Chairman, there is a very lengthy amendment to be read.

In Clause 48(2) to omit everything after the word "unless" in the third line and to substitute the following....

MR SPEAKER:

May I ask whether it is necessary for the Hon and Learned Attorney-General to read the whole of the proposed new Clause? Members have got a written copy in front of them and I don't think we wish to have it read.

HON P J ISOLA:

Mr Chairman, the only thing is that I have got an amendment prior to the Hon and Learned Attorney-General's amendment.

MR SPEAKER:

Your amendment is to Clause 48(3).

HON P J ISOLA:

The Hon and Learned Attorney General's amendment relates in the case of a redevelopment, doesn't it? It relates to both, I see.

MR SPEAKER:

There is no need for you to read the amendment that you proposed, you can speak on it most certainly.

HON ATTORNEY-GENERAL:

Thank you, Mr Chairman. This amendment is concerned with the rights of a tenant, an out-going tenant; where the landlord has successfully opposed the grant of a new tenancy in one of two cases; either because he wants it for re-development, which is the first case, or that he wants it for his own use, which is the second case, and the effect of the amendment I am proposing plus related amendments that will follow, is this and I would like to take it in relation to each of those situations, if I may. Dealing first with both cases, it will apply in both cases, I would like to be sure that this is understood, it will apply in both cases, I am sorry I have to start again, Mr Chairman. The ground of opposition, the ground on which the landlord can oppose in each of those cases will depend on him having been the landlord for five years, that is the first point I want to be clear on. Taking the first case, the re-development situation, what the amendment will say is that where there is to be re-development, and that alone is the reason that the Court has not granted a new tenancy to the out-going tenant, if the landlord re-builds or re-constructs the property into one or more new developments or new properties, the tenant will have an option at his own election. He can either elect to have secured to him a place within that new development which is of a comparable standard to that which

he had before he left or, at his option, he can take compensation in accordance with the Fifth Schedule. That is the choice open to him. In the second case, the case of opposing a tenancy for one's own use because one wants it for one's own use, the landlord, in effect, will have the option, the tenant won't have an option, the landlord has to do one of two things; he either has to provide suitable alternative accommodation elsewhere or he has to pay compensation in accordance with the Fifth Schedule but the tenant doesn't say which of those two is to happen, it is a matter for the landlord in effect but he must comply with one of those two things. That is the effect of what the amendment says and I hope I have made it clear and I just want to pick up one or two ancillary matters. In addition to that, and I am looking ahead, Mr Chairman, to a later clause but if I can just refer to it. In addition to that, in either of those two cases, the tenant will be entitled to a form of compensation, it is described as compensation, removal and refurbishing costs under Clause 55. I just wanted to draw attention to that. That is the effect, in broad terms of the amendment, Mr Chairman.

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

HON P J ISOLA:

Mr Chairman, the amendment meets partly what I said on this Clause but there are two points I want to raise. The new sub-paragraph (a)(i), the question of when there is a development, the words "as approximates in area and situation that part of the premises comprised in the current tenancy", I agree with that principle completely but we have to be practical, I think the word as 'reasonably' approximates should be put in. The reason why I say this is that you can have a re-development where you have got a large shop, say, the size of this room and the re-development is going to divide this room into four shops. If I have got the whole of this area, what is the point of re-developing? There won't be a re-development. That is why I suggested and I said I had not had time to draft an amendment on this particular one because of the short notice and so forth. I think there must be in that Clause a question of reasonableness and I think there must also be a reference to a Tribunal or a Court as to what is because otherwise you get a situation where somebody re-develops a building and it is going to divide the ground floor into five or six shops which only had, say, two before. If the two insist on their rights then that is all you have got, two, so that there has to be introduced into that, I don't know whether just the words "as reasonably approximates in area and situation" or "as reasonably approximates having regard to all the circumstances in area and situation". I think there is a need in practical terms to be flexible on that one. The other thing on the amendment, the other point I make, Mr Chairman, and that I am afraid is of much greater substance, and that is that I notice that the amendment of the Hon and Learned Attorney-General does not provide for a situation where a

landlord has paid compensation to a tenant because he wants it for himself and then decides not to have it for himself and sells it to somebody else. That is what was contained in my amendment to Clause 48(3) which disappears now. I amend 48(3) to prohibit the landlord from creating a new tenancy for a period of three years without first offering that tenancy to the tenant he has dispossessed otherwise, Mr Chairman, there can be wholesale abuse. A landlord can pay a tenant twelve years compensation and get somebody else who is going to come in the next day to pay twenty-four years. All that is happening is there is a price at which a landlord can get rid of a tenant. The intention, as I understood, for the Government introducing the question of compensation was to try and strike a balance into the fairness between the landlord and the tenant so that the landlord could in certain circumstances get the premises back for himself if he genuinely wanted to run a business. I want to move an amendment.

MR SPEAKER:

If you want to move an amendment you have got to have an amendment to the amendment.

HON CHIEF MINISTER:

In the first place, with regard to the question of reconstruction, the section now reproduces exactly the previous section in the previous Ordinance and it works well, in my experience it works very well, and it leaves it in the end that if there is failure of agreement between the parties this may be determined by the court. With regard to the other one perhaps the Hon Member will look at Clause 70 of this Bill as it is printed. I will leave it to the Attorney-General to explain it.

HON ATTORNEY-GENERAL:

Can I also explain further because although under the existing law there is a safeguard for the landlord who goes back on his word, the scheme of what we are proposing is that at the time when a landlord successfully obtains or recovers his premises because he says he wants it for his own use, there are only two options; one is that the out-going tenant gets satisfactory alternative accommodation and the other is that he gets compensation at the enhanced rate set out in the Fifth Schedule, it is not an oversight, that is the policy behind this new proposal. It is not the same thing as an option to go back into the premises but there is in fact Clause 70, a Clause which is a Clause under which somebody can obtain additional compensation if they can show additional loss where there has been misrepresentation, that of course comes from the present Ordinance as well. That is what we are trying to do. In short, what I am saying is we are not trying to cover the situation which concerns the Hon and Learned Leader of the Opposition.

HON P J ISOLA:

Mr Chairman, that does not meet the point at all because what Section 70 does is merely to give more compensation and I cannot see many tenants, a person who has been in occupation of premises for twenty years who gets thirteen years compensation, I cannot see him getting much more compensation from a Court. But that is not the point, Mr Chairman, the point of principle is that a landlord should only be entitled to get possession on the grounds that he wants it for himself when he really wants it for himself.

HON M K FEATHERSTONE:

If the Hon Member will give way. Does the Fifth Schedule say that there is a period during which the landlord may not re-let without giving first option to the tenant under section 48(3)?

HON P J ISOLA:

That is going in the amendment. In the proposed amendments to the Fifth Schedule that goes away completely in the amendments being moved now.

HON ATTORNEY-GENERAL:

Mr Chairman, the short answer to the Hon Member's point is that the option is not one of the options. In these proposals we are changing the law, we are proposing to change the law, we are eliminating that as one of the remedies, we are saying either you give satisfactory alternative accommodation or.....

MR SPEAKER:

That is accepted but what Mr Isola is saying is that there should be provision in the Ordinance to compel the landlord who has dispossessed a tenant on the grounds that he wants it for his own use that he is going to use it for himself and he is not going to re-let it. Is that correct, Mr Isola?

HON P J ISOLA:

Absolutely, Mr Chairman, what we are saying is that if a landlord gets possession on the grounds that he wants it for himself, then he should not be able to let it out to anybody else without first offering it back to the tenant and the amendment in my name and I am going to move it as part of this Clause because.....

MR SPEAKER:

I think it might be easier, Mr Isola, if you feel strongly about it, if you put an amendment to this amendment.

HON P J ISOLA:

I am afraid it is not so simple, Mr Chairman, because I was amending Clause (3) in the Bill which is very simple but now.....

MR SPEAKER:

This is a Clause which we can defer without affecting all the other Clauses, perhaps we might leave it until the end.

HON P J ISOLA:

It is just by adding new sub-clauses. I can add the sub-clause, I can read it out very easily what it is but it will take me a bit longer to write it out.

MR SPEAKER:

That is why perhaps we should defer further consideration of this Clause which I don't think will affect any other of the Clauses that we still have to deal with so as to give you time to prepare an amendment to the amendment.

Clause 55

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (1) be amended by inserting after the word "compensation" the words "(in addition to any amount payable under sub-section (2) of section 48)" so that 'paragraph (b) of' is deleted because that is consequential.

MR SPEAKER:

I am not with you just yet. You gave notice that you wanted to amend the Clause in sub-clause (1) to insert after the word "compensation" the words "(in addition to any amount payable under....", you want to amend what?

HON ATTORNEY-GENERAL:

I would like to take out the words "paragraph (b) of"

MR SPEAKER:

'Under sub-section (2) of section 48'.

HON ATTORNEY-GENERAL:

And then to omit paragraph (a) of sub-clause (2) and to re-letter paragraphs (b) and (c) as (a) and (b).

Mr speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 55, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 57(2) be amended by inserting before "section 55" the words "subsection (2) of section 48 or,".

HON P J ISOLA:

Mr Chairman, I am sorry to put the cat among the pigeons but these were the amendments that were left over because of 48. Let us suppose the House accepts my further amendment to 48, I think that will require further amendments to 57, restrictions excluding provisions to Part IV because this relates to agreements that seek to exclude particular sections of 48 but supposing the House agrees with my amendment to Section 48 and that might need, surely, consequential amendments to 57.

MR SPEAKER:

So you are suggesting that we should leave Clauses 57 and 58.

HON P J ISOLA:

Or agree to come back to them if my amendments are accepted.

MR SPEAKER:

Are you now in a position to deal with your amendment to Clause 48?

HON P J ISOLA:

I can't because I am listening what he is saying. I just have to write it out, it is quite simple but the trouble is I haven't been able to do it because I am listening to what the Hon and Learned Attorney-General is saying.

MR SPEAKER:

Let us hold on, let us go back to Clause 48 otherwise it is going to be a bit messy. Please put your amendment in writing.

Clause 48

HON P J ISOLA:

Mr Chairman, I move an amendment to the amendment by adding a new sub-paragraph (5) to read as follows:

"(5)(a) When the landlord has opposed an application on the ground specified in paragraph (e) of subsection (1) and the court has not made an

order for the grant of a new tenancy, it shall not be lawful for the landlord within a period of five years commencing with the date of the termination of the tenancy to create any new tenancy or letting in respect of the holding or any part thereof unless he has first offered to the former tenant the option of a new tenancy of the holding in accordance with the provisions of Sections 51, 52 and 53;

- (b) the option shall be exercised within a period of 3 months from the communication to the former tenant of such option".

What I say is that the chap who genuinely wants a business premises for himself is going to have to think a lot about it because he has got to pay a lot of money but if it is the case of somebody who is speculating in property it may be worthwhile paying twelve years and then selling it to somebody else and getting twenty-four. That is the amendment I am proposing that they should not be able to let it for a period of five years. My own feeling was of having the alternative option of allowing the tenant to purchase the premises as an alternative to the landlord getting possession but I am afraid that in the time limited to me I have not been able to draft it and I think it is a great pity because I think that that should be done. I commend this amendment.

HON ATTORNEY-GENERAL

I only have one comment, Mr Chairman. I can see nothing wrong with that but what is the consequence if he does offer it? What is the intended consequence if he does offer it? Is the intended consequence of him breaching it simply that it is illegal?

HON P J ISOLA:

I think that if the landlord ignored it the former tenant can take him to court.

HON ATTORNEY-GENERAL:

For an injunction or whatever.

HON P J ISOLA:

Not only for an injunction but the letting by the landlord to another tenant is unlawful.

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

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

Clause 48, as amended, was agreed to and stood part of the Bill.

Clause 57

HON ATTORNEY-GENERAL:

Mr Chairman, I am sorry to keep asking you this but I have to ask you to bear with me on this and the next provision because they are consequential amendments. In Clause 57(2) I move that before the words "section 55" the words "subsection(2) of section 48 or,".

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

HON ATTORNEY-GENERAL:

Clause 57(3), Mr Chairman, to insert before the words "section 55" the words "subsection (2) of section 48 or".

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

Clause 57, as amended, was agreed to and stood part of the Bill.

Clause 58

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this be amended in sub-clause (2) by inserting before "section 55" the words "subsection (2) of section 48 and", and also to omit the words "that section" and substitute "those sections".

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 58, as amended, was agreed to and stood part of the Bill.

Clause 65

HON ATTORNEY-GENERAL:

Mr Chairman, I move that this Clause be amended in sub-clause (2) by omitting everything after "in accordance with" and substituting "subsection (2) of section 48 and section 55".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I move in sub-clause (3) to omit "section 55" and substitute "subsection (2) of section 48 and section 55".

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

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

Clause 66

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (1) be amended by omitting "section" and substituting "subsection (2) of section 48 and section 55", and also in sub-clause (2) to omit "section 55" and substitute "subsection (2) of section 48 and section 55".

Mr Speaker put the question which was resolved in the affirmative and the amendments were accordingly passed.

Clause 66, as amended, was agreed to and stood part of the Bill.

Clause 67

HON ATTORNEY-GENERAL:

Mr Chairman, I move that sub-clause (2) be amended by omitting "section 55" and substituting "subsection (2) of section 48 and section 55".

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

Clause 67, as amended, was agreed to and stood part of the Bill.

Clause 68

HON P J ISOLA:

I think what I have to do here is to withdraw it because I think both the points made in my amendments have been incorporated into Clause 2 in the new sub-clause (3) but I am not withdrawing it yet because my Hon and Learned Friend Mr Haynes would like to ask something about it.

MR SPEAKER:

We haven't done the section so he can ask what he likes irrespective of what you do with your amendment.

HON P J ISOLA:

But the reason why I don't withdraw it is because he has doubts on it so he would like to be reassured.

HON A J HAYNES:

Mr Chairman, I appreciate that the new sub-section (3) to Clause 2 does refer to a material transfer being covered by way of share transfer but does this cover the creation of a new company so that company X which is the present tenant can make an assignment by way of mortgage to a bank, in effect, by doing the following, by creating a new company called X-1983 and then having a debenture on that new company and that new company would, in effect, do all the work and have all the powers that company X has with specific provisos?

HON ATTORNEY-GENERAL:

The effect of the amendment to new Clause.2(3) is that any sort of assignment whatsoever unless it is a bona fide assignment by way of security, would amount to a transfer. So I take the situation that has just been described as not being bona fide insofar as the element of proper security is concerned.

HON A J HAYNES:

What is the effect in the present amending Clause 2 of other than a bona fide transfer by way of security?

HON ATTORNEY-GENERAL:

The general rule is that any transfer at all amounts to a change of ownership but there are exceptions. One exception is if it is on succession on death; a second exception is if

it is a bona fide transfer by way of security and a third exception is if he gets the leave of the court.

HON A J HAYNES:

Doesn't that entitle a tenant therefore to assign the lease to a bank by way of security and that is allowed?

HON ATTORNEY-GENERAL:

As long as it is genuine. In the example that was given I took that to be a rather artificial loan.

HON A J HAYNES:

Does this mean, therefore, Mr Chairman, that a lease which is granted and there is a proviso against assignment by way of mortgage, that that assignment is no longer binding on the party, that provision?

HON ATTORNEY-GENERAL:

We are only saying what the position is insofar as the purposes of this Ordinance are concerned but if a landlord and a tenant have seen fit to negotiate a lease which restricts the ability of the tenant to mortgage under the lease all interest that is a different matter.

HON A J HAYNES:

This section, section 68(1) says: "but notwithstanding any agreement to the contrary" so in fact any agreement to the contrary holds.

HON ATTORNEY-GENERAL:

I missed the point he was driving at.

HON A J HAYNES:

Mr Chairman, my Learned Leader has told me that it is quite the opposite, the new section 68 will ensure that everybody can sub-let by way of mortgage unless that "notwithstanding any agreement to the contrary" clause is removed.

HON ATTORNEY-GENERAL:

Part IV it is a condition that you must get the landlord's consent before you make any assignment which would include a

mortgage, obviously, an assignment or a mortgage, but it is also saying that he cannot withhold it unreasonably.

MR SPEAKER:

Mr Isola, will you withdraw your amendment?

HON P J ISOLA:

In other words, you cannot stop an assignment. The effect of this new clause is to give the tenant the right to assign, that is what it virtually boils down to.

MR SPEAKER:

Unless it is an unreasonable assignment.

HON A J HAYNES:

Surely, Mr Chairman, this is proposed so that the tenant may, if he wishes to stop his practice or his business or whatever, to be entitled to sell to somebody else who is going to do a similar business to himself without hindrance from the landlord. That was, I think, the intention behind this but if it is extended so that the tenant can jeopardise the title to the property by way of assignment, surely that.....

HON ATTORNEY-GENERAL:

With respect, how can he, the tenant cannot mortgage anything more than he owns.

HON P J ISOLA:

Mr Chairman, I think the Hon and Learned Mr Haynes is right. As I see it here, the landlord cannot withhold consent to the assignment but he can withhold consent if the assignee does not intend to carry on the same kind of business. Therefore in the case of a mortgage he can withhold consent because the bank is not going to carry on the business of the tenant.

MR SPEAKER:

It is an assignment by way of security, isn't it?

HON P J ISOLA:

It doesn't matter. If there is an absolute covenant in the lease against assignment and the bank comes under this section or the tenant comes to assign to the bank by way of security,

the landlord can withhold his consent under this section. It may be the right thing, I don't know. The landlord cannot stop the tenant selling the business but I think he can stop him assigning it by way of mortgage, it may not be a bad thing, I don't know, but I think that is the legal effect of that clause as drafted. I am going to withdraw my amendment, Mr Chairman, I am perfectly satisfied that the provisions of Clause 2(3) cover the problems that is dealt with in this section.

Mr Speaker put the question which was resolved in the affirmative and Clause 68 was agreed to and stood part of the Bill.

Clause 69 was agreed to and stood part of the Bill.

Clause 75

MR SPEAKER:

Mr Isola, you had two amendments to Clause 75.

HON P J ISOLA:

Have they been met?

HON J B PEREZ:

Yes, under section 66, sub-section (2).

HON P J ISOLA:

I am going to withdraw these amendments, actually, Mr Chairman, they are more complicated than I thought.

Mr Speaker put the question which was resolved in the affirmative and Clause 75 was agreed to and stood part of the Bill.

First Schedule

HON ATTORNEY-GENERAL:

Mr Chairman, I move in paragraph 1 to omit the words "other than a communal services tenement,". They are unnecessary because the table which follows shows which we are referring to in each case. My second amendment, Mr Chairman, is to omit paragraph 3 and substitute the following paragraph:

"3. In the case of a dwellinghouse that is let furnished, the statutory rent shall be increased for the period of 8 years following the date on which the furniture is provided, by one eighth of the value of the furniture on the date that it is so provided".

The reason for that, Mr Chairman, is to improve the intention which is that if you let a house furnished you can increase your rent, I am talking about rent controlled houses, you can increase your rent. The furniture is given a notional life of eight years so you can increase it by one eighth of its value for each of those eight years but you cannot take advantage of it once it has been written off and I think the way it is worded it is clearer.

HON P J ISOLA:

What I don't understand about this is what happens if different pieces of furniture are added to the furnished letting? It is said here, Mr Chairman, that it is for the period of 8 years following so therefore there will be no incentive in a landlord providing new furniture after the rent has been fixed for eight years, that surely cannot be right.

HON ATTORNEY-GENERAL:

It is quite the opposite, surely, Mr Chairman, if the landlord puts some new furniture he can assess the cost of it and amortise that over eight years, at the end of eight years he cannot continue doing that so there is the incentive to buy new furniture.

HON P J ISOLA:

We are not happy with this particular clause because I do not see it practical. I prefer it as drafted.

HON ATTORNEY-GENERAL:

The problem with it as drafted is that it is not clear. The intention is to be able to recover the cost of the furniture.

HON P J ISOLA:

So what happens at the end of eight years? At the end of eight years what is the rent if the furniture is still there?

HON ATTORNEY-GENERAL:

At the end of eight years the tenant would be entitled to apply for a reduction.

HON P J ISOLA:

Mr Chairman, I think and we have been trying throughout this Bill to strike a balance between landlords and tenants and that is almost an impossible task, but we have moved a number of amendments on this side of the House that have improved considerably the position of the tenant especially in business tenancies but here, I think, the question of amortisation in a furnished dwelling over a period of eight years, I know this is a recommendation of the Select Committee, is high and I think that the House ought to consider a shorter period than eight years. I cannot imagine in a furnished flat that is let furniture lasting that long and I think there ought to be an amendment that there should be a reduction of that period of eight years to six.

MR SPEAKER:

Are you proposing an amendment to the amendment?

HON CHIEF MINISTER:

This is a recommendation by the Select Committee.

MR SPEAKER:

In other words, an amendment to that effect would not be acceptable. Do you wish to move it then?

HON P J ISOLA:

Mr Chairman, I see that the Government are not prepared to go along with an amendment so I won't move it.

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

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

The First Schedule, as amended, stood part of the Bill.

Second Schedule

HON A J HAYNES:

The effect of Clause (g) in the Second Schedule, Mr Chairman, the part in brackets. I understand, of course, that this is not going to affect landlords by way of succession. Does the Attorney-General have any views on the effect in terms of the saleable value of pre-war dwellinghouses in respect of this?

HON ATTORNEY-GENERAL:

I am sorry, I am not able to give a reply.

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

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

Fourth Schedule

MR SPEAKER:

There are two amendments to the Fourth Schedule. I think the Hon and Learned the Attorney-General wishes to substitute the whole of the Fourth Schedule for a new Fourth Schedule and the Hon Mr Isola has given notice of an amendment for the adding of a new clause to be numbered (4). There is already a clause 4 in the Schedule or there will be if the amendment by the Hon and Learned the Attorney-General is carried. I would suggest that the Hon and Learned Attorney-General moves his amendment and then perhaps if Mr Isola so feels he can amend it.

HON P J ISOLA:

Mr Chairman, I hope he moves it and explains it all because I would like to read it.

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Fourth Schedule be repealed and the following Fourth Schedule substituted. Would you wish me to read it?

MR SPEAKER:

I don't think there is any need, I think all Members will agree that they have a copy before them.

HON P J ISOLA:

Mr Chairman, what I hadn't realised is that it is 1 o'clock and I would certainly be grateful if we could carry on with this after lunch so that I can look through it and see how far it meets the point and I think the Hon and Learned Attorney-General will also want to draft an amendment which he said he would put into the Fourth Schedule earlier on.

HON ATTORNEY-GENERAL:

I am ready with mine, Mr Chairman.

HON P J ISOLA:

If we could have that amendment as well and perhaps consider it over lunch.

MR SPEAKER:

We will then recess until 3 o'clock this afternoon.

The House recessed at 1.00 pm.

The House resumed at 3.10 pm.

MR SPEAKER:

I will remind the House that we are still in the Committee Stage of the Landlord and Tenant Ordinance and that we are just about to deal with the Fourth Schedule. I am not quite clear did the Hon and Learned Attorney-General propose the amendment before we recessed for lunch?

HON ATTORNEY-GENERAL:

I move, Mr Chairman, that the Fourth Schedule be repealed and substituted by the following Schedule.

MR SPEAKER:

If it is exactly as circulated I feel sure that the House will dispense with the need of reading it.

HON P J ISOLA:

I think before the Hon and Learned Attorney-General proposes it, I think, Mr Chairman.....

MR SPEAKER:

Let him speak in favour of his amendment.

HON P J ISOLA:

The thing is that I have an amendment prior in time to the one submitted by the Attorney-General.

MR SPEAKER:

I don't think so because they are both dated the 12th and I do believe I got the Attorney-General's amendment first.

HON P J ISOLA:

All I wanted to do is to withdraw mine because I think this is a later amendment. I just want to withdraw mine, Mr Chairman, because my amendment is met by one of the amendments in the Schedule so I would like to withdraw mine.

HON ATTORNEY-GENERAL:

Mr Chairman, the purpose of the new Fourth Schedule is to deal with transitional provisions on the commencement of the new Ordinance and Members may recall that when we looked at Clause 83 we omitted certain material that was there, all the transitional provisions are being brought into the Fourth Schedule. It is divided into three parts: Transitional provisions which relate specifically to domestic purposes; the second part is transitional provisions which relate specifically to business premises and the third part is general transitional provisions, Mr Chairman, and the Hon and Learned Leader of the Opposition did desire an explanation of the various provisions so, briefly, I propose to go through them. Paragraph 1 is intended to make it clear that on the commencement of the new Bill the sitting tenant, if I may use that phrase, the sitting statutory tenant under Part III, domestic premises, will be the first statutory tenant. Paragraph 2 is

a transitional provision relating to the sinking fund. I would imagine that most properties on the commencement of the Ordinance will already be tenanted and in those circumstances what is required is that the landlord keeps one third of the recoverable rent for the first two years and thereafter he is required to keep 15% of that rent. The third paragraph is also transitional and deals with the case where improvements or structural alterations have been made after 1945 which is the cut-off date for control but before the commencement of this Ordinance and in those circumstances owners have 18 months from commencement in which to apply either under Section 13 or under Section 22. Perhaps it is not strictly for me to give notice, Mr Chairman, but in view of the points raised by the Opposition, one of my colleagues will be moving an amendment to this amendment to add a further transitional provision in the part dealing with domestic premises to deal with Section 7A, what used to be a Section 7A situation. As far as the business premises are concerned, the intention of paragraph 4 is this, that we have had a moratorium for some time. I think my own view is that all the moratorium does is to defer the operation of notices to increase rents so that people who have, especially under Part IV, gone through the process of requesting a new tenancy or applying for a new tenancy and have taken that process through, may in fact have reached the stage where their rents are determined but from a future date, namely, when the moratorium ceases but there may be, in fact, we believe there are some people who have construed the moratorium so as not to take action until it is over and the effect of what this is doing is to say where that has happened, where somebody may have taken that attitude, erroneously or otherwise, in those circumstances the time will not run until the moratorium ceases so it holds everything in suspension, as it were, when the moratorium ceases then the people concerned must protect their interests by making an application or making a request for a business tenancy or giving in notice. That is the intention of that paragraph.

HON P J ISOLA:

Before the Hon and Learned Attorney-General carries on, is there a typing error there in the fourth line from the bottom of that business premises - 'the time for taking over a step'? Something seems to have been left out.

HON ATTORNEY-GENERAL:

It should be 'such'. Paragraph 5 in the general provisions is intended to do this. There will be cases where proceedings, applications or other proceedings are current before the Rent

Tribunal or a Court at the time when this Bill becomes law and what we are giving power to do is to enable those applications to be disposed of under the old provisions. In other words, the Court or the Tribunal or the authority shall have full power to complete what it started. I think that is a normal and a necessary power to have. Finally, Mr Chairman, paragraph 6, this is intended to meet the points which have been raised by the Opposition that we may at the outset at least and perhaps for some indefinite period, need more than one Rent Assessor so this gives the Governor the power, if he feels it desirable to do so, to appoint additional Rent Assessors on a temporary basis. Mr Chairman, the references to section 6 should be to section 5.

MR SPEAKER:

Yes, I had amended that before you moved it.

HON ATTORNEY-GENERAL:

So those are the purposes, Mr Chairman, of the transitional provisions as drafted.

HON P J ISOLA:

Mr Chairman, there is an amendment going to be moved to this, I believe.

HON J B PEREZ:

I have an amendment in connection with section 7A on the Attorney-General's amendment. Perhaps I can take the opportunity now at this stage, Mr Chairman, I think you have already been given notice of this, have you not? The amendment is to amend the Attorney-General's amendment by inserting after paragraph 3 but before the cross-heading "Business Premises" the following:

- "4. Where a dwellinghouse to which Part III of this Ordinance applies was let, immediately before the commencement of this Ordinance, pursuant to section 7A of the former Ordinance, and the statutory rent immediately before the commencement of this Ordinance was greater than it would be if calculated under section 11 of this Ordinance, that greater rent shall on the commencement of this Ordinance be the statutory rent in respect of the dwellinghouse".

I think this is the point that was made by the other side this morning. Let me say that although the amendment is being moved I am of the view, in fact, that really it is unnecessary because it goes without saying but, be that as it may, one ought to play safe in this particular case and therefore I so move.

Mr Speaker proposed the question in the terms of the Hon J B Perez's amendment to the amendment.

HON J BOSSANO:

I am not quite sure what, in fact, the Ordinance says any more, Mr Chairman, but if it does say what it said originally in respect of section 7A, is it not a fact that the re-introduction of section 7A in the new Ordinance is more limited than it was under the old Ordinance because of the presence of the Rent Assessor, that is, under the old Ordinance there was no ceiling to how high somebody could be induced to pay? Yes or no, some people are saying no and some people are saying yes?

HON CHIEF MINISTER:

It has to satisfy the Surveyor and Planning Secretary and he took into account whether the rent had any relation to current rent demands at that level.

HON J BOSSANO:

We all know, Mr Chairman, that under section 7A the situation has been that people desperate for a house have been induced to sign pieces of paper accepting very high rents. Does the re-introduction of the proviso that the Hon Member is moving in his amendment have the effect of removing any protection from people in those circumstances or not?

HON J B PEREZ:

It doesn't remove any protection. My own personal view is that in practice it will be of benefit to the tenant because the Rent Assessor is now involved.

HON J BOSSANO:

Hasn't the Hon Member said in the amendment that he has read, perhaps I haven't understood him correctly, but I have understood the amendment to say that in premises where there was already in existence a rent pursuant on section 7A of the old Ordinance, that rent is the statutory rent and there is nothing the tenant can do about it. Isn't that what the amend-

ment says? Mr Chairman, let us say that there is now a dwelling which under section 7A has got a tenancy agreement where the tenant is paying £100 a week, for the sake of argument, does the effect of the new amendment mean that that £100 a week will now be the statutory rent or not or can in fact the tenant come back and say: "Since there is now a new Ordinance, I want to re-negotiate section 7A and bring the Rent Assessor into it"?

HON J B PEREZ:

That becomes the new statutory rent if it was by agreement.

HON J BOSSANO:

Then I am saying, Mr Chairman, that since we all know that the old section 7A effectively produced rents where the tenant was theoretically the willing party but in fact trapped in a situation of having little choice either to accept that rent or not get the accommodation, the effect of the amendment is that people in those circumstances will not be able to get any protection from the new law.

HON ATTORNEY-GENERAL:

If I can clarify the position. Under section 7A, under the present system, it is the Director of Crown Lands who has to approve the transaction. I think there are one and a half material changes, if I can put it that way. In the first place it is the Rent Assessor who will have to do so and one would hope, I think, and this is in no sense a reflection on anybody else, but one could hope that a man whose specific job is to assess rents would be, can I put it this way, would be as well equipped as anybody to judge what is a reasonable rent because then I go to the second leg of it which is that in the new Bill, but not in the present Ordinance, he approves the rent which he considers to be reasonable. I would call it half a point, I wouldn't call it more than that.

HON J BOSSANO:

I accept entirely what the Hon and Learned Attorney-General is saying but it seems to me that what he is saying is in support of my argument because if I have understood the amendment right, what the amendment says is that where there is a rent agreed under section 7A of the old Ordinance, where there was no Rent Assessor, then that is now the new statutory rent. If that is now the new statutory rent then the tenant will not be able to argue that the old rent should be reduced by the Rent Assessor because it will be automatically the new statutory rent.

HON ATTORNEY-GENERAL:

That is correct, Mr Chairman. The transitional provisions doesn't cover that point and from a technical point of view there is no reason why it should not but it doesn't affect it.

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon J B Perez's amendment to the amendment was accordingly passed.

HON P J ISOLA:

Mr Chairman on the amended motion, I wonder whether clause 5 is quite correct?

HON J B PEREZ:

Mr Chairman, I also take the opportunity to move a further amendment, following the amendment that we have just passed, by having a new paragraph 5 in the Second Schedule.

MR SPEAKER:

We have already passed the Second Schedule.

HON J B PEREZ:

The idea was to introduce it under the Fourth Schedule but it is better under the Second Schedule.

MR SPEAKER:

Well, we cannot amend the Second Schedule when we are dealing with the Fourth Schedule, let us take a vote on the Fourth Schedule first.

HON ATTORNEY-GENERAL:

Can I clarify, Mr Chairman, I think what we want to do is a purely consequential amendment, in view of the fact that we have amended the original amendment, to add a new paragraph. All we need to do at this stage is also to consequentially renumber all the paragraphs in the Fourth Schedule because we have added a new paragraph.

MR SPEAKER:

No, with respect, the amendment which the Hon Mr Brian Perez proposes is in respect of the Second Schedule and that is what I am saying.

HON J B PEREZ:

What I want to do is to delete the words "notwithstanding being a landlord who has become landlord by purchasing the dwelling-house or an interest therein after the coming into operation of this Ordinance....."

MR SPEAKER:

But where do those words appear?

HON J B PEREZ:

They appear in the Second Schedule.

HON ATTORNEY-GENERAL:

Mr Chairman, if I could help because I am a draftsman and I fear I haven't made the drafting clear. I think all that remains to be done on the Fourth Schedule, because we have added a new paragraph we have already added a new paragraph to the first amendment is simply to consequentially re-number the other paragraphs.

MR SPEAKER:

That we have done already. All that remains to be done now is to consider the Schedule as amended by the Hon and Learned Attorney-General and as amended by Mr Brian Perez.

HON P J ISOLA:

Mr Chairman, that clause 5, the old clause 5, it says that when any application is pending by the court then the court can still hear it once the new Ordinance comes into effect, notwithstanding section 82. This doesn't mean, surely, that if there is an application by a landlord, for example, to obtain possession of business premises pending now because he wants it for himself, the new law comes into force and his application is then heard by the court and if he succeeds he only pays the old compensation. Shouldn't it be notwithstanding section 82 of this Ordinance but subject to the other provisions thereof, or something. I am just a bit worried that the court might form the view that any pending application must be dealt with in accordance with the law as it existed prior to the commencement of this Ordinance, that would be disastrous.

HON ATTORNEY-GENERAL:

The intention is in paragraph 5(c) "the application or proceeding could have been brought under this Ordinance". In other words, what it is trying to achieve is that if it has already been started before one body I think the most likely body actually is the Rent Assessment Tribunal and they have part heard the matter, then if that matter could have been brought under the new Ordinance even though it would have been brought to the Rent Tribunal and not to the Rent Assessment Tribunal, the Rent Assessment Tribunal can dispose of it, as it were.

HON P J ISOLA:

I appreciate the point. They finish the cases but they must determine it, surely, in accordance with the provisions of this Ordinance. You say here 'notwithstanding the repeal of section 82'. Shouldn't it be 'notwithstanding section 82 of this Ordinance but otherwise in accordance with the provisions of this Ordinance'. Could I then move that, Mr Chairman?

MR SPEAKER:

What do you want to move?

HON P J ISOLA:

After the word "Ordinance" in the third line from the end of paragraph 5, insert the words "but otherwise in accordance with the provisions of this Ordinance".

HON ATTORNEY-GENERAL:

Could I make a suggestion to the Hon Member. A better amendment, I think, could be to continue to have jurisdiction to hear and determine it, simply "in accordance with the provisions of this Ordinance".

HON P J ISOLA:

So we delete the words "as if this Ordinance had not been passed". Then I move then that the last few words, Mr Chairman, "as if this Ordinance had not been passed" be deleted and substituted by the words "in accordance with the provisions of this Ordinance".

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

Mr Speaker then put the question in the terms of the Hon Attorney-General's amendment, as amended, and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon Major F J Dellipiani

The Hon Attorney-General's amendment, as amended, was accordingly passed.

The Fourth Schedule, as amended, stood part of the Bill.

Fifth Schedule

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Fifth Schedule be omitted and the following Schedule substituted as specified on the notice I gave dated 12th December. In consequence of the amendments to section 48 that were made this morning, Mr Chairman, and by your leave, there are two very minor alterations that should be made to references. The first is in Part II, paragraph 2(b). It would be accurate because of what has happened before to delete little (b) and little (2) so it is simply "48(2)". Similarly in the third column of the Table - "Compensation payable under Section 48(2)". Finally in clause 4 it should again be a reference now simply to "48(2)". I think I should briefly run through the Schedule, Mr Chairman. This is a Schedule which in the two cases, the case where there is the obtaining of possession against reconstruction and in the case where there is to be obtaining of possession for own use, in each case of business premises, this is the Schedule which now determines how much notice has to be given and also determines how much compensation is payable if compensation is to be taken rather than alternative premises or in the case of reconstruction moving back into the old premises after development. The first column is intended to identify how long a tenant has been in the property and everything flows from that. The second column says how much additional notice in addition to the notice specified in section 43(2) must be given to the tenant in those circumstances. The third column says how much compensation he is to be paid and then one also has to look at paragraphs 3 and 4 because paragraph 3 says that notwithstanding the third column of the table if in fact 5/6ths of the annual rental is higher in any case than the amount in the third column then you take the higher amount for compensation purposes. And paragraph 4 gives the court the discretionary power to further increase the compensation where the tenant has at his own expense made certain structural alterations to the premises. I would also like to stress for clarity, Mr Chairman, that that compensation is in addition to removal and refurbishment costs which are dealt with in clause 55.

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

HON P J ISOLA:

Mr Chairman, the question of notice. Am I right in thinking that bringing 1 and 2 together, if a tenant has been, for example, more than 5 years but not more than 7 years as a tenant, then notice must be given not more than 24 months nor less than 18 months before the date of termination? The only problem that comes to my mind, Mr Chairman, is that it is not really of much benefit to the tenant is it, he just gets earlier notice? I thought the idea was that you give your notice not more than 12 months nor less than 6 months before the tenancy terminated and if the guy has been there more than

7 years that period of notice is automatically extended to another 12 months, in other words, the tenancy is not terminated for another 12 months but the way it seems to be drafted all it means is that a landlord gives his notice that much earlier, it doesn't extend the tenancy at all.

HON J B PEREZ:

The point remains that the landlord cannot give notice, according to the Ordinance, it is not less than 6 and not more than 12, anyway. The point that is being made or the intention behind this is that you have to give your six months notice to quit, you would be entitled to give it during the contractual tenancy before the lease expires but then the notice required extra pursuant to the Fifth Schedule is over and above that, in other words, if you give your tenant 6 months at the end of, say, a 5 year lease you give it at the expiration of 4 years 6 months, and if you wish to re-possess on the basis that you want it for yourself you have to give that extra notice according to the Schedule on termination of the contractual tenancy.

HON P J ISOLA:

That is not what it says there.

HON J B PEREZ:

The Attorney-General can speak on that. I am telling you that that is the intention behind the additional notice to be given under section 48(2), that is, additional on termination of the contractual tenancy, or if you haven't got a contractual tenancy, if you have only got a monthly tenancy and you still require the 6 months statutory period, you have to give the 6 months statutory period plus the additional notice, that is the intention.

HON P J ISOLA:

But as I read this, if a chap who has been in business for 7 years his tenancy finishes at the end of 1985, then as from the 1st January, 1984, notice can be given terminating in 1985. That is how I read this, that is why I asked.

HON J B PEREZ:

I have told you what the intention is, the only point is that a landlord cannot give more than a year's notice anyway, he is precluded under the Ordinance from doing that, he can only give not less than 6 but not more than 12. It is supposed to be additional, in other words, when the contractual tenancy ends you are required to give extra notice according to the years.

HON M K FEATHERSTONE:

What it means is if your tenancy is due to expire, let us say, in December, 1985, in June you can give the 6 months notice and if you have been there, for example, between 5 and 7 years then you get an extra 12 months so that you can stay there until the end of 1986.

HON P J ISOLA:

That is not what this says.

HON ATTORNEY-GENERAL:

What it means, as drafted, is what the Hon and Learned Leader of the Opposition thinks it means and I think the only way to cure that is to amend Part II, paragraph 2(a) by saying that in addition to the time for termination, as it were an additional period of 12, 15 or 18 months will be added on.

HON A J HAYNES:

If you use the word "additional" in the second line as opposed to "extended" so that "shall be additional to the appropriate time specified", that might cover the point.

HON ATTORNEY-GENERAL:

Mr Chairman, if I can have a couple of minutes, I am just going to sit down and draft it.

MR SPEAKER:

Is it intended to do anything with the Second Schedule or is that done away with now?

HON ATTORNEY-GENERAL:

If that is convenient and the House could proceed with the Second Schedule again, I could look at this in the meantime.

Second Schedule

MR SPEAKER:

So let us deal with the Second Schedule again.

HON J B PEREZ:

Mr Chairman, I have an amendment.

MR SPEAKER:

I am afraid, that you have quoted 'notwithstanding being a landlord'. I don't think there is such a thing as 'notwithstanding' in the Second Schedule.

HON J B PEREZ:

'Not being a landlord'.

MR SPEAKER:

You are referring to paragraph (g) - "the dwellinghouse is reasonably required by the landlord not being a landlord...." is that what you mean?

HON J B PEREZ:

To delete all the words "not being a landlord who has become landlord by purchasing the dwellinghouse or an interest therein after the coming to operation of this Ordinance" and substitute "(being a landlord who has become landlord by purchasing the dwellinghouse or an interest therein after the commencement of this Ordinance or not less than 5 years before the date of the application".

MR SPEAKER:

You want to do away with all the words in paragraph (g) other than (i), (ii) and (iii) is that right?

HON J B PEREZ:

I beg your pardon?

MR SPEAKER:

You want to do away with all the words in paragraph (g) other than for the words "for occupation as a residence for -". I think it would be neater if you delete all the words from (g) up to "for" and you substitute it for the complete clause and like that I think we know where we stand. After "application", we should add "for occupation as a residence for -" and then you could move the deletion of all the words in paragraph (g) from "the" to "for" and the substitution therefor of what you are proposing, is that correct?

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

HON A J HAYNES:

Mr Chairman, if I may comment on this. Whilst I understand the intention behind this I don't think that this amendment will have that effect in that the amendment as proposed will preclude a landlord of a different type, ie one who has been a landlord before 1940 from the same right. It should read, in my submission, "not being a landlord who has become landlord by purchasing a dwellinghouse or an interest therein after the coming into the operation of this Ordinance unless such an interest has been acquired for a period not less than 5 years".

HON J B PEREZ:

I don't agree with the Hon Member, Mr Chairman, because the second part of the amendment is "or not less than 5 years before the date of the application". Therefore, obviously the point that the Hon Member is making is surely covered in the amendment. It says "or not less than 5 years". What it means is that in order for a landlord to be able to say I want the property for myself or for my son or for my daughter, at least he has got to have been landlord or an interest in that property must have arisen before the period of 5 years or from the date of the Ordinance. You are not excluding landlords who purchased, say, in 1955 or 1965.

HON P J ISOLA:

Mr Chairman, I don't quite understand the purpose of this amendment. Is it to enable a landlord who buys the property to get possession of a dwellinghouse 5 years after on the grounds in that Schedule? That seems to be the purpose because as drafted, as it is in the Bill, it says anybody who buys after this Ordinance comes into force cannot get possession of a dwellinghouse, fullstop. This amendment says that provided 5 years has elapsed since you purchased the property you can get possession but that would seem to me to be a very short time in respect of a dwellinghouse. I can understand it with business premises but with a dwellinghouse 5 years is a very short time.

HON CHIEF MINISTER:

You are getting less now without that.

HON P J ISOLA:

I think the answer would be to double that figure from 5 to 10, Mr Chairman.

HON CHIEF MINISTER:

There is nothing in it there now as it is.

HON J B PEREZ:

As it is the matter is even worse. As it is is if you buy a property now, today, if this Bill becomes law hopefully within the next few months you would be entitled to possession straightaway. The idea of the 5 years is in fact to try and remedy that situation because we are saying if you buy today and the Ordinance comes into force, say, in March you are not entitled to say you want it for yourself. We are going back 5 years.

HON P J ISOLA:

On the one hand you are going back five years but on the other you are putting no restriction on people who buy properties after the commencement of the Ordinance to get possession after five years whereas this Ordinance at least has the cut-off point.

HON J B PEREZ:

My understanding, the way I am moving the amendment, the cut-off point is the date of the commencement of the Ordinance but we have to guard in situations where somebody may buy today and therefore you need the five year qualification. What we are saying is if you buy after the date of the commencement, you are not entitled to possession without giving alternative accommodation.

HON CHIEF MINISTER:

We have included an extra five years from what it was in the Ordinance.

HON ATTORNEY-GENERAL:

Sir, if I could just elaborate for the Hon and Learned Mr Haynes. The only landlord, and I think it is quite simple, who can recover possession of a dwellinghouse for his own use is one who is either the landlord before this Bill comes into force, that is one possibility, or who has been a landlord for at least five years.

HON P J ISOLA:

I think five years, Mr Chairman, is too short a period. I would like to move an amendment to make it 'ten'.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez

The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull
The Hon B Traynor

The following Hon Member abstained:

The Hon J Bossano

The Hon P J Isola's amendment to the amendment was accordingly defeated.

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

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

The following Hon Members voted against:

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

The amendment was accordingly passed.

Mr Speaker then put the question in the terms of the Second Schedule, as amended, and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Member voted against:

The Hon J Bossano

The following Hon Members abstained:

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

The Second Schedule, as amended, stood part of the Bill.

Fifth Schedule

MR SPEAKER:

We go back to the Fifth Schedule and I understand that the Hon and Learned Attorney-General has an amendment to Part II, is that correct?

HON ATTORNEY-GENERAL:

I need to make another amendment to this, Mr Chairman. What I will do, Mr Chairman, is move the amendment but I might ask one of my colleagues to move an amendment to it. The amendment I have to move, Mr Chairman, is an amendment to the Fifth Schedule Part II paragraph (a), to omit this paragraph and substitute the following paragraph:

"(a) notwithstanding any other provisions in this Ordinance, the current tenancy shall not come to an end before the appropriate period specified in the second column of the Table to this paragraph, immediately following the date of termination of the tenancy".

And secondly, in the Table to omit the headnote to the second column and substitute the following: "Extended term of tenancy". The intention of this, Mr Chairman, is to provide that where the landlord has given notice to terminate a tenancy if the landlord has done so, then if the conditions specified in the Schedule are obtained, once he has given his notice that has the effect of postponing the date of tenancy additionally beyond its ordinary date of termination by the amount of time shown in the second column of the Table.

MR SPEAKER:

You have proposed the amendment and there is only one slight technicality and that is that you are moving an amendment to an amendment which you have proposed. I would suggest that Mr Brian Perez, without reading it, should move it.

HON J B PEREZ:

I move the amendment, Mr Chairman.

Mr Speaker proposed the question in the terms of the Hon J B Perez's amendment to the amendment.

HON P J ISOLA:

I think, Mr Chairman, that does meet the point that I raised so we support it.

HON M K FEATHERSTONE:

I have an amendment to that, Sir. The amendment is that after the little (a) it should start off by saying: "in the case where the landlord under section 43(2) has given notice to terminate the tenancy" and then carry on "notwithstanding....".

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

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon M K Featherstone's amendment to the amendment to the amendment was accordingly passed.

Mr Speaker put the question in the terms of the Hon J B Perez's amendment to the amendment, as amended, and on a vote being taken the following Hon Members voted in favour:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone

The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon J B Perez's amendment to the amendment, as amended, was accordingly passed.

Mr Speaker put the question in the terms of the Hon Attorney-General's amendment, as amended, and on a vote being taken the following Hon Members voted in favour:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

The following Hon Member voted against:

The Hon J Bossano

The Hon Attorney-General's amendment, as amended, was accordingly passed.

The Fifth Schedule, as amended, stood part of the Bill.

HON P J ISOLA:

Mr Chairman, before the Long Title I don't think we have done Clause 69, I think that was deferred.

MR SPEAKER:

We most certainly did it, there were no amendments and we most certainly did it and I put it to the vote.

HON A J HAYNES:

Perhaps on a more generous note. Can we be given an indication as to when we are likely to see an Ordinance incorporating all the amendments?

HON ATTORNEY-GENERAL:

Normally the Bills would come out on Thursday, being realistic as this is a little bigger than most of them it may be the following Thursday but as quickly as possible. Once a Bill is passed by the House they are presented for assent as quickly as possible.

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

HON M K FEATHERSTONE:

Mr Chairman, may I take this opportunity and I think I am speaking not only on behalf of the Select Committee but also the House, to congratulate the Attorney-General on the competent and able way he has interpreted the wishes of the Select Committee as modified by Government under somewhat trying circumstances at times, and also to thank the Hon the Leader of the Opposition for his very helpful and useful amendments.

HON J BOSSANO:

I take it nobody is thanking me, Mr Chairman.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Law Revision (Miscellaneous Amendments) (No 2) Bill, 1983; the Auditors Registration Bill, 1983; the Supreme Court (Amendment) Bill, 1983; the Criminal Offences (Amendment) Bill, 1983; the Immigration Control (Amendment) (No 2) Bill, 1983, and the Landlord and Tenant Bill, 1983, have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Law Revision (Miscellaneous Amendments) (No 2) Bill, 1983; the Auditors Registration Bill, 1983; the Supreme Court (Amendment) Bill, 1983; the Criminal Offences (Amendment) Bill, 1983, and the Immigration Control (Amendment) (No 2) Bill, 1983, the question was resolved in the affirmative and the Bills were read a third time and passed.

HON J BOSSANO:

Mr Speaker, I would like to explain, I will be abstaining on the Third Reading for one reason and that is that I voted in favour of Clause 81 which effectively amends the Landlord and Tenant (Temporary Requirements as to Notice) Ordinance extending the moratorium sine die and obviously I want the moratorium extended and I don't want to vote against something I have already voted in favour.

On a vote being taken on the Landlord and Tenant Bill, 1983, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon J Bossano

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The Bill was read a third time and passed.

MR SPEAKER:

I think the Hon Dr Valarino has something to say.

HON DR R G VALARINO:

Yes, Mr Speaker, in answer to Question No.430 of 1983 I

mentioned to the House that I would provide additional information on a specific item. The cost of running Waterport Power Station is a charge on the Electricity Undertaking Fund account and therefore the cost will have to be met either from increased tariffs which I do not think is the answer, or from a higher budgetary contribution to cover any deficit. The present expenditure is being met from a new sub-head 85 under Special Expenditure in the Recurrent vote.

MR SPEAKER:

I must say that I have received notice from the Hon Mr Bossano that he wishes to move a motion. I have explained to Mr Bossano what the Standing Orders say and that is that before a motion can be moved in the House at least five clear days of intention to move has to be given unless suspension of Standing Orders can be agreed and therefore if you so wish to proceed then you will have to move the suspension of Standing Orders, under Standing Order 60 of course.

SUSPENSION OF STANDING ORDERS

HON J BOSSANO:

Mr Speaker, I am moving under Standing Order 60 the suspension of Standing Order 19 to enable me to move a motion, of which I have a copy, without giving the required notice. The reason, Mr Speaker, why I could not give the required notice is because the motion relates to something that occurred this morning which I think the House should debate since in my judgement, as I will be able to explain if I obtain the support of the House in the suspension of Standing Order 19, is a matter which has got serious consequences for Gibraltar and therefore the opportunity of debating it should not be foregone simply on a technicality of not allowing the suspension of Standing Orders. The motion, in fact, deals with the statement made by the Flag Officer, Gibraltar, this morning to the Trade Union Movement in relation to the instructions that are to be given tomorrow to the workforce in connection with works related to commercialisation and the threat that if those instructions are disregarded because the Union opposes the work involved, then there will be a lock-out of those affected. This could have an escalation throughout Gibraltar and I believe it is a matter which urgently requires debate and it is an opportunity that the House should not ignore. I move the suspension of Standing Order 19 to enable me to do that.

MR SPEAKER:

As you are aware there is no debate allowed on the suspension of Standing Orders. I have always allowed anyone who wishes to speak on clarification to do so but my duty now is to propose the question that Standing Orders should be suspended to enable the Hon Mr Bossano to move a motion in spite of the fact that the required five days notice has not been given.

HON CHIEF MINISTER:

Mr Speaker, we are opposing the granting of the suspension. The notice given today would have been predictable to anybody who knew what the attitude of the British Government was as regards the Dockyard. There is a statement which was made, I think the paper itself says that the statement was made on the 28th November, 1983, in the Navy debate, confirming the intention to close the Gibraltar Dockyard and what is being done by the Navy which is their responsibility to some extent, is in consequence to the decision which has been taken and which has been debated here many times and all aspects of it has been the subject of discussion. I do not think any useful purpose would be served to have any motion here that would alter anything.

HON J BOSSANO:

I suppose today can be considered a red letter day in the history of democracy in Gibraltar, the House of Assembly is muzzled.

HON CHIEF MINISTER:

It is not muzzled, it is pursuing its proper function and not interfering in other spheres.

HON J BOSSANO:

Mr Speaker, perhaps will the Hon Member agree with me that it is preferable that we should debate the matter here in a calm atmosphere and that the consequences should be spelt out or does he prefer the thing that he has criticised on so many occasions where those affected feel that their views can only be listened to by acting in a different manner, which he has often criticised? Does he not realise that he is depriving this House and the people of Gibraltar of listening to the arguments about the decision that has been taken to which I have been told by the Flag Officer this morning he has agreed.

HON CHIEF MINISTER:

You were not told that I had agreed, you were told that the Government had been informed. That is my understanding of the situation and that is all, I have not agreed to anything and it is not in my function to agree.

MR SPEAKER:

I must say that under Standing Order 16 no debate is allowed.

HON CHIEF MINISTER:

The answer is that we have been told many times the consequences of this and there is nothing new in it.

HON P J ISOLA:

Mr Speaker, I don't want to debate or anything, may I say that I regret the decision of the Government not to support this motion. We have suffered under the similar refusal to suspend Standing Orders to debate a matter we thought is important. I would have thought that if we can suspend Standing Orders to take a Bill of which we have not received enough notice, we can suspend Standing Orders to discuss something that certainly as far as this side of the House is concerned, has come to our notice today and has shocked us deeply and I regret that the Government is not prepared to allow a debate on this matter.

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

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

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino

The Hon H J Zammit
The Hon D Hull
The Hon B Traynor

Standing Order 19 was accordingly not suspended.

ADJOURNMENT

HON CHIEF MINISTER:

I beg to move that the House do now adjourn sine die.

HON MAJOR R J PELIZA:

Mr Speaker, isn't there another rule under which as a matter of great public interest a debate can be started in the House?

MR SPEAKER:

There is and I have, in fairness to Mr Bossano, explained the situation as it stands. There is most certainly Standing Order 25(a) which states: "Any Member may, on any day other than the first day of the first session of a new House, at the time prescribed in Standing Order No. 7 (Order of business), rise in his place and state that he asks leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance". If you go to Standing Order No. 7 there is a specific place where this can be done which is the Order of the Day immediately after question time, it has to be done then and that is why I advised Mr Bossano that the only manner in which he could proceed was by seeking suspension of Standing Orders which he could without having given the twenty-four hours notice because I can suspend the necessity of giving twenty-four hours notice.

HON MAJOR R J PELIZA:

Thank you very much, Mr Speaker.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and in so doing I will call on the Hon Mr Bossano to bring up on the adjournment, as he gave notice, of his intention so to do of matters related to the statement made by Mr Malcolm Rifkind in the House of Commons regarding the EEC. Of course, this debate is limited to 40 minutes and there is no vote at the end of the debate and the time is now 4.27 pm.

HON J BOSSANO:

I am right in thinking, Mr Speaker, that in fact the other matter which I wanted to raise I could not have raised on the adjournment because I would have had to give notice before 5 o'clock yesterday.

MR SPEAKER:

That is one of the reasons and it is too late now and, secondly, I had notices from two different Members and only two matters can be raised on the adjournment. Mr Isola has already given notice that he intends to raise something else.

HON J BOSSANO:

Yes, but in any case if I had wanted to substitute for this I could not have done it because I had not given notice. Well, obviously, I think the matter we should have discussed transcends in importance what we are going to discuss now because it seems to me that we are talking about what may or may not happen years from now and I am not quite sure what state Gibraltar is going to be in if we follow the road we are following at the moment, Mr Speaker. But, nevertheless, on the question of the Common Market the answer given in the House of Commons was that transitional arrangements where relevant to Gibraltar, would be the same for Gibraltar as for the rest of the European Community in relation to Spain's application. The House will recall that I brought a motion in 1980 seeking the re-negotiation of Gibraltar's terms of membership. A Committee was set up to study the need to do that. That Committee has met very infrequently and the answer appears to suggest that the British Government is unaware of the existence of the Committee because in fact what the answer should have been was that the transitional arrangements as far as Gibraltar was concerned would be subject to whatever was eventually agreed in terms of Gibraltar's own membership of the Common Market. It seems to me that to allow this answer to be given in the House of Commons without the record being put straight is to continue giving the impression that whatever is negotiated between the EEC and Spain as to the transitional arrangements applicable for Spanish Nationals as EEC Nationals anywhere else, will automatically apply to us and it is in my view extremely serious when the question itself particularly drew attention to the expected in-flow of Spanish workers in Gibraltar. The Trade Union Movement has been making representations both directly to the British Government and to the Committee. I brought a motion to this House, the Committee has talked to people from the Foreign Office and here we have a Minister telling the House of Commons that whatever transitional

arrangements are made for the rest of the Common Market will be the same for Gibraltar and I am therefore raising the matter and I am asking the Chief Minister to put to the British Government that that answer is incorrect and is unacceptable to the House of Assembly of Gibraltar and that the matter should be corrected in the House of Commons and the true position be explained to the House that the Gibraltar House of Assembly cannot simply be satisfied with whatever transitional arrangements are made for the rest of the EEC in regard to Spanish entry because in fact we have been arguing throughout that the circumstances, the relationship between Spain and Gibraltar in terms of size and in terms of the potential damage to the economy, is unique and requires unique treatment.

HON P J ISOLA:

Mr Speaker, I would like to echo the concern of the Hon Member on this question of the EEC arrangements for Gibraltar. It seems to me that there has been unmitigated enthusiasm on the part of the British Government, obviously for reasons of national interest or whatever, to support the Spanish entry into the EEC notwithstanding the fact that the Spanish Government is not keeping to agreements entered into with the British Government, is continuing its siege of Gibraltar in a far more damaging way than it was doing before and I agree with the Hon Member that it is certainly a matter for concern that it should be taken as a matter of course that Gibraltar must come in where the EEC is concerned and where movement of labour is concerned particularly within the transitional arrangements that much bigger countries are making for themselves. The representations were made to the British Government, there was a delegation from the Foreign and Commonwealth Office in Gibraltar and we explained to them the problems that affect us and I think the least that could be done would be to consult us on anything that will undoubtedly affect us in Gibraltar and I must echo the concern of the Hon Mr Bossano that a British Minister should state in Parliament, as a matter of course, that anything that is agreed in transitional arrangements automatically applies to Gibraltar which it may well do so without at least telling us in Gibraltar what are the steps that the British Government is taking to preserve the real and vital interests of Gibraltar resulting from Spanish entry into the Community.

HON MAJOR R J PELIZA:

Mr Speaker, I do not want to deprive the Chief Minister from giving a long and detailed answer because I think we want to hear him give a good explanation of the situation. This is a very serious matter for Gibraltar and therefore he should

not be deprived from giving us good information on this matter through lack of time, so I am not going to speak all that long.

MR SPEAKER:

There is plenty of time. We have been going on for eight minutes now.

HON CHIEF MINISTER:

Mr Speaker, I propose to speak for three quarters of an hour.

HON MAJOR R J PELIZA:

Mr Speaker, I do not want to be heard, we want to hear him.

HON CHIEF MINISTER:

I have not got three quarters of an hour, anyhow.

HON MAJOR R J PELIZA:

All I want to say is that we in this House are well aware of the consequences of a peaceful invasion of labour into Gibraltar and how subtle this can be, how dangerous this can be to us and how all this talk of preserving and defending our identity is just lip service if we do not do something about it and it has got to be done now before it is too late and the whole matter is settled. Once it is settled I think it is going to be very, very difficult to undo it, to unscramble the egg is a very difficult process, I do not think anyone has found the answer yet so we have got to try and avoid the egg being scrambled and therefore, Mr Speaker, I think that there should be no waste of time as we did over the Dockyard, to start informing Members of Parliament of the situation and the consequences. Mr Speaker, I think it is possible for us within our knowledge and with assistance from people who are well in the know of how the European Community works and the rules and regulations and everything else about treaties, I think we have already had some advice, there is no reason why we should not seek more if necessary, how important it is that not only we ourselves should be informed of what can be done and what cannot be done but also that we should inform Members of Parliament and Members of the House of Lords of the situation. If the closure of the frontier and the closure of the Dockyard are menacing to Gibraltar, this is equally so and we must not allow the situation to overtake us, as it were, and then it is too late to do anything. Therefore, I do urge the Chief Minister to first of all take note of what has been said already and, secondly, see if he can really give us a thorough and

detailed explanation of his thoughts on the matter of what the Government has done so far and what the Government intends to do in the future. I think he can have no doubt in his mind that he is going to get full support from everybody in Gibraltar, Opposition, Unions, every representative body. He must not wait and throw away that valuable support that he has had for the Dockyard, and has got for this. Please, I can only say this to the Chief Minister, realise the potential and make use of it.

HON CHIEF MINISTER:

I would like, first of all, to thank the Hon Mr Bossano for raising the matter in this way and also for the contributions made by the Leader of the Opposition and the Hon and Gallant Major Peliza. Let me say that I fully share the sentiments expressed and the reasons that bring the matter to the House. I hope nobody will doubt that I am as concerned at the matter as anyone in Gibraltar can be, in fact, more because the responsibility is perhaps a little higher to some extent though there are certain things that are entirely out of one's hands up to a point. As the Hon Mr Bossano quite rightly said, his first motion was brought in July, 1980, and then it was decided, perhaps I might remind Members since I have the time, of what the motion said because I have had a long brief prepared precisely because it is a matter of importance for the record: "This House considers that - (1) a study should be made of the following matters in the context of the negotiations leading up to Spanish entry to the European Community: the economy, trade and employment; (2) when the results of such a study are completed, Her Majesty's Government should be requested to seek to conclude special arrangements with the EEC in order to protect Gibraltar's interests". That was the terms of the motion. At a meeting held on 21 October, 1980, I proposed to the Leader of the Opposition and to Mr Bossano that, as the three parties represented in the House had agreed to work together in this matter, a small sub-committee should be set up on the terms of reference which I think I ought to quote: "(1) to identify the specific problems, in the fields of employment, trade and the economy generally, which it is envisaged would arise for Gibraltar on Spain's accession to the European Community and to advise on the safeguards which should be sought in the context of the negotiations of Spanish entry with a view to ensuring that Gibraltar's economic and political interests are protected; and (2) to report its conclusions in the form of a brief to be referred for expert study and advice". The first thing I want to say is that if the United Kingdom Government is unaware of the existence of the Committee it is their fault and not ours because we have made them well aware, I can assure the Hon Member that we have. The Committee met on a number of occasions and in 1981 the Committee discussed

the following papers: (a) economic aspects; (b) freedom of movement - employment; (c) Regional Development Fund, Social Fund and European Investment Bank; (d) Taxation; (e) Investment and Company formation; (f) transport; (g) tendering for contracts (h) trade. The Chamber of Commerce were invited to carry out a study of the impact which Spain's accession to the EEC might have on Gibraltar's trade and a copy of the Legal Opinion that had been obtained by the Chamber was passed on to the Committee for consideration in January, 1982. The Transport and General Workers Union also submitted a memorandum to the Committee. After considering all these issues the Committee decided that before making an approach to the British Government, independent legal advice should be obtained from a firm of lawyers specialising in Community matters. A lengthy Memorandum setting out the issues and the questions on which advice was requested was agreed by the Committee and was forwarded to the selected firm of lawyers in Brussels in July, 1982. After correspondence, the lawyer concerned, Mr Ian Forrester, was invited to visit Gibraltar for consultations. A meeting was held here in November at which a lengthy memorandum prepared by him was discussed. He put forward two suggestions: "(1) that Gibraltar should make a formal approach by means of a memorandum to the European Commission, through the British Government, to put them on notice of the problems envisaged (to be followed by a later memorandum which would attempt to put forward suggested solutions); and (2) that Mr Forrester should be authorised to make unofficial and private soundings in Brussels so that he might be in a position to assess what kind of solutions might have a chance of success under Community rules". Because of Britain's responsibility for external relations, the suggestions were referred to London for agreement. The draft Memorandum referred to already was forwarded to Mr Forrester. London preferred to proceed in a somewhat different manner and asked for Gibraltar's 'concern' to be spelt out. Copies of the draft Memorandum were forwarded to London, so there is one clear way in which we have already told them all our concern in that long Memorandum. Mr Forrester meanwhile took the view that he could not finalise the draft Memorandum until London's position was known. Mr Hannay, the FCO Under-Secretary in charge of European Community Affairs accompanied by - Mr Darwin, the Deputy Legal Adviser to the Foreign Office; Miss M G D Evans and Mr Codrington, First Secretaries at the FCO; Mr Diggory, First Secretary UK representative in Brussels; and Mr Caslake of the Department of Health and Social Security, visited Gibraltar from 26th to 28th July this year. Arrangements were also made for Mr Forrester to come to Gibraltar in order to attend the meetings with Mr Hannay and his team, so that we had the availability of his advice when the team was here. In addition to meeting the House of Assembly Committee, Mr Hannay met the following bodies:-

The Chamber of Commerce; The Finance Centre Group; The Gibraltar Trades Council and the European Movement. Discussions were also held with Gibraltar Government officials. On 30th September I was informed by the Deputy Governor that the British officials had visited Brussels to discuss with Commission Officials certain concerns including those expressed by the Gibraltar Government when Mr Hannay visited Gibraltar in July, about possible implications for Gibraltar of Spanish accession to the European Community. As members of the House of Assembly Committee are aware - they were called to the Secretariat and the letter was shown to them - the information contained was confidential and it would not be in the interests of Gibraltar to make them public but Members can remember the letter and were given full access to it. Discussions between the British and Community officials have continued in a constructive vein, so I am told. On the 1st December, 1983, when Mr Malcolm Rifkind, Minister of State at the Foreign and Commonwealth Office, said in reply to a Parliamentary question what the Hon Member has said, that the transitional arrangements on Spain's entry to the European Community would be the same for Gibraltar as for the rest of the Community. He went on to say that the Community was seeking a transitional period no less than for Greece on the free movement of labour for Spanish workers, that is, seven years, and a declaration on the free movement of workers similar to that attached to the Greek Treaty of Accession. This is important. The declaration attached to the Greek Treaty of Accession reads: "The enlargement of the Community could give rise to certain difficulties for the social situation in one or more Member States as regards the application of the provisions relating to the free movement of workers. The Member States declare that they reserve the right, should difficulties of that nature arise, to bring the matter before the institutions of the Community in order to obtain a solution to this problem in accordance with the provisions of the Treaties establishing the European Communities and the provisions adopted in application thereof". I hope that is quite clear, that is, that there is a safeguard clause in the Treaty of Accession to Greece which could easily have been put forward by Mr Rifkind. Even then he could have done that, that is that "the enlargement of the Community could give rise to certain difficulties for the social situation in one or more Member States as regards the application of the provisions relating to the free movement of works. The Member States declare that they reserve the right, should difficulties of that nature arise, to bring the matter before the institutions of the Community in order to obtain a solution to this problem in accordance with the provisions of the Treaties establishing the European Communities and the provisions adopted in application thereof". That is the text. Our position continues to be that we are awaiting the results of the representations

on the matter being made on Gibraltar's behalf following the visit of Mr Hannay's team in July. I have this morning been in touch with the Deputy Governor in order that he would obtain the latest situation position from the Foreign Office and I am advised that we may hope to receive a reply in the very, very near future.

MR SPEAKER:

I will then call on the Hon and Learned Mr Isola to raise the matter which he gave notice of in connection with the answer to Question No. 487. The time is now eleven minutes to five.

HON P J ISOLA:

Mr Speaker, I don't think I shall take up all the time. I have given notice that I wish to raise the unsatisfactory answer given to the question of my Hon Friend, Mr Restano, in answer to a Question where the Government was asked to state its policy with regard to advertising of official notices in the local news media and the answer he received was that Government used its judgement in deciding whether it will get value for money in each particular case and also takes into account the extension to which a particular publication is of general news value as opposed to acting as the organ of a political party. Mr Speaker, there were then a series of supplementary questions and we are dissatisfied with the answer that has been given because basically what the answer means when you get rid of gloss, is that the Government is using its funds for advertising in order to dispense revenue to newspapers that either support them or are not unfriendly to them and in a democracy, I think that official notices of the Government which are notices of administrative importance to the public, that official notices are put in newspapers in order that the general public may be informed of what the Government wishes to communicate. That is the purpose of an official notice. It is not to support a party organ or to supply funds to a friendly newspaper to keep it going. It is to put over those matters which the Government cannot put over by way of a press release but wishes to notify the public officially about. We have been looking, for example, in the Gibraltar Post of Sunday 11th December and we notice there were no less than sixteen official notices as against twenty adverts and in the Panorama of yesterday there were no less than eighteen official notices as against ten adverts and I understand in the Vox of last Saturday there were twenty-one official notices. If the purpose of the official notice, Mr Speaker, is because the Government is anxious that the public should get to know what it wanted to get to know then clearly it should be published

in every newspaper and this has been the position of Government in the past until the Opposition - I am not talking of this Opposition - until the Opposition started to run newspapers, lets put it that way, people who didn't agree with the Government whose editors didn't agree with the Government policy or administrative acts or whatever and then a new policy appears to have emerged in the last year or two to exclude newspapers that do not support or are not unfriendly to the Government, from obtaining official notices. This, Mr Speaker, has been done cleverly, of course, I think Vox can be thankful that in order to try and press the matter home that the Government is impartial, gets the adverts and therefore they can be thankful for that. But, Mr Speaker, when the Government says as it has said in the answer that they are not going to give adverts to newspapers that support a particular political party, this is taking matters too far. When we raised in the supplementary question the fact that the Hon and Learned Chief Minister visited the offices of the Gibraltar Post or a certain newspaper, I don't think we mentioned the periodical, the Chief Minister jumped up to say that of course he did, he was a very good friend of the editor who also happens to be the editor of Panorama. Mr Speaker, what would have happened in 1969/71, the two years and ten months, if the Government of the day had followed the same policy? How could the Gibraltar Post, for example, that turned itself from a weekly to a daily newspaper throughout the period of two years and ten months or possibly a bit less, two years and five months, turned itself into a daily newspaper and every day of the week attacked the Government of the day, every day of the week, not once a week, every day of the week, what would it have said if the Government of the day had deprived it of its official notices? What would the Opposition of that day have said in those days, Mr Speaker? That newspaper which is not regarded as a party newspaper by the Government or not regarded as supporting the Government in power because otherwise if they did they wouldn't be giving it the sixteen adverts they gave it last Sunday, what would they have said if the Government of that day had withdrawn all official notices from them because they had suddenly turned themselves from a weekly newspaper into a daily newspaper to be able to attack the Government of the day every day under the general editorship of the Hon Minister for Public Works in those days? I understand he was editor-in-chief in those days. What would he have said from this side of the House, Mr Speaker? I just tremble to think and he would have been right because if the purpose of an official notice of the Government is to inform the public through the media, then it has to accept that the media mean all the media and not just part of the media. Do I have to remind the House, the elected Members of the House, for their sins, I am absolutely certain read every local newspaper, we

have no choice in the matter, we have to read them all. There is an article every week in the Gibraltar Post by Mr Mascarenhas, a well known aspirant to a candidacy for the GLP/AACR in the next elections. He writes a political article every week and his face appears in the Post every week. What is he doing that for, the DPBG? It is a party newspaper, it supports a political party. Of course, Mr Speaker, it criticises the Government on occasion but that has to occur because a Government which is governing all the time is criticised by its own supporters, I have only to give the example of the Daily Mail, the Daily Express and other national newspapers in England because they are the Government of the day. There is far more to criticise in a Government than in an Opposition because an Opposition is not governing and therefore cannot make mistakes in administration because they do not administer and as far as the public is concerned it is the Government that matters and, of course, the Government is also responsible for the administration and customs people, police, revenue, consumer protection, of course they make mistakes and although ultimately the responsibility is of the Ministers any people who support the Government must necessarily criticise acts of officials and so forth and this they do, this is quite normal, this doesn't make them non-party newspapers, Mr Speaker. When there is a real issue, a matter of importance, of course they support the Government and this is very clear to all in the case of the Gibraltar Post and it is very clear in the case of Panorama and we all know it, Mr Speaker, and it is a patently known fact. What is the danger in the Government's attitude of saying: "Well, if a newspaper supports a party then we don't give it advertising"? You may get a newspaper like The Democrat or like The People that everybody knows supports a political party and they are honest enough to admit it and, anyway, if they didn't it is so obvious that everybody knows it but there are other newspapers, Mr Speaker, that may or may not support a political party but who may get concerned about being too critical of the Government because if they support or criticise a Government too much they might be classified as the supporter of a political party and advertising taken away and there are newspapers that could die if they didn't have advertising from the Government and in those circumstances the freedom of such newspapers to criticise the Government would be under constraint. Mr Speaker, I don't know whether Hon Members have noticed this or not but certainly I have. A particular newspaper that used to cover the proceedings of this House very, very fully is not doing so any longer, in my view, and is being somewhat selective as it wasn't before. I don't know what reason there can be for that but what I say is that the policy statement made by the Chief Minister in answer to a question of my Hon Friend Mr Restano, creates the situation that Government advertising will only

be done on a selective basis to suit the political ends of the Government and it is quite clear, a newspaper that comes out on Sunday gets the same adverts as the newspaper that comes out on the Monday, why? Why advertise in weeklies, why not advertise just in one newspaper, the Chronicle? Why give adverts to the Post, to the Panorama and the Vox all coming out within twenty-four hours of each other, why? There can only be two reasons, Mr Speaker, one is to keep them going and help them out and the other one is, which should be the true reason, is that irrespective of the political opinions that they express, irrespective of the political line that they take, these are official notices and the Government wishes them to be communicated to the public through all the possible media so that everybody gets to know, so that, for example, a person who merely reads the Panorama once a week and no other newspaper will get to know, so that the person who reads just the Vox and no other newspaper will get to know, so that the person who reads the Chronicle only will get to know, so that the person who reads the Post only will get to know. That is the purpose, I think, or should be the only reason for official notices being put in three newspapers that are published within 24 hours of each other because I have mentioned these three but don't forget there is a Chronicle on the Saturday and a Chronicle on the Monday. There are five newspapers within 48 hours all receiving official notices and the only good reason there can be for this is, Mr Speaker, that the Government desires to disseminate the information of those official notices and because they are anxious that everybody should get to know what they wish to give out in an official notice they are prepared to pay for it. Mr Speaker, to my mind, when we get an answer to a question which brings politics into how advertising is meted out, then all we can say in those circumstances is that that is a constraint on the freedom of the press. That is an attack on the freedom of the press because, Mr Speaker, if a newspaper criticises the Government too much then it won't get official notices and that perhaps will encourage, for example, the Gibraltar Chronicle which has to be published every day, has to pay union rates to everybody who works there and so forth, will encourage them to be more friendly towards the Government and not to be too critical of them, it is natural. It is all very well for the Hon and Learned Chief Minister to say of course this is not interference with the freedom of the press, of course it isn't, you underestimate the press. Yes, perhaps we do underestimate the press but one thing is certain, that the only good reason there can be for withholding official notices from newspapers that do not support the Government, the only good reason there can be for that is that the Government feels that they should not finance papers that are working, as it were, through their editors and through their editorial policy for the downfall of the Government. Mr Speaker, that is a wrong principle to work

on in a democracy and if that principle had been worked on by my Hon. and Gallant Friend Major Peliza when he was Chief Minister for two years and ten months, the Gibraltar Post would not have been able to come out every day instead of every week in order to criticise the Government as it did constantly during that time. And if they had done that, if my Hon and Gallant Friend had done that he would have been wrong. In the same way, Mr Speaker, that although on this side of the House we are very critical, as we have been on a number of occasions, with GBC, for example, on a number of matters, we on this side of the House have always stood for their right to state the news, to do political broadcasts, to put both sides of the coin and for their right to be independent in that sense and we think, Mr Speaker, that the policy that has been outlined by the Hon and Learned Chief Minister as to giving advertising, the policy that has been advertised is against and works against the freedom of the press, against the freedom of expression of opinion and is calculated to influence the press in what they say and what they do. I am sure that nobody in this House desires that, including the Hon and Learned Chief Minister, but I am afraid that the way he has put it and the way he has acted and the way that Government is acting now in relation to official notices can only lead to the conclusion that the official notices are being used as a weapon to support those newspapers that support the Government and user of them to be used in a way to put constraints on newspapers that are not allied to any political party. In other words, they have moved away from the concept of the official notice which is to ensure that the Government pays for an advert, pays the newspaper for an advert to ensure that the public gets to know, every section of the public gets to know what is that advert and that is why they give it to all the newspapers and they are going away from that concept to the concept 'we only give adverts to those that support us'. I hope that in raising this matter on the adjournment I hope I can have an assurance from the Hon and Learned Chief Minister that the Government or that he will as Minister for Information reconsider the answer he gave to my Hon Friend Mr Restano.

HON MAJOR R J PELIZA:

Mr Speaker, I will not speak for very long, in fact, it would be unfair of me to deprive the Chief Minister of his right to reply, give him plenty of time to defend his position and perhaps even to become a bit constructive and perhaps show what he might think of doing after he has heard my Hon Friend who has put a wonderful case for the support of the freedom of the press in Gibraltar. Regardless of whether the newspaper is for one party or another, I think there is nothing wrong in a newspaper expressing a different point of view to that of the Government. That, in fact, is freedom of the press and there is nothing wrong at all

in the Government helping those newspapers, if necessary, to be able to express their point of view. In fact, there are cases where they do subsidise newspapers precisely to avoid newspapers falling into the hands of monopolies, as you hear in Great Britain you hear the Labour Party saying that the national press is against them because they are all controlled by people who are anti-Labour Government. So there is a case, in fact, for supporting party newspapers to ensure that their views do go out to the public. There is absolutely nothing wrong in principle in supporting a party organ, as it were. What I think is hypocritical is to come and say that one paper is a party organ and the other one is not when it is blatantly clear that they both are and that the only difference is that one does not say so and the other one has got the courage to say so. I know that perhaps the Chief Minister does not accept it but that I think is vox populi in Gibraltar, everybody knows it, and if he doesn't he must be the exception to the rule. But what is even worse is that the man who himself is obviously biased in favour of one newspaper should be sitting in judgement as to who should get the money, that to me is totally undemocratic because he is obviously subjective in his decision in that he is the person who is going to decide who should be subsidised and who shouldn't because in fact we call it adverts but in fact it is a subsidy, we all know it is Government subsidy and I think it is most unfair that this should be the case. I am going to appeal to the better nature of the Chief Minister and say that I do believe that he has, I think, a feeling for the freedom of the press. I remember when I brought up the question of the Trade Licensing Ordinance not applying to printing because that could affect the freedom of the press, he supported the idea and he made sure that the Bill was produced safeguarding that position. Therefore, I was very, very surprised when in practical terms he took a completely different decision and he himself acted not through a third party, but he himself directly by stating in answer to my Hon Friend's question that in fact he would not support a newspaper which attacked the Government. That, I think, is a terrible statement to make for a democrat because the essence of democracy is precisely to allow freedom of debate not only in this House but generally in town, that is freedom of expression. To try and suppress it from one party by not giving the subsidy that he is giving to the other, I think, that is paying lip service to democracy and I would suggest to the Chief Minister that I don't think he would like to go down in posterity here in Gibraltar as being a person who spoke about freedom but actually acted against it and I hope that he will be able to reconsider his position and act, I think, in a truly democratic manner as far as the press is concerned.

HON CHIEF MINISTER:

Mr Speaker, rather interesting points have been raised but I think I ought to go back a little because, first of all, there is nothing particularly personal about this question, it has a long history and the history of course is the history of increasing costs of publications and restraining the various votes in respect of information department expenses. Let me say that there has been very little - this has a bearing on what I have to say later - there has been very little exchange despite the fact of increasing costs, there have been very little increases in the information departments regular expenses since 1979 to now. In 1979/80 £11,680 were voted for official notices and other things. In 1980/81 £12,620. In 1981/82 £12,800. In 1982/83 £12,600 and a supplementary warrant of £2,200 in respect of publications in the Financial Times and so on, so £12,600 kept more or less to £12,800 despite increasing costs and the estimate for this year is £13,300. In 1979 when the squeeze came it was decided by the Press Office, so I accept full responsibility for it but it was decided by the Press Office, that publications should be kept to a minimum consistent with achieving effective publicity and keeping within the statutory requirements and vote. Notices should also be kept as brief as possible. I may say in respect of one particular newspaper which even though some of the statements made are not true but even in this one there has been no suggestion that it has anything sympathetic to my party in any case, that we have had to restrain the payment of the advertisements which are expected to have a four inch column and they have put eight inches or twelve inches and then they afterwards charge for more and we don't pay them. So it isn't all that easy and some people haven't even got the machines with which to do it, anyhow, we have had to restrain it that way. In 1979, Gibraltar Libre queried the decision that Government would not advertise in any newspapers because sufficient publicity was already achieved through the present newspapers. At about that time the Calpe News had also complained about not receiving official notices and newspapers were then asked to submit audited circulation figures and these were given by the Gibraltar Chronicle, Panorama, Gibraltar Evening Post, Gibraltar Libre and Calpe News. No figures were given by Vox. These figures were submitted to the Chairman of the Expenditure Committee which was looking into cuts wherever it was possible. When the paper The People appeared the same line was taken in that Government's requirements were already well covered. The Government also used its judgement in deciding whether it would get value for money in each particular case and also took into account the extent to which a particular publication was of a general news value as opposed to acting as the organ of a

political party. Here we come to, perhaps, the most important part of the problem and that is what is a newspaper? The Leader of the Opposition has been continuously referring to the paper of his party as a newspaper. Well, is it a newspaper or is it a party organ sheet which has no news whatever but just promoting their own interests and who are the people who take part in that? In the first place let me say quite clearly that I hold no shares, that I hold no interest whatever in the Gibraltar Post or the Panorama and that if they published what I like they wouldn't publish a lot of things that they publish. Let me just show you what Panorama said yesterday. Unfortunately MacAvilla on this occasion was writing in Spanish, but this is supposed to be the paper that supports my party. He is supposed to be talking to a man called Julio and look at the insidious way in which it undermines my party - I am translating as I go along: "Julio who has always been of the AACR desde siempre - from ever - thinks with all due respect that the party for which he had voted traditionally in all the elections appears to be tired after so many years in power. There are no new ideas. He asked me whether I understand it and I tell him yes. And he said: "Would you vote again for the AACR?" He said: "Well, I might perhaps abstain but that would not be fair", and it goes on criticising the AACR. I don't care, it is published in Panorama, I don't complain to Mr Joe Garcia who happens to be a friend of mine because he publishes that and Licudi, of all people, not this week but other weeks, he has called us all sorts of names and he is a very good friend of mine but he has called us all sorts of names. I respect that but I have no shares. If we talk about The Democrat, The Democrat is purely a party proganda organ which starts, before the election has started, by heading a leading article "Vote for the DPBG", when we haven't even started the elections yet and whose editor is a prospective candidate and whose shareholders according to my information are two Hon Members of this House, Messrs Haynes and Scott, and the other two are the prospective candidates, young Mr Hoare and Rosado. These are the people who run The Democrat who I understand, and let me tell the Hon Leader of the Opposition that unlike him I do not read all the papers, I do not, they make me sick and therefore I don't read them. What I am told the paper devotes its time to is either ridiculing the individual Members of my party or proclaiming the virtues of their party. We would be happy to receive audited figures of sale to see whether it has sufficient dissemination to be able to justify the expense of the money of the Government in advertising. Let me say without revealing figures that the three papers which I mentioned before: the Post, Panorama and the Chronicle go well above the thousand mark. Perhaps if we could get that figure we might perhaps even be able to judge how much the advertisements are worth

and then we might be able to consider if there are sufficient numbers published whether it is worthwhile but for that we would have to have figures as we demanded in 1979. The freedom of the press is of course something which we all want to support. I remember being instrumental in 1945 in having the old law of requiring a licence to run a newspaper advocating for its removal and obtaining it before we had a Legislature by direct representation to the Government, there was no elected Government. It is not true to say that we only publish in papers that are friendly to the Government. I don't know that the Chronicle is friendly or unfriendly, I think there was a suggestion that the Chronicle no longer published full reports of this House, I don't know whether the Hon Member was talking about any other paper that doesn't publish now traditionally the House. My relations with the Chronicle are the same as anybody else's relation except that they are reasonably near neighbours of my Chambers. I know the journalists, of course I know them. I know all the journalists in Gibraltar but here we come to another point. There are papers which are run by professionals whose livelihood is the running of newspapers and that is the case with Panorama, with Vox, with the Post and with the Gibraltar Chronicle. They are newspapers in the true sense of the word, are seen to be such and behave as such and give news on a variety of things for the general interest of people. I know, I have experience of the fact that The Democrat is distributed free in many places. I can swear an affidavit to that any day. I went into a closed house one day whose owner had died and there were copies of The Democrat put under the door and the woman had not been able to become a subscriber of The Democrat because she died before The Democrat started to work. I know what propaganda is and what newspapers are, I have the copies actually, I kept them as a matter of interest, just put under the door.

MR SPEAKER:

You have two minutes left.

HON CHIEF MINISTER:

All I would like to say, Mr Speaker, is that in exercising the discretion it is not exercised in the sense of trying to benefit the party or to punish anybody, it is that the money is limited, we put the money to the best value, we have not had any figures of sale of The Democrat, not given away sale, audited figures, and we have to carry the same criteria that we have done with Gibraltar Libre, The People and Calpe News which are purely sheets of paper printed in order to advance the political interest of a party and have no appeal to the general public

and if they had appeal to the general public then of course that would be shown in the sales. Mr Speaker, I am not exercising any kind of censorship at all, I have nothing to do with the Post or with the Panorama except that I am very friendly with them, they write things I don't like sometimes, sometimes they write things I like but that is their business and not mine whereas the editor of The Democrat is a prospective candidate who appeared on television the other night, the shareholders are Members of this House and if that is not an involvement in a party paper I don't know what is.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion that the House adjourn sine die which was resolved in the affirmative.

The adjournment of the House sine die was taken at 5.30 pm on Tuesday the 13th December, 1983.