

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

13TH MARCH, 1984

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Second Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 13th March, 1984, 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 Zammit - Minister for Tourism  
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 G Mascarenhas - Minister for Sport and Postal Services  
The Hon E Thistlethwaite - Acting Attorney-General  
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon J Bossano - Leader of the Opposition  
The Hon J E Pilcher  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon J C Perez  
The Hon J L Baldachino  
The Hon R Mor

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 22nd February, 1984, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Traffic (Driving Licences) (Amendment) Regulations, 1984.
- (2) The Traffic (Varyl Begg Estate) Regulations, 1984.

Ordered to lie.

The Hon the Minister for Tourism laid on the table the following documents:

- (1) The Hotel Occupancy Survey, 1983.
- (2) The Air Traffic Survey, 1983.

Ordered to lie.

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

The International Trunk Calls Charges (Amendment)  
(No 2) Regulations, 1984.

Ordered to lie.

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

- (1) Supplementary Estimates Consolidated Fund (No 4 of 1983/84).
- (2) Supplementary Estimates Improvement and Development Fund (No 4 of 1983/84).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 5 of 1983/84).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 6 of 1983/84).
- (5) Loan Agreement for a £6 million floating rate facility between Hambros Bank Ltd, Lloyds Bank International Ltd and the Government of Gibraltar.
- (6) The Accounts of the Government of Gibraltar for the year ended 31st March, 1983, together with the Report of the Principal Auditor thereon.
- (7) The Report of the Gibraltar Museum Committee and the Accounts of the Gibraltar Museum for the year ended 31st March, 1983.

Ordered to lie.

ANSWERS TO QUESTIONS

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Minister for Sport and Postal Services has given notice that he wishes to make a statement. So therefore I will now call on the Hon Minister.

HON G MASCARENHAS:

Mr Speaker, following the now established practice of keeping the House informed whenever a review of postal charges is to be introduced, it falls upon me to make a statement on the increases which will become effective on 1 April, 1984.

The last review of postal charges took place on 1 January, 1982. Since then the cost of postal operations has increased considerably. The main factors which have contributed to the increase have been the annual wage and salaries reviews, and the adverse rate of exchange of the pound sterling against the unit of Special Drawing Rights which is used for accounting between postal administrations. The rate of exchange has decreased by approximately 19.2% in the last two years.

It is Government policy that the service which the Post Office provides should as far as possible pay for itself. Nevertheless I should like to stress that care has been taken, within this policy, to keep the increases as low as possible. The following are examples of the new charges which are based on the basic rate authorised by the Universal Postal Union:-

Surface rate from 14p to 17p for a letter weighing up to 20 grammes.

Airmail rate to Europe from 17p to 20p for a letter weighing up to 20 grammes.

Airmail rate to other destinations and other postal services are also increased.

It is to be noted that the airmail rate from the United Kingdom to Gibraltar is currently 20½p. It is understood, however, that this rate will be increased in the near future.

The local postage rate will not suffer an increase and will remain at 4p for a letter weighing up to 50 grammes.

Proposals are under consideration to increase the number of PO Boxes during the coming financial year. This will improve the service provided in keeping with the Government policy of supporting the infrastructure in the development of Gibraltar's role as a financial centre.

MR SPEAKER:

I have always allowed a Member of the Opposition to say something on the statement or ask any question for clarification. We must not debate the statement, of course.

HON J C PEREZ:

Mr Speaker, in view that the Hon Member has said that the increases are due to the fact that the Department should pay for itself, had these increases not been implemented would that have meant that the Department would have made a loss at the end of the financial year?

HON G MASCARENHAS:

No, the Department itself would not have made a loss. Our philatelic sales would have covered that, there has always been a profit at the Post Office but the main Post Office would have made a loss, possibly.

HON J C PEREZ:

Is that for certain or is that possibly?

HON G MASCARENHAS:

No, it would have made a loss.

HON J C PEREZ:

Doesn't the Hon Member think that it would have been better to bring in the increases as part of the estimates in the forthcoming Budget rather than now?

HON G MASCARENHAS:

Mr Speaker, it has nothing to do with the estimates. This decision has been made by Council of Ministers and the 1 April was the best date to implement it.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, on the 13th March, 1980, the Gibraltar House of Assembly resolved: "That a Permanent Select Committee on Members' Interests consisting of four Members, two from each side of the House, irrespective of the number of Members as between Government and Opposition, be appointed with the following terms of reference - 'To examine the arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests, to consider any proposals made

by Members as to the form and contents of the Register, to consider any specific complaints made in relation to the registering or declaring of interests; and to report on these and any other matters relating to Members' Interests". Taking into account the changes that have taken place following the election and after consultation with the Leader of the Opposition, I now move, Mr Speaker: "That this House resolves that the following Members should be nominated to the Permanent Select Committee on Members' Interests - The Hon A J Canepa, the Hon Major F J Dellipiani, the Hon J Bossano and the Hon J E Pilcher". I would like to state, Mr Speaker, that this does not involve a considerable amount of work. I do not think the Committee has met but it is there in case there are any objections or to draw the attention as to the terms of reference set in case there is any complaint or lack of information and I think, perhaps, the fact that it has not had the need to meet is the best proof that the decision taken by the House that Members' interests should be declared has been successful. I commend the motion.

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

Mr Speaker then put the question in the terms of the Hon the Chief Minister's motion which was resolved in the affirmative and the motion was accordingly passed.

The House recessed at 12.45 pm.

The House resumed at 3.20 pm.

## BILLS

### FIRST AND SECOND READINGS

THE SEX DISCRIMINATION ORDINANCE, 1984

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. Sir, this Bill was originally brought before the House in December, 1983, in order to update current legislation in accordance with the EEC directives on equal treatment for men and women. The Bill then received its First and Second Readings. Following the dissolution of the House in December, 1983, the Bill must again be submitted for First and Second Readings. I would just like to say that the original draft Bill was discussed at a meeting of the Labour Advisory Board held on the 4th November, 1983, where both the representatives of the employers and employees said that they needed more time to consider the Ordinance. As far as I am aware these consultations have not yet been finalised and I would propose that we deal with this up to the Second Reading stage and leave the Committee Stage and Third Reading to a subsequent meeting.

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 M A FRETHAM:

Mr Speaker, I am indeed fortunate and it is a source of satisfaction that the first time that I should rise in the House to speak on a particular Bill that it should be one on which I have, and certainly this side of the House has, very close affinity with the principles involved.

MR SPEAKER:

Particularly with a lady Member in the House.

HON M A FRETHAM:

And particularly with a lady Member in the House. As most of the Members in the House may be aware, I was prominent in having achieved equal pay for shop assistants well before, in fact, the Equal Pay Ordinance was introduced in Gibraltar and the Sex Discrimination Bill is a natural process from the Equal Pay Ordinance. We view the Sex Discrimination Act as a moral and social obligation so that we do away with discrimination and move towards equality of sexes. The Sex Discrimination Act was in fact introduced in the United Kingdom eight years ago and I am in no doubt that the EEC has been putting pressure, discreet pressure, perhaps, on the British Government to have this legislation introduced in Gibraltar to comply with the directives on sex discrimination legislation generally. I am not going to dwell on what the impact of the principles involved in the Bill would have had on Gibraltar during the eight years that it has not been with us, but I think it gives

us an opportunity and I think it is a fair opportunity to learn from the experience of others when we discuss the principles involved. The Sex Discrimination Act came into being in the United Kingdom in 1975, in fact, five years after the Equal Pay Act which then became a Schedule to the Sex Discrimination Act and it was intended from the beginning that these two Acts should be read together. However, experience shows that this has very rarely been done. The general view held in the United Kingdom is that equality legislation as a whole is an extremely complex matter and many difficulties have arisen even for those in the legal profession, for anyone wishing to use the actual law. In fact, the Equal Opportunities Commission which was set up to oversee the Equal Pay Act and the Sex Discrimination Act in the United Kingdom, have indeed continuously pressed for amendments to this legislation. Amongst the problems which have arisen, Mr Speaker, have been those of indirect discrimination particularly when such discrimination fall between both pieces of legislation and I believe that whilst there has been a move towards the introduction of this Bill in Gibraltar, that we ought to look at what we do in the long term against the background and experience that we have had in the United Kingdom. This side of the House hopes that Government will support our suggestion that we produce provisions at Committee Stage for the incorporation of equal pay into the proposed Sex Discrimination Act and thus move towards repealing the Equal Pay Ordinance of 1975. The idea being, Mr Speaker, to simplify the legislation for everybody concerned who has to make use of it and to bring the concept of indirect discrimination into the pay area. Should, Mr Speaker, Government decide not to proceed with our suggestion we will, of course, from the Opposition benches be proposing amendments in line with the thinking that I have outlined and in this context, Mr Speaker, we will be supporting the Bill before us.

HON CHIEF MINISTER:

Mr Speaker, I do not propose to say much but I think it is customary that it does not take long in this House for a new Member to make his maiden speech. Within hours of sitting he has done so and it is a pleasure that falls on me as Leader of the House to welcome the speech and I hope to be doing that in turn, I suppose, in the next few days. I had the unfortunate experience since I have been here since 1950 of having once to get up and say: "I am sorry I cannot commend that speech" because it was full of venom and other things that it did not warrant it but I am very happy that it fell on the Hon Mr Feetham to make his maiden speech on a matter which I know is very near to his heart and to the heart of so many people who seek to remove the blatant cases of discrimination.

HON J BOSSANO:

Mr Speaker, in looking at the legislation, as my Colleague the Hon Mr Feetham has said, it is his responsibility, we shall be looking at the proposals that are on the statute book in UK and, indeed, at the thinking within the Labour Movement in UK of where the legislation could be improved upon. I would put

it to the Government that since we are moving in this direction there is no reason why we should not attempt to produce, if we can, a piece of legislation that can be an improvement in what there is at the moment in UK and we shall be looking at amendments with that aim in view when we come to the Committee Stage which, of course, is not down for this meeting of the House. But on the other point, the question of amalgamating the provisions of the Equal Pay Ordinance that exists at the moment with the provisions of the Sex Discrimination Ordinance, I would say in support of that argument that in the past we have had legislation on labour being brought to the House which appears to create situations which conflict with requirements in other labour legislation introduced on other occasions for different reasons. We have got, for example, the provisions of the Control of Employment Ordinance on the one hand and we have got the provisions under the Protection Against Unfair Dismissal on the other and we have got a situation where under Immigration Control and under Control of Employment you have got a requirement that the Labour Department should examine renewal of work permits in the light of the unemployment situation and in the light of whether there are unemployed EEC nationals and a requirement under the Protection Against Unfair Dismissal which says that if you refuse to renew somebody's contract you are in fact exposing yourself to a claim for unfair dismissal. It is understandable that that should happen because, in fact, when the legislation was enacted giving protection against unfair dismissal the other legislation had already been on the statute book. I am saying that the principle we are urging the Government to take a look at is that by using the opportunity of new legislation in a particular area to consolidate the existing law, it avoids conflicting requirements and it also, I think, makes it easier for people concerned with advising those affected about their rights, in the Trade Union Movement, in the legal profession and in the Labour Department, it makes it easier if they go to one piece of legislation than if they have to go into several pieces of legislation.

HON CHIEF MINISTER:

If the Hon Member will give way. Yes, the Committee Stage will be taken at a subsequent meeting. If we are given sufficient notice of proposed amendments so much the better but I would like to sound a word of warning, we have to be very careful in trying to assimilate what has happened in the United Kingdom to be careful of the many ridiculous cases that have taken place in the United Kingdom, the extreme cases not in any way in the search for avoidance of discrimination but it has gone to an extreme which we have the experience of what has happened in England and we cannot reach the stage where some cases in England have lasted for days in argument over absolutely ridiculous matters in connection with the absolute equality to the extent where it does not bear very close examination.

HON J BOSSANO:

I am grateful to the Hon and Learned Chief Minister for that intervention, Mr Speaker, in fact, what we are suggesting is that we have an opportunity to produce a better law and a better law does not necessarily mean that we have to make the mistake of trying to tie down every possible and conceivable eventuality and finish up with an unworkable law. It can mean perhaps in some areas looser definitions to make the law practicable.

HON A J CANEPA:

Mr Speaker, I think we were aware in the Labour Department when I was Minister for Labour as early as 1978, that we were going to have to introduce legislation along these lines and a draft Bill was prepared by Mr John Havers which neither the then Director nor I myself particularly liked because it was based too closely on the United Kingdom Sex Discrimination Act and this was at a time when, precisely the point that the Hon Chief Minister has made, was becoming only too evident, I think they were getting into a mess in the United Kingdom. The legislation did not seem to have a logical rationale to it. So when that draft Bill went to Council of Ministers we said: "No, we do not like this. Let us have something that will be more geared to whilst on the one hand meeting the objectives of what the legislation should be aiming to attain, on the other hand let us ensure that we have something which is much more practical and much more attuned to the needs of Gibraltar", having regard to the fact that with a very large public sector we had already made very considerable inroads at least in the field of employment in eliminating discrimination. I think it must have been due to the lack of pressure on the Foreign Office from Brussels that Mr David Hull did not particularly give this piece of legislation a very high priority and it was on the cards for a number of years but it used to slip behind in the list of priority as other more urgent legislation was being drafted and it was not until once he knew that he was leaving that he made up his mind that he wanted to produce something and hence the Bill that came to the previous House in December. I fully agree with what has been said by Hon Members opposite about the desirability of legislation, particularly in the field of labour and in the field of social security, being consolidated. I remember that in the early years when I was Minister for Labour the Director and I often used to discuss the desirability of consolidating all our social insurance, employment injuries, family allowances, elderly persons pension and all the other pensions into one Ordinance but the trouble is that it is very difficult to stop the world and get off while you do something like that. Perhaps, advantage could have been taken of the present exercise of the revision of the Laws of Gibraltar to do that. It is always a lack of time which militates against the ability, I think, of Government departments to consolidate legislation. In principle I like the idea of the Equal Pay Act being embodied in this piece of legislation or rather how our own

Equal Pay Ordinance of 1975, and the proposal is a clearcut one which I think the Hon the Acting Attorney-General can take on board and advise the Government. That, I think, we can look at on our own and make up our minds based on the advice from the Attorney-General as to how that should be done. But if Hon Members opposite are thinking of introducing what they would regard as desirable amendments to this Bill, I think we on the Government side would be very grateful if rather than have those amendments circulated shortly before the House next meets in Committee to consider this, if we could have as much prior notice as possible. That can be done in a very simple manner by writing to the Minister for Labour so that the Government can give those amendments its considered attention in Council of Ministers and then the matter will make far greater progress because if these measures are positive and constructive the danger is that if they are introduced in the House a day or so before we are due to deal with the Bill, they might go by default because the Government, not knowing the implications fully of those measures may say: "Well, we had better play safe and vote against them", whereas if enough notice is given I think that the chances of their being incorporated in the Bill before the House are greater. It is not a question of who takes the credit for it, the Opposition has made the proposal, the Government has looked at it and the House decides to legislate, I think that is better legislation, that is conducive to a better result being attained in the long run.

HON J E PILCHER:

Mr Speaker, I would like on behalf of the Opposition to welcome the words of the Hon Mr Canepa and in fact say that as far as the Opposition is concerned we are grateful for the words that he has just said and we will be making every effort possible to give as much notice to the Government of the amendments that we propose to make so that the Government has as much time as it needs to look at the amendments in order to, on both sides, work towards getting them all into the one Ordinance.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I think that because of my close connection with Hon Members on the opposite side through my Labour Advisory Board and Manpower Planning Committee, I should remind the House that we will have an opportunity in the Labour Advisory Committee where the Trade Union side and the employers' side and myself can sit together and maybe start looking at some of the amendments which we wish to introduce at the Committee Stage so that we have really two platforms, one a person to person one and one where they can write to me with their own personal views before we get to Committee Stage at the subsequent meeting of the House.

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

HON 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, 1984

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, this is similar to the previous Bill before the House. This particular Bill was also lost following the dissolution of the House. The matter was, in fact, debated in December of last year, it went through its First and Second Readings but was lost. It did at the time enjoy the support of the Members of the Opposition including the now Leader of the Opposition, Mr Bossano, and I sincerely hope that on this occasion it will also meet the approval of Hon Members opposite, not only of Mr Bossano but of the whole of the GSLP Opposition. The Bill is quite a straightforward one, Mr Speaker. As far as the main principle of the Bill is concerned I would like to divide it into two and that is in the manner in which it is actually set out in the explanatory memorandum which is contained in the Bill. It is not really a new piece of legislation that one is trying to introduce but really a tightening up of the legislation that we now have and I refer in particular to Section 73 of the Education Ordinance, 1974, because Section 73 provides that "no fees shall be charged in respect of the admission of entitled children, that is to say, of children of parents resident in Gibraltar who are normally entitled to social benefits provided by the Government, to any Government school or in respect of the education provided in any such school". That may seem to be fine but then if you refer to the interpretation section, which is Section 2 of the Ordinance, "parent" there is defined as follows: "parent includes a guardian and every person who has the actual custody of the child". I feel that this particular definition needs to be tightened up particularly following the opening of the frontier because what I have noticed is that we have had an increased number of applications made not only by Gibraltarians who have decided to take up residence from across the border but we have had a number of applications by Gibraltarians who were residing in Spain years ago and who have

now sought to try and get free education for their children in Gibraltar. The way they have been trying to do this is by saying: "Well, I am leaving my children in the care of my in-laws in Gibraltar". The in-laws have very readily come to the Education Department and said: "Look here, I can say quite honestly that I have the custody and care and control of the child because they are living in my house". And let us be quite frank with Members of the House, we have really stopped that going on but I have been very concerned because I think that if a case had actually been taken to court, it could well mean that we may have lost that. This is why I am glad to be able to bring this Bill as soon as possible, in fact, at the first working meeting of the House, so that we can legislate on the matter. We stopped that but at least we want to make sure we have the legislative backing on that decision. There is another, I think, very important aspect which goes side by side with this new Bill, and it is the question of the EEC. Because, Mr Speaker, if we were to concede rights to non-residents, albeit Gibraltarians, I think it could be open to challenge as acting unfairly on other non-residents claiming similar rights as British Subjects and on EEC nationals. By this, of course, I mean that once Spain joins the Common Market, and I pose the question: What difference between Spanish nationals residing in Spain and working in Gibraltar, and Gibraltarians in the same situation? By introducing a strict residence criteria, which is what this Bill is proposing to do, I can assure the House that we would not have any problems whatsoever because we would be applying a strict residence criteria to ourselves, to Gibraltarians, and therefore there can be no problems of any EEC rights accruing because one cannot be told that we are treating our nationals different to EEC. If we expect Gibraltarians to have a strict criteria of residence then we could similarly apply it to EEC nationals. I am happy to inform the House also, Mr Speaker, that I am advised by the Attorney-General that this particular Bill, this particular law, prescribing strict residence criteria is, in fact, not discriminatory within the meaning of Section 14, sub-section 3 of the Constitution. I think the point must be really made clear to everybody in Gibraltar and that is, those who decide to take up residence outside Gibraltar should do so in the full knowledge that by doing so they may be losing some of their rights in Gibraltar. I think the time must come that we must realise that we cannot expect to have our bread buttered not only on both sides but along the crust. I think with the proposals in this Bill at least as far as free education is concerned it would be a strict residence criteria which again I reiterate has been the policy of the Department in the last few years. The other part of the Bill, Mr Speaker, that I wish to highlight is the enforcement provisions. Hon Members opposite will see that we are, in a way, we are making life quite easy for the Department and that is that we are throwing the onus of proof on the person who is applying. Quite briefly, I will merely read from the explanatory memorandum which provides this: "The Bill includes provisions to facilitate its enforcement. Where a natural or adopted parent of a child is alive, it is presumed, unless that parent proves otherwise" - note the change in the onus of proof - "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 has in any year lived outside Gibraltar for more than three months, it is presumed, unless he proves otherwise, that he is not ordinarily resident in Gibraltar during that year". Again, as a safeguard to persons who have to leave Gibraltar and reside elsewhere either because of health reasons or for work reasons or even for educational purposes, there is a proviso because these presumptions are rebuttable and would therefore enable natural or adoptive parents who are genuinely resident in Gibraltar to establish the children's right to free education in cases where, as I say, the parents are absent for such reasons as business, holidays or educational purposes of a temporary nature. I sincerely hope, Mr Speaker, that the Bill enjoys the support of all Members of the House and I therefore have no hesitation in commending 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 R MOR:

Mr Speaker, people are surprised at the fact that the Hon Minister for Education has said that the person, if he lives away from Gibraltar, the children would not have any right to free education even though it could happen that that person could be working here and paying taxes here. As regards fee paying students, Mr Speaker, I think it is a good opportunity to look at the situation as regards adult evening classes which are currently being run at the John Mackintosh Hall and which require fees to be paid. Mr Speaker, as I understand it, there is opposition from this House to allow foreign students to participate in these classes and the main reason, and possibly the only reason, is that these classes are being subsidised and consequently it would be unfair for foreigners to take advantage if we, the taxpayers, had to subsidise a particular service. But, Mr Speaker, I think that by adopting this attitude which to my mind is a negative attitude, I feel this House is perhaps mistaken in concentrating on what the foreign students are getting rather than on what foreign students could contribute. You see, Mr Speaker, there is, to my mind, a negative and positive way of looking at things and perhaps I should explain this. In any country which has an unemployment problem, for example, to look at it negatively would be to admit you have many people out of work. However, if you looked at this positively, you could say you have lots of labour to afford. Similarly, Mr Speaker, we, the Opposition, when we look at our situation in a negative manner, we find that we are not in Government but on looking at it positively we find that we have the opportunity to give the Government a good hammering during the next four years. I understand, Mr Speaker, that there are numerous enquiries from students in Spain to join the evening classes here and that they are being turned down because

of the present policy. I think that to turn down these students purely because the classes are being subsidised is perhaps being narrow minded since the main reason for the subsidy is precisely because classes are not being filled to capacity. It could very well turn out, therefore, that by admitting foreign students to our evening classes and fill these to capacity, there would be no need for any subsidy at all and we may even find ourselves making a profit. And even if any subsidy were still to be required, Mr Speaker, I think we could always adjust the fees payable by foreign students to meet this subsidy. I think that the Hon Minister for Education could perhaps look into this matter and that this House should reconsider whether foreign students should be allowed to join our evening classes. Furthermore, I think that if the Government were to look towards establishing an international college in Gibraltar or a polytechnic or even towards providing university studies in Gibraltar, the Hon Minister for Education would find me most cooperative. These are the only observations I have to make.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

I have two observations to make, Mr Speaker, on the explanation that the Minister for Education has given about the need to control the situation. I think there are different aspects involved in this. Let me say that the question of people who have no longer a connection with Gibraltar in the sense that they left and that they are now earning their livelihood elsewhere and are therefore not contributing towards the cost of education in Gibraltar or the cost of social services, is one which to our minds the Government is perfectly right to exclude those people from free education in Gibraltar. There is no moral right on the part of people who live in Spain and who earn their living in Spain albeit that they might be Gibraltarians by birth, to expect the Government of Gibraltar to provide education for their children at the expense of the Gibraltarian taxpayer and of the people who are contributing to the Gibraltar economy. That is one category, I think, that is clearcut as far as the Opposition is concerned. We also take the point that under the rights of EEC nationals and on the possible entry of Spain into the EEC and the removal of the restrictions, it is quite likely that any attempt to discriminate between Gibraltarian residents in Spain working in Gibraltar and residents in Spain of other nationality also working in Gibraltar and therefore also contributing towards Government revenue through their income tax, any attempt to provide education free for the children of one and not for the other would in our judgement certainly be seen by the EEC Commission as discriminatory. Let me say that I do not think the Minister has made it absolutely clear whether in fact what he has attempted to do has been okayed by the experts in the Foreign Office as being within what the EEC demands of rights



of establishment and rights of access to public services for cross frontier workers. I am not sure whether that has absolutely been made clear because certainly it would seem to be contrary to some of the indications we have had from the visit of Mr Hannay and others from UK. And the other point I want to make and perhaps it is the most important political point to make in this Bill, is that it represents a dramatic change of heart on the part of the Government because it was the Hon and Learned Chief Minister who in his evidence to the Foreign Affairs Committee of the House of Commons said that one of the benefits that Gibraltar could gain, when he was talking about equality and reciprocity, one of the benefits that Gibraltar would gain from an open frontier would be that the open frontier would help to ease Gibraltar's housing problem, and that was something that Spain could provide for Gibraltar, and that Gibraltar could help to ease their unemployment problems. And he was making the point that if we talked about strict reciprocity, then for every job that a Spaniard obtained here a Gibraltarian would have to obtain a job there. And for every house that a Gibraltarian obtained there a Spaniard would have to obtain a house here.

HON CHIEF MINISTER:

I do not remember what I said, I know the Hon Leader of the Opposition is a better keeper of my memory than I am but I was then arguing against the non-implementation of the Lisbon Agreement as a discrimination.

HON J BOSSANO:

That is precisely what I have just said, Mr Speaker. I think the Hon Member has made the same sort of faulty analysis that somebody on our side made earlier on. I have said precisely that, that he was saying in terms of equality and reciprocity, that it did not mean one for one, that is what he was saying. He said in his evidence to the Foreign Affairs Committee that if one interpreted rigidly the question of equality and reciprocity, it would have to mean that if a Gibraltarian went to live there a Spaniard would have to come and live here and that he did not interpret it like that that he interpreted it, in fact, the opposite way, that what La Linea might be able to provide Gibraltar with was accommodation and what Gibraltar might be able to provide La Linea with was employment and that that was how reciprocity had to be seen, not one for one, but one providing something and the other providing something else. Of course, what we cannot do is put that as a philosophy and then punish those who make use of that reciprocity by moving over there and you say: "Right, the fact that you have moved over there means that you now have to take your children out of Gibraltar schools" and what, put them in Spanish schools in La Linea? I am not sure that we want to encourage that either. I think the basic approach is one that we identify ourselves with. I think it is important that we should not do anything to encourage people to settle in La Linea because I think long term that carries enormous dangers for Gibraltar and one

of our fundamental worries about the whole concept of normalisation and of the right of movement of labour and of the right of establishment arising out of the EEC membership of Spain is precisely that Gibraltar will be merged into the Campo Area and that Gibraltar will become a ghost town with everybody commuting. Therefore, in looking at our legislation on social services, on tax, on housing and on education, we have to be thinking that our primary objective must be the preservation and the continuation of Gibraltar as a distinct community with its own identity. Therefore, we agree entirely with that as a primary philosophy and we support that primary philosophy entirely. But I think we cannot ignore the fact that there are going to be if we simply say: "Well, let us lay it down as clearly as this and there are no grey areas, it is a clearcut thing, either you live here or you live there", and if you live there you have to take your children out of school, presumably, or pay for their education. I am not quite sure how they would go for it, but let us not forget, Mr Speaker, that we have got a situation today in Gibraltar, because of the problems that the Government of Gibraltar has faced on obtaining aid for housing, where the housing problem is bound to get worse rather than better. We have got a situation where the accommodation that is available in the private sector is enormously expensive and I can tell Hon Members that I know of Gibraltarian families amongst those on the redundancy list in the Dockyard who will have no choice if the breadwinner loses his job, and they have got a rent of £40 or £50 a week, they will have no choice. They will either have to come downstairs so that the children can carry on coming to school or they will have to move across the border. I am not suggesting that we have to encourage them to move over the border, quite the opposite, in fact, I disagree with the way the Hon and Learned Member put his views to the Committee because I thought he did not make clear that we did not want that movement to take place, but what I am saying to the Government is that they should give more thought to drafting the legislation in a way, and I am not sure that I can say from this side we would amend it this way because it seems to me that it requires some very clever drafting, quite frankly, so that the basic principle which has been expounded by the Minister for Education and which we support and therefore we are supporting the general principles of the Bill because we support that principle, but that he cannot ignore the reality of the situation that there may be people who are not in fact trying to have their bread buttered on both sides because those people, I think, do not deserve the support or the sympathy of either Government or Opposition but the people who may be forced into a situation, not through their liking. I can tell Hon Members that I have had personal experience of people who come to me with a problem where even before the Government decided to take action in this matter, they were living across the border and the logistics of bringing small children in, delivering them to school, collecting them after, created enormous problems and, in fact, some of those families have come back to Gibraltar and are paying £55 and £60 for a couple of rooms and a kitchen because they found it an impossible burden to deliver their children to school and take them away. I think the fact that people may be forced to move across through no desire of their

own but because of the inadequate housing situation that we have in Gibraltar cannot be ignored and we cannot penalise those people. I think it is right that we should penalise the people who want to take advantage of the situation, who want to have a comfortable life across the border at a lower cost of living and contribute less to the economy of Gibraltar and get all the benefits because if nothing was done to stop that, eventually, it would force everybody to do the same. Eventually, the people supporting the system would get smaller and smaller and smaller and there would be nobody left.

HON CHIEF MINISTER:

I will have to read in bed tonight what I said to the Foreign Affairs Committee but I am sure it made sense, like everything I say. I think in this respect we are dealing mainly with the cost of education more than anything else because what it provides is the non-eligibility to free education, it does not prevent our schools taking Gibraltarian children of people living across the way if they want their children educated here. Perhaps if the situation were to arise in the case that the Hon. Leader of the Opposition has raised, it will develop the fact that there may be people who want their children educated here and they cannot afford it, that is another matter, then the Government will face it. I think it was my Colleague, Mr Canepa was talking before about getting the whole spectrum of something and consolidating it. It is very difficult and we are going to find it increasingly difficult to try and engross all the problems that are going to arise out of an open frontier and Spain entering the Common Market. I know we have to look at the whole of the picture, I agree, but it is terribly difficult to bring it into every problem as an isolated thing which is brought, more or less good, perhaps, more good than bad, into the whole problem. These are matters which have to be taken into account and we share that view, I am sure, but what I was trying to argue and that is the whole philosophy why I supported despite certain reservations the Lisbon Agreement, was that reciprocity did not mean precisely that because as the Hon Member was arguing elsewhere about the difficulty of equal rights between 40 million people and 30,000 people cannot go all along the way in respect of employment and in respect of many other things. That was what I was developing because particularly the members who were there that day were being very hostile about the whole matter and what I was trying to explain was that reciprocity was not what the Spaniards then wanted, let alone what the subsequent Government was to interpret the Lisbon Agreement like which is that a priori before sitting down we should have everything you want on the table. I think that at this stage, if we provide for these areas to stop a number of people, in fact, some of the cases that have been brought to our notice we are not dealing with anywhere near here. If, in fact, it happens and it will probably happen if the situation is the one that the Hon Leader of the Opposition is mentioning, it would be very difficult, you are not going to apply a means test whether people cannot afford a house here or a house there but the facts will speak

for themselves because a man who has got a job which is not well paid and cannot afford the kind of accommodation he has got here has got to go and live in Spain, we cannot expect him to pay for his childrens education here. That is really another problem that will come whenever the situation arises. I did not hear very well what the Hon Mr Mor has suggested but I think my Learned Friend Mr Perez will deal with that aspect of the matter.

MR SPEAKER:

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

HON J B PEREZ:

Thank you, Mr Speaker. I would like to deal, first of all, with the points raised by the Hon Mr Mor. I think, really, he dealt with two points that I have to comment on. The first one was when he said what will we do with people who happen to be outside Gibraltar for health reasons or for some other similar reason. I did in fact state, in my contribution in speaking on the main principles, and I read from the Explanatory Memorandum when I said that we were in fact catering for that, for people who are outside Gibraltar, reasons such as business, holidays or educational purposes, provided they are of a temporary nature so we are providing for that eventuality. The second point he made was really quite divorced from the main principles of the present Bill before the House and I think it is an important point and it is one which, obviously, I would like to take the opportunity to reply to, and that is the question of adult education classes. Yes, adult education classes this present year enjoyed a certain degree of subsidisation. Now we are looking at the whole question during estimates time and it may well be that at estimates time the Government may review its policy on the whole question of adult education classes and similarly in connection with what I said this morning at question time with the question of the Gibraltar College of Further Education because the third department would take over the whole question of evening classes. This is a matter that we are looking at at present, both in the context of this year's estimates and also in the context of the College of Further Education. I think there are two main reasons why we have limited adult education classes to residents of Gibraltar. The first one is the one mentioned by my Hon Friend, Mr Mor, when he mentioned the question of subsidy, yes, that is correct, but there is a much more important reason than that and that is the question of the non-implementation of Lisbon by Spain. I am sure the Hon Mr Mor is not asking us here to give the Spaniards across the way all the facilities that we have in Gibraltar yet in Spain we do not enjoy those same facilities. As far as we are concerned the frontier is not opened fully, the restrictions are still there and of course when the restrictions are lifted fully these are matters of cooperation, these are matters which in my view were envisaged and encompassed in the Lisbon Agreement. But as far as I am

concerned, let the Spaniards do what they said they would do and then we would look at areas like adult education classes. As far as I am concerned, let the Spaniards lift the restrictions, let them allow people who win trophies in Spain to bring them over and people to take their fishing rods over, and then we will look at the question of evening classes.

HON J C PEREZ:

If the Hon Member will give way. I think that the spirit in which Mr Mor was saying it was one of economic sense rather than reciprocity. The Hon Member is aware that the Opposition is completely against the Lisbon Agreement so we are not looking at it from that aspect. We are looking at it from the economic point of view and from the profit that might arise from having night students not only from Spain but in fact if people were to be able to commute from other places to come and make . . . . .

HON J B PEREZ:

Yes, I quite realise that that was the point that Mr Mor was making but in reply I had to give the Hon Member opposite the two main reasons. One was the subsidisation and the other one was of course the political situation. I will be perfectly honest with the House, Mr Speaker, even if we were to get an extra £10,000 I would not support that and that is to allow any Spaniard who wants to come over to have adult education classes just because of £10,000 I would prefer the Spanish Government to lift the restrictions and then we will allow them to come, that is my own assessment, Lisbon or no Lisbon. One has to be quite practical about it and let us be honest the only people who are likely to come to Gibraltar are people living across the way in La Linea or in the Campo Area, maybe some people from Marbella and Estepona who may decide to come to evening classes but, really, they are only going to come for one class, that is, English, and as far as we are concerned our English classes are fully taken up. The Leader of the Opposition asked whether, in fact, I had sought clearance from the Foreign Office. Well, I do not think I need to seek clearance for this particular Bill from the Foreign Office and in any event it was a matter which I had the opportunity to discuss with Mr Hannay when he came sometime in July last year. When he came to Gibraltar I met him in my capacity as Minister for Education and this matter was put to him not because I wanted him to agree, I told him we were thinking of doing this and he said it was quite acceptable. And let me warn Members opposite that in the next House I am bringing in similar legislation for the Medical Department on the same basis, that is, on the question of residence. The advice that we have had is that there is nothing wrong with a strict residence criteria, so that matter was cleared as well. The other point he made was what happens with the bona fide cases, cases where people had been compelled to go across the way? I can inform the House that I spent a substantial number of hours together with Mr David Hull, our previous Attorney-General, trying to work out a

particular clause which would cater for that and to be perfectly honest, Mr Speaker, after looking at it for a hell of a long time we realised that the dangers were so great in that we were leaving loopholes for people to make use of that that we said: "Well, the way out of it is to have the legislation", and it is something that is perhaps my fault because I forgot to mention it and that is that the Bill is talking about free education. It may well be that somebody who is forced to go to Spain because they cannot afford a rent of, say, £50 a week and he is paying £20, he would be allowed provided he is a Gibraltarian and we realise that it is a bona fide case, subject to paying. What he saves from going there, part of it may have to be paid by way of school fees but the truth of the situation is, Mr Speaker, as far as we are concerned we feel it is very dangerous to try and put in safeguards of the nature recommended by the Leader of the Opposition because then it defeats the whole object of the Bill. We would rather legislate as it is and we will see what transpires. If there are cases which are bona fide I will of course get to know about it and if I do not, I am sure Members opposite may be familiar with cases that may arise and I would urge them to bring them to my attention and we will look at each case on its merits but the law must be clear and I think that the law is very clear in the Bill which is now before the House. I therefore, Mr Speaker, 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 J B PEREZ:

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

This was agreed to.

#### THE SUPPLEMENTARY APPROPRIATION (1983/84) ORDINANCE, 1984

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time. The Schedule shows a request for additional provision of just over £4m. At previous meetings of

the House of Assembly, during this financial year there have been requests for additional supplementary provision amounting to £2.3m so this gives a total of £6.3m for the year as a whole. This does not mean that the present Schedule entails a request for an increase of £4m in cash terms, nor does it mean an increase of £6.3m in cash terms for the year as a whole. The reason for this is of course that the Consolidated Fund is an account but not a cash account and the effects amongst other things is the consolidation of the account of the Funded Services with the expenditure Heads which are shown in the Summary of expenditure on page 16 of the accounts most of which are in cash terms, is an element of double accounting both in terms of expenditure and also to balance the account in revenue terms. For example, if I can choose the major items, increases under the respective expenditure Heads for electricity and water together account for close on £3m of the additional funds requested during the year, rather more than the figures shown in the Schedule before the House. They also account, these two, electricity and water, for most of the £2m contribution to the Funded Services from the Consolidated Fund which is shown in Head 29 of the Schedule now before the House. Other expenditure has increased by rather more than £1m during the year which brings one to the total of £6.3m for the year which I have already mentioned. The final reconciliation of these accounting debits and credits is of course in the Consolidated Fund, the balance of the Fund at the end of the year. As I said in answer to a question by the Hon Leader of the Opposition this morning, the estimated balance in the fund at the end of the financial year is about £7m. I expect there will be minor changes before the estimates are presented to the House of Assembly at the next session but I do not expect that figure of £7m to alter by more than £0.01m either way. That figure, £7m, compares with an estimate of £8.4m made when the estimates were presented by my predecessor at the beginning of the financial year. That means that there has been what I would call a negative cash flow of £1.4 m as far as the Consolidated Fund balance is concerned during the year and that allows for fluctuation on the revenue side as well as on the expenditure side during the year. I hope that Hon Members opposite, especially, find that explanation helpful. What I cannot, of course, say at this stage is what the Government estimates for the coming financial year 1984/85 will be. But there is one other point I would like to make, Mr Speaker, before commending the Bill to the House, and that is that what I have just said illustrates, certainly it illustrates for me, some of the difficulty of using financial accounts for management purposes by which I mean purposes of control of expenditure. These are, of course, accountants' accounts and they do not readily yield information about variations in labour, material, goods and services nor distinguish fully between price and volume variances. Information which is important for monitoring purposes, especially at a time when the financial situation may call for a rather stringent control of expenditure and close monitoring. There is an important point here and one which I hope to explore further with my colleagues in the Government, to see what conclusions in our system of control might be necessary and what changes might be needed in the presentation of financial estimates both to the House and, indeed, to the Government for the purpose of better control of expenditure. With those comments, 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 J BOSSANO:

Mr Speaker, as the Financial and Development Secretary has said this is the fourth Supplementary Estimate and the nominal total is £6.4m but, of course, there is this element of double accounting on it to which he has pointed in Head 29 which effectively means that the figure on paper is £2m higher than it might be, something like £2.2m. I think there are two points to be made in relation to this and the comments that he has made. One is, in fact, that a fair amount of the explanations relate to under-estimations made at budget time last year and it seems odd that the under-estimation in March of last year should have taken until March of this year to be realised. We have had three previous supplementary estimates and one would have thought that during the course of the financial year the level of under-estimation would have started becoming obvious. It might be that the timing of the elections was not a totally unwarranted thing entering into the estimation or under-estimation or over-estimation. The other point I think that we certainly welcome is the move towards accountancy systems that more accurately reflect the real economy which is I think the point made by the Hon Financial and Development Secretary and something, in fact, to which we made some reference in our own approach in the elections. I think we defined it in our own manifesto as a way of looking at the Government financing which reflected more economic criteria and let me say that I go back a long way in pressing for a move in that direction, I think it goes back to 1973, when I spoke in the first Budget in the House, eleven years ago, it shows how old I am getting, Mr Speaker, and the Hon and Learned Chief Minister, I think it was, in his budget of 1977 - something else he can read tonight when he is reading what he said to the Foreign Affairs Committee - I think it was in his Budget speech in 1977. In fact, I may even have it here, Mr Speaker. It just happens to be here, I carry so many papers around with me that I am not quite sure if I am going to find it, Mr Speaker. He was announcing that the Government was at last achieving the objective that they had set themselves to revert to real accounts in the Undertakings, in the Funded Services, which at the time, in 1977, were water, electricity and telephones, because housing came in, I think, two years later, in 1979. I believe that although the Hon and Learned Chief Minister at the time said that they were achieving the objective they had set themselves, first of all, quite frankly, it took them a long time to declare it was his objective because I had been complaining about it since 1973 and, secondly, I do not think that the accounts that we have today are in fact a true reflection of the real cost to these services and I have always felt that it was important. Let me give one clear example which I would ask the Financial and Development Secretary to look at since he is just coming into the picture now, which I think is a clear omission from these accounts. We have charged throughout the period to the Treasury accounts a

sum of money for rates on Government buildings. We have never allocated any part of that charge for rates on Government buildings to any of the Funded Services, to me it would have seemed a logical consequence of that charge. It is a paper transaction and there is no change of money but I think if we are trying to establish what is the real cost of the service, then it is a different issue to decide how that real cost should be funded as between the consumer of the services and the general body of taxpayers and therefore the more realistic and accurate the accounts are I think the better the Government is able to explain its policy and the better the Opposition is able to question that policy and say whether it agrees with it or not. I think, really, on the general principles, Mr Speaker, that is all we wish to say. We shall, of course, be making appropriate comments in the Committee Stage.

HON CHIEF MINISTER:

Mr Speaker, every time the Hon Leader of the Opposition mentions something I said before I sweat and then I am full of relief because I find that what I have said makes very great sense. I am very glad he reminded me of this because let me say that this was the inheritance of the IWBP Government taking over the City Council. The point is that as the Hon Member knows we inherited in 1972 the merger and the electricity and water accounts being notional and I remember the Hon Member insisting on the former Financial Secretary, Mr Mackay, to have proper accounts and I having come from the City Council and having had the most detailed accounts of the services, wanted that and if the Hon Member will recall, we had to make a notional transfer of millions of pounds. But he has mentioned another point which, again, my old association with the Council makes it possible for me to make a comment on something which is much more difficult and that is when he mentioned the question of the rates accounts and the amounts of money that the Treasury provides and so on. That is much more difficult, certainly much more difficult than it used to be in the City Council accounting because the rates that were levied from year to year were to pay for rates services only and therefore you could see at the end of the year what the rates services were, things like refuse collection, roads, public lighting, all those were specified and the others paid for themselves. The electricity paid for itself, water paid for itself, telephones paid for themselves, or if they had a deficit it was covered. But the rates services were according to law and we could only raise the rates to pay for the services that we were rendering. In what was called the merger but was really an absorption of the City Council by the Government in 1969 the whole thing disappeared and, in fact, it disappeared so much that the notional accounts were made, I do not know what for because they meant nothing at all. I find, and in fact perhaps it is a pointer to the intentions which are very welcomed by the Financial and Development Secretary to a new approach to a more realistic thing, that that would be more difficult. There was an earlier statement about rating and valuations on rent and so on. That is much more difficult because you cannot now, in my view, I may be incorrect, you

cannot now identify the rates as being paid only for what were rate services, in fact, it would be very difficult for the Public Works Department which has such a vast organisation, to divide as between what is a rates service and what is a public works service. And yet the rates are levied on that. We had ideas long ago that we should have no rates at all, we should have one kind of tax for everybody. I don't know, maybe by now the Chancellor of the Exchequer proposes something like that in the House of Commons.

HON J BOSSANO:

If the Hon Member will give way. I do not think he quite understood the gist of the point that I was making because I was not questioning the concept of having rates as a way of raising revenue. I think the point that he is making is a perfectly valid one, particularly when there isn't a municipal authority as such and where it is just Government revenue. What I was saying was that if we look on the expenditure side, the Treasury has got a sub-head which is the rates payable on all Government buildings. I would have thought that if one is allocating costs to the Funded Services then part of those rates would legitimately be a cost to the Funded Services. They have never been treated as such. Part of the subsidy from the general body of taxpayers to the Funded Services have included paying the rates for the services going back to 1970, in fact. I think they were charged rates under the City Council provisions when, in fact, I think when the amalgamation took place, there was a question of how it should be treated because I believe the old City Council says, because they were all under the municipal authority, the electricity account provided free electricity to the Council in exchange for having rates free areas. I remember reading something like that when the documents of the amalgamation were there but I think since the amalgamation, effectively, there was no attempt to allocate the rates although the rates were shown as a Government expenditure under Treasury.

HON CHIEF MINISTER:

I understood what the Hon Member said but of course, I was dealing more with the question of the municipal side because that was my original incursion into public life and whatever little I learned there has been of help subsequently. I agree in general terms on the points made and, in fact, the Financial and Development Secretary has indicated to us, in fact, his thinking some time ago and I am glad he has been able to make this public on this occasion and I look forward to that. There may be difficulties but I hope it does not take the seven years that it took to do away with the notional accounts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, on the Hon Leader's comments on the under-estimation, the first point that he made, I think this illustrates exactly the point I made about the insufficiency of information about the nature of the variance, whether it is the price or volume.

For example, inasmuch as the various Government Departments use water and electricity, the under-estimation which they made at the beginning of the year may be simply a function of the increased cost of the electricity and water to them which would not be fully revealed or has not been fully revealed until this supplementary provision has been presented to the House. But I take the point that it is not easy to tell that from the information which is presented and I think this goes back to my point that we need a rather more refined analysis of the expenditure which will be part of an improvement of control, generally. Of course, as with all these things you pay a cost for improving systems in terms of more resources and attention. If I might make a comment on the Funded Services, I do not want to scoop what the Chief Minister has said but, clearly, there are advantages and disadvantages of consolidating with the general Government accounts. The advantages are the fact that you are doing it simply and almost, I would say, ingeniously, the consolidation which is done in these Estimates and the Treasury knows exactly what is happening and the accounts, I hope are accurate to that extent. But the cost of that, I think the advantage is that it is therefore done more cheaply than it might otherwise be. The cost of course is that it does divorce the financial from the managerial responsibility as far as the heads of various undertakings are concerned, in that their financial responsibility is expressed through an account for which the Accountant-General in the Treasury is the Controlling Officer and that does not seem quite right, as I say, it is a question of advantages and disadvantages.

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:

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

This was agreed to.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Education (Amendment) Bill, 1984, and the Supplementary Appropriation (1983/84) Bill, 1984.

#### THE EDUCATION (AMENDMENT) BILL, 1984

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

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

#### THE SUPPLEMENTARY APPROPRIATION (1983/84) BILL, 1984

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

#### Schedule

Schedule of Supplementary Estimates Consolidated Fund (No 4 of 1983/84).

#### Head 3 - Education

HON R MOR:

Mr Chairman, I have noticed that on the previous year the approved estimate for sub-head 3 which corresponds to Services as regards education, the approved estimate was £70,800 and that a final bill was something like £95,700. I see that the next year we have £78,800 as the approved estimate with an additional requirement now for £22,212. Mr Chairman, I see no reason why they should not have started with £95,000 in the first place.

HON J B PEREZ:

There were two main factors as far as the electricity and water were concerned and that is that we really had two new schools which are Westside and the Sacred Heart Terrace and therefore at the time of the estimates we underestimated the water consumption in those schools. For example, in Westside, the comparison we had was really the Bayside School, the Boys' Comprehensive School, but one must realise that as far as the boys are concerned they do most of their sports activities in the Victoria Stadium and therefore they have their showers at the Stadium, whereas at Westside shower facilities and all gym facilities are within the school, the other one is Sacred Heart. I take the point, this is something that one does not normally like to see in particular my Hon Colleague, the Financial and Development Secretary, who shudders every time we put in a bid of supplementaries. But, yes, it was underestimated.

HON J BOSSANO:

It would have been reasonable, one would have thought, Mr Chairman, when the budget was brought to the House, given that the revised estimate for 1982/83 was £95,000, that is the point I think my Hon Colleague is trying to make. In fact, the Hon Member is putting back the cut that was introduced in last year's budget. Why did he put the cut, what reason was there to expect that he would be able to have lower water and lower electricity in 1983/84 than he had in 1982/83? It does not make sense.

HON J B PEREZ:

This is something I do not know but I will inquire.

Head 3 - Education was agreed to.

Head 4 - Electricity Undertaking

HON J C PEREZ:

Mr Chairman, can the Minister for Municipal Services explain what part is underestimated and what part of the cost is to meet increases in the cost of fuel in both sub-heads 4 and 8? I see that there is a disparity between one sub-head and the other if most of the cost is related to fuel and why is that?

HON DR R G VALARINO:

Mr Chairman, Sir, let me deal first with the underestimation. The figure inserted in the 1983/84 estimates for fuel was £1,926,000 allowing for the purchase of 14,100 tons of fuel. This was a realistic estimate costed on the projected split between the three kinds of fuel in use. This figure was reduced during discussions of the estimates by the Treasury and Ministers to £1,700,000 allowing for the purchase of 12,512 tons of fuel and not 14,100 tons of fuel. Generation has been much higher during the financial year and, in fact, we have used the 14,100 tons of fuel and thereby there is an underestimation as far as fuel is concerned. The original figures provided in last year's estimates were underestimated. The other one is the increase in fuel. The bulk of the oil used, 82%, has been residual fuel. This price dropped marginally on the 1st April but increased on the 1st October, 1983, to a level some £8 dearer than the figure used when preparing the estimates and coincided with a period of higher generation. By contrast, the marine diesel fuel price dropped by some £14 per ton in April but did not exceed the figure on which our estimates were based until the 20th January, 1984, when it increased to £207 which is £6.26 above the estimate and hence there was a large increase in the cost of fuel which again reflects in the amount of money that we are asking for as a supplementary.

HON J C PEREZ:

What the Hon Member is saying is that the underestimated amount is in respect of fuel and the rest is to meet increases in the cost of fuel.

HON DR R G VALARINO:

Exactly.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it is a mixture of volume and price.

HON J C PEREZ:

And which of the two Power Stations is using the marine fuel, which is the one that seems to have been increasing in price?

HON DR R G VALARINO:

Mr Chairman, Sir, both. It depends when we need the engines to convert to marine fuel.

HON J C PEREZ:

Mr Chairman, why then the disparity between the two figures since the approved estimate was much closer for King's Bastion and Waterport in that one was £768,000 and the other one was £932,000 and then the supplementary estimates now required for one is £99,000 and for the other one it is £383,000? Why the disparity between both if they are both using the same fuel?

HON DR R G VALARINO:

Obviously, Mr Chairman, it is the increase in the generation of the engines concerned.

HON J C PEREZ:

An increase in the generation of the Waterport Power Station and a decrease in the other one, one presumes?

HON DR R G VALARINO:

Broadly, yes.

HON J C PEREZ:

Can Government confirm that none of the increased cost is due to the result of shortages by Shell?

HON DR R G VALARINO:

I am sure in my own mind and the Financial Secretary has confirmed it, this was not as a result of shortages by Shell.

HON J C PEREZ:

Mr Chairman, on this same heading still, one cannot explain very well why the increase in the cost of fuel, even in marine fuel, when one reads in the international press that the cost of fuel is coming down rather than up.

HON DR R G VALARINO:

We have to pay for all our oil in dollars and it depends on the actual value of the dollar at the time compared to the pound on the cost of fuel. Very often, you will notice that the FCA may have gone up and this is purely as a result that the dollar has gone up and therefore it costs us much more to buy the fuel necessary.

HON J C PEREZ:

Mr Chairman, now that the dollar is coming down like the Hon Colleague of the Minister for Municipal Services was saying, would that mean that it is expected that the cost of fuel will come down shortly and that this will be reflected in the estimates in the forthcoming budget?

HON DR R G VALARINO:

Mr Chairman, I am afraid I do not have a crystal ball. I do not know how far the dollar will come down and how far the dollar will subsequently go up. I think it is far more important to take into account the continuing war between Iraq and Iran which may well alter our prices accordingly.

HON J C PEREZ:

Mr Chairman, the Hon Member has me at a disadvantage when speaking about the Iraq/Iran war. I understand that he is more familiar with dollars than wars and things like that. But coming to the other head, the Opposition intends to vote against the cost of running the Station by Hawker Siddeley. The reasons for this are quite clear as put forward by Mr Bossano in the previous House of Assembly. We do not approve of the way the whole situation of the new Generating Station is being handled and we do not approve of the continued need for Hawker Siddeley here. On the question of the amount of money which the House has been asked to approve and taking into account the Auditor's Report, which I am sure the Hon Member must have already read, is the \$1.3m which the House is expected to approve today, does that include taxation?

HON DR R G VALARINO:

Mr Chairman, Sir, two things. First of all, the Hon Member says that Mr Bossano, in fact, disagreed with the cost of running HSPE at the last House of Assembly. If I remember rightly, he voted in favour and I am quite willing to stand down if I am wrong.

HON J BOSSANO:

I think that I have, in fact, disagreed entirely with the setting up of the Steering Committee and the money for the Steering Committee.

HON DR R G VALARINO:

Mr Chairman, I am glad that the Hon Leader of the Opposition has confirmed that he did, in fact, vote in favour of the amount required for the running of the Station. This is necessary to carry on the running of the Station until the 31st March, 1984, in order to work out several problems that you may be aware have cropped up in the meantime. As far as the second part is concerned as to whether tax is included in this, I am afraid I do not have that information to hand.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Speaking entirely from memory, Mr Chairman, I think this was the subject of an agreement made that it would not bear tax. I think there is a reference to this in the Auditor's Report.

HON J C PEREZ:

Yes, Mr Chairman, but if the Hon Member will allow me. In view that the Auditor is highly critical of the waiving of income tax in respect of Hawker Siddeley, is the sum of income tax included in the amount of money that we are supposed to be . . .

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, sorry, Mr Chairman, the purport of my rather lame reply was to say no in answer to that question.

HON J C PEREZ:

Mr Chairman, is it expected that another supplementary estimate to increase the amount to allow for taxation will be brought to the House before the end of the financial year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman.

HON J BOSSANO:

Does that mean, in fact, then, Mr Chairman, that the Government disagrees with the point? Is the Government taking legal advice on the matter? I think it is an important point in relation to this particular vote. The Auditor makes the point that in the previous financial year, 1982/83, the amount paid to Hawker Siddeley Power Engineering for running the Station in 1982/83 was tax free and that there was no authority for this to be tax free. If the Government is telling us that this is also tax free and that nothing is going to be done about it, are they saying that they have taken legal advice and they believe the Auditor to be wrong or what?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Auditor has simply drawn attention to the fact that the Commissioner of Income Tax has a statutory responsibility to raise assessments under the Tax Ordinance. That is something which can be considered on its own or in itself as most legal questions tend to be and can be separated from what might be an administrative decision, in this particular case, to waive income tax. This is something, obviously, one would have to consider.



HON J C PEREZ:

Mr Chairman, does the Hon Member consider that Hawker Siddeley is not being paid enough to justify exempting them from income tax and is the Hon Member considering exempting people from income tax who earn less than those employed by Hawker Siddeley?

HON J BOSSANO:

Could I ask, in relation to this vote, I think the Hon Minister has said before that this was not a reflection of the real cost to Government of running the Station by using Hawker Siddeley Power Engineering because it was offset by savings, that is the cost having to be met anyway if it was run by their own employees. Can the Minister, in fact, give an indication to what degree, I mean are we talking about half of it being notional savings, or three quarters of it, or what?

HON DR R G VALARINO:

Mr Chairman, Sir, I am afraid I do not have those figures to hand and certainly I cannot give the Leader of the Opposition the information he requires. If he will give me time I will find out and I am quite prepared to give it to him at a later date.

HON J BOSSANO:

Would the Hon Member, when he is looking at that, and I am grateful for his offer to look into it and I will give him time, until tea break, would the Hon Member not consider that one pertinent point in looking at the comparative cost and I think the validity of the argument of the Auditor is the question of taxation. If he is looking at a situation where he pays one group of people, say, £20,000 net, and another group of people £20,000 gross, then in fact that is a factor in looking at the comparison.

HON CHIEF MINISTER:

The point that I would make here is that if the agreement is exempt from tax, if it had been subject to tax it might have been higher.

HON DR R G VALARINO:

Mr Chairman, I will certainly let the Hon Member have the figures he wants as soon as possible.

Head 4 - Electricity Undertaking was agreed to.

Head 6 - Governor's Office

HON J BOSSANO:

Mr Chairman, Telephone Service, sub-head 4 - Metered Calls. Is the Government in a position to say how many of the metered calls took place on the night of the Count?

Head 6 - Governor's Office was agreed to.

Head 8 - Housing

HON J L BALDACHINO:

Sub-head 10, does this amount include brackish water and general rates?

HON MAJOR F J DELLIPIANI:

No, Mr Chairman.

HON J L BALDACHINO:

Is it based on the rents?

HON MAJOR F J DELLIPIANI:

Yes, Sir.

Head 8 - Housing was agreed to.

Head 11 - Labour and Social Security

HON MISS M I MONTEGRIFFO:

I would like to ask on sub-head 8. Why have a sub-head for Relief Payments Abroad when there are two sub-heads that follow which cover this, for example, sub-head 23 under Medical and Health Department and sub-head 9 under Labour and Social Security? What exactly is meant by Relief Payments Abroad?

HON MAJOR F J DELLIPIANI:

My Department has certain responsibilities to people with Gibraltar connections in Morocco and Spain and most peculiar places. This particular amount, £4,900, was for an old lady who lived in Madrid for 40 years and it was costing us more money to pay for her medical expenses in Madrid so we arranged for her to come over to our hospital and this was the final payment that we made prior to bringing her over to Gibraltar.

Head 11 - Labour and Social Security was agreed to.

Head 14 - Medical and Health Services was agreed to.

Head 15 - Port was agreed to.

Head 18 - Prison was agreed to.

Head 20 - Public Works Annually Recurrent

HON J C PEREZ:

Mr Chairman, does the Government intend to convert the Hebrew School every year, since the money being approved is for the conversion of club premises for the school and it comes under Public Works Annually Recurrent? Shouldn't that money be charged to the Improvement and Development Fund under Capital Charges?

HON M K FEATHERSTONE:

No, Sir, in Government accounting in the Annually Recurrent section of the Public Works there is a large amount of money which is spent on public buildings, etc, which basically is not large enough to be classified as an I&D measure, and that is why this has been included under that section.

HON J C PEREZ:

Mr Chairman, on the other Head, Head 56, when does the Minister envisage that the new distillers will be operational and does he expect the operation of the new distillers to reduce the level of importation of water?

HON M K FEATHERSTONE:

As far as we are being informed at the moment the first of the two new distillers will come into operation in August. The second one under the contract does not need to come into operation until January but the hopes are that it will be operational by November. The estimates we have is that should it come in by November, in the third quarter of the year we will have a surplus of water from distilling sources and no importation will be needed at all.

HON J C PEREZ:

Mr Chairman, why is the explanation given here that it is part cost of importing an additional 18,000 tons of water, does that mean that it is part cost and that the rest of it is something else or that it is part cost because it was brought in jointly with the Ministry of Defence?

HON M K FEATHERSTONE:

No, Sir, the original estimates for the importation of water was £650,000 and this was water that we expected we would bring from Morocco. Because Morocco is not able to supply all the water that we wanted, there was left in the vote a sum of money which has not been used. That, together with the £75,000 we are asking for, is sufficient to pay for the water that we are bringing from the UK.

HON J C PEREZ:

Can the Hon Member state what is the amount of money that was left over of the £650,000?

HON M K FEATHERSTONE:

It would be, roughly, about £105,000.

HON J BOSSANO:

Then we have a situation where the 18,000 tons cost £180,000, is that correct?

HON M K FEATHERSTONE:

That is correct.

HON J BOSSANO:

Well, then that makes it about £10 a ton.

HON M K FEATHERSTONE:

That is correct.

HON J BOSSANO:

Can the Hon Member then explain why it is that in the previous supplementary we had £170,000 in supplementary No. 1 for 20,000 tons; £271,800 for 40,000 tons; £170,000 for 90,000 tons, so that each supplementary seems to bring water in at a different cost, this one being the most expensive? Is there an explanation for it?

HON M K FEATHERSTONE:

This has been the most expensive. Unfortunately, the cost of water varies from time to time, depending on the incidence of shipping and the urgency with which we want it. If we are able to look around for, perhaps, two months we can get a cheaper tanker but where we need it very urgently then sometimes we have to pay the higher figure

HON CHIEF MINISTER:

You cannot be ordering water when you hope to get it either from Morocco or from natural sources. We are now in a position where we have decided not to purchase half a tanker and we are keeping our fingers crossed.

HON J C PEREZ:

I am sorry to come to one of my original points, Mr Chairman, but could the Hon Member explain whether when he talked about self sufficiency in water, he meant over and above the £650,000 voted for water from Morocco or whether self sufficiency meant that we would not be importing water from Morocco either, in relation to the new distillers?

HON M K FEATHERSTONE:

When we have the two distillers working we will then theoretically have four sources of supply of water other than importation. These four sources being the rainfall, what we obtained from the wells and what we obtained from each of the two distillers. They should give us a self sufficiency of water, no importation will be needed, hopefully, either from Morocco or from the United Kingdom.

Head 20 - Public Works Annually Recurrent was agreed to.

Head 21 - Recreation and Sport

HON MISS M I MONTEGRIFFO:

Mr Chairman, the increase of £2,500 is inconsistent with the amount of money provided in previous years which, incidentally, covered telephone charges. For example, in 1982/83 the figure was £13,480 and in 1981/82 £12,700. This, effectively, means that there has been an increase in consumption of water and electricity of about 15% and I would like to know what the reason is for such a high increase.

HON G MASCARENHAS:

I would imagine more people are using it and higher costs as well.

MISS M I MONTEGRIFFO:

Are you referring to the Stadium?

HON G MASCARENHAS:

The Stadium, yes.

HON MISS M I MONTEGRIFFO:

I visit the Stadium very regularly and since the border opened less people are in fact using the Stadium.

HON G MASCARENHAS:

My information is that the usage of the Stadium is still the same as before the frontier opened. The cost in the electricity is much higher and the water is also much higher. I can check it for you.

Head 21 - Recreation and Sport was agreed to.

Head 22 - Secretariat

HON J BOSSANO:

On rents of Offices, Sub-head 7, Mr Chairman. We will not be supporting the supplementary provision now being required. I believe there was quite a heated exchange the last time in the House on why it is that the Government seems to be unable to make use of the moratorium itself. There is here an increase in rent of Government flats and offices and the moratorium under the Landlord and Tenant Ordinance is still there because the new Landlord and Tenant Ordinance is still not in effect, how come that we are having to vote more money for increases?

HON ATTORNEY-GENERAL:

Mr Chairman, I will look into that.

HON CHIEF MINISTER:

I am speaking purely from memory but I think we gave up one of the leases at Leon House and we renewed another one in advance of time and made a settlement which included a revision of rent.

HON J BOSSANO:

I think that was the explanation for the £45,000 in the previous Supplementary Estimates and it involved, I believe, arrangements in Leon House and Seclane House but in the explanatory column it says: "Additional commitments in respect of rents of flats, £35,900". That seems a very substantial amount for rents to go up by particularly if there is a moratorium.

HON CHIEF MINISTER:

We will get the details but it is more flats for expatriate officers. Until the quarters are ready and so on there is a period in which we rent more flats for expatriate officers.

HON J BOSSANO:

I take it then that none of these expatriates have anything to do with Messrs Appledore Shiprepair Company?

HON CHIEF MINISTER:

No, we do not pay for that, ODA does.

HON J C PEREZ:

Can the Hon Minister for Municipal Services state whether the work of the Chairman of the Steering Committee has ended?

HON DR R G VALARINO:

Mr Chairman, Sir, as Members of the Opposition will know, the work of the Chairman of the Steering Committee has not totally finished because the draft document of agreement has not been signed. He has not returned to Gibraltar since Christmas because various snags developed in this agreement which is the subject of discussions by various sections including unions and staff. This is as much as I can say about the £32,000.

HON J C PEREZ:

So what the Hon Member is saying then is that the Chairman is waiting for the normal machinery to solve the issue and come back to Gibraltar and wrap up the Agreement.

HON DR R G VALARINO:

Mr Chairman, obviously not, Sir. What we do not want to do is to bring the Chairman out, have to pay him an extra amount of money, have him sitting around doing nothing and then he has to go back with an unfortunate decision and he is unable to ratify or sign any agreement. When the Chairman comes out we want him to do a useful job and be able to ratify agreements which have already been the subject of negotiations here in Gibraltar thereby saving money in this respect.

HON J C PEREZ:

And does the Hon Member think that had the Chairman not been employed in the first place, that the agreement would not have come about as it is coming about?

HON DR R G VALARINO:

Mr Chairman, Sir, that is merely supposition.

HON J C PEREZ:

Mr Chairman, the Opposition will be voting against. In fact, it was for the same reasons that we were going to vote against the other one in relation to the appointment of the Chairman in that we feel that the appointment of the Chairman and the way that the Steering Committee is proceeding is responsible for Hawker Siddeley still being here in Gibraltar. I suppose that no notice has been taken either under this sub-head of what the Auditor has had to say when he criticised that this vote should come under the vote of the Secretariat.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The answer must be that the matter is still under consideration by the Financial and Development Secretary.

On a vote being taken on Head 22 - Secretariat - Sub-head 7 - Rents of Flats and Offices and Sub-head 81 - Enquiries into Departmental Functions and Efficiency, 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 G Mascarenhas  
The Hon J B Perez  
The Hon Dr R G Valarino  
The Hon H J Zammit  
The Hon E Thistlethwaite  
The Hon B Traynor

The following Hon Members voted against:

The Hon J I Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez  
The Hon J E Pilcher

Sub-head 7 - Rents of Flats and Offices and Sub-head 81 - Enquiries into Departmental Functions and Efficiency were accordingly passed.

Head 22 - Secretariat was accordingly passed.

The House recessed at 5.25 pm.

The House resumed at 6.10 pm.

Head 23 - Telephone Service

HON J C PEREZ:

Mr Chairman, on Sub-head 6, can the Government say whether the hiring of the tie-lines from the Forces Telephone Exchange is an ongoing thing or was it something which was not envisaged?

HON DR R G VALARINO:

Mr Chairman, if I remember rightly, it costs us £1,500 a year and these are lines which we do not have and we hire from Signals and similarly Signals when they need lines from us hire from us but we pay a certain amount per quarter to Signals in respect of the tie-lines. The revenue accruing, both direct local metering and international metering, comes to us but we do have to pay a quarterly rental for the tie-lines, like they do in respect of our tie-lines.

Head 23 - Telephone Service was agreed to.

Head 24 - Tourist Office, (1) Main Office

HON J E PILCHER:

Mr Chairman, under Head 24, Sub-head 5 - Electricity and Water, the Government is asking for a further £9,230. It seems to me, having checked the budgets of the previous years, that the vote, for example, in 1981/82 was £9,700 which was then put on the 1982/83 as £9,700 for the 1982/83 budget which was then subsequently found to be lacking and it was brought up to £13,000. Again, this year, 1983/84, the £13,000 was started with and now we come to £22,300. Mr Chairman, this is 71% up on the figure of £13,000. Surely, this cannot be just for added costs of electricity and water?

HON H J ZAMMITT:

Yes, Mr Chairman, the Hon Member is absolutely right, it is not just added costs for electricity and water. The main bulk of the £9,000 sought is as a result of the new Air Terminal extension which became operational round about September and we were not of course aware nor could we estimate with accuracy the cost particularly of the conveyor belt which absorbs quite an amount of juice and of course very much more additional lighting.

(1) Main Office was agreed to.

(2) London Office

HON J E PILCHER:

Sub-head 5, Mr Chairman, the £10,000 increase in rent retrospective of September, 1982, £8,879. Mr Chairman, can the Hon Minister explain to me how it is that this high cost in rents has accrued given the fact that if I am not mistaken the London Office was moved because of the high rent that they paid at where it was before and it seems to me now that £18,000, even in retrospective rent from September, 1982, is quite a high figure.

HON H J ZAMMITT:

Mr Chairman, Sir, the rent that we were paying for the London Office in The Strand was £9,975 for the year. We then had an upping of virtually 100%, in fact, it was 97%, which we argued against and we were able to have a reassessment and an agreement on £14,000-odd per annum. Therefore that is the increase that we are seeking here. It, of course, goes back to September, 1982, and therefore that is why there is an upping on the £4,000 from the £10,000 to the £14,500. We are up to date now and we have a 5-year lease. I think it is £14,500, I am not absolutely sure, it is certainly over £14,000, but otherwise we would have to pay something like £18,000. As to the question of the rent expenses, Mr Chairman, it is in The Strand and London rents are quite steep and we are very fortunate that we have the kind of accommodation that we have even at £14,500.

(2) London Office was agreed to.

Head 24 - Tourist Office was agreed to.

Head 29 - Contributions to Funded Services

HON J BOSSANO:

Mr Chairman, on Contributions to Funded Services, on the contribution as a whole, I think that the point that we would wish to make is that in fact the Chief Minister announced in 1979 - I have the whole document here - in 1979 he announced that the policy of the Government was that the Funded Services should become self-financing. I would like him to confirm that in fact since he announced that the amount of contribution to the Funded Services has been higher than before he announced that policy. It is taking the three together. Would he not agree that the policy of making the Funded Services self-financing appear to be consistent only in the case of the Telephone Service where there is a situation where the results of a given year's operation are carried forward into the future and that in fact liquidating the accounts at the end of the year is not an indication of making them self-financing but an acceptance that they cannot be and they will not be.

HON CHIEF MINISTER:

For once, Mr Chairman, I remember what I said better than the Hon Leader of the Opposition. I remember perfectly what I said. What I said was that we should aim at making the Funded Services self-sufficient except Housing, I made that reservation, I am quite sure. But the reality of the situation is that the costs are high and that the charges for these services are pretty high and we do not know how high they will be later and that, in fact, certainly while the recession is on, it would be unfair to try to make them self-sufficient now, it is the worst time possible. We did make an inroad into that after I said it, the year after the extent of the contribution was less but now it is inevitable. I stand corrected for the intention that we had to make them funded to some extent but I did not say self-sufficient. Not only should they be self-sufficient but that they should have profit, ideally, to provide for the capital future, but that unfortunately in a place like Gibraltar, as the Hon Leader of the Opposition has so many times said himself, we have to pay the cost of being self-sufficient in a small territory and that is inevitable.

HON J BOSSANO:

Could I ask in respect of Sub-head 2, the explanation in the margin "Partly offset by increase in revenue". I take it that this is a reference to the decision of the Government in the last House of Assembly to introduce the surcharge for imported water. Wasn't the surcharge for imported water put on the basis that it would be continued until it offset the increase in costs and is this, in fact, a change of policy?

HON CHIEF MINISTER:

No, no change of policy except that the amount of water that has been imported - I will have something more to say when we come to another discussion on this matter - but the amount of water that has had to be imported this year because there has been no rain virtually since November has had a dramatic effect on the whole of the estimates. In other places they have droughts and they suffer as a result of that. Here we suffer as a result of upsetting the balance of the budget by having to ensure that people have water and that is why the surcharge will have to continue. We do not know what the charges will be but, anyhow, it is still being sold heavily subsidised in spite of the surcharge. That will take a long time to write-off at the rate the surcharge was made.

HON J BOSSANO:

I am not disputing the desirability of importing the water, Mr Chairman. I am talking about the policy as to how it should be financed. Wouldn't the implication of the policy the Government announced when they introduced the surcharge, wouldn't the implication of that be that a situation where the cost of importation had not been completely covered by the

surcharge have meant that there would have been a deficit in the accounts which de facto was being met from the Consolidated Fund as it is indeed in the Telephone Service but was not in fact eliminated by a contribution. Surely, once a contribution is made the surcharge cannot be continued otherwise we would finish up with a surplus in the funded account.

HON CHIEF MINISTER:

We are in a situation now which is really a difficult one until June or whenever the second distiller is out when we will then know for certain the cost of production on the distillers and other events but this is the third most exceptional year in which water had to be imported at very high cost in order to ensure the community with that precious commodity.

HON J BOSSANO:

Mr Chairman, I accept entirely what the Hon Member is saying about how precious water is and how little of it we have. I am asking about the policy that was previously announced that the surcharge was being introduced, I think the Minister for Public Works said at the time that the level of the surcharge was such that the surcharge would continue into the future although, in fact, at any given point in time it was not covering the actual cost of importation. I think he said that they had to choose between a much higher level to recover the money very quickly or a lower level to recover the money over a longer period of time. What I am saying is, is it not effectively the decision to transfer the money from the Consolidated Fund to the Funded Services, to the Potable Water Service Account, does that not have the effect that at the end of the current financial year, effectively, the cost of the importation of water will have been met and therefore the surcharge will not carry on contrary to the policy that was announced before?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the calculations which the Hon Leader of the Opposition has made really will have to be made part of the Budget depending on the forecast which appears to us reasonable at that time, and the extent of importation.

MR SPEAKER:

I think we are talking at cross purposes. I think what the Hon Leader of the Opposition is saying is that once the money has been transferred from the Consolidated Fund to settle the deficit in the water fund, then there is no legal requirement to charge the excess and should therefore the transfer not be made so that the excess should be carried on until such time until it has met its commitment. Is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if he means are we writing-off the deficit, in effect.

HON J BOSSANO:

That is, effectively, what we are doing.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is what we are doing, yes.

HON J BOSSANO:

So, in fact, it means that the policy that was announced, Mr Chairman, as I remember it, was that the level of surcharge that was being introduced was planned by the Government to cover the cost of importation over a period of time which in fact extended beyond the period of importation and it was explained that the choice had been either a higher surcharge to recover it very quickly or a lower surcharge to recover it over a long period. It seems to me that if at the close of the accounts for the current financial year we are transferring an amount of money which is the amount of money not recovered by the surcharge, then in fact the policy has been changed and the Government has now decided that the surcharge should end at the end of this financial year because, presumably, the effect of this, if the explanation in the margin is correct and that this is the balance of the cost, it means that at the close of the accounts the Potable Water Service Fund will be in balance as a result of this transfer.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, in balance inasmuch as a book entry and it will be in balance because the contribution is from the Fund. The Hon Leader of the Opposition has taken me to task for trying to assume or tell him what the real issue behind his question is but I think that the point perhaps is whether the surcharge or whether any excess in cost of importing water over the revenue from water charges, whether that excess cost is borne as a general charge on the Fund, or whether it is levied on consumers in the form of a surcharge or increase in tariff.

HON J BOSSANO:

What I am saying is that that was the policy when the surcharge was introduced. I am saying that given the legal limitations on the Fund, if in fact the money is now transferred and the fund is balanced at the end of this financial year, and the surcharge continues in accordance with the previously announced policy, I am not sure whether it means that it will or it will not, but if it does, then it will appear to me that it will

result in a paper surplus in the Fund and that surplus, of course, cannot subsequently be presumably transferred back from the Special Fund into the Consolidated Fund on the basis of the regulations covering the setting up of the Special Fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I understand the Hon Leader of the Opposition's point, Mr Chairman, and in the terms he has put it, yes, I assent to that. All I would say is that there are other factors which might affect whether the Fund as of now, in terms of estimates we will be making as part of the Budget, whether the Water Fund is at current level of tariff likely to be in deficit or not.

HON J BOSSANO:

But would not the Hon Member agree with me that the implication of the explanation that he gives here, namely, that the sum of money that is being transferred is partly offset by an increase in revenue which goes to the Fund and not to the Consolidated Fund, that is, it goes to the Special Fund and is shown in the Appendix in the Special Fund, the implications of that, I would say, to anybody reading this would be that the levy meets the difference between the sums that we have voted in Supplementary Estimates for importation and the sum we are voting as a transfer, that is, that the difference between the two sums is the product of the levy added to the water bills. Surely, that is the implication of the explanation he has put in the margin.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I would like to leave the Hon Leader of the Opposition with the last word on the subject.

HON CHIEF MINISTER:

No, I would like to say something. What has happened is that the surcharge was brought here hopefully when there was only one tanker required and we said we would need so much time to cover that tanker. But the position has worsened so much that another tanker and another tanker has been brought. I think the only point that arises out of that is to see how much in this money is recovered from the Special Fund and itemise it out of it, is that what the Hon Member is saying? Then we would have to see later on whether we can do that or whether we have to have an overall charge without a special fund because the increase has been so dramatic over a short period.

HON M K FEATHERSTONE:

Part of the idea is that we wanted to have a completely new look of water tariffs and introduce a completely new system of water tariffs in the coming year. If we were to leave this with a deficit of the two tankers that we have not fully

covered by the normal cost of the water and run the surcharge on for an extra 18 months or so, it would pre-empt the new tariff structure we would like to make so the decision has been made to write it off once and for all now and then we can start on a new tariff structure straightaway.

HON J BOSSANO:

When I am correct in saying, Mr Chairman, that the effect of this is to write it off and balance the books and effectively it means that the previously announced policy of continuing the surcharge is now not going to be done because of the explanation that the Hon Member has given.

Head 29 - Contributions to Funded Services was agreed to.

Schedule of Supplementary Estimates Consolidated Fund (No 4 of 1983/84) was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund (No 4 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 House resumed.

### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Education (Amendment) Bill, 1984, and the Supplementary Appropriation (1983/84) Bill, 1984, have been considered in Committee and agreed to without amendment and I now move that they be read a third time and passed.

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

### PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move: "That this House notes the Auditor's Report for the financial year 1982/83". This is the first motion moved by the Opposition in the new House of Assembly and I think with some measure of confidence I can expect the support of the Government for this motion, I do not think that they can

fail to note the Auditor's Report. Of course, the wording of the motion quite deliberately refrains from expressing either approval or disapproval of the Auditor's comments. Let me say that the Auditor's Report is one that has got some very disturbing things to say about the finances of the Government and it is a matter in which, obviously, this Opposition will be devoting a lot of time to because we have in our own attachment of different priorities we have in the past drawn a great deal of attention to the importance we attach to the running of the economy and the control of the finances by the Government so that what we have to look at and question is the reflection of Government policy and not omissions due to inadequacy in the way the system is run by the Government. If one wanted to introduce a censure motion at this early stage in the life of the Government, which we have no intention of doing, then I think there is enough material in the Auditor's Report to form the basis of more than one. I would draw particular attention, I think, to two aspects of the Auditor's Report. One is the question of the arrears of revenue which has appeared in many other Auditor's Reports before but where on this occasion there is a breakdown in particular, I think, in the area of income tax which has not been present in previous Auditor's Reports and there is one element in that which I think any reasonable citizen would consider to be totally indefensible and that is the non-payment to Government of income tax collected through PAYE from employees. I think that sometimes people in the business community argue that they act as tax gatherers for the Government in respect of PAYE, they certainly use the same argument in UK in respect of VAT but I think that it is one thing to be a tax gatherer for the Government and another thing is to gather the tax and pocket it. I think that is something, quite frankly, where the Government must and should take a particularly tough line and I can tell the House that I have had personal knowledge of instances in the past, I think we did something to ameliorate the situation recently in the House of Assembly in an amendment to the Income Tax Ordinance, because in fact the situation that existed and there was a particular incident affecting a number of workers in a particular firm, where the firm went bankrupt, the owners disappeared, and the liability to tax of the employees legally was still there notwithstanding the fact that they had already paid tax once. I think we amended the Ordinance recently to enable the income tax authorities to write it off where the person concerned had already paid the tax once. But, clearly, if the Government is not on top of the situation, although at least the worst part of it has been cured in the sense that the taxpayer is not penalised by being required to pay twice, I think that it is important that they should ensure that the income tax is paid over to the Government and I believe, if my memory serves me right, from the time that PAYE was introduced that it is supposed to be paid on a monthly basis so there seems little justification for the sort of sum of money which is almost £200,000 if one looks at page 24 of the Auditor's Report, £197,673. I think it is also important that in looking at the breakdown of arrears of tax, it is quite obvious that people who pay tax through PAYE have really got no choice in the



matter, the tax is deducted before they get their pay. There has not been a breakdown given for a very long time, I think it was way back in 1978 when the Government undertook to look at the structure of income tax as a result of representations from the Trade Union Movement, that the Chief Minister provided the Gibraltar Trades Council with a breakdown of the composition of the yield from different sources. If we look at a situation where we are talking about £700,000 direct assessments on individuals, presumably other than those who pay PAYE it seems from the levels that I remember having been included in those figures in 1979 that a very high proportion of those who are paying other than PAYE are in arrears. We must be talking about a very substantial proportion unless there has been a dramatic increase in tax yields from that quarter. I think that is an important point because income tax arrears are treated differently in the Government accounts in that they do not appear anywhere as an asset whereas the arrears from the Funded Services are put through the accounts and included in the Government's reserves and therefore the strength of the reserves has to be looked at on the basis that if the arrears were paid the position would not be any better. In the case of income tax they are shown in Statement 46 as arrears of revenue and it is only, I think, in the last couple of years that the arrears of the Funded Services have been included there to show the true position of arrears of revenue but in fact the sums included if we look at Statement 46 at the back of the Auditor's Report, Mr Speaker, we will see that the figures in respect of the electricity, water, telephone and housing accounts, which are given there, are different from the figures that appear in the relationship between the Statement of Special Funds on page 12 and the Consolidated Fund which show plus and minuses. That is, in fact, because here we are talking about what can be collected given the time that the Bills go out. But the other figures, the two most important of which are the income tax and the rates which together come to almost £2m, are £2m which are not included in the reserves of the Government and therefore where any collection of those arrears would show up immediately as an improved financial position for the Government. Therefore, I believe that in asking the Government and in asking the House to note the comments of the Auditor, it is important that we should make this point particularly on the eve of the Budget. Again, in relation to that, giving the Government some advance notice of something we propose to raise during the Budget session and if they want to reciprocate and give me some advance notice of what they intend to do in the Budget session I shall welcome the information. One item of information that it would be useful to have is that in the estimates of yield for 1984/85 there is no indication of whether collection of arrears is at all included or whether, for example, if we take the estimates for income tax, I assume from comparison of different years that the Government estimate is based on collecting tax on current income, that is, tax due during the current year and not on anticipation of collecting any arrears. It seems to me that if one looks at the different estimates in the estimates of expenditure and revenue when they are brought to the House and we find, for example, under income tax that in the current

financial year the Government was estimating £18.7m would be collected in income tax as opposed to £19m in 1982/83 and the Auditor tells us that at the end of 1982/83 the Government was owed £1.5m, it is reasonable to assume that the £18.7m does not include any provision for the collection of the £1.3m that was in arrears, otherwise it would mean that the £18.7m representing £1.3m of arrears would then be reduced to £17.4m as tax on the current year and I think when we debated the estimates of revenue and expenditure a year ago, it was on the assumption that we were talking about current taxation and that the slight drop in estimated yield was due to the fact that at the time it was anticipated that the Dockyard might close in December and that therefore there would be a drop in yield because of the final quarter of the financial year and not a drop of a magnitude that would imply inclusion of arrears. I would say that we would hope that when the estimates for this year are brought to the House, perhaps the Government might be able to include in the revenue estimates an item showing the amount of arrears due to be collected if their professed intention is to collect the arrears then that should be shown, perhaps, as a separate item so that we can see from the estimates the degree of success that they have in moving in that direction. I think, also, the question of income tax is important in relation to the points that we have made in respect of the waiver on the payments to Hawker Siddeley which we mentioned in the course of the Supplementary Estimates No. 4, that the House has just approved where the Auditor points out to a contract signed between the Generating Station and the company responsible for manning and there are two points to be made there. One is that although this may be, strictly speaking, something that does not alter the true financial position of the Government, it is a very important item in terms of the philosophy of presenting accounts which accurately reflect the economic realities. Because if we have a situation where payments are agreed tax free and there are two issues, one is the authority to make the payment tax free in the first place, which is the point that the Auditor makes, and I think that point needs to be answered by the Government because in fact the sums for 1982/83 are significant compared to the sums for 1983/84 if the same philosophy has been applied in 1983/84 about non-payment of tax. But perhaps even more important and not mentioned by the Auditor is that in assessing the real cost then the cost that is provided for net of tax is misleading and it is not an argument to say that if you added the cost of the tax where the sums involved, for example, Mr Speaker, we are talking about pages 18 and 19 of the Auditor's Report where it says that the amount of money, for example, of a weekly fee of £20,000 and payment of £17,000 for two service engineers, if we take that and we assume, for example, that the rate of tax was no higher than 30% on that sum of money, then even if it means that the cost was £30,000 and that this was effectively compensated by income of £10,000 under income tax and that therefore the real cost to the Government is unchanged, nevertheless in assessing the cost by using the Hawker Siddeley Power Engineering employees instead of the Government's own employees, one would be able to compare like with like and, secondly, if one did not apply that philosophy here, the same

thing could be said about many other areas. I think it is an important policy matter because if we take, for example, the cost of housing to Government, undoubtedly if the Government spends £1m in building houses, part of the £1m is recovered by Government through the tax paid by the workers in the construction firm that builds the houses but we do not put the cost of housing down net of tax, we put in gross notwithstanding the fact that there is a counter entry. It seems to me that a departure from the standard practice has been introduced in this particular area and that it is undesirable that it should be allowed to stay like that because it makes it difficult to carry out logical and rationale comparisons of alternatives. I think it is important, of course, to analyse both the nominal and the real cost not just in these areas but in others. The example that I have given of housing is a clear indication that in some respects the real cost to the community of a particular area of development or a particular investment may be less in real terms than it appears to be on paper but I think that it is important that we should have a consistent treatment throughout the estimates so that in analysing those estimates we do not effectively come to incorrect conclusions because we are not aware that a particular payment was made net of tax and certainly I do not think that any indication had been given at any stage that this was happening in this area until the Auditor's Report drew attention to it and I think that it is very important that he should have done so. As regards the Report overall and the details of different areas, the position that we are adopting in the House of Assembly, Mr Speaker, is that we do not feel that there is a need to go into detailed matters when we are talking about fairly small sums of money which could take up interminable debate in the House where possibly the cost of keeping everybody here in the House is greater than the cost of the arrears involved but I think that there are policy decisions that are either particularly highlighted by the Auditor or because the Auditor is drawing attention to one particular area, it raises other policy matters which we as an Opposition feel should be brought to the House for debate. In that context it has to be made clear that we are bringing a motion on this matter because we feel and we intend that it should be so in subsequent years, we feel that the debate on the Auditor's comments on the accounts of the Government should be a debate on the floor of the House and we have decided, as a matter of policy, that we shall not be participating in the Public Accounts Committee. The House will recall that I, in fact, have consistently voted against the Reports of the Public Accounts Committee and that I declined an invitation from the Hon and Learned Chief Minister to take part in it when it was first set up. We feel that the role that we have to carry out is to hold Government Ministers responsible here for the running of Government affairs and that it is up to them to carry out their own investigations and to call in the Heads of Departments if they need explanations as to why things have gone wrong and are pointed out by the Auditor. We do not think it is the function of the Opposition to cross examine Heads of Departments or cross examine members of the Civil Service. In the Official Opening of the House I stated that we held the Government as the policy makers responsible although

we recognise that on occasions, in fact, they may not be aware of decisions that are taken, they still bear the political responsibility for those decisions and therefore we feel it is important that in order to be consistent with our thinking in this matter we should not take part in the Public Accounts Committee and we should not take on the mantle which we think properly belongs to the governing party of examining the details. Let me say that I am aware, of course, that there is a Public Accounts Committee in the United Kingdom but we feel that in a Parliament of our size there is not the justification that there is for doing it in UK and we will not take part in it.

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

The House recessed at 6.50 pm.

WEDNESDAY THE 14TH MARCH, 1984

The House resumed at 10.45 am.

MR SPEAKER:

I understand that the Hon Mr Canepa has something to say by way of explanation.

HON A J CANEPA:

Sir, I undertook yesterday, arising from supplementaries to Question No. 27 to try to obtain some further information for the Hon Leader of the Opposition. His question then was whether the increase in the rates payable by the MOD as between 1983/84 and 1984/85, whether the increase was in line with the increase of Government properties and the answer is, indeed, yes. The increase in contribution is, in fact, due to the increase in the rents of Government residential accommodation which have been equally applied to Ministry of Defence domestic premises. The percentage increase is therefore the same in respect of the domestic civilian list but it reduces to 7% as a result of the non domestic element which has not been reassessed pending a general revaluation as I explained yesterday.

MR SPEAKER:

May I remind the House that we are now on the motion moved by the Hon Leader of the Opposition on the Auditor's Report. I have proposed the question so the floor is open for debate now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, before replying to the points raised by the Hon Leader of the Opposition, I would just like to say that the Government welcomes the Principal Auditor's Report and also add a tribute to the Principal Auditor, whom I know personally and who I think has produced a very good and honest Report on the state of the Government's accounts. I think Gibraltar is very fortunate in its Principal Auditor and, indeed, in many of its public servants and I would like that to be recorded. It does not mean that what the Principal Auditor says, that every recommendation or every envisaged recommendation in the Report is one which the Government must accept literally in the sense in which it may be implied because the Principal Auditor is doing his job as an auditor, he is an accountant and that is his professional duty, to draw these things to the attention of Government and it is for Government to take whatever action is necessary with the assistance of others in the light of the comments by the Opposition but taking into account all considerations, financial, managerial and, indeed, political. Having said that, the Hon Leader of the Opposition raised the question of arrears of revenue which is highlighted in the Auditor's Report and I can say that I am glad that he has highlighted this because it is a matter which is serious for the Government's finances and I think it is a matter on which there is obviously a consensus between the Government and the Opposition in the sense that the amount outstanding should be reduced. The effect on Government finances is that where a balance of £7m might be shown in the Consolidated Fund, and this is the figure I quoted yesterday in reply to the Hon Leader of the Opposition, £5m of this is cash which is owing to the Government. Anyone familiar with commercial accounting will know that a book profit depending on the state of debtors or creditors, can disguise a situation in which there is a shortage of cash, that the company might be suffering from a cash shortage or it could easily be the Government. The second point is that reducing the amount in the Consolidated Fund or reducing the cash in the Consolidated Fund which might be earning interest for the Government is another consequence of that situation. Instead the Government is financing the businesses or the individuals who are taking advantage of the situation and they are benefitting to the extent that they are spending the money or avoiding borrowing money and paying interest and the Government is doing it for them. As I said, I am sure there is a consensus between the Government and the Opposition on this whole subject. As regards municipal services I think there may have been perhaps a certain lack of coordination and planning in the operation recently and this extends to the issue of bills for municipal services as well as the collection of arrears and the follow-up action subsequently and I have asked the Accountant-General, who is the Government Officer responsible, to take steps to coordinate the action at least as far as it lies within his jurisdiction which means that it is within my jurisdiction as well starting from the point of meter reading, processing the bills, issue of bills, dispatch of bills, and here, clearly, the Director of Postal Services and the Minister for Postal

Services will be involved as well as myself, so that it is put on a regular basis and one does not have a situation in which customers are given bills at 30 or 40 days interval and suddenly receive bills for two months in quick succession which obviously causes a great deal of distress and it is undesirable from the point of proper administration. I am also taking steps to strengthen the staff resources on the collection of revenue and this is an area where additional staff more than pay for themselves in terms of the extent of the improvement in collection which they can achieve. I shall also be discussing with the officials of the courts what machinery they may need in turn, how we can help them in connection with the enforcement of judgement debts which may be following judgements by the court. The Hon Leader of the Opposition in mentioning income tax, specifically, drew attention to the figures on page 24. As regards income tax the effect on the Consolidated Fund is that reducing arrears by £1m improved the balance of this Fund by £1m whereas, unfortunately, reducing arrears in municipal services does not affect the Consolidated Fund Balance but of course it improves the cash flow. I think the Principal Auditor may have slightly exaggerated the extent of the arrears in both cases, that is income tax and municipal services because arrears is a term of art, it can be an outstanding or an arrear or a bad debt. The Hon Leader of the Opposition knows that I am a devotee of Thomas Hobbs who said that these words are ever used relative to the person that uses them. That is to say, the accountants view of arrears may be different from the managers or the politicians and I prefer to call them outstanding. But I think what is important is the length of time clearly, and I think we can probably improve our analysis of the outstandings, both on income tax and also arrears, which is a necessary preliminary to successful action to reduce the amount. Turning to the detailed points that he raised, namely, in reference to paragraph 60 on page 24, he might welcome the news that of the £197,673 tax due on PAYE deductions, £143,000, I am speaking of that particular figure, has been collected. £48,000 is the subject of Court judgements and the remainder which is only a matter of less than £10,000 is the subject of agreements so that is the history of that particular figure. Obviously, the other important point is a comparable figure for that £197,000 as of today. I would like to say that it is nil, it is not, in an ideal world it would be nil but the world is not an ideal one and the figure is now £120,000, at least, comparable for today would be £120,000 at least that is some improvement and I am sure we can improve it still further. As I said, the Auditor may have slightly exaggerated the extent of arrears and, of course, I think he himself recognises that the figure is inflated by a substantial number of provisional assessments which were not included in the previous figures. I think that brings me back to my point that the Hon Leader of the Opposition also referred to 1979 and made comparisons. I do not know if we are comparing like with like. He may know himself what comparisons he is making but I think this brings me back to my point that we can probably improve our analysis of outstandings in this area without breaching secrecy and I will be studying

that with the Commissioner of Income Tax. Until that study is complete I would not like to give any commitment about the assumptions to be made in estimates about the possible improvement in the collection of tax. It is a valid point which the Hon Leader of the Opposition made because insofar as we may be showing an increase in the yield in 1983/84 over the original estimate twelve months ago, it may be difficult to determine the extent to which that is as a result of the improvement in collection or the buoyancy of the economy in an earlier year inasmuch as tax is collected in arrears or any other reason so I think that is an area, clearly, where we can improve our analysis. I would like to say something about avoidance and evasion of tax because this is clearly a subject on which one can have varying views. You could leave things broadly as they are and there is, of course, in the Income Tax Ordinance Section 12 which provides for the Commissioner to take action when in his judgement any transaction is fictitious or artificial, that is to say, it is deliberately intended as a device for tax avoidance but, of course, that judgement can be challenged in the Courts and I think that is quite proper. In a small community the Commissioner of Income Tax is well aware of the nature of transactions and if his decision is challenged in the Court then in a small community that particular exposure is, I think, a healthy one from the point of view of a democratic society and the exposure of tax avoidance, even though it may be regarded as within the law in the view of the Court, is itself a healthy process so one can leave things as they are. Secondly, you can legislate, you can employ an army of tax experts and you can send the Inland Revenue staff on courses in the UK, you can employ consultants, you have lots of consultants in Gibraltar and, of course, some of the benefits in terms of the effect on public expenditure will spill over into the economy in the form of increased PAYE from the consultants on the one hand and the increased expertise on tax avoidance which will also spill over into the private sector. That is one route and I would call that the Queeg balls route. You will remember that in the Caine Mutiny Humphrey Bogart juggled these ball bearings and it was a symptom of paranoia and I think there is, possibly, an extension which one can be paranoid about tax avoidance and indeed the legislative route, the third route is, of course, that you can abolish income tax or reduce it. I am not promising that this is something the Government intends to do in the next Budget but I think it could be conceptually right. In the past Gibraltar had a low rate of tax and it is very clear that some of the devices do depend for their efficacy on avoiding higher marginal rates of tax which of course is the case where you set up a discretionary Trust and the income from the Trust is taxed at one rate although it should, looking at it in terms of equity if you tax at the higher rate, well, there the reduction or the abolition of marginal rates of tax at 60% and the reintroduction of a standard rate of tax at 30% you eliminate the need for that particular device to avoid tax. But, of course, the point here is that tax evasion is the function of the tax structure itself. If there were no taxes then there would be no evasion in much the same way as if every woman was a virgin there would be no more virgins which is what I meant by

conceptually right for Gibraltar. Those are three or four options because the last one, really, is a development of the third, namely, a shift away from taxes on income towards taxes on expenditure. The freedom of manoeuvre of any Government is limited at any time by the financial constraints on it and it is not for me to anticipate what the Government may be doing in the Budget except insofar as the Hon and Gallant Minister yesterday did anticipate it to a certain extent but I would merely say that my own philosophy, and this does not commit the Government, is towards a shift away from taxes on income and taxes on expenditure and that insofar as one can favour investment whether through home ownership or other means and dis-favour consumption, then that would seem to be a route which would have beneficial effects for the economy of Gibraltar and, indeed, the future of Gibraltar. That is all I wish to say, Mr Speaker, in reply, except to thank the Hon Leader of the Opposition for what I thought were very helpful and very constructive comments arising out of the Auditor's Report.

HON J E PILCHER:

Mr Speaker, although my contribution will be a short one basically meant at answering the section of the Auditor's Report to do with the Tourist Office in my capacity as spokesman for tourism, I will nevertheless take the opportunity to comment on the Report as such. Very little is left, generally speaking, after the words of the Hon Leader of the Opposition, Mr Joe Bossano, yesterday. What I found personally worrying, Mr Speaker, were words like those quoted in page 9: "I must therefore once again draw attention to the lack of any real progress". These words plus words like: "At the time of writing this Report I have not received a reply from" - and he is speaking about Heads of Departments - seem to me that there is a lack of importance paid by the Government to this Report. I understand the complexity of the subject matter but nevertheless, as I said, it seems to show a lack of importance paid by the Government to this Report. I feel, Mr Speaker, that the ultimate responsibility lies with the Government. The political responsibility of the Auditor's Report lies with the Government and not with the Heads of Departments. The Government is responsible for political matters and the Heads of Department are responsible to the Ministers and therefore it is the political responsibility of the Minister to answer in the House anything pertaining to the Auditor's Report. It seems to me, after looking at the Report, that no business would be run like the Gibraltar Government is running its own Government area and I suppose, Mr Speaker, that the Government can be looked as a business in that it has to balance its books at the end of the year. For example, what the Hon Joe Bossano said yesterday about the income tax owec, this has been referred to by the Hon Financial Secretary and the Hon Juan Carlos Perez also in an earlier intervention talked about the telephone arrears bills where mainly it is to do with the trunk calls and international dialling, when areas like these are left and expenditure is increased by this it seems to me that the cost of this mis-management by the Government is falling on the taxpayer. If I

can refer directly to the Tourist Office, Mr Speaker, page 44 of the Report. We are not trying to be nit picking and I realise that we are only talking here of the sum of £300 but I think the principle is at stake, Mr Speaker, in that the Auditor considers this to be in contravention of Section 63 of the Gibraltar Constitution Order, 1969, in which the Department can use the vote and can use Government assets and facilities to increase their departmental votes. I think this is important, Mr Speaker, and although he said: "At the time of writing this Report" - which was on the 20th April - "I have not received replies from either the Minister or the Director of Tourism" - I think perhaps the Hon Minister for Tourism will reply to this in due course. Another area for concern, again very small sums of money but, I think, Mr Speaker, that when we talk about small sums of money we are in fact adding all the small sums of money and come with colossal mismanagement in the funding. Again it talks about the annual cost of the preparation and service of the payment of salaries in the London Office which the Auditor says should be done through a bank account in a London bank which would save the Gibraltar Government something in the region of £6,000 a year which is very, very little considering that we have a budget of £50m but definitely £6,000 that the taxpayer has to fork out at the end of the financial year. These are the only two points that I would like to raise at this stage. In answer to the Hon Financial Secretary, the three points which I would like to comment upon, irrespective of the fact that he considers the debts to be outstanding arrears or bad debts, nevertheless this is money owed to the Government, Mr Speaker. On the point of bringing experts, please, Mr Speaker, no more experts because we might fix up the Tax Department but we will take another twenty years to pay for the experts. As regards the abolition of income tax by the fact that the Hon and Learned Chief Minister turned a whiter shade of pale, I think we will not progress in the abolition of income tax.

HON H J ZAMMITT:

Mr Speaker, Sir, may I just reply to the Hon Mr Pilcher on the two points that he has raised on the Tourist Office. Firstly, Sir, let me explain the question of £300 on page 44 of the Auditor's Report which has come about as a result of the hiring of St Michael's Cave. There is no charge for St Michael's Cave. The charge levied against the hirer is the cost of overtime or salaries and wages required for the various people who have to conduct and carry out the preparation of the Cave, seating, lighting, electricians and the like. In the past what happened, Sir, was that when we hired the Cave out free of charge, particularly to a charitable organisation, as there was no charge and we do not charge anything for the hire of the Cave, it was found that at the end of the day Government was contributing towards that charity some £300 or so which was roughly the cost of the manpower required to carry out that particular exercise so it was decided that rather than make it a cost on Government of any charitable organisation starting off with a £300 benefit supplied by Government in every venture,

we agreed that there would be a deposit paid. If the cost is less than £300, for instance, it was one night as opposed to rehearsals required, then of course at the end of the totting up, the money was returned and if there was an additional requirement, of course, they paid the additional requirement. It is only recently that the present Auditor has realised and I agree legally he is right, that we cannot have monies placed on deposit to pay salaries. Obviously, there is another way around it and that is by providing money and then collecting and then, of course, the financial wizards will tell us the book transaction that one supposed to do but it is not, I assure you, Mr Speaker, an open or declared system of defrauding of trying to injure or hurt, it was purely that the Auditor has realised that it is contrary to Financial Instructions that we should not accept money into a deposit account or somewhere else, I do not know the absolute details of it, and that is the whole issue at this particular moment and it is being looked at with a view to rectification so that we do not have this anomaly. That is point one, I hope I have clarified that one. Sir, on point two, the question of the additional cost on bank charges regarding our London Office. The facts are that monies can only be sent over to UK after expenditure. So, therefore, the London Office has to send accounts through to Gibraltar to be cleared, vetted, passed and then paid and, of course, meanwhile our bank in England is holding on to that loan or overdraft and that occurs with salaries and it occurs with everything else and of course there is, as Members will see in last year's estimates, a substantial sum of money in the London Office of which not a penny other than salaries is kept in London, it is all paid from Gibraltar into Treasury. It takes ten days to get there and it is money that has to be paid. If there is a better system I would be delighted if we could save £6,000 to the taxpayer but it has been a problem that has come up virtually every year, the delay of payments from here over to UK.

HON J E PILCHER:

Will the Hon Member give way? Basically, Mr Speaker, what I was referring to, the fact that because of this red tape and because of the system that Government uses, we have an anomaly in the expenditure of £6,000. I think this is the point that we were making, it is up to Government to make sure that this does not happen and that the red tape is cut or is done away with completely so that this type of expenditure is no longer incurred.

HON H J ZAMMITT:

I do not know about being cut off completely because I suppose that the Treasury under the eagle eye of our Financial and Development Secretary would not like to see money in a bank in London without it being cleared by his Department as to payment so I suppose that if we had it that way there would also be comments from the Auditor, I am sure, that things should have been cleared. I honestly do not know how it can be done. It seems that when one wants to send money over to England one goes and gets an International Money Order and it is there within two days but when it comes to Government it seems to take two weeks.

HON J C PEREZ:

Mr Speaker, I welcome the contribution of the Hon Financial and Development Secretary in that I feel that the Government is not only taking note of the Auditor's Report but is going to do something about what the Auditor says is wrong. However, I feel that there was an omission in something that was raised by the Hon Leader of the Opposition yesterday with regard to the waiver of income tax on the contract of Hawker Siddeley in the Electricity Undertaking. This and the fact that the cost of the Chairman of the Steering Committee should be in the Secretariat Vote rather than the Electricity Vote which is what the Auditor indicates should be the case, are two things which the Hon Member has not answered and I would hope that other Members of the Government would inform the House if they think the Auditor is wrong in saying this, they should explain why they think it is wrong and if they think that the Auditor is right in pointing this out whether they could say that before the accounts have been closed this would be corrected so that the Electricity Undertaking Fund will reflect the real financial position and not the one that it is reflecting at the moment. On the question of Public Works, Mr Speaker, the loss mentioned by the Auditor as regards store keeping, I think the most important thing there is the remark about store keeping and store accounting, that these two should be separate which, if I remember correctly, I have seen in other Auditor's Reports in the past and again here nothing has been done about it in the past. I would hope that the whole of the Government in taking note of the Auditor's Report would do something about it so that the Auditor has not got to repeat the comments year after year in relation to what he thinks is wrong in the accounting of the Government.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way, Mr Speaker, before he finishes his speech. I think the fact that I did not refer to the issue of the waiver and, indeed, perhaps other issues which he is now about to raise does not mean that the Government is not aware of the Auditor's comments in these respects and it is taking note of them and indeed will be considering whether or not or in what sense to implement any recommendations on the part of the Auditor but I must point out to the Hon Member that the Report has only just been laid before the House, it is a pretty meaty Report, there are a great number of recommendations in it and, obviously, the Hon Member would not expect us to have a definitive answer to all the recommendations at this session of the House.

HON J C PEREZ:

Mr Speaker, I take the point that the Hon Member is making except that paragraph 44, to my mind, is of utmost importance because what I think the Auditor is basically saying is that that situation is illegal and I want to know, not necessarily from the Hon Member but certainly from the Minister for

Municipal Services, whether he authorised the City Electrical Engineer to undertake this contract or whether the City Electrical Engineer took it upon himself to do this or whether he sought advice from the Treasury and what is the legal advice in respect to that which the Auditor is so critical about. I take the point of the Hon Member that not all the aspects of the Auditor's Report need necessarily be raised specifically here.

HON CHIEF MINISTER:

If the Hon Member will give way. That is not what the Financial and Development Secretary said. What he said is that he could not within a few days of the Report having been deposited here to have answers to it. Normally what happens is that the Principal Auditor's Report is circulated and the point is that the Hon Leader of the Opposition has taken the first opportunity to take note and that is what we are doing, taking note, but that does not mean that matters that have not been dealt with in the debate are going to be overlooked. What we are dealing with is taking note and each Hon Member has raised a number of aspects. Some of them can be replied quickly and some perhaps not so quickly if we had not had overnight to be able to get the material that the Financial Secretary was able to get in respect of the figures in respect of income tax and so on, others may take longer but I will have something to say about this question whether it is the Head of the Department or the Minister who is responsible because we are getting ourselves involved in very deep matters in connection with the way in which the Constitution works which has to be cleared subsequently.

HON J C PEREZ:

In that respect, Mr Speaker, let me tell the Hon and Learned Chief Minister that as we on this side of the House view the situation, Ministers are responsible to the House and to the general public politically and in my view Heads of Departments are responsible to the Ministers so it is our view that the Ministers have to make sure that the Heads of Department undertake the situation correctly. I was commenting on the Public Works Department where, Mr Speaker, I said that the most important issue which I saw was the fact that store keeping and stores accounting should be separate and, as I said before, I think that the Auditor has previously commented on this and nothing has been done. Perhaps, Mr Speaker, if instead of being the Opposition's spokesman on Government affairs I would have been the Minister for Government Services I might have been able to advise the Department in my capacity as a storeman, a position I am very proud of. Mr Speaker, as far as unpaid bills are concerned, I take the point of the Hon Financial and Development Secretary that the position of the Consolidated Fund is not the real one, if I understood him well, if one takes into account the unpaid bills of the Government. I am prepared to give way.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I certainly hope I did not use that particular expression 'real', Mr Speaker, not simply because of my devotion to the works of Thomas Hobbs but because there really are two concepts. There are conventions of accountancy and the Consolidated Fund, the balance of £7m, is in accordance with those conventions. As a separate but supporting point there is the fact that our cash flow situation is affected by the fact that £5m is in the hands of debtors. The two points are different but I would not like the Hon Member to think that I am saying that the situation is really not as stated in the Consolidated Fund.

HON J C PEREZ:

No, Mr Speaker, but I come to the other point and that is that the Auditor talks about irrecoverable bills and in connection with irrecoverable bills I think that the real position of the Government reserves is that once the irrecoverable bills have been deducted from the Funded Services account and the Consolidated Fund transferred sums of money to those accounts to cover for those deficits then we shall be able to see what the real position of the reserves of the Government is.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I would accept what the Hon Member has said because if in fact one decided to write off some of those ageing debts as bad debts then, of course, as with the provision in commercial accounts, it would affect the accounts and the £7m we were talking about would be reduced proportionately.

MR SPEAKER:

You can go ahead but we must not have a debate within a debate.

HON J C PEREZ:

In relation specifically to the Telephone charges, Mr Speaker, if I remember correctly yesterday the Hon Financial and Development Secretary, in answer to a question about the disconnecting of telephone subscribers who are in arrears, told me that the policy of the Government was that they disconnected subscribers who were two quarters in arrears, at least that was the general policy as outlined by the Hon Member. However, the Auditor, in paragraph 133 says, and I quote, Mr Speaker: "The computerisation of the telephone accounts has brought to light a substantial number of inactive accounts. On the 10 January, 1984, there were 792 such accounts owing a total sum of £109,267". Mr Speaker, maybe, and I am not saying that this is the case, that at the time of asking the question the Government came up with a policy to be able to reply to me but I cannot see how the policy of the Government is that people who are two quarters in arrears are disconnected when 792 such accounts

were lying dormant and until computerisation came along Government did not realise that there were so many accounts in arrears. Generally, Mr Speaker, the emphasis of the areas I have touched upon and the emphasis I am giving to my speech is that in taking note of the Auditor's Report one would hope that this time the Government should perhaps do something more about it than they have done in previous years so that the Auditor has not got to repeat the same comments over and over again in his annual Report and I take the point of the Hon Financial and Development Secretary that he personally at least is looking at matters arising from the Report. Let me finish off by saying that I am sorry if the Hon and Learned Chief Minister is disappointed that my maiden speech in the House of Assembly is not as cordial as he would like it to be but I think that the issue is of fundamental importance. Let me say, Mr Speaker, on the question of income tax raised by the Hon Financial and Development Secretary in relation to the forthcoming Budget that he has, in my view, for the first time in the House of Assembly shown his monetarist inklings and that one would have to wait and see the Budget before one finds out who has convinced who, whether the wettish Government wins the day or a dry Financial Secretary wins the day and that will be reflected, I presume, in the forthcoming Budget. Thank you, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Before the Hon Member sits down, could I ask, on a point of information, Mr Speaker, I did not quite hear, did he say monastic or monetarist?

HON J C PEREZ:

Monetarist, Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, I welcome the speech by the Hon Mr Perez. I congratulate him on his maiden speech. I would take a little issue with him and with the Hon Mr Pilcher insofar as where the responsibility lies. Obviously, political responsibility does lie with Ministers but Ministers theoretically, I should say, and even in practice, basically should determine policy and not get themselves bogged down in a wealth of detail. Where there are points of detail which are brought up by the Auditor and political responsibility can be involved, I think the forum where these can come to the fore is in the Public Accounts Committee and it does seem to me to some extent rather a pity that the Opposition do not wish to take part in a Public Accounts Committee because that is the forum, in my opinion, where the political side can be more clearly aired and Ministers can when they get the report of the Public Accounts Committee, be able to see that their Directors are complying with their job. Obviously, an Auditor's Report is rather an Augustan report, it looks for the optimum in everything and unfortunately human beings are fallible and in many instances

they do fall into errors. I am rather pleased to see that the over-expenditure in the Public Works Department on a figure of some £7m was only £1,000-odd which I think is quite reasonable, it was three small points and these, basically, were human errors and unfortunately in this world in which we live the human error does take place. I rather fancy that the Hon Mr JC Perez's support for the Auditor's comments of the separation of the functions of store keeping and stores accounting is rather in pursuance of a claim that we do have at the moment from the stores where this viewpoint is put forward but if one is to give way to all these very worthy and very commendable suggestions but perhaps not practical suggestions, we are going to find ourselves with a tremendous staff of civil servants checking each and every voucher in triplicate, seeing that everything is done, perhaps, even then the human error is going to come in and we are going to find even more errors in the long run and even a longer report from the Auditor. I think the main thrust of the Auditor's Report is that obviously everything is not 100% as he would like to see it and it is the duty of Ministers to get on to their Directors and see that to the greatest extent possible they do conform with the regulations and I will see that as far as the Public Works Department is concerned this is done. There is just one little point that I would mention in the Report for the benefit of the Hon Financial Secretary and my Colleagues when I ask for money for equipment: The Auditor does make and I think with complete justification, the comment that we rented a pump at a figure of some £3,060 when the purchase of such a pump would have been £3,000 and it seems to me sometimes that Government goes a little the wrong way in hiring equipment from people when they would be better off to buy the equipment themselves which in the long run does work out to be a cheaper and more financially reasonable suggestion. Apart from that, Sir, as I said, I will see that my Department as far as possible can comply with the Auditor's suggestions but I do again state that it is the human error which does give rise to all the different points that the Auditor brings up. Thank you, Sir.

HON R MOR:

Mr Speaker, in supporting the motion I have noted the Auditor's Report as regards expenditure on Education. On page 25 of the Report which referred to Statement 7, under sub-head 3 referring to Services, it can be noted, Mr Speaker, that the original estimate for this account was £70,900 and yet the actual expenditure was £138,493.68. This, Mr Speaker, represents nearly a 100% increase on the original estimate. Whilst accepting the fact that unpredictable circumstances can cause the original estimate to increase, it is nonetheless most unlikely that it should increase twice as much and I think Government needs to do some explaining on this. It would appear to me, Mr Speaker, that someone is getting his sums wrong and it isn't my Hon Friend Mr Joe Bossano. What is also most disturbing, Mr Speaker, is when one looks at the excess expenditure on the accounts, the excess amounts to £40,268.68 and if we look at the explanation for this in the Report which

is on page 14. In paragraph 27 we find the rather astonishing fact that this expenditure was mainly due, and I am quoting from the Auditor's Report: "to a substantial loss of potable water at the Westside School arising from a major leak within the supply system". I think one could very well accept any expenditure which has been used for the purchase of equipment for schools or, in fact, on anything else directly concerned with educating our children but, Mr Speaker, I find it incredible that we are talking about nearly £40,000 worth of water which to me is enough not only to have flooded the Girls' Comprehensive School but to have flooded the whole of Gibraltar. Clearly, Mr Speaker, the Government have to answer some questions on this. Why did the leak occur in the first place? Is it being monitored at all? I trust, Mr Speaker, that the Government will be providing this House with the necessary explanations.

HON J B PEREZ:

Mr Speaker, as far as the loss of potable water at Westside is concerned, I can inform the House that this was an underground leakage which developed within the one year period of the contractors warranty for the building and works that they had carried out and this was only detected on checking of bills. It was realised that the amount just did not make sense so Public Works were immediately contacted by the Education Department, they managed to sort out the leak, unfortunately, it occurred again, the contractors were brought into the picture and there is a claim at present being made against the contractors since a leakage occurred within the one year and the information that I have available is that it is caused by either faulty workmanship or failing to install the right valves. But in any event, as far as the Government is concerned, the claim has been made against the contractors and they have already been to Gibraltar and carried out certain works. In fact, I think the local sub-contractor, Messrs Fabri, were involved and they actually attended to the leakage but now we are presenting a formal claim, in fact, it has already been made against the contractors. The loss is probably over £40,000 when one considers that the accounts are for the previous year but I think we have had three further leakages at Westside, they are all underground, but the claim has been made and we will be recouping that money from the contractors. As far as that is concerned the Government is quite satisfied that we are taking the right action. As far as the first point that was mentioned is concerned and that is the difference between the approved for Services, I did undertake to provide the Hon Member with the information, unfortunately, I am not in a position to do so at this stage but I will, of course, do so either during the course of this meeting or on another occasion. The problem really was that I was not Minister for Education a year ago and therefore I will have to look at the files and discuss the matter with my predecessor on that, that is why I am unable to answer at this particular stage. I am quite satisfied that as far as the leakage is concerned the Department has done everything that is humanly possible. Again, I would emphasise that the leakage was an underground leakage and the water was going straight into the sea so therefore it could not be seen.



HON R MOR:

Mr Speaker, could I just ask one question?

HON J B PEREZ:

Yes, I will give way.

HON R MOR:

Surely, there must be a way of checking or monitoring the meters and that would have been quite evident since we are talking about such a large amount of water, it would have been evident on meter reading and not necessarily awaiting for the Auditor's Report.

HON J B PEREZ:

This was precisely how it was discovered, Mr Speaker.

HON M A FEETHAM:

Mr Speaker, in pursuing my contribution this morning on the Principal Auditor's Report, I wish first of all to refer to what the Hon Mr Featherstone said as regards his disappointment at the fact that this side of the House had decided not to participate in the Public Accounts Committee. I think it is important that the House realises the fundamental approach that we feel the House should pursue in discussing or debating matters which are of importance, matters which are of principle and matters which affect the economy as a whole. We are not interested, Mr Speaker, in getting ourselves involved whether X numbers of overalls have or have not been bought. What we are interested in getting ourselves involved, in fact, is what direction the economy is taking and how it is being handled by Government. The reason why we are withdrawing from the Public Accounts Committee is because what has been happening, in our view, is that the Public Accounts Committee have been discussing the Principal Auditor's Report, producing their own report and then bringing it to the House and what we have been having, in fact, Mr Speaker, is a debate on the consensus of the Public Accounts Committee and at the end of the day we have not, in our view, been discussing or debating the Principal Auditor's Report. That is how we feel we ought to be dealing with this matter because we feel it is of public importance and, in fact, this Report on matters of principle, not on details, ought to be discussed in the House because it is a matter of public importance. I am not going to extend myself because obviously other Members on this side of the House have already covered a number of important things as far as we see them. However, there are two points that I would like to raise. First of all, this side of the House understands that at times Heads of Department are under pressure. Sometimes other Heads of Department may not be under pressure but what we

cannot accept as a matter of principle is that Heads of Department should not respond to comments and observations by the Principal Auditor and I think that, with respect, regardless of the circumstances, Heads of Department are not immune from the Principal Auditor's requests or observations and they ought to respond so that when we get the Principal Auditor's Report in the House we are getting as many facts as possible on the situation. That is one point that I feel I ought to repeat and it has already been stated on this side of the House. The other one is that it is one thing, for example, for Government to decide on any particular expenditure and do what it wants with it and another thing is, for example, to allow certain concessions to take place which are abused by the people who are getting the concessions from Government. I am talking about the exemption from import duty on equipment which must be used exclusively in connection with contracts carried out for either the Gibraltar Government or the Ministry of Defence. The Principal Auditor is not satisfied that the necessary monitoring is being carried out and I can state that in my own mind and from experience I am sure, in fact, that abuse is taking place and if it is necessary and desirable to invoke the provisions of section 48(b)(iv) of the Ordinance and ensure that the people who are getting this concession deposit money or security so that the conditions are observed, then I think that is something that must be done. I am going to quantify what I am saying by stating a fact and it is a fact that this equipment which is supposed to be exclusively used on Government contracts or MOD contracts and therefore are excluded from paying import duty, are in fact used by those contractors on jobs outside the normal provisions for which they are entitled to use it and this puts an unfair element of competition on people who have not got the concession and who are competing for those other contracts. What we cannot have is plant which is supposed to be used for Government and MOD contracts being used unfairly in competition with other contractors on contracts which are in the private sector and this is what is happening and not only that but what is happening, in fact, is that this equipment, plant, etc, is being hired out and consequently the persons who have got plant and equipment for hiring out and make a living of it are in an unfair competitive situation and so if Government were to look at this and ensure that we have safeguards on this because it is a reality, then I think this side of the House would be very satisfied that the principle of exemption from import duty on this plant is being adhered to.

HON CHIEF MINISTER:

Mr Speaker, first of all, I think the Hon J C Perez was mistaken if he thought that because he was saying things which were against the Government they were not being taken properly, that was not the point. The point is that he delivered an address on his views on the point in a very proper manner and I commend him and those who have spoken for the first time, as I said earlier, for their contributions in what hopes to be a useful debating House of Assembly for the future free from, I hope, malice and envy which has characterised some of the latter part of our House of Assembly and I think this is

something which has already been evident in the short time that we have been meeting. Whether we agree or we do not agree that is why we are here. One of the advantages of being in office for a long time is that you see people coming and going with different ideas as to what the Government should do. The former Member, Mr Maurice Xiberras, at some time a colleague of the Hon Leader of the Opposition, pestered me for a long time to create a Public Accounts Committee. I readily agreed that there should be some kind of machinery to try and monitor and particularly to keep the Heads of Departments alive to the political side of the Opposition and I remember because this was done in a non-political City Council and it was very useful. For some time I held him back by saying I was agreeable to introduce something in the nature of a Public Accounts Committee. Eventually, like everything else, it looked as if denying the setting up of a Public Accounts Committee was an attempt of the Government not to disclose all the details that Members wanted to see. So having regard to the views expressed by the Opposition at the time, I agreed to the creation of the Public Accounts Committee. One of the difficulties that I foresaw at the time was that whereas in a big Chamber where there are 400 or 500 Members who have got no responsibility, no managerial or ministerial responsibility, you have a Public Accounts Committee that goes into great detail and sometimes discovers that too many boots were bought or too many overalls or something like that and there is a scandal because the fellow who had the concession is a brother-in-law or something, it happens everywhere, but the difficulty here was that all Members of the Government were Ministers and therefore it was hardly easy for a Minister particularly when it came to his Department he should phase out because his Department was under investigation and it would not be fair to have him there because it is the Head of Department who appears before the Public Accounts Committee. I also accept that our circumstances are completely different in many ways and that we cannot follow willy-nilly everything that is done in the House of Commons. If Hon Members at this stage do not want to participate, there is no point in having a Public Accounts Committee. We shall have to devise another kind of what I would call inquisitorial machinery on our side to be able to monitor the matters so that perhaps when there is a debate on either the Auditor's Report or something else, there has been work done to answer for those matters other than the rather spontaneous, and if I say so, sensible way in which the two or three Ministers who have had their Departments pointed out responded today. If that is what the Hon Members opposite want so be it, certainly we are not going to have a one-sided Public Accounts Committee because it would be just the Government again so we shall have to think of something else to meet this philosophy of this Opposition. But let me say that it did serve a lot of purpose except that after the appointment of a certain Chairman, whose name shall not be mentioned, he wanted to run the whole place from the Public Accounts Committee and wanted to count the nuts and bolts and the number of toilet rolls and that, of course, was not the function of the Public Accounts Committee. I think the function of the Public Accounts Committee in a territory of this nature would be to meet three or four times and have

three or four bashes at three or four particular Heads of Department that year in the hope that the others will be afraid that it would be their turn the following year. That would have been the way in which it would have been done but, no, that was the way in which some people thought that they do from the Opposition what they might have done if they had been in Government. So be it, this is the way in which we have to carry out our duties. I think the most important result of the debate which we welcome but unfortunately it has been by the nature of things, too near its presentation for us to be able to be well versed because let me tell you that whether there is a Public Accounts Committee or not, every Auditor's Report which has a comment or adverse comment is followed up by the administration. With the greatest respect to Hon Members whose contributions are very welcome, it would not have just been laid as another document here if it had not been raised today, every aspect of it would have been followed up and reported back. In some cases, I must remind Members who do not know, that the Auditor was an adviser of the Public Accounts Committee and the Auditor was present at all its meetings. But let me tell you, and this is no consolation, that this Report is half as critical as one five or six years ago that took one particular newspaper months in analysing it in the end for no purpose because they did not get any joy out of it. I think the main points that have arisen, the principal ones, are set out in the response to the contribution of the Hon Mover by the Financial and Development Secretary which is where the bulk lies and that is the collection. We shall have to consider what kind of inquisitorial set-up we put up. I have already made up my mind but I won't say who I am going to put in charge. I think the basic problem that arises here is the arrears of revenue that have been mentioned, the non-payment of PAYE has not been mentioned very much today except that it has improved. But this is a very serious matter because it is not only a debt, if you do not pay your electricity, if you do not pay your rates you owe the money but if you do not pay your PAYE you are keeping your workers' tax, it is also a criminal offence. But, of course, it costs too much to keep people in prison, we are not interested in sending people to prison for keeping the money of PAYE, what we are interested in is in getting the money and obtaining judgement and pursuing the matter until the money is paid and, of course, in many cases of arrears like in the water, electricity, etc, when people have had difficulties arrangements are made so long as they pay regularly for the arrears to be settled over a period and so on and facilities are given. Also there can be no doubt that one of the reasons for the rather high amount of money owing in this respect and perhaps even the reason for the misdemeanour of keeping money in PAYE is the recession and the lack of cash. But certainly the withholding of PAYE is something that has no excuse whatsoever. Non-payment of electricity, after all, it is what you owe, you may not be able to pay, you may have incurred difficulties, illness, but PAYE is something that you are entrusted to collect for the Tax Office and it is not your money in any case not to pay it in. The day you collect it you should pass it on and I am glad to say that, generally, this is done and the figures mentioned by the Financial and Development Secretary this morning I think show that. Let me

say that I can speak from personal experience, not from what I owe but from what other people owe, that in my professional capacity that the income tax and particularly since we were wise enough to pass on the duty of estate duties to the Income Tax Office, thank God, they do not stop, they keep on chasing, certainly they chase the ones probably that they expect can pay but the impetus of the Income Tax Office and the Estate Duties Office certainly in the last six months or year, apart from their normal work, has really gone up. Let me say that the elected Government will give every support possible. After all, the income tax hasn't got a Minister, whatever the Commissioner of Income Tax does you cannot blame on a Minister, you can blame on the collective responsibility of the Government, let me say that the Commissioner of Income Tax and the Commissioner of Estate Duty, within reason, of course, has got the full support of the elected Government to pursue claims in a humane way because you cannot do it in any other way, in a humane way to pursue his duties in a forceful way so that the non-payment by some members of the community is not made up by the payment by those who do pay their taxes regularly. He has the full support and the Accountant-General, as the Financial and Development Secretary well knows, will also have the full support and, in fact, the support here is much more practical in the sense that in the preparation of the estimates we have already discussed the strengthening of the Department and as he said this morning, it more than pays to have two or three extra bodies to follow up the cases because people will pay always. The Government bill is the last, everything else is paid before, trips to Sierra Nevada or whatever it is, it is paid before but tax and electricity and water, that can wait, after all, it is the Government. It reminds me of the chap who stood up in the Speakers' Corner in Hyde Park who said: "Let the Government pay the income tax for us". One point which was raised by the Hon Mr Feetham who is not here which I propose to pursue. I have a recollection of this matter having been raised here before but I do not know what the present state of affairs is. He talked about the exemption from import duty of certain equipment which is allowed to be brought in free of duty for certain contractors for the Government and the Ministry of Defence. I think that if it is maintained at that level it is sensible because after all they bring machinery to carry out work and they take it away. If they paid duty it would be reflected in the work and the payments that have to be made here. He did say that this is abused not only by keeping it and using it for other work but even in hiring it. I know we had a comment on this some years ago and we found out that in some cases the machinery that had been mentioned had in fact paid duty when it decided to reside permanently in Gibraltar, that is to say, it was going to remain here, it paid duty and it carried on. I do not say that the allegation may not be true but I cannot say that I can give him an answer without investigating it. If, in fact, we are not going to have a Public Accounts Committee, no doubt we shall have an annual jamboree with the Auditor's Report but let us hope that it will be raised a little later than just on its presentation, for obvious reasons, particularly if Ministers are going to be asked to respond to it, to be able to report on some progress

that has been made in future in respect of the Auditor's Report. I would associate myself with the Financial and Development Secretary in paying tribute and let me say that there was criticism from the old Opposition when we made for the first time an appointment of a local Auditor and let me say today that we were more than justified in appointing a person properly qualified who had given loyal service and who shows the nature of his independence by the Report that he has published. This is a tribute to his standing and the fact that we are discussing this here in such detail is a tribute to his hard work and that of his staff. Therefore, it will not be difficult to agree at the end of the debate that we have noted the Report of the Principal Auditor and I do not think there will be need for a division.

MR SPEAKER:

Are there any other contributors? I will then call on the Mover to reply.

HON J BOSSANO:

Thank you, Mr Speaker. Perhaps I will deal first with the contribution of the Hon and Learned Chief Minister since that is fresh in our minds and say that I associate the Opposition with the remarks that he has made regarding the quality of the Auditor's Report and the fact that we have a local man doing the job. The Government will find full support from this side of the House in moves towards localisation and towards recognising the expertise that exists in our community. I think we have too often been blinded by the concept that a philosopher is not recognised in his own land and therefore we bring in experts quite often at enormous cost to tell us what is all too obvious to us if we only care to look around ourselves and I think we will be doing Gibraltar a service in recognising the ability and the quality of our own people if we give them the responsibility and I think they often discharge that in a way which brings credit to them and credit to Gibraltar. I endorse entirely the remarks of the Chief Minister as regards the appointment of the Auditor and the quality of the Report and it is precisely because we consider it to be a Report that is conscientious and a Report that highlights important things that we have brought the motion to the House. I take the point about the nearness of the presentation and the motion, that is, the House has had the Report tabled at this meeting and we have brought the motion at this meeting. I think there is only one point I would like to make in relation to that, a practical point, it may be a difficult one to meet. First of all, let me say that I accept entirely the position of the Government in this respect and that therefore in future the next time round we will have a wider gap, that is, what we propose to do would be to bring a motion to the House to debate the matter at the meeting subsequent to its presentation which will give the Government time to do it but, of course, the thing is that it is particularly useful, I think, to be able to do it before the Budget session. I

remember going back 11 years when I started in the House, we had in fact a much more difficult situation then because quite often the Auditor's Report came after the Budget and in fact we had a situation when we were looking at the estimates for the forthcoming year and we still did not have a clear picture of the final results of twelve months preceding the Budget and I think there was a recognition of the necessity for the House to have the most up-to-date and accurate information on which to base its decisions and this was reflected, eventually, in the effort to get the Auditor's Report out before the end of the financial year. But, of course, we are looking at the figures reflecting the position in March, 1983, and at the next meeting of the House we shall have revised estimates in respect of the year ending March, 1984, and projections for the year ending March, 1985. So, effectively, I have always treated, Mr Speaker, in my response to the Budget, the analysis of the economic situation and the analysis of the fiscal measures and the financial position of the Government as one spanning effectively three financial years, the final figures of one year, the revised figures of the second and the projections for the year to come. It may be that the work involved and the limitations of staffing preclude the thing being produced earlier but, obviously, it would be much more useful to debate it before the Budget than after the Budget and this is one of the reasons for doing it now.

HON CHIEF MINISTER:

If the Hon Member will give way. Having regard to the date of the Report we might have had more time had we not had the small incident of the elections in between.

HON J BOSSANO:

Well, if the Hon and Learned Chief Minister decides to call another general election before the next Budget next year we will forgive him for it.

HON CHIEF MINISTER:

You would be sorry.

HON J BOSSANO:

The other point I want to make as regards the response of the Opposition at what is really our first working session of the House and our first motion in the House, is that precisely because the Public Accounts Committee was intended to be an inquisitorial thing and we do not think that it is our function to be inquisitorial, we think it is our function to serve the people who voted for us by putting us here in helping to improve the performance and the quality of the Government because that is to the benefit of the people of Gibraltar and this is effectively what we are trying to do. There is also the practical reason that in fact although a number of

Members of the Opposition have spoken not everyone has. I noted that the Hon and Learned Mr J B Perez was hesitant because he thought perhaps there would be a contribution on Medical Services for which he would want to have the opportunity of replying. Well, there was not because in fact having looked at the Report we decided that there was not anything in particular we wanted to raise so Members of the Opposition will not simply stand up to talk for the sake of talking because everybody has to do it, they will stand to talk when they feel there is something worthwhile saying, Mr Speaker, and therefore that is also reflected in the approach that we have adopted in this matter. Turning back to the previous contributions I think one thing that is useful apart from the debate on the Auditor's Report has been the indications from the Financial and Development Secretary of his own personal thoughts on the question of fiscal policy and on taxation and particularly the question of taxation on income or expenditure. I think that our own thoughts on the matter really stem from an approach that says that the Government in looking at its fiscal policies, in looking at its revenue raising measures, should do so cognizant of their economic impact as well and I think this is where taxes on expenditure and taxes on income come into play. Of course, I think the difficulty is that whereas the tax on income is a fairly certain and accurate way of raising revenue provided people pay and they do not do what they have been doing recently, that is, collecting PAYE and keeping it, but taxes on expenditure are more unpredictable as we have seen in fact from the downward revisions that we had last year in the estimates on the question of the yield from import duty whereas you can predict fairly accurately unless there is a colossal slump in the economy and massive unemployment, you can predict fairly accurately what your yield is going to be from a tax on income, it is more difficult to predict it particularly with an open frontier and I think the problem with expenditure taxes in the present situation is that we have to be careful that we do not in fact price segments of the Gibraltar market out of the reach of the consumer by attempting to tax expenditure. I think the other part of looking in the balance of taxes on expenditure, rather than insisting taxation towards expenditure but within the balance of taxes on expenditure, certainly, I think the achievement of economic objectives such as the enhancement of the attractions of home ownership is a perfectly valid way in which to deal with a fiscal matter in a way that achieves an economic objective and certainly if the Government is thinking along those lines then we think that that is a good thing and that is the sort of direction that we would like them to give to the economy of Gibraltar. I am not sure that I agree with what my Friend, the Hon Mr Perez, said about a dry Financial Secretary and a wettish Government. I think the comment, possibly, was intended in the context of Tory wet and Tory dry in terms of their approach to fiscal policy. Well, Mr Speaker, the Hon and Learned Chief Minister, I think, has on occasions described himself as Social Democrat and that is the closest one can get to a Tory wet that I know about but I think there is one thing that will guarantee that they do not become Tory wets and I think the answer was given by the Minister for

Public Works when he told us that the last tanker of water that arrived cost £10 a ton, I think it is impossible for the Government to become wet at that price, too expensive. I think if they went for whisky or something else they might be able to do it but not with water. The area that we have highlighted on arrears of revenue on the question of PAYE which the Chief Minister in fact has said he agrees with, I think, is in fact one where it is the humane approach which we support. I think people must understand it cannot be extended when in fact the money that they are retaining does not belong to them, it belongs to the Government. I think it is one thing to have to of necessity look at the implications of pressing people who are in arrears in their running of their own business, for example, when in fact you could do untold long-term damage by putting somebody completely out of business because then you may not recover what they owe and you may never have any chance of recovering it and that, effectively, would be simply to approach the thing with blinkers on and looking at it purely from a legalistic point of view without sufficient regard for the long-term results. We support the distinction between the approach on something like arrears of PAYE and the more humane approach taking into account the difficulties that a particular sector may be suffering at a particular time. However, it obviously cannot be allowed to run indefinitely and I think on the point that my Colleague, Mr Perez, made with regard to the Telephone Service, again there is a clear distinction there when we are talking about, for example, a proportion of that money being due to international calls where again the Government of Gibraltar is disbursing money out to other authorities and I think also, for example, in cases like hotels where the clients may be paying the hotel, the Government is paying the other authority and the money is lost in between the two, the consumer and the person providing the service which at the end of the day is the Government of Gibraltar. I think the other area that we will want to see reflected in the presentation of the accounts and I think that is part of the implicit comments in the Auditor's Report, is that in order to assess the value to the community of particular services, the more accurate, the more realistic the accounts are presented by the Government the easier it is to take rational policy decisions and since we see our role here as examining Government policy and trying to improve it if we think it needs improving or endorsing it if we think it needs endorsing or disagreeing with it, therefore the policy itself that the Government takes must, to our mind, be based on accurate information. We think the Government needs the accurate information as much as we do, the House needs it, because the constitutional responsibility for the expenditure of public funds lies with the House of Assembly and therefore it is in this context that something like the non-payment of tax on the fees paid to Hawker Siddeley introduced a distorting factor in assessing what the real cost is and in making comparisons between the cost if we are running the Station ourselves and the cost if it is being run by an outside organisation. This point that we want to bring to the attention of the Government on this occasion and

this is the first time really that we are getting down to the business of providing the people of Gibraltar with the service and the work that I think they are entitled to receive from their House of Assembly and which we hope to be able to contribute to and to enhance, this First Session we are making points, obviously, we shall be looking forward to seeing answers and a reflection of the thinking we are bringing to the House in the future performance of the Government and we hope we do not have to become as hypercritical as the last Opposition was because we will be seeing better results.

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

HON J E PILCHER:

Mr Speaker, I beg to move that: "This House considers that Spain should have no jurisdiction over the Gibraltar airfield and should have no say in its present or future use". Mr Speaker, in bringing this motion to the House I am aware of the fact that this motion has been brought before the House on a previous occasion and I have in fact closely examined the Hansard of the ensuing debate and will be commenting on the points raised by the Hon and Learned Chief Minister and by the then Hon and Learned Leader of the Opposition. However, I have hopes, Mr Speaker, that the outcome of this motion will not be the same as it was at that time, at least given the fact that there was a bipartisan approach then which will not be the case unless the Government support the motion. This motion is directly related to a previous question I asked about the visit of the Deputy Governor in his capacity as Chairman of GATAB, obviously to do with matters arising out of civil aviation and in direct relation to any aspirations that Spain might have in this area. It is clear to me, Mr Speaker, having read the Hansard of the last debate, that the three parties then represented in the House as indeed the two parties represented in the House today as indeed the United Kingdom Government, pay no importance at all to the claim made by Spain that the airfield was built in an area which is not covered by the Treaty of Utrecht and therefore outside the territorial area. I therefore can see no difficulty, Mr Speaker, in the Government supporting this motion because it is simply a re-statement of this. I understand, Mr Speaker, given the publicity attached by the Spanish Government to the Gibraltar issue, that Spain has to find a way out of its present impasse and the airfield question presents such an opportunity. This is the reason for the motion, Mr Speaker. It is not intended to put pre-conditions on any Government, a point I think raised in the last debate. It is not unrealistic to think that in areas of economic cooperation Spain would be looking at this cooperation in order to try and get a say in the running of the airport and a say over the flights that land in Gibraltar. Mr Speaker, I would like to state clearly that my party is not against the full opening of the frontier. I say this at this stage because it is mooted in some circles that

all these motions clearly presented at giving the United Kingdom no room for manoeuvre in negotiations are, in fact, a desire to keep the frontier closed. This could not be farther away from the truth, Mr Speaker. They are in fact a desire to safeguard the position of Gibraltar vis-a-vis the opening of the frontier and the Lisbon Agreement which, as you well know, Mr Speaker, my party opposes because of the fact that we realise its inherent dangers. All that we are trying to do, Mr Speaker, is to show clearly to Spain that they can expect nothing in return. They put the restrictions without any agreement and they can lift them without anything in return. The motion in no way closes the door for the use, and I say use and not joint use, as this seems to imply controlling rights and/or special treatment to Spanish aeroplanes. We are quite prepared to see, Mr Speaker, Iberia using Gibraltar airport as indeed we will be quite happy to see other international airlines doing exactly that if it can be demonstrated that it is in Gibraltar's economic interest. But there is a Committee set up to do just that, to look at this and to see whether Gibraltar benefits from such mutual agreements and to advise accordingly. GATAB is the instrument which Spain as, indeed, any other country wanting to use the airport would have to use. This is the appropriate forum, Mr Speaker, and not the talks under the Lisbon Agreement which are shrouded by such veils of secrecy that not even the Members on this side of the House know what is being discussed and where the apparent veto, and I say this because in the last debate it was said that the Gibraltar delegation would be there in the negotiations on the Lisbon Agreement in a watchdog capacity with a right to leave the talks if at any point in time something was discussed which the Gibraltar delegation did not agree with or which was against the desires of the people of Gibraltar. This apparent veto, which can be exercised by the Chief Minister or the Gibraltar delegation, must be seen in the context of the Hon and Learned Chief Minister's lack of aggressiveness in dealing with such matters as the Dockyard and the EEC. This veil of secrecy that I was referring to, Mr Speaker, is what leads to uncertainties in Gibraltar and motions like this one in the House. I am sure that if the Government support this motion it would put the Opposition slightly at ease and definitely a majority of Gibraltarians at ease. The Hon and Learned Chief Minister in the debate ensuing the last time this was brought to the House, referred to the Hon Joe Bossano as an ostrich with his head in the sand when it came to the Lisbon Agreement. May I say, Mr Speaker, that from where I sit and definitely from outside the House it appears to me that the ostriches are the Hon and Learned Chief Minister and his elite group who have their heads in the sand and communicate down there whilst the rest of us up here do not know and are completely unaware of what is going on. No, Mr Speaker, Spain cannot get any preferential treatment not even because they are our neighbours, again another point raised by the Chief Minister, perhaps if they had behaved like our neighbours for the past fifteen years we would not be at this stage today. They can get no preferential treatment and by supporting the motion, Mr Speaker, the House of Assembly would be saying just that. We want to attract international airlines but all on the

same basis and with Gibraltar being uppermost in our minds. Agreements may be different for different countries, I realise that civil aviation is a very complex matter and it is very difficult to get two agreements which are exactly the same but although the agreements are different that is something for GATAB to advise on and not for the Spanish and British Governments to be discussing under the Lisbon Agreement. Sir, I commend the motion.

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

HON CHIEF MINISTER:

Mr Speaker, whilst commending the contribution of the Hon Member I must tell him that the speed of his delivery has been such that has prevented me from taking copious notes to deal with some of the matters.

HON J E PILCHER:

If the Hon Chief Minister will give way. I am quite prepared to repeat the speech, Mr Speaker.

HON CHIEF MINISTER:

No, I think it may be a tribute to his oratory but, anyhow, it was too quick for me to take notes in order to create comparisons but as I said the last time, I was reading the small type of the Hansard last night and I did say that I agreed with a lot of what the Hon Mr Bossano had said and I do not disagree at all with anything of what the Hon Member has said. That does not necessarily mean that I agree with the terms of the motion as it is put but I do not disagree with any of the feelings other than those in which he has made comments against me, in that, of course, he can hardly expect me to agree however conciliatory my attitude will be to this Opposition for their fairness and their frankness. Going back on what one has said in the past, I had the opportunity of looking at something that the Hon Leader of the Opposition referred to yesterday about what I had said to the Foreign Affairs Committee and it has some indirect bearing or partial bearing to what we are discussing now and in fact I am rather proud of what I said then. I was a bit afraid yesterday that I might have said something which time had tested it badly but time has not tested it badly, in fact, time has matured it and given it more value. I took the trouble to look at the report yesterday and I see that from paragraph 23 at page 10 of the report I said: "Perhaps La Linea's greatest problem today is unemployment. There can be no doubt that when communications are restored and quite apart from the substantial economic benefit that would accrue in particular to La Linea" - this was, by the way, before the closure of the Dockyard was announced, I think - "there will also be a substantial increase in development and touristic activity in Gibraltar."

This will enable Gibraltar to provide employment to some of the unemployed in La Linea. We have, of course, a human and moral obligation which we intend to fulfil not to discharge those Moroccans at present working in Gibraltar but there can be no doubt that the natural tendency in meeting new employment demands and filling future vacancies will be to employ people living in the adjacent area. Gibraltar can help La Linea by providing employment, La Linea can help Gibraltar by providing workers. Strict reciprocity will require that for every Spaniard employed in Gibraltar Spain must provide employment for one Gibraltarian. Full equality of rights would mean that the relatively vast population of Spain would compete with Gibraltarians for employment in Gibraltar. Perhaps Gibraltar's greatest problem today is housing and this could be relieved to some extent by some Gibraltarians especially, perhaps the newly married, renting accommodation in the adjacent area. This would be of help to Gibraltar, the adjacent area would benefit economically. Strict reciprocity would require that for every Gibraltarian taking up accommodation in Spain Gibraltar must provide accommodation for the Spaniards. Examples of this reductio ad absurdum are limitless. Spain can benefit from selling fresh fruit and vegetables and building materials for Gibraltar. Gibraltar can benefit from buying them, not from selling them back". Anyhow, coming back to the problem here, this is a quotation to which the Hon the Leader of the Opposition referred, my statement to the Select Committee on Foreign Affairs of the House of Commons. As I say, there is no question and as I said before and I do not want to look through what I said before because I want whatever I say now to be spontaneous and if it is the same as before, well, so be it if it isn't I don't mind, I am speaking now in March, 1984, and not in February, 1983, when the motion was made. There has been, let no one be mistaken, there has been a dramatic change in the situation in this year insofar as our neighbours are concerned and particularly in the last three or four months, which is the French veto that was being exercised towards Spain's entry into the Common Market, that has made a dramatic change in the possibility of Spain entering the Common Market and other situations arising than those that were being dealt with at the time when the Hon Mr Bossano was dealing with the airport in a number of motions. One of the things about bringing motions to the House is that they cannot be terribly useful if they are worded in such a way that they tie our hands forever, not forever because the Hon Member was referring to a previous motion of the House of Assembly and I do not say that a subsequent House of Assembly cannot alter it but they cannot respect if they have the meat in them to be able to supplement it. What we cannot do is have pious, I am not saying that about this motion, if I may say so, but I am speaking generally about some of the motions, we cannot have motions of pious hopes and strong resolutions that carry no weight elsewhere because we are not sufficiently independent or sovereign to be able to decide our future in the way the motion is phrased. They may at one time or another show the feelings of the elected Members and so long as that is done in that way it is perfectly alright but it can lose value, motions can lose value if they are repetitive and deal with matters which are

obvious. To say that nobody should have a right in my house except myself, to bring a motion here like that is really unnecessary because that is how the situation is and that is why, perhaps, to tell the obvious too clearly can be interpreted as being afraid of something that might happen when in fact there is no reason for that fear. That is why again on this occasion I cannot in my own mind allow the motion to carry on as it is because I think that it would give a completely wrong impression. We may differ on this, this is obvious, we may differ in many other things. Certainly the response to the previous motion was my own and that of the Government. The fact that the then part of the Opposition agreed to it was purely a matter of policy on their part, it was not an agreed response, it was just the fact that we were looking at the matter in a similar way and therefore the fact that the same view is not being expressed here today makes no difference as far as we are concerned and we have the same views about the future as we had before, altered, naturally, by the changing of the pattern of events in the world and the challenges that we have to meet. And that is why, if I can just look at the wording of the motion.

MR SPEAKER:

I assume that you are going to move an amendment, is that right?

HON CHIEF MINISTER:

Yes, that is why in looking at the motion I have nothing to quarrel with it at all and, as I said the last time and I say now, it is not substituting a motion by deleting all the words after "That" and putting another motion, no, I entirely agree with the way in which the matter is expressed but I think that it begs the question in a way because if it is so obvious then why bring a motion and if it is something that you want to be careful about you have got to be careful about the wording and it is not that we do not agree with the motion but we are living in a world which is having dramatic changes and we have to be careful that we do not lock up ourselves in an ideological matter which may prevent us later on from doing other things. Last time the amendment that I proposed, which in the end I noticed with great satisfaction when I was reading it at half past twelve last night, that the Hon Mr Bossano had not voted against, that he had abstained. I hope he may do the same thing this time if the situation is the same. Because of the change in circumstances there has been a slight difference in the basis of the amendment.

MR SPEAKER:

Do you have the text of the actual motion at the time?

HON CHIEF MINISTER:

It is the same, it is exactly the same, I stand corrected, but it is exactly the same. What I am saying is that my amendment is not exactly the same. It is on page 162 of the Hansard at the top where I said in that debate: "I propose to leave his motion completely untouched except for one word which is conjunctive which doesn't require it there, it requires it at a later stage, so he need not be unduly concerned about that. I have had the occasion previously, both in this House and elsewhere, to draw attention in particular to the words 'mutual benefit' in the paragraph of the Lisbon Agreement to which I have just referred". I said here: "Although our views on mutual benefit are well known, I think they might be well expressed once again in the context of this motion and in the context of the fears expressed by the Hon Mover and therefore my amendment is to propose" - this is what I said at that time, I wanted to make sure - "(1) that a comma should be inserted after the word 'airfield' in the motion and that the word 'and' should be deleted, and (2) that the following words should be added after the word 'use' in his motion: 'and any proposals for practical cooperation' - we must really take into account that there may well be talks on this matter and therefore I think if I may say so, even strengthens the position, certainly the concern of the Mover in this matter - 'any proposals for practical cooperation in relation to the use of the airfield will fall to be considered under the terms of the Lisbon Agreement and must accordingly be of a mutually beneficial nature'". That was the nature of the motion. I appreciate now that the Lisbon Agreement may be getting dated by non-compliance by those who signed it and that therefore something else will substitute it but whatever substitutes it and I say, of course, the accession of Spain into the Common Market and their obligations to comply by the rules of the Treaty of Rome, my amendment is that a comma should be inserted after the word "airfield" and that the word "and" should be deleted; and that the following words should be added after the words "use": "and any proposals for practical cooperation in relation to the use of the airfield, whether under the terms of the Lisbon Agreement or otherwise, must be of a mutually beneficial nature". That is to say, I anticipate that even if the Lisbon Agreement becomes dated and the joint user of the airport is mentioned, and I am not talking about joint control, let me be quite clear that I am not talking about that, that is completely repugnant as far as we are concerned, let there be no misunderstanding about that, I am more concerned in the modalities of the approach at a later stage. Whatever happens, the use of the airport by anybody else must be of benefit to Gibraltar otherwise it is not of a beneficial nature. If it is a benefit to somebody else and not a benefit to Gibraltar then it is not acceptable and therefore that is why I say 'whether under the terms of the Lisbon Agreement or otherwise, any proposals for practical cooperation in relation to the use of the airfield, must be of a mutually beneficial nature'. With regard to the reference made by the Mover in connection with the presence of the Gibraltar delegation or now if there were any talks at which Gibraltar had to be present and Hon Members

opposite would not cooperate in that, I would like to make it quite clear that I would be sorry to see that situation but that would not stop me from going, in fact, I think it is only fair to say that it is quite clearly set out at the beginning of our manifesto on which we obtained a return to office that at any dialogue between Britain and Spain affecting Gibraltar and when I say dialogue I mean meaningful talks, not negotiations, I do not think at this stage talks or even negotiations of a nature in connection with the application of the EEC and so on, the manifesto, which I have not got here unfortunately, quite clearly stated at the beginning that the purpose of that was that Gibraltar had to be represented and the manifesto went a little further though I did not prepare it, went a little further and said that I should be there so, God willing, if there is any need to be there I hope to be there myself but if that is not to be the case for any other reason somebody else would be but I have, I feel, grounds on which to say that if I went to any talks on this matter I would have the support of the people because that was a specific proposal of the manifesto on which the Government of the day was elected with such a comfortable majority.

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

MR SPEAKER:

I will now explain the position as it stands insofar as the rules of practice are concerned. An amendment has been moved by the Hon the Chief Minister to the original question. Strictly speaking, Members should now only be entitled to speak on the amendment upon which the Mover of the amendment, the Hon and Learned Chief Minister, will have the right to reply but in order to avoid repetition and give a fair amount of latitude to Members the way I have always played it is that any Member can choose either to speak specifically to the amendment or take the opportunity to speak to both the original motion and amendment at one time, it is a matter of choice. But perhaps, since it is now quarter to one, an amendment of substance has been moved, perhaps the Opposition would like to have a little time to consider the amendment and we might recess now until quarter past three this afternoon.

The House recessed at 12.45 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

I will remind the House that we are now debating the amendment moved by the Hon and Learned Chief Minister to the motion moved by the Hon Mr Pilcher. Anyone who wishes to speak is free to do so.



HON J E PILCHER:

Mr Speaker, in speaking against the amendment put by the Hon and Learned Chief Minister I will be doing so very slowly to give him time to make all the notes that he wants to make. I cannot, however, speak against his intervention when he moved the amendment because in fact there was no intervention, it was all in agreement with my initial motion. All the Hon and Learned Chief Minister said was to agree with the initial motion although he then produced the amendment to the motion. So I must in speaking against the amendment just look at the wording that the Hon and Learned Chief Minister has put in the amendment as such. I think, Mr Speaker, that we cannot support the amendment because in fact the amendment is a direct reversal of the motion. When I moved the motion, Mr Speaker, I did in fact say that the motion in no way closes the door for the use of the airport and I was very careful not to use the words 'joint use' which the Hon and Learned Chief Minister did in fact say 'joint use' because we thought this implied controlling rights of the airport. I will speak on the amendment only at this stage and in doing so I will have to - I am reading the amendment - "and any proposals for practical cooperation in relation to the use of the airfield". I cannot see, Mr Speaker, how if we look at the initial motion and see that the House considers Spain has no jurisdiction over the Gibraltar airfield, how we can then say that 'any proposals for practical cooperation in relation to the use of the airfield'. I think, Mr Speaker, if you talk about practical cooperation in relation to the use you are talking about sharing something, the practical cooperation in sharing something. Otherwise I do not see then, Mr Speaker, the necessity for the amendment because if the initial motion does not say anything about the use and in fact does not tie down the Government or any other Government as regards the usage of the airport, I cannot see why the Government has chosen to move this amendment because all it says is that any practical cooperation for the use of the airfield must be looked at under the terms of the Lisbon Agreement or otherwise. I do not see the necessity for the amendment and I can certainly say that as far as the Opposition is concerned we will not support this amendment. In fact, if I take this amendment as against the amendment moved by the Hon and Learned Chief Minister the last time the motion was brought to the House, I can see that it is worse than the first amendment that was moved because in the first amendment the dangers that were implicit, the dangers that we saw, were in the Lisbon Agreement and now we see 'under the terms of the Lisbon Agreement or otherwise', which means that there is now more than one danger. Obviously, the Hon Chief Minister is referring to the fact that Spain will shortly be entering into the EEC, something that I will leave for the Hon Mr Michael Feetham to answer in his capacity as spokesman on the EEC. But I can certainly say, Mr Speaker, that I can see no practical move as regards the motion. All I can see, Mr Speaker, is that there is no political motivation for this other than to leave a door open, I cannot see which door because the motion is clear. As I said in my initial speech, all that we are saying in the motion is stating the fact which has been agreed by everybody, that Spain has no

jurisdiction over the airport, no legal right over the airfield and that in having no legal right she can have no say over any matters appertaining to the airfield and therefore, Mr Speaker, I can see no practical use for this amendment because, as I said before, it is a direct reversal of the initial motion and as such we will not be supporting the amendment. In an amendment like this I suppose we could extend it and say that every time a plane uses the Gibraltar airport we would then have to have an agreement for practical cooperation in relation to its use. Would we have to do the same with the Danes because a Danish airplane comes to Gibraltar? I think, Mr Speaker, there is no use for this amendment and all it does is make the motion ambiguous and leaves too many doors open as regards interpretation and we will therefore not be supporting the amendment.

HON J B PEREZ:

Mr Speaker, although strictly speaking we are on the amendment to the motion I would like to exercise my right to speak on both, if I may, with your indulgence. In speaking on both let me say straightaway that I have no hesitation in agreeing with the sentiments which were expressed by the Hon Mover of the motion and of course with the comments which have been put forward, the address of the Hon and Learned Chief Minister in moving his amendment and in speaking on the motion as proposed by the Hon Mr Pilcher. Of course, I have to add a rider to that and that is that I cannot agree with the comments which were made against the Hon and Learned Chief Minister by the Hon Mover of the motion. But let me say straightaway that I do agree with the sentiments which have been expressed in the House by both previous speakers. I have to ask myself the question and I am sure the Hon Mover may be able to help me on it and that is, what purpose or why has this motion been brought to the House today? What purpose will it serve? What are the aims of the motion, and I say so particularly because we have had a very recent motion in the House identical to this one with a, I wouldn't say identical amendment proposed, only in February of last year. In fact, to remind Members of the House what happened in February, 1983, was that the amended motion was in fact passed by Members of the House and the Hon Mr Bossano, in fact, abstained on the amended motion.

HON J E PILCHER:

If the Hon Member will give way. I think the Hon Minister is asking for a reason. I think I gave the reason quite clearly this morning. The reason for motions like this one is the veil of secrecy surrounding all the talks under the Lisbon Agreement. If we knew what was going on, Mr Speaker, for example, if we knew what had gone on when the Deputy Governor irrespective of the fact that the Hon and Learned Chief Minister said that nothing had gone on, if we knew what was happening under the Lisbon Agreement, if we were kept informed, if the people of Gibraltar were kept informed, perhaps there would be no necessity for such a motion to be brought to the House.

HON J B PEREZ:

I simply cannot understand neither do I agree with that explanation, Mr Speaker, in connection with the veil of secrecy. I think that is sheer nonsense to say that in this House. What motives, what aim or what purpose can the motion serve before the House as put forward by the Mover? Is it that there has been or that he thinks there is a change or there has been a change in Government policy in connection with Spain? I do not think he mentioned that at all in moving the motion. Is it that the Mover of the motion thinks that certain events have transpired from February, 1983, until today which requires the House of Assembly to look at the whole question of jurisdiction of Gibraltar's airfield, and I say of Gibraltar's airfield, de novo? Is it that something has happened that now we require this motion to be put before the House to discuss it? I do not think, in my humble opinion, that anything has transpired from February, 1983, to March, 1984, which necessitates the motion being brought to the House. Is it also possibly that the Hon Mr Pilcher is a new Member of the House and as a new Member of the House of Assembly therefore feels as official Opposition spokesman for air communications and tourism that he feels that it is his duty to put a motion in the House on this matter? Or is it, which is the reason that I would ascribe to the motion, is it that the Hon Mr Pilcher is giving the House an opportunity to express its feelings and its views on the question of the use of the Gibraltar airfield? I would say, in my humble opinion, that I would subscribe to the fourth reason that I have put forward and that is to give us the opportunity to express our views and feelings. Why? Because what we say in this House will be obviously brought to the notice of the Spanish Government, it will be sent to the United Kingdom so that people there will see, Members who are connected with Gibraltar and on foreign affairs, they will know exactly how Members of this newly elected House of Assembly actually feel about the matter. I think there is one problem that I wish to point out straightaway and that is that we must be very careful, Mr Speaker, in bringing motions of this nature to the House because it could tend, it could lead people to think that the Members in the House have any doubt as to who has jurisdiction over the Gibraltar airfield and I think we have to be wary of that. If we keep on bringing motions of this nature people may well think outside the House: "They are saying this because in the minds of some elected Members there could be a doubt as to whether Spain has any sort of jurisdiction over the Gibraltar airfield". I am saying that, in passing, as a word of warning to future motions which may be put on these particular matters. In the motion of the Hon Mr Bossano in February, 1983, the main reason that he put forward in having to bring the motion before the House was in connection with the Lisbon Agreement and he did say at the time, I think at the time there were some newspaper reports and people were giving all sorts of solutions to the problem and they were proposing all sorts of solutions to make Spain feel happy about its claim over Gibraltar. I think that was the main concern of the Hon Mr Bossano in February, 1983, and in fact he even went to the extent of saying that the Spanish Government were saying that under the Treaty of Utrecht it was only within the boundaries of the City Wall that had been ceded to the British

Government and not outside the City Walls and therefore the Spanish Government had been saying that the airfield did not form part of the Treaty and therefore they felt they had a valid claim, that that was theirs and they had jurisdiction over that. Again it was said at the time that the British Government were prepared to take the matter to the International Court of The Hague, I think it was, which the Spanish Government refrained from doing and I think during the debate in February, 1983, the Hon and Learned Chief Minister expanded on the arguments in this connection. But that really was, from reading Hansard of February, 1983, the main reason put forward by the Hon Mr Bossano in moving this precise motion on the question of the airfield and, in fact, he ended up by saying in that particular debate that the reason he was voting against the amendment was not because he disagreed with what had been said or with the words used but he said that since he was opposed to the Lisbon Agreement and since the amendment before the House merely envisaged the Lisbon Agreement, he said that then he would abstain. But what I think the Opposition has not realised is that the amendment put forward by the Hon and Learned Chief Minister in fact refers to the Lisbon Agreement or otherwise. Well, perhaps the amendment on this occasion could be more palatable for the Hon Mr Bossano because it does not just envisage any question of practical cooperation just under the Lisbon Agreement, it says Lisbon Agreement or otherwise. Again I would reiterate that perhaps he would consider that more palatable than on the previous occasion in February, 1983. The most important point, in my view, Mr Speaker, of the amendment is that we are keeping the question of jurisdiction which we all agree with. I do not think anybody in this House can dispute that, that Spain has no jurisdiction and has no say in connection with the airport, we all agree on that but what I think the amendment does is, in fact, it adopts a more realistic and a more positive approach, a more practical approach of the problems that are facing Gibraltar. Whether we like it or not they are there and therefore, with the amendment, one can approach the matter in a more realistic and, as I say, practical manner. The Hon Mr Pilcher speaking on the amendment to the motion has just said that as far as he sees it no political purpose is served, no realistic purpose, that the motion is ambiguous. I would pose the question whether there was any need to bring the motion to the House in the first place. In my opinion, what the amendment does is that it agrees with the sentiments expressed in the original motion but it is in fact a more practical way forward. It is the contrary to what the Hon Mr Pilcher has just said and I think one of the matters that we must not forget is that under the Lisbon Agreement the question of the airport will obviously be brought into light and of course the amendment is, I think, one which all Members of the House should be able to support and it reads "any proposals for practical cooperation in relation to the use of the airfield whether under the terms of the Lisbon Agreement or otherwise, must be of a mutually beneficial nature". I think that is the sentiment with which I am sure all Members will agree. There is just one final matter that I think I would like to comment on, perhaps it is probably pre-empting comments from the Hon Mr Bossano, and that is if he were to say and as I am sure he

will, what is the point of differentiating between Spain, in 1983 the nations mentioned were North Korea and Russia, and the answer given to him at the time was: "Well, of course, because of the proximity of Spain we have to take that into account". As I say, Mr Speaker, I have no hesitation in asking the Opposition to look very carefully at the amendment which has been put forward, I do not think it changes the spirit of the motion all it does is give a more practical approach to the problems that are facing us.

HON J BOSSANO:

Mr Speaker, I am just going to talk on the amendment because it seems that notwithstanding the fact that the Hon and Learned Member who has just spoken has taken the trouble to read the Hansard, he seems to have missed some fairly important parts of the argument which were as valid a year ago as they are now. The slight difference is that whereas they were equally valid a year ago, even before I stood up to speak a year ago it was a fait accompli that my words were going to produce platitudes from other Members of being in total agreement with the sentiments and an eventual vote where there were fourteen people voting one way and one voting another. This time it is not going to happen like that. I think the Government must understand that in the relationship that exists today in the House of Assembly, they carry the sole responsibility on areas where there are clear policy differences, where is no bipartisan approach, there is no support from this side of the House on the Lisbon Agreement and the proposed amendment which the Hon and Learned Member has attempted to defend as if it was an attempt to make it perhaps more palatable to us, is nonsense. The reason why it says 'or otherwise' must be obvious to the Hon Member, it had to be 'or otherwise' because if it wasn't 'or otherwise' what was the Deputy Governor doing in London recently talking with representatives of the Spanish Government when the Lisbon Agreement has not been implemented, talking about the airfield, what was he doing there if the Government is only committed to accepting talking with Spain about the use of our airfield under the Lisbon Agreement so it has to be 'or otherwise' because it is quite obvious that it is taking place already without the implementation of the Lisbon Agreement and we are against it, Lisbon Agreement or no Lisbon Agreement, EEC or no EEC because what we say is that we treat Spain as a third nation and it would be inconceivable for Members of that side to move a motion saying that any proposals for practical co-operation in the use of the airfield in Gibraltar with Morocco or with France or with any other nation in the world, presumably we would have to have bilateral talks with every single nation in the world about the use of our airfield, nobody does that. If we want to send an aeroplane from Gibraltar to Madrid like we have tried to do when they discontinued the service . . . . .

HON J B PEREZ:

If the Hon Member will give way. The British Government in negotiating with other foreign airlines will, in fact, enter into bilateral treaties with that specific country and the agreement reached by them will not necessarily be of the same nature as they may agree with another country.

HON J BOSSANO:

I agree entirely but the difference, Mr Speaker, if he looks back in the Hansard he will find that I pointed out that there was a difference between negotiating the question of landing rights and negotiating the question of the use of the airfield and if we have got a motion that uses the same word twice in two different senses which is effectively what it is saying now and it is the same argument the last time, I said it the last time, if the meaning attached to the word 'use' in the amendment is the same meaning as the word 'use' in the motion then we are not talking about landing rights because I am not talking about landing rights in the original motion and my Colleague in moving a motion that is word for word the same as the one the last time is not talking about landing rights, he is talking about the use of the airfield and the use of the airfield means not just jurisdiction about Spain using it, it also means jurisdiction about Spain having a say in who else uses it, that is the implication of the word 'use'. I said at the time in the House that if Spain wanted to apply for landing rights in Gibraltar she was as perfectly entitled to make such an application as any other country and we, presumably, and I remember that I was interviewed immediately after the motion by GBC and asked what was the GSLP view on this situation and I said it would be nonsense to suggest that Britain would discuss with us the use of Heathrow or that Spain would discuss with us the use of Barajas airport and therefore why should we discuss with anybody else the use of our airfield. It is not a question of agreeing on the use of the airfield with anybody else and the clear implication in the talks with Spain is based on the fact that Spain is not just any third country, that Spain holds a privileged position in having a say in what use Gibraltar's airfield is put to. We are totally opposed to that and we have no doubt at all in our minds about what the Spanish thinking is on this nor do Members on the other side of the House but I think the difference is that on this, as on many other occasions, there is an attempt, I think, to run with the hare and hunt with the hounds and it will not do and, certainly, I think it is perfectly legitimate that the motion should have been brought to the House by our spokesman on civil aviation for a number of reasons. One is because in fact the last time round it could be argued that the GSLP was expressing a minority view in the House. We are putting exactly the same motion, expressing exactly the same view and this time we can say that it has wider support because just like the Hon Member has said, quite rightly, that in his manifesto he mentions the commitment of the Government to the Lisbon Agreement, it is equally true that in our manifesto we mentioned our disconformity with the Lisbon Agreement and it is also clear that although one, I think, politically

is entitled to say that once we have obtained support from the electorate we are entitled to interpret that support as support for all the policies on which we stood for election, it is also obvious that it does not necessarily follow that everybody who voted AACR agrees with the Lisbon Agreement nor that everybody who voted GSLP disagrees with that, there are bound to be people . . . . .

HON CHIEF MINISTER:

Will the Hon Member give way for one moment? I have got the colour supplementary here. I did not say then nor do I say now after reading it that I was using this in support of the fact of the Lisbon Agreement particularly. I consider that the Lisbon Agreement is dying a natural death but that is for other reasons and I was not referring to the Lisbon Agreement, I was referring for representation at international level that was the thrust of my intervention not to justify support for the Lisbon Agreement, that to me now is secondary.

HON J BOSSANO:

I am grateful for that intervention and I accept that I think the Hon Member, in fact, well before the Lisbon Agreement has maintained a line of a Gibraltarian presence in any talks even before a Lisbon Agreement existed so I accept that point. I took it to mean incorrectly, I took it that he was referring to the Lisbon Agreement when he mentioned it previously. Coming back to the amendment, Mr Speaker, the reasons which I have explained, I have reminded the House on how the word 'use' appears in the amendment and appears in the original motion and apparently in the context of the amendment is intended to mean something different, was the point that I made when I was moving the motion a year ago on behalf of the GSLP and that alone is sufficient reason for opposing the amendment. But there are other reasons because in fact this business 'or otherwise' suggests that precisely because the Lisbon Agreement is now on its last legs and precisely because the Lisbon Agreement is dying the 'otherwise' has got to be there because the process effectively is the same process whether you call it the Lisbon Agreement or whatever you call it, it is this process of thinking together, getting together which has been going on for years and which I think we have to show disconformity with in Gibraltar and this side of the House will continue to do it and certainly if the Hon Member wants to be sure that the message gets clear where it needs to get, then what he ought to do, quite frankly, is to vote with the Opposition and oppose the amendment. That is the clearest message he can send out. I would remind the Hon Member that in 1977 - I do like reminding Members of things - in 1977, in fact, on a motion related to a similar subject, in the context of the Strasbourg process he said that if the Strasbourg process was not successful he would in fact change his position and support the stand that I was proposing then. So I suggest to him that since he has had an indication from the Hon and Learned Chief Minister that the Lisbon Agreement is now rapidly going the way of the defunct

Strasbourg process, now is the time to change his attitude slightly and stick to the original motion which is what the people of Gibraltar require on this occasion, a clearcut message. Let me also say that the flying visit of the Deputy Governor as Chairman of the Air Transport Advisory Board, that it was a Government press release that said that he was going as Chairman of the Air Transport Advisory Board certainly has, in a way, made it necessary that the motion should have been brought particularly soon to the House of Assembly because it was not something that we in the GSLP having raised the matter directly, and I can tell the House that I asked specifically whether in fact the Chairman was going to meet airline representatives or officials of the Spanish Government and I was told it was officials of the Spanish Government and I do not see what business the Chairman of the Air Transport Advisory Board has got to go to London to talk to Spanish Government officials about our airfield. I ask the House to reject the amendment, Mr Speaker.

HON A J CANEPA:

Mr Speaker, it is my view as well that the original motion is quite unnecessary. However, I can understand that perhaps it is because we have been around much longer than Hon Members opposite that we can perhaps afford to adopt a much more relaxed and a much more pragmatic approach to these matters and, obviously, being in Government we tend to know a little bit more perhaps about what is going on and the visit to London, the flying visit, I do not know how else it could be described, of the Chairman of GATAB is the sort of thing that we have learned over the years to, yes, he could have gone sailing, the sort of thing that we tend to take in our stride. I think the Hon Member is wrong when he says that it is appropriate that the motion should have been moved by the Opposition spokesman with responsibility for civil aviation. This motion is not a civil aviation matter, of course it isn't, and certainly neither the motion nor the manner in which it has been presented, it goes much closer to the root of the matter. It is much more fundamental than merely civil aviation. It goes through the whole root of the question of jurisdiction over the airfield, control over the airfield and it raises the whole issue of sovereignty over the airfield and giving the Spaniards a foothold within Gibraltar, that is what we are worried about. We are not very concerned about civil aviation matters and in any case the airfield is a military airfield so what are we talking about? Again I also disagree with the Hon Mover of the motion where he says that the amendment proposed by the Government leaves the door open as regards interpretation. It does that because I think we wish or rather the Opposition Members wish to be unnecessarily suspicious about the whole thing. I think they are obsessed by suspicion and that is why they see in the words 'or otherwise' what we do not see and I am going to show at the end of my intervention how relaxed we are about the whole thing that we can move an amendment to the amendment, we do not see it, but if they wish to, if that is their obsession, they are welcome to it. The Lisbon Agreement for all practical purposes is dead. I think that if

it hasn't been cremated, as I think I said and I can reveal a confidentiality, I think I said when we met Mr Hannay the other day: "If it hasn't been cremated the fires are being stoked up to cremate it". Of course, but let it also be said, what is so obvious, it cannot have been that bad for the British point of view or for the Gibraltarian point of view other than, naturally, we never liked the fact that sovereignty was open for discussion though the British side immediately would have said: "Well, you know what our attitude is on sovereignty, we are not really prepared to take the matter any further". But we did not like the fact that for the first time Britain was prepared to consider the matter. But it can't have been so bad, after all, the Spaniards have not been particularly keen to implement it when poor Marcelino Oreja got back to Madrid the daggers were out, his colleagues started stabbing him in the back because they considered that he had gone too far and the Prime Minister was not prepared to lend his personal support and the weight of his office which at the time was quite considerable in 1980 to get Marcelino Oreja out of a difficult situation, so it can't have been all that bad. What about this veil of secrecy? I know what the views of Hon Members opposite are about the question of diplomacy, the whole question of open Government as the GDM manifesto used to put it, I know what the stand of the Hon the Leader of the Opposition has been on this matter on the question of confidentiality in respect of foreign affairs because there were debates here during the year that he was Leader of the Opposition between 1976 and 1977 precisely on that matter. But whatever our views are about the whole question of secrecy and about the need of the people of Gibraltar to know, the fact of the matter is that the closed diplomacy is going to be conducted in the traditional way because no country conducts diplomacy shouting what is going on from the rooftops. We are not going to have a town crier going around the streets of Gibraltar informing the people of Gibraltar what has been happening in technical talks or what has been going on elsewhere until the time comes for the leaders of Gibraltar to do that. But the fact is what is it that has happened during the last twenty years? What has been going on since the Spanish campaign started in 1964? Has anything happened? Have the Gibraltarian leaders acquiesced to anything? Have we in the AACR agreed to any concessions that have effectively undermined the position of the people of Gibraltar? Of course we haven't, and when in 1972 the then Chief Minister, Major Peliza, tried to smear Sir Joshua Hassan on the question of the lease, had we not been successful in being returned to Government and had we not been in Government for the last twelve years, it could always have been said if Major Peliza had been Chief Minister during those twelve years: "If Sir Joshua Hassan had got into power in 1972 he would have sold Gibraltar down the river". But, fortunately, he has been at the forefront of the conduct of affairs in Gibraltar and the proof of the pie is there in the eating that he hasn't sold Gibraltar down the river and he is not going to sell Gibraltar down the river on this issue or on any other issue.

HON J BOSSANO:

If the Hon Member will give way. He is not suggesting that we are saying that?

HON A J CANEPA:

No, my comments are really coloured by the suspicion that there is. I said earlier on something about the question of the airfield, the fact that it is a military airfield. Let us not forget for one moment that Britain herself has an interest in that airfield. Britain is not going to countenance joint control and Britain will be very careful about the extent to which there is practical cooperation at that airfield and I think that that was the British position prior to 1982 and it will be even more so since 1982 having regard to the use of that airfield during the whole of the Falklands episode. It was Dwight Eisenhower who said about Gibraltar that Britain's Gibraltar was the hinge of faith about which the future conduct of the war and the winning of the war turned in 1942 because it was from Gibraltar, the use of Gibraltar during the landings in North Africa that the whole tide of the war turned. After November, 1942, the allies never lost during the rest of the war, they never suffered a reverse, it was victory from then on. I would put it to Hon Members here, to what extent would Britain have been able to mount the successful conduct of the war in the Falklands if Britain had not had Gibraltar, if that airfield had not been available for aircraft to fly from Britain to Gibraltar and from Gibraltar to the Ascension Islands? If ever we need a practical proof of that we have had it very, very recently and let us not forget that because it is very easy to have short memories about these matters. Britain is a factor to take into account here and I think that they are going to be very, very careful about what happens.

HON J E PILCHER:

Will the Hon Member give way? Just the point that he is making about the airfield and the importance it had. I take it when he referred to the Falklands incident, planes leaving Gibraltar to go to the Ascension Island. So did the Dockyard play a great role in the Falklands campaign and it is now being closed by Her Majesty's Government.

HON A J CANEPA:

Yes, but the Dockyard is a separate issue altogether. The Dockyard is about the servicing, about the maintenance and about the repairing of warships. The Naval Base is about the deployment and the use of a fleet. We have not got repair facilities at the airport, it was only used as a stepping stone, I think the argument is different, that is why I think Britain has a continuing interest in the future of the Naval Base just as much. If over the years I think that the now virtually defunct DPBG or the IWB, the defunct IWEP, made a mistake it was in trying to be more British than anybody else

and I put it to Hon Members opposite for God's sake do not make the mistake of being more anti-Spanish than anybody else in Gibraltar, that would be a fatal error, I think, to make. We are relaxed about it, we know what we want for Gibraltar and in our case it is not that we are more pro-British than anybody else or we are more anti-Spanish than anybody else, perhaps we pride ourselves on being more Gibraltarian than anybody else because we have been here for forty years. The amendment, Mr Speaker, which I am going to propose is that we amend the amendment to the motion by deleting the words "whether under the terms of the Lisbon Agreement or otherwise" where they appear in the amendment. Mr Speaker, I commend the amendment to the House.

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

HON J BOSSANO:

Let me just say in relation to the amendment to the amendment, Mr Speaker, that we have no difficulty in supporting the amendment to the amendment so we will vote in favour of the amendment moved by the Hon Member. We have to give consideration to what extent that changes the situation from our point of view but at this stage we can say straightaway that we will support the amendment he has just moved.

HON CHIEF MINISTER:

I would like to speak to the amendment to my amendment because certainly in a general debate no one can make more than one amendment but I would like to say that this amendment has been made in consultation with me because I wanted to show quite clearly and perhaps he has expressed it better than I could, how relaxed we are about these matters, how unsuspecting we are and we want to show Hon Members opposite that we are relaxed about these matters and that this 'or otherwise' which I put in at the time of the motion because I thought, well, we may have to talk about the use of the airport under the terms of the accession of Spain into the EEC and if I left it like that it would then appear to be that I was still sticking on to the old Lisbon Agreement which we are almost burying now, one part anyhow, and there could be other conditions under which it would be worthwhile considering mutual interests because it would be obvious, in fact, it is inevitable in any air agreement for reciprocity. When Britain wanted Spain to go to Gatwick and leave Heathrow the Spaniards said: "Alright, then you won't be able to go to Madrid, you will have to go to another airport" because they have the power to do it and therefore any practical result of this would be the same. But just to show that we are not tying ourselves to anything, that we are our own masters in how we deal with these matters here, that we are prepared having heard the rather peculiar suggestions of what they are worth or otherwise were even linking it to this famous flying visit of the Deputy Governor to London, it is so ridiculous in our minds, we are not concerned

at all with that, that we are prepared to scrap it. But I would like to support the remarks made by my Hon Colleague about this question of the veil of secrecy. I took two notes of what was itemised by the Hon Mr Pilcher, the Deputy Governor's visit and the Lisbon Agreement. First of all, let me start with the second. There is nothing secret about the Lisbon Agreement except that we all recognise it is having a rather lethargic death and that there is no movement at all about it. That is open to anybody who reads the papers, who reads what Spaniards say about it and what the Spanish Foreign Secretary says according to the day of the week in which he is speaking but he is sometimes a bit erratic but, anyhow, the question of the Lisbon Agreement is really non-existent. With regard to the Deputy Governor's visit to London, I answered a question. I said that perhaps the press release should not have said that he was going as Chairman of GATAB but that as Chairman of GATAB he was, obviously, perhaps the best choice and there is another reason that I could give today why it was important that he should have gone even if he had not been the Chairman of GATAB and that is that if they were going to go about exchanges about technical talks about the future and within weeks, if not days of the time when these talks were going to take place he was going to take charge of the Southern European Division in the Foreign Office where he would have to follow up from that side anything that started and it would be ridiculous for a man who was being moved sideways to the Southern European Department to enter into a problem where he would have to be there as the Foreign Office representative without having had the opportunity as Deputy Governor in Gibraltar to look at it and therefore it makes sense, but nothing happened, I wish something had happened and I could tell you that something had happened. Even if it was confidential I would say: "Something has happened and I cannot tell you", but I can tell you that nothing happened except talk at which our counterparts are very good, excellent, or rather some listen more than others. Really, that is why I hope that the Hon Member will consider it in the spirit that it has been made. I appreciate that the Leader of the Opposition says: "Well, so many words less so that is alright, I agree". But it makes it more acceptable and I do ask Members opposite, particularly the new Members, to take into account and give serious thought not just now whatever you do on the amendment or not, not just now but long term to this appeal that is made about taking away this continuing suspicion. I am glad that the Hon Leader of the Opposition tried to clear up the point that what my Colleague was saying about me was not as a result of anything said opposite but what he was saying. I am very glad that that is so because I want Members to be more relaxed. I feel that we do not do ourselves justice in thinking that any little thing that happens in London is part of another, I think the Chamber of Commerce said it, another nail on the coffin. Nobody is trying to bury us at all, I am quite sure of that. The day I saw any signs of it I will come out and shout. I have nothing to expect from public life except the few years that I can give to it and therefore I am not afraid of anything, I do what I think is right, people may not think that it is right, people may think that it is too much this way,

too much the other way but that is what we can think about Members opposite in their attitude to things but on this fundamental thing I wish, and this is also sometimes too much made up by the media, I wish there was not all this thought at anything that happens which directly or indirectly affects Gibraltar is an attempt to undermine us in some way or another. I wish that could permeate more down those who think like that because I am satisfied in my own mind, and I have perhaps seen more and heard more and know more - I am not trying to boast about it - but I have had to by virtue of the years alone that I have been in public life I have not seen any sign of that. Even though I disagree with many things that they do, there is no deliberate sign. I remember, if I may just start doing what old people do, and that is to remember, but I am reminded of what I do by the Hon Members so I have the right to do it myself. In the years of the United Nations when we were talking to two Spanish delegates in the lobby, to the very famous Jamie de Pines who made his promotion at the expense of Gibraltar as I often told him, I said: "You were promoted because of Gibraltar otherwise you would not be an ambassador". I remember somebody else who was then called Mr Gibraltar in the Spanish Foreign Office, a man called Olivier, telling me about the question of what was going to happen the year after and so on and he said: "You don't know the British diplomacy, they look years ahead". And I was seeing that they couldn't cope with the day's work, let alone looking at years ahead and therefore there is no conspiracy, there is no intention, I am glad of this opportunity of saying so in a free debate like this. There is no conspiracy that I have detected and I think I would have detected some inkling. Things happen and they hurt us and we do not like them but I have not seen one sign. I ask people when I had to put my faith in Britain in difficult times that if anybody had been told in the middle of March, 1982, that an invasion by Argentina would be resisted by the whole force of the British nation they would have said: "No, they would have sold them down the river". But it didn't happen that way, the only thing that happened was that the frontier wasn't opened on the 20th April, that was the only thing that happened as a result of the Falklands war. Anyhow, that is another problem because fortunately there has never been any suggestion of any takeover by force from without and therefore I would support strongly the sentiments expressed by my Hon Colleague, Mr Canepa, not to be over suspicious of these matters because, really, there is nothing in it. Having said those few words, I support the amendment to the amendment.

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

The Hon J L Baldachino  
 The Hon J Bossano  
 The Hon A J Canepa  
 The Hon Major F J Dellipiani  
 The Hon M K Featherstone  
 The Hon M A Feetham

The Hon Sir Joshua Hassan  
 The Hon G Mascarenhas  
 The Hon Miss M I Montegriffo  
 The Hon R Kor  
 The Hon J B Perez  
 The Hon J C Perez  
 The Hon J E Pilcher  
 The Hon Dr R G Valarino  
 The Hon H J Zammit

The following Hon Member abstained:

The Hon B Traynor

The following Hon Member was absent from the Chamber:

The Hon E Thistlethwaite

The Hon A J Canepa's amendment to the amendment was accordingly passed.

HON J C PEREZ:

Mr Speaker, I intend to speak, generally, now. Let me say that the Government should be glad that motions of this nature are being put by the Opposition in this House for one reason, Mr Speaker. We have got the situation where the secret technical talks which we are being accused of being too suspicious about are taking place between Britain and Spain over different issues which I am sure the Government is being informed about but since these talks are secret, Mr Speaker, the Government can never be sure that they are totally informed of everything that is going on and if there are issues of this nature which in spirit everybody in this House of Assembly is in agreement with, Mr Speaker, then perhaps that will help the Government in their diplomatic dealings with the Foreign Office in relation to the secret technical talks that are going on. Let me say, Mr Speaker, on the question of suspicion raised by both Mr Canepa and the Hon Chief Minister, it is better to be safe than sorry. If one has to react, sometimes unnecessarily, to things like that, it is better that one should raise the issue before something can happen which is to the detriment of the people of Gibraltar and perhaps as an Opposition we are in a better position to do it than the Government although I would hope that the Government would support issues of this nature when it is seen that it is helpful in relation to the whole context of the talks with Spain. In fact, Mr Speaker, I have nothing else to add since most of the arguments in favour of the motion have been put by Hon Members.

MR SPEAKER:

If no one else wishes to speak on the amendment, as amended, Members who have not spoken to the original question will still have a chance to speak but I think for the purposes of good order unless someone wants to speak on the amendment as moved by the Hon and Learned Chief Minister, we should take a vote on it now unless of course the Chief Minister wishes to reply.

HON CHIEF MINISTER:

Thank you, Mr Speaker. I think I virtually covered the whole ground. I think now that we are going to go to the substantive amendment, less ten words which may be able to make Hon Members opposite take a different view, it is necessary as I think it was put by Mr Canepa to put the thing in the context that too many worries about something that is ours, saying every day that your home is your home and nobody is going to come and take it away and almost start making people wonder whether it is your home or not when you have to say it so often, that was the reason for my amendment. That is all I have to say.

Mr Speaker put the question in the terms of the Hon the Chief Minister's amendment, as amended, 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 G Mascarenhas  
The Hon J B Perez  
The Hon Dr R G Valarino  
The Hon H J Zammit

The following Hon Members voted against:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez  
The Hon J Z Pilcher

The following Hon Member abstained:

The Hon B Traynor

The following Hon Member was absent from the Chamber:

The Hon E Thistlethwaite

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

MR SPEAKER:

The question as it stands now, which Members who have not spoken can still speak to, is as follows: "This House considers that Spain should have no jurisdiction over the Gibraltar airfield, should have no say in its present or future use and any proposals for practical cooperation in relation to the use of the airfield, must be of a mutually beneficial nature". Does any Member wish to speak on the question as amended?

HON M A FEETHAM:

Mr Speaker, I wish to dwell a little while on the reasons why we brought the original motion. Mr Speaker, I notice some Members are leaving the Chamber and I will now withdraw my offer to buy cakes for the next meeting of the House of Assembly. Mr Speaker, I heard the Chief Minister address us this morning on the original motion and far from wanting to question in any way his experience and his diplomacy in responding to issues which affect Gibraltar, I recognise his contribution over many, many years in Gibraltar which is beyond question. Nevertheless, I wish to ask the indulgence of the House if at times during my address I sound slightly pedantic and at times perhaps a little blunt. The philosophy of this House in bringing such a motion, Mr Speaker, is because we view this motion not in its narrow sense but we view this motion in the widest possible context in relation to things which are happening, which are affecting Gibraltar and which unfortunately we appear to be having very, very little say in these matters. When the Government speak about being relaxed, on one hand, and we have the Hon and Learned Member, Mr Perez, questioning the wisdom of having brought this motion, in fact, questioning its purpose and its aims and considers it perhaps, a nonsense and then goes on to say, Mr Speaker, what changes have taken place during the last twelve months to influence the Opposition to bring this motion to the House, it does not give me, really, the confidence that one would want in order to be able to relax because it indicates to me that the Hon Member opposite is not evaluating the enormous changes which are taking place in Gibraltar and which have taken place regarding Gibraltar during the last twelve months. And so when we refer to these things, we are talking about what is very close to our heart and we differ very little with, for example, the sentiments of my Colleague opposite, the Hon Mr Canepa. It is perhaps only right that when there is a change in the representation in the House and when one looks at what is happening, that it is the right time for the Opposition to bring a motion to the House which goes, as Mr Canepa said, to the crux of the matter. We are talking about fundamental things which could affect or not affect in the longer term the question of sovereignty over Gibraltar. And when the Hon Member, Mr Perez, talks about being realistic I question in fact whether that attitude is being realistic because in 1980, Mr Speaker, when the Lisbon Agreement first came into being we had a situation where it was questionable at the time whether Spain would be entering the EEC and against that background it was necessary to set in a motion of policy of trying to come to



some arrangement with Spain in order that a democratic Spain could resolve the problem of the restrictions which a fascist government in Spain had imposed. That approach on the part of the British Government, Mr Speaker, is an approach which is influenced by the thinking of the Foreign Office and I honestly, Mr Speaker, wish to differentiate between the thinking of the Foreign Office and what perhaps politicians and indeed the British Government may consider to be the approach in relation to Gibraltar but I do not wish to hide my own personal views when it comes to the matter of the Foreign Office. As far as I am concerned I have a complete mistrust and I make no excuses for it, I have a complete mistrust of the Foreign Office and the policies of the Foreign Office as regards Gibraltar. I have got a big question mark and time will tell and history will show whether in fact complacency and diplomacy should have been the approach or whether perhaps, as Mr Canepa has said, there should be a more united front in Gibraltar in relation to what is happening. When the Hon Member opposite, Mr Perez, said what changes had taken place, in fact, because no move has taken place on the Lisbon Agreement, of course the Lisbon Agreement is now defunct. That is a personal point of view. However, what has happened is that Spanish accession into the European Community has been spurred on by, like the Hon and Learned Chief Minister said, by the lifting of the veto by France which has in effect brought the issue of Gibraltar far more to the forefront and I am concerned, Mr Speaker, that things are going too fast and in effect what is happening and we could be accused of this but I would only be prepared to accept that we are accused only of perhaps reacting to situations precisely because as the Chief Minister said we are not totally dependent on matters of foreign affairs. Therefore it is not unrealistic to have this motion in the House today because there has been a fundamental change and the fundamental change is that because what is being considered in the context of the EEC as the Hon and Learned Chief Minister has more or less already stated to the media, if one weighs what is happening in relation to Gibraltar, in effect it is producing a situation where we have replaced the thinking in practical terms of what the Foreign Office were foreseeing as a longer term possibility for Gibraltar is already being settled by the negotiations on Spanish entry in relation to the EEC and there are very few things that in fact could now be discussed that would allow the Lisbon Agreement to continue. The problem is, Mr Speaker, and that is why this motion is here today, it is not because, for example, we wish to change five words for six but precisely because I recognised the diplomacy of the Chief Minister the only change which has materialised from the previous motion to the motion that the Hon and Learned Chief Minister wishes to produce was one word which was 'otherwise' and that 'otherwise' we interpret, Mr Speaker, that because there is very little now that could be discussed on the Lisbon Agreement, Spanish accession will take place on the 1st January, 1986, hopefully, but it would appear in all reasonable-ness, unless instead of the French frigates shooting fishermen they start shooting Spanish frigates then, of course, it may well be that it may not materialise but we certainly do not wish to be pessimistic or optimistic about that because we do

not accept violence will settle any problem anyway. But the fact is, Mr Speaker, that we have at least a year and a half to go before possible Spanish and probable Spanish accession and this leaves a situation where the Spanish Government has to find a way to resolve and in fact sell the negotiations in relation to Gibraltar to their own people and if they are going to, as it is said, lift the restrictions before 1.1.86, there are areas whereby this lifting of the restrictions which they have to do on the 1st January, 1986, anyway, there are limited areas, the airfield is one, whereby by agreeing, they could lift the restrictions before, possibly, this year. And whatever is said to the Chief Minister and not said to the Chief Minister by the Foreign Office and I am sure that the stature of the Chief Minister, I am convinced he is informed of at least 99% of what is going on, well, it may be wishful thinking but I can assure you that there is no malice in what I am saying, that in effect, Mr Speaker, the situation is that the Chairman of GATAB or, as the Chief Minister said, a man who is going to take up a responsible position in the Foreign Office and will be responsible for Gibraltar, in fact went to London to speak with the Spanish representative who on this side of the House, we understand, were not civil servants but were . . . . .

HON CHIEF MINISTER:

I am sorry, they were absolutely civil servants and did not know much about what they were doing.

HON M A FEETHAM:

That is right. And one may have been a civil servant but was a political appointment but anyhow I do not wish to make an issue of it but the fact is that it was a process of trying to in a way resolve the impact now which has been created by the Lisbon Agreement and this is what I feel is in fact the reason why this motion is necessary. But it also gives an opportunity to this side of the House to respond to the advice of the Hon Member opposite, Mr Canepa, who said to us that the IWPB and the DPEB, and I agree with what he said, were trying to be more British than the British and that perhaps we ought not to be so anti-Spanish as we may sound to be. I can assure you that this side of the House never has been, never will be anti-Spanish, it is not a question of being anti-Spanish, Mr Speaker, it is a question when Gibraltar is fighting for survival, when Gibraltar is faced with so many imponderables, that it is only right especially, Mr Speaker, when we are such a small people who have to depend on Great Britain whose national interest may not be necessarily the interests of Gibraltarians, that we have to react and we have to defend the rights of Gibraltarians and the right to our land which the Hon Member opposite . . . . .

HON A J CANEPA:

If the Hon Member will give way. That is what the socialist Friends of Members opposite say, the left-wing members of the Labour Party say that, that the interests of Britain do not necessarily coincide with Gibraltar's interest and that our interests must be subservient to theirs, unfortunately.

HON M A FEETHAN:

Mr Speaker, it is not a question of what the Labour Party or the Conservative Party say, it is a question of declaring the rights of the Gibraltarian and defending those rights and reacting to situations and, of course, we are no more anti-Spanish than we are anti-French. The difference between both, Mr Speaker, is that Spain has got a claim to Gibraltar, that Spain has been and continues to be aggressive towards Gibraltar and in that context it is only natural that people, at least this side of the House, should respond not with the diplomacy that the Hon and Learned Chief Minister chooses to pursue and that perhaps not having the experience that he has it is only natural that we should react the way that we react. That is the reason why this side of the House brought this motion, because things are changing, things will change and we have to be sure that the Foreign Office in particular is continuously reminded that as far as this House is concerned that we are overseeing our interests and that we have got our heart and our ears and everything very close to what is going on and that any move which they will take that goes against the interests of the Gibraltarians or anything that we see where there is a possibility of that, that at least this side of the House, despite the relaxation on the other side of the House, will bring it up because we believe it is a necessary thing, Mr Speaker.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the Hon Mr Pilcher to reply.

HON J E PILCHER:

Mr Speaker, in summing up the motion, I appreciate the efforts made by the Government to try and accommodate the position of the opposition and, in fact, I thank the Hon Mr Canepa for his words on the Lisbon Agreement which I am sure are now recorded in Hansard to be used for future reference if somebody gives the Lisbon Agreement the kiss of life and, as I say, I appreciate the efforts made by the Government to accommodate our position but I am afraid on a matter of principle, Mr Speaker, we cannot vote in favour of the motion as it now reads. If the Government wanted to say that any proposals for flights to Gibraltar must be of a mutually beneficial nature, because I think in their intervention I think the Government was referring to the use made by planes rather than the use in reference to the jurisdiction of the airport then this type of

amendment we would have been able to support but I think, Mr Speaker, we haven't bothered to move another amendment to the amendment because in fact we moved it at the last House of Assembly, the Hon Joe Bossano moved a motion similar to this and it was defeated by the Government and since the Hon and Learned Mr Perez said that nothing has changed we have not wanted to move any such amendment as we do not want to waste the time of the House. As I say, we cannot support the motion as it now reads because as far as we are concerned, Mr Speaker, any proposals for practical cooperation in relation to the use of the airport, irrespective of whether we take away the words 'whether under the terms of the Lisbon Agreement or otherwise', to us is still very ambiguous, Mr Speaker, because as I said before this is not the first time that international airlines use the Gibraltar airport, indeed, in fact, we are envisaging that Iberia or any such airline . . . . .

HON H J ZAMMITT:

If the Hon Member will give way. I think he is somewhat confused, Mr Speaker, and I would like to put him right, if I may. On civil aviation Gibraltar is considered a cabotage route, that is to say, that we are considered as a point to point within Britain destination. It therefore follows that if any British airline that is serving Gibraltar wishes to apply, for arguments sake, from Gibraltar to Madrid, by agreement, a Spanish airline could operate from Madrid not necessarily to Gibraltar but any point within Great Britain. Could I put it another way. GB Airways flying from Gibraltar to Tangier opens the door for a Moroccan airline to travel from Tangier to Heathrow. We have to be careful about civil aviation because we are a cabotage route and not an open airport that has its own reciprocal agreement, that is to say, we are not a Dusseldorf, Paris or vice versa. We are considered part of England as a cabotage route.

HON J E PILCHER:

I thank the Hon Minister for Tourism but I think that in fact that is why we have GATAB, to advise the CAA on any such matters arising from any such application.

HON H J ZAMMITT:

Again, if the Hon Member will give way. We are not a licensing authority, we are only an Advisory Board, we have not got our own licensing authority as such to prohibit or to grant a licence other than the objections which I think the Hon Leader of the Opposition is very well aware of within the Civil Aviation Authority but not us as Gibraltar.

HON J E PILCHER:

I realise that but the argument is still the same. We have a Board that is set up to advise the CAA and if any petition had been made to the CAA by the Spanish Government then, obviously, I would take it that we would be consulted and asked to advise but I am not referring and the motion does not refer to any such request. The motion simply refers to the jurisdiction of the airport and I take the point that the Hon Mr Canepa was making that it perhaps goes much deeper and just talk of the use of the airport, jurisdiction perhaps is fringing on the sovereignty, I accept that point, but I suppose that that can be extended to mean any part of Gibraltar at all because if we take the argument that the sovereignty of the airport falls on the British Government then, obviously, we must be talking about the sovereignty of Gibraltar falling under the British Government. I think I have tackled that. As I was saying before I gave way to the Minister, it is not the first time that an international airline uses Gibraltar and there have never been any talks on practical cooperation with any other country as regards the use of the airport so I do not see what the Government means by any proposals for practical cooperation in relation to Spanish aeroplanes using Gibraltar. Referring to the Hon and Learned Mr Perez who called me a new Member, yes, Mr Perez, you are right, I am a new Member, but nevertheless being a new Member I have always, in fact, boasted about the fact that I like to call a spade a spade and I have no doubt in my mind that this is part of the reason why I was elected to the House because the Opposition, the GSLP, like to call a spade a spade and we stick to our initial motion because all the motion says is something that I think the whole of Gibraltar can . . . . .

HON J B PEREZ:

If the Hon Member will give way. I said in my view there were four reasons why I thought you may have brought the motion. I gave four of them, I said I thought the reason you brought it was the fourth one not the third one which was the question of the new boy. I said you were giving the House the opportunity to express views and its feelings on the matter.

HON J E PILCHER:

I am agreeing with you that I am a new Member. Since the Government agree with the sentiments of the motion and everybody on the other side of the House says that they can agree with that motion I can still not see and I am sure none of the Opposition Members can see why the necessity for the amendment. Referring again to the Hon Mr Canepa's statement that we are obsessed by suspicion, I think if anybody is obsessed by suspicion it is the Government because we have brought a motion to the House, a clear motion which they themselves have said is a clear sentiment and yet because of their suspicions of our anti-Spanish beliefs they then amend the motion to try and leave every door open. I think we are not obsessed with any

suspicion, I think the people obsessed with suspicion as regards the Gibraltar Socialist Labour Party must be the Government because they have chosen to amend the motion which by their own words was a clear motion just stating that the jurisdiction of the airport is not something that Spain has a say about. On a point raised by Mr Canepa, yes, Britain does keep a military airfield and they have a great say over that military airfield because it belongs to them and I think, referring to the words which my Hon Colleague, Michael Feetham said, it is about time that we started having a say in the matters appertaining to the airfield as well and hence the motion, Mr Speaker. This is all I have to say on the motion, Mr Speaker. I now commend the motion.

Mr Speaker then put the question in the terms of the Hon J E Pilcher's motion, as amended, 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 G Mascarenhas  
The Hon J B Perez  
The Hon Dr R G Valarino  
The Hon H J Zammit

The following Hon Members abstained:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez  
The Hon J E Pilcher

The following Hon Members were absent from the Chamber:

The Hon E Thistlethwaite  
The Hon B Traynor

The motion was accordingly passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move that the House do adjourn till the 10th April at 10.30 am when we shall be presenting the Budget.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday the 10th April, 1984, at 10.30 am.

The adjournment of the House to Tuesday the 10th April, 1984, at 10.30 am was taken at 5.00 pm on Wednesday the 14th March, 1984.