

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

30TH OCTOBER, 1984

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fourth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 30th October, 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 Health and Housing
The Hon H J Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite - 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 26th June, 1984, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Charity Commissioners Report for 1983.

Ordered to lie.

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

The Gibraltar Registrar of Building Societies
Annual Report, 1983.

Ordered to lie.

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

The Tourist Survey Report, 1983.

Ordered to lie.

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

The Employment Survey Report - April, 1984.

Ordered to lie.

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

- (1) Supplementary Estimates Consolidated Fund (No 1 of 1984/85).
- (2) Supplementary Estimates Improvement and Development Fund (No 2 of 1984/85).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 9 of 1983/84).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1984/85).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 1 of 1984/85).
- (6) The Report of the Gibraltar Museum Committee and the Accounts of the Gibraltar Museum for the year ended 31st March, 1984.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 pm.

The House resumed at 3.20 pm.

Answers to Questions continued.

The House recessed at 5.25 pm.

The House resumed at 5.55 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Chief Minister has given notice that he wishes to make a statement.

HON CHIEF MINISTER:

Mr Speaker, as you are aware it has now become customary for me to make statements in this House on the affairs of HMS Calpe and the Gibraltar Regiment.

It is particularly gratifying for me to be able, on this occasion, to report on the two at the same meeting of this House. Members will recall that both Units provided armed Guards of Honour to His Excellency the Governor on the occasion of the Ceremonial Opening of this House earlier this year. It was HMS Calpe's first ever Guard of Honour and I am told that both Units excelled themselves on this occasion.

Mr Speaker, I shall deal with the Gibraltar Regiment first.

This statement covers the period 1st April, 1983, to 31st March, 1984.

The establishment of the Volunteer Reserve is 227 and was two below strength at the end of the period under review. In addition to the two annual Training Camps held in Gibraltar during this period the Infantry Company carried out their annual camp at St Martin's Plain Camp, Cinque Ports Training Area. The Company was sponsored by Infantry Junior Leader Battalion at Shornecliff. A number of the regular members of the Regiment and volunteers successfully attended courses both locally and in the United Kingdom. In addition all members of the Permanent Cadre carried out military training in accordance with Army Training Directive and Administrative Instruction No. 24. Training included weapon training, first aid, all arms personal weapon and ammo fitness, battle fitness, annual personal weapons test and annual personal weapons assessment.

The now traditional local shoot was held on 15th and 16th October, 1983. Thomson's Battery fired their 105mm Light Guns both in the direct and indirect roles. The Battery fired a total of 100 rounds; forty in the indirect and sixty in the direct role. The Infantry Company also took the opportunity to fire their General Purpose Machine Guns in the sustained fire role. A total of 15,340 rounds x 7.62mm belted were fired. The Commandant Royal Artillery Brigadier T Jones visited the shoot.

The Regiment took part in several Fortress run call-out exercises in which the Regiment was deployed and its operational role practised. It also organised its own exercise nicknamed "Ted's Folly" from 24th to 26 June, 1983. Again the Regiment practised its operational roles. The Regiment was also involved in exercises "Pronto's Pip II" and "Tarik Torch", two Fortress run command post exercises. The Air Defence Troop of the Regiment took part in several air defence exercises in conjunction with the RAF. The Infantry Company organised their own exercises at section, platoon and company level in which the different techniques of attack, defence, patrolling, cordon and search and Key Point duties were practised. In addition the Company provided personnel to act as enemy for several Marble Tor exercises. Regimental personnel were also involved in a C-in-C Study Day and in a Logistics Tactical Exercise Without Troops organised by FHQ. One Officer and six Other Ranks from the Permanent Staff of the Regiment took part in an adventure training exercise in Morocco between 7th and 21st March, 1984. The expeditioners climbed Mount Toubkal at 4,167 metres, the highest in North Africa, and explored the different physical and cultural aspects of life in Morocco.

The Infantry Company took over Frontier Guard duties from 1st Battalion Duke of Wellington's Regiment on two occasions from 15th to 17 July, 1983, and from 4th to 6th November, 1983. The Company provided a platoon of one Officer and thirty Other Ranks on both occasions.

Other ceremonial duties carried out by the Regiment were as follows:-

- a. Regimental Day Parade on the occasion of the 25th Anniversary of the Naming of the Gibraltar Regiment on 30th April, 1983.
- b. The Guard at The Convent on 11th June, 1983, and from 21st to 25th November, 1983.
- c. A Quarter Guard on Remembrance Sunday for the Wreath Laying Ceremony by His Worship the Mayor in the Lobby of the House of Assembly.
- d. Colour Party for the Remembrance Sunday church service at the Cathedral of St Mary the Crowned.
- e. A Guard of Honour and Colour Party on the occasion of the Ceremonial Opening of the Fifth House of Assembly on 22nd February, 1984.

f. Quarter Guard for the visit of Mr Robson, Deputy Under Secretary of State for Army on 29th June, 1983.

g. Quarter Guard for the visit of the Minister of State for the Armed Forces on 22nd September, 1983.

h. All gun salutes.

The Corps of Drums performed on the following occasions:-

a. The Queen's Birthday Parade.

b. St John's Day Parade on 3rd June, 1983.

c. The Miss Gibraltar Show on 15th August, 1983.

d. Convent Guard Mounting on 15th and 22nd August, 1983 and 20th November, 1983.

e. Three Kings' Cavalcade.

f. RB's Freedom of the City Parade on 3rd March, 1984.

g. 1 x drummer and 2 x fife players from the Corps of Drums formed part of the Escort to the Keys in every Ceremony of the Keys Parade.

Regimental teams, which have participated in several sporting activities, have met with varying degrees of success in their respective competitions.

As part of the extra mural activities, the Regimental Drama Group entered the Gibraltar Drama Festival and won the competition with the play "The Walrus and the Carpenters" which was awarded a trophy for the best play. They also won the third prize for a float which they entered for the Three Kings' Cavalcade.

The Regiment organised a recruit selection week-end from 7th to 8th October, 1983, for 100 potential recruits for the Volunteer Reserve. The aim was to select the best recruits for service with the Regiment. After undergoing a series of physical and written tests, twenty-five were selected to undergo recruit training from 9th to 23rd October, 1983. Twenty-five applicants took part in a selection week-end from 10th to 12th June, 1983, to select four recruits for vacancies in the Permanent Staff. A potential officers selection week-end was held from 1st to 3rd July, 1983. The selection was run and organised by PHQ for potential officers to the Regiment. A total of eighteen applicants took part, nine for each type of commission. The applicants were involved in lecturettes, essay writing, physical assessment tests, command tasks and interviews. Mr Mark Randall was selected to fill the regular vacancy and Mr Philip Canessa the volunteer reserve.

The Regiment continues to give assistance to Youth Clubs and Schools. The following were sponsored:-

Visit of parties of school children from St Anne's School to Buena Vista Barracks on 28th February, 1984; and

Visit of party from Edmund Rice Home on 3rd March, 1984.

Mr Speaker, I shall now deal with HMS Calpe.

This statement covers the period 1st September, 1983, to 1st September, 1984.

The Unit continues to play an important role in Gibraltar's readiness for time of tension and war, providing essential manpower for the manning of the Maritime Headquarters (the Port Headquarters and augmentees for the Communication Centre). The Unit now has a well balanced Ship's Company and is fulfilling its peace-time role satisfactorily, as proven in exercises held during the period covered by this report.

In March, 1984, ten Officers and sixty Ratings manned the MEQ and PHQ, and augmented the Commcen for the NATO Southern Region Command Post Exercise "Dense Crop 82", which was designed to test and exercise plans and procedures of the Southern Region War Headquarters. In early April the Unit provided the support of six Officers and twenty-five Ratings for the NATO Command Post Exercise "Sea Supply 84" and between late April and early May, three Officers and twenty-eight Ratings participated in a live Inter Command and Maritime Warfare NATO Exercise "Open Gate 84", which took place in the Eastern and Western approaches to the Straits of Gibraltar. During both exercises, one RNR Officer from Calpe was appointed to augment the Staff of Commander-in-Chief Iberian Atlantic in Lisbon. Also in May, two Officers and three Senior Rates participated in Exercise Damsel Fair/Distant Hammer, a NATO Southern Region Maritime and mine counter measure exercise which culminated with the sailing of a live convoy from Gibraltar.

The requirement for personnel to undertake professional training courses in the United Kingdom has been considerably increased owing to the introduction of a standardized training curriculum throughout the Royal Naval Reserve, particularly for communicators. Eleven RNR/WRNR Officers and thirty-two RNR/WRNR Senior and Junior Ratings attended courses in the United Kingdom. Seven Officers attended Naval Control of Shipping Courses and the remaining Officers and Ratings attended the following: Instructional Technique Courses at the Royal Naval School of Education and Training Technology in Portsmouth; Communications Courses at the Signal Training Centre, HMS Drake, Plymouth; RNR/WRNR Ratings New Entry Course at HMS Raleigh, Cornwall; and the Divisional Senior Rates Course at HMS Excellent, Portsmouth. In addition six Ratings attended a Sight and Sound Communications training week-end at HMS Mercury in Petersfield.

In December, a team from the Maritime Trade Faculty (School of Maritime Operations), based at HMS Vernon, once again came to Gibraltar to coordinate and conduct a Naval Control of Shipping week-end. The training experience gained from this exercise was evident during the major NATO Exercises which followed in early 1984. The training week-end was well attended by thirteen Officers and eighteen Senior Rates from HMS Calpe. The week-end was preceded by a series of weekly sessions conducted by an NCS Specialist in the Unit.

Seven Officers from HMS Calpe were attached to the Ministry of Defence Sales Organisation during the Seventh Royal Naval Equipment Exhibition held at Whale Island (HMS Excellent), Portsmouth in September, 1983. Most of these Officers were tasked with the duties of Escort Officer/Interpreter with Spanish speaking delegations from Latin American countries. In June, 1984, following a request from Defence Sales an Officer of HMS Calpe was again appointed as an Escort Officer/Interpreter at the British Army Equipment Exhibition held at Aldershot.

Between 1st September, 1983, and 1st September, 1984, twenty-eight members were recruited and seventeen left the Unit for a variety of reasons, including six on retirement. On 1st September, 1984, the complement of HMS Calpe stood at eighteen Officers and ninety-two Ratings. The present situation is that numbers seeking to join the Unit far exceed wastage. Thirty-five applications for entry are currently being processed.

In January, 1984, HMS Calpe moved from the location it has occupied since 1966 in HM Dockyard into the more suitable and central premises previously occupied by the United Services Officers' Club. This move was very much welcomed by the Unit and amongst other advantages will enhance the social and sporting activities of HMS Calpe.

Members of HMS Calpe again joined their RN counterparts for the two annual services held at the Trafalgar Cemetery and Cross of Sacrifice on the occasions of the Trafalgar Day Ceremony and Remembrance Sunday. On the 22nd February, 1984, and for the first time, the Unit provided an armed Guard of Honour to His Excellency the Governor and Commander-in-Chief of Gibraltar on the occasion of the Ceremonial Opening of the Fifth House of Assembly. The highlight of this year's Ceremonial activities was without doubt the Re-dedication Service of HMS Calpe which was held at the Naval Hockey Ground on 24th March, 1984, presided over by His Excellency the Governor and Commander-in-Chief, Admiral Sir David Williams, and attended by amongst others, the Chief of Fleet Support, representing the Admiralty Board, the Flag Officer Gibraltar, local dignitaries, retired members and families of serving members.

During the period under review, the Unit was visited by the Commander-in-Chief Naval Home Command, Admiral Sir Desmond Cassidi, who inspected Divisions, met personnel at their training classes and was later introduced to officers and ratings informally in their respective Messes. The Unit was also visited by the Chief of Naval Personnel and Second Sea Lord, Vice Admiral Sir Simon Cassels; the Senior Officer Communications Branch RNR, Captain J M Davies; the Chief Staff Officer (Reserves), Captain G Oxley, Royal Navy; the Director of Naval Security, Rear Admiral W D Lang; the Ark Royal Survivors Association during their visit to Gibraltar and the British Maritime League (Gibraltar Branch) who were given a presentation on HMS Calpe.

Mr Speaker, should any Member wish to have copies of the detailed reports I will be pleased to make them available.

In conclusion, Mr Speaker, I am sure that this House will agree that both Units continue to play a most important and effective role in Gibraltar. Members will wish to join me in thanking and wishing them all the best in their future endeavours.

The House recessed at 7.25 pm.

WEDNESDAY THE 31ST OCTOBER, 1984

The House resumed at 10.45 am.

MR SPEAKER:

Before we start today's proceedings I would like to say that we will have to recess today at 12 midday due to matters related to the production of Hansard and the recording system and we will resume at 2.45 pm so the recess for lunch will be from midday to 2.45 this afternoon. Secondly, I would like to say that the Hon Mr Michael Feetham has given notice that he wishes to raise on the adjournment the question of the EEC rights arising out of the enlargement of the European Community insofar as it affects Gibraltar. May I say that, of course, the matter will be raised on the final adjournment and the final adjournment will be on the 19th November.

MOTIONS

HON DR R G VALARINO:

Mr Speaker, Sir, I beg leave in view of the long wording of the motion standing in my name that it be taken as read.

MR SPEAKER:

I understand you have three motions in your name. Then you can start with your first one if you so wish.

HON DR R G VALARINO:

Mr Speaker, Sir, I am required by the Social Insurance Ordinance to review annually the rates of benefits and contributions under the Ordinance having regard to the general level of earnings and prices. In determining the standard rate of Old Age Pension for a married couple, this must be fixed at not less than 50% of the average weekly earnings of weekly paid full-time employees in Gibraltar or 33½% for a single person. At the time of carrying out this review, the latest available Employment Survey was that for October, 1983, which gave the average weekly earnings at £121.70. On this basis it is proposed that the standard rate for Old Age Pension for 1985 be £60.90 instead of £57.80 for a married couple and £40.60 instead of £38.50 for a single person. These new rates represent increases of approximately 5%. All other benefits under the Ordinance will be increased by the same percentage approximately except once again for maternity and death grants which are still higher than that in the United Kingdom. The proposed increases in benefits are estimated to bring the total expenditure of the Social Insurance Fund for 1985 to about £6.06m. This is about 9.8% more than the estimated expenditure for 1984. The difference in percentage terms between the increases in benefits and estimated expenditure is accounted for by the continuing increase in the numbers qualifying for Old Age Pensions and the higher number of claims to unemployment benefit in 1984 which is expected to continue in 1985. My predecessor last year mentioned that because over the previous five years the rising expenditure on benefits had to some extent been met from the income from the Funds investments, the percentage increase in expenditure had outstripped the percentage increases in the value of the Fund to an unacceptable degree. In order to reverse the trend, the increase in contributions last year was designed to provide a surplus over expenditure, and it is proposed to continue the same trend this year. The value of the Fund now stands at £10.65m which represents well under two years' expenditure at the proposed 1985 rates of benefit. It is therefore proposed that in 1985 contributions should be raised by £1.59 a week for an adult (£0.80 from the employer and £0.79 from the employee). These increases will produce an estimated surplus of income over expenditure of £25,000. In percentage terms the increase represents 15% for men and 25% for women as against 23% and 25% respectively in 1984. It would have been desirable to increase contributions somewhat further in order to build towards an adequate contingency reserve for the future, but it has been decided to keep the increases as low as possible within the parameters which I have explained in order to cushion the effect of having to bring women's contributions in line with men's contributions with effect from 1 January, 1985, as required by EEC directives on equal treatment for men and women. I trust that what I have said will enable the House to support my motion. I will subsequently be presenting two other motions under the Employment Injuries Ordinance and the Non-Contributory Social Insurance Benefit and Unemployment Ordinance which are also part of the annual review of the Social Security Scheme. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

HON R MOR:

Mr Speaker, I am supporting the motion but I am supporting the motion not because this fulfils everything I would wish for with respect to Old Age Pensions but because the motion moves that rates of benefits be increased and to oppose this would obviously give the impression that the Opposition is against these increases and nothing, of course, could be further from the truth so we do welcome the increases on benefits. But apart from that, Mr Speaker, I think there is something very important missing in the motion. There is absolutely no reference at all in connection with a reduction of the pensionable age. That is to say, Mr Speaker, it does appear that for any man to qualify for Old Age Pension he would still have to reach the age of 65. Mr Speaker, it seems like only yesterday that the governing party - the Association for the Advancement of Civil Rights - you will have to excuse me, Mr Speaker, I cannot refer to them as the Gibraltar Labour Party because my Colleagues would laugh. Anyway, as I was saying, it seems like only yesterday that the AACR was going around telling everyone that it was their policy to reduce pensionable age to 60 and they made it a point during their election campaign that they would fulfil this commitment if they were returned to power. Well, Mr Speaker, they are in power and it is nearly a year since the election and what have they done to reduce the pensionable age - nothing, Mr Speaker, and what is worse this motion which we are debating today which should contain some sort of indication as to what they intend to do about reducing the pensionable age also contains nothing. The least one could have expected, Mr Speaker, is that an attempt should have been made to have reduced the pensionable age to, say, 64 or even 64 years and nine months, in fact, any reduction would have been welcome. Mr Speaker, for the last ten years the Trade Union Movement in Gibraltar has been pursuing a policy of reducing the Old Age Pension to 60. This has culminated in a petition to the Hon and Learned the Chief Minister from the Transport and General Workers' Union calling upon the democratically elected Government of the people of Gibraltar to introduce the necessary legislation to bring down the pensionable age. Mr Speaker, this petition is endorsed by no less than 8,023 signatures and, to my mind, Sir, this petition expressing the feelings and the opinion of over 8,000 people just cannot be ignored. Yet, Mr Speaker, as we can see from the motion presented by the Government, this motion which could have been ideally suited to convey good faith on the Government's part by reflecting their intention to keep their promise to the electorate, this motion, Mr Speaker, has no reference whatsoever to reducing the pensionable age. When the petition was presented the Hon and Learned Chief Minister said that the Government would study the petition and since then there has been no indication as to whether they intend to do anything about it or not. Judging by what we have before us the answer is, no, they will reject the petition. They will reject the expressed wishes of over 8,000 people many of

whom may have even voted for the governing party. No doubt, Mr Speaker, the excuse the Government will give for not reducing the pensionable age is one which is connected with financial constraints. They will say they just cannot find the money, they will say they just cannot consider introducing new measures because of the present economic crisis. Of course, Mr Speaker, we have heard all this before, we are used to hearing this and I can assure you, Mr Speaker, that we on this side of the House believe it when the Government says they have no money. We believe it because given the way they run our economy and the way they have been running our economy all along it is no wonder that they should be running out of money. As I have said, Mr Speaker, we the Opposition believe the Government have no money to spare but can we honestly ask the people of Gibraltar to believe this? Can we ask the people to believe this when the Government can actually afford to spend public money on an advertisement in the Gibraltar Chronicle to explain why a Minister was unable to be present at a discussion programme on television regarding pensions at 60? A five and a half inch advertisement, Mr Speaker, worth, possibly, £35 or £40 when a press release or a letter to the media would have been free of charge, and all to say why a Minister could not attend the programme. Mr Speaker, we all know we do not have many tourists in Gibraltar but we do have lots of civil servants, civil servants who in most cases are most capable. In the Department of Labour and Social Security there is a Director of Labour and Social Security, a Deputy Director of Labour and Social Security, some Higher Executive Officers as well as some Executive Officers. Mr Speaker, I know some of them personally and I can assure you that any one of them could have attended that programme and would have been able to have participated in the discussion had they been authorised by the Government. If the Government was so concerned about letting the people know, perhaps, they could have made a statement to the House, after all, it would have been free. In conclusion, Mr Speaker, we believe that if the Government has any intention to do anything about the petition to reduce pensionable age, they should have introduced the measures in this motion. The fact that they are not doing so is indicative that they are ignoring the wishes of over 8,023 Gibraltarians. Thank you.

HON CHIEF MINISTER:

Mr Speaker, after listening to that very carefully written speech prepared beforehand in order to put in everything in case anything is left out

MR SPEAKER:

I would like to think that they are copious notes.

HON CHIEF MINISTER:

I would like first of all to ask the GSLP, what is their policy? They were challenged by the TGWU to define their policy. As far as I can remember they remained very dumb and said nothing about it. We said and we have said before that as our aim of policy we accept it but for an Hon Member of this House, however recent his election may have been and certainly we have not been here a year, to expect a petition of this nature which was presented two or three weeks' ago, that by now we would be able to have anything ready in connection with that even if we were able to, is I think, somewhat ridiculous. If I remember rightly, the manifesto of the GSLP did not speak about early retirement pensions at 60, they spoke about the new economic plan which covers everything and now they can say "it is in our plan", of course, if it suits them they would say "it is in our plan". I think it is less than honest of the GSLP to come here and say: "You should have done something about a petition that the TGWU - or one section of it - prepared". And who is not going to sign that petition? Who is not going to sign? I said to them when they came "if you have a petition that people should not pay income tax I will sign it", it is very easy to do that, the point is how to deliver and in any case the Labour Party in the United Kingdom over fourteen years of rule were never able to produce anything like advancing even one year the pensionable age from 65. It is true that the position is not the best now, of course it is true, you knew that yesterday when questions were being asked from the Financial and Development Secretary but it is sheer hypocrisy and an attempt to try and curry favour with everybody without taking any commitment publicly until the thing comes here and say: "We support the 8,000". Of course, the 8,000 signatures have got to be carefully considered and that is exactly what I told those who came to deliver it, that something that is signed by 8,000 people requires serious consideration. By the time the petition was delivered the Agenda for the meeting of the House was virtually ready. How could anybody expect such an important matter to be raised here? They asked me if there was any hope of raising it in the House of Assembly on the 30th and I said: "Not at all, it is impossible, what we will be bringing is the usual annual review which is what we are discussing". The GSLP has been equivocal to their people in not saying whether they supported when they were challenged by the TGWU for political parties to express their views on the matter, it is sheer hypocrisy. That speech written in the quiet of your home in order to cover everything is absolute hypocrisy, it deserves only contempt.

HON J BOSSANO:

Mr Speaker, I accept that the Hon and Learned Member is undoubtedly the highest authority in Gibraltar to talk about hypocrisy and if the hallmark of the hypocrite is an attempt to curry favour with everybody then undoubtedly his entire political career, Mr Speaker, can be defined in that particular way because if there is something that is particularly characteristic of the politics of the Hon and Learned Member is his ability

MR SPEAKER:

With respect, I must call you to order; it is one thing to accuse a political party of hypocrisy in the formulation of their policies, it is another thing to call any individual Member of this House a hypocrite and to that extent I must call you to order and I will ask you to withdraw.

HON J BOSSANO:

I accept your ruling, Mr Speaker, I think it is a thin dividing line. I will therefore rephrase what I have said and I will say that if there is anything that can be construed to be the hallmark of hypocrisy it is the performance of the AACR in their forty years of political activity in Gibraltar because, in fact, the AACR throughout those forty years has done precisely that, they have been precisely adept to a degree that earns them the admiration of everybody concerned at not defining themselves on any issue and on playing on every issue according to the way the wind is blowing. The GSLP, for the education of the Hon and Learned Chief Minister, stated in its manifesto that we were committed to introducing social security pensions payable at 60 as part of a comprehensive welfare state system to ensure a social wage and, in fact, what the GSLP did, again for the education of the Hon and Learned Member, was to write back to the TGWU and to say that our whole programme was in fact a reform of the entire social security system and not simply the introduction of reduction in ages within the existing system. We are not asking the Government to adopt the policy of the GSLP nor are we going to tell the Government how to deliver which they manifestly do not know how to do either in this area or in any other area because that is precisely where the incompetence lies on the part of the Government, Mr Speaker, as they cannot deliver on anything and it is not our job to tell them how to deliver or how to govern or how to do their job, it is our job in this House to ask them what are they doing about the things they are theoretically committed to do. What is the Government doing about its longstanding party policy to review the pensionable age because in fact the only way people are going to be convinced that the AACR remotely means anything it says is if some attempt is made to move in that direction. If it is the policy of the governing party to reduce entitlement to old age pension for males from 65 to 60 then at some stage they have to start moving from 65 even if they only move by one week and they make it 64 years and 51 weeks but until they do nobody will believe that they have any intentions of moving in that direction and that is really what we are entitled to ask them here in this House. They have brought a Bill which the Minister has defended saying that the level of contribution is required to meet the existing commitments, it follows from that that in the level of contribution that he has brought there is no provision for a reduction in the age, that follows logically. Then one can deduce from that that it is not their intention to reduce the age of entitlement in 1985 unless they explain that when they are considering doing

this they are also considering financing it by coming back either before the end of this year or some time during the year and changing the contribution rates in midstream. One would assume that it is their intention that the level of contribution they are asking the House to vote for and which we will support because we believe, in the GSLP, that if people who are better off have got to make a contribution to help those that are less well off then that is right and even if it is something that the people who are better off do not like doing we are prepared to support that politically, therefore, we will vote for the increase in benefits and we will vote for the increase in contributions if that is required to pay for the benefits. And if it was required to pay more to give people a pension earlier because they are unemployed, because I think the Government in answering the request of the TGWU has produced figures which assume that the pension would be payable universally at 60 or at 64 or whatever, irrespective of whether the person was working or not working, it is on that assumption that the cost has been calculated. I would have thought that since the main impetus for the need to reduce pensionable age on this occasion has come from the prospect of unemployment being faced by a greater number of people over 60, I would have thought that it was a reasonable response from the Government to have said: "We are prepared to consider making it payable before 60 as exists in other EEC countries" - which the Hon Member who introduced the motion made a reference to, he has made a reference to the fact that we are carrying out an EEC directive in removing the inequality in contribution between males and females. Well, we are only removing part of the inequality because females were contributing less and getting a pension earlier, they are now contributing the same but they are still getting a pension earlier and, in fact, it is true that in many other EEC countries, in most of them, in fact, I think I am correct in saying, even if pensions are not payable at 60 there is an option. For example, in France people are given the option of early retirement and there is a pension payable earlier and the percentage is lower the earlier one gets it so therefore the formula, for example, that exists in the French social security system is that probably over the period when the person is retired he receives the same amount of money but he can either start getting it later and get a higher amount or start getting it earlier and get a lower amount. To some extent this is true in the United Kingdom where people, subject to an earnings limitation at 65, get a reduced pension but then if they carry in employment they accumulate extra pensions for the age of 70. So there are a number of formulae that can be explored to make a system more adequate for the need of the community and certainly the Government has got to recognise that however longstanding their commitment might have been theoretically on this point, the situation that Gibraltar faces today with a higher level of unemployment than in the past and with lesser prospects of re-employment for people who retire and the Government must accept, they must accept, that they are the biggest generator of unemployed over 60's because in fact, Mr Speaker, they are the only ones in Gibraltar who

make retirement at 60 compulsory for non-industrial workers which is 50% of their employees. So 50% of their employees are obliged by the Government to retire at 60 and particularly at the lower level the pensions are inadequate. The Member knows that because there have been occasions and there are occasions happening now where the Government insists on retiring somebody at 60 and then finds that the Government pension is below the supplementary benefits level and then they re-engage them. So the Government itself has been producing people over the age of 60 unemployed for a very long time and it is still the only one committed to this policy in the whole of Gibraltar. The situation now arises that somebody over 60 is competing for jobs in a labour market where the competition is greater than it has ever been before. In the past, theoretically, the Government has been doing a favour because in fact they might have been retiring somebody at 60 who then got re-employed and who finished up getting more money with his civil service pension and his new job than he was getting in employment but that is no longer true and therefore the system can no longer continue to be run the way it has been until 1984 and ignore the environment that we are going to be facing in 1985 which is a completely different one and I think, Mr Speaker, the Hon and Learned Chief Minister has done the Opposition a great disservice if his analysis of the response that we have brought is that it is simply sheer hypocrisy and trying to curry favour with everybody and so forth. We have got our own ideas how we would do it, it is not our job to tell the Government how to do it and we do not intend to do that on this problem or on any other or the many problems they will face for as long as they are in office. What we do intend to do is to tell them that there is a problem; that they are failing to solve that problem and, of course, as the Hon Member invited us to do at the Official Opening of the House of Assembly, demonstrate to the people outside that we can provide an alternative and that is what our job in this House is.

MR SPEAKER:

Are there any other contributors?

HON A J CANEPA:

Of course, Mr Speaker, there is no question of Hon Members opposite telling us how to govern, they wouldn't begin to know how. Their only experience of Government was between 1 am and 5.30 am on the morning on the 27th January when the Hon Leader of the Opposition thought that he was Chief Minister. During the election campaign he had promised that if he came into Government he would appoint Mr Joe Pitaluga as his Hon tea-maker, that is what he would do to humiliate, no doubt, the person who after

HON J BOSSANO:

Give him 50% of the tea-maker's salary on top of his own.

HON A J CANEPA:

I am sure he would welcome it. I know he did say: "If all that Mr Bossano would want for my salary is to take him tea at 10 o'clock in the morning, I would be well paid". That was just an attempt to humiliate the person who after the Chief Minister has done most to defend Gibraltar through the last twenty years.

HON J BOSSANO:

And the AACR.

HON A J CANEPA:

Leave the AACR out of it. The Hon Members opposite were, in fact, relieved that they lost the last election, relieved that they did not have to take office and whilst the Hon Mr Bossano may have been outwardly enjoying himself for a few hours, some of his colleagues sitting opposite were going around looking pale with worry and wondering what on earth were they going to do.

MR SPEAKER:

Order. We will come down to earth again and talk about the motion before the House.

HON A J CANEPA:

Heaven help Gibraltar if Hon Members opposite were in Government. They are wolves in sheep's clothing.

MR SPEAKER:

Order.

HON CHIEF MINISTER:

Why is the Hon Member out of order?

HON A J CANEPA:

Why am I out of order, Mr Speaker?

MR SPEAKER:

I have called you to order because I feel you are out of order, you are not speaking to the motion before the House. The outburst that you have just made has been a reply to a general statement by the Opposition saying that they would offer alternative Government and nothing else but in any event do continue.

HON A J CANEPA:

The question of the petition seeking pensionable age at 60, I think, Mr Speaker, if we are going to debate this matter some of the considerations that have to be brought out and discussed in full detail is what are the arrangements that are going to be made? Are people going to be asked to retire at 60 or are people, in fact, going to be getting two pensions at 60 and a job as well because I have no doubt that a lot of the people of the 8,000 that signed that petition - and everybody wants pensionable age at 60, I won't say who, but I heard somebody in a very important Government position say to me the other day: "If there were to be a petition for pensions at 55 I would support it, naturally". But what were people signing for? Retirement at 60 with an Old Age Pension at 60 and whatever pension they get from an employer if they do have such a pension or what is it that people are after? A pension from their employer? The Social Security pension at 60 and thank you very much, I am fit enough to carry on doing a job and let that young man who is out of a job, let him be provided for by his parents who are able to pay good pocket money to him in addition to the taxes and the social security contributions that they are paying. In the United Kingdom the system at the moment is one where people retire at 65, they get their retirement pension at 65 and anybody who is in part-time employment earning more than I think it is £57 or £58 a week, does not get the social insurance pension at 65, they do not get it. Is that the kind of system that we want in Gibraltar? I have serious doubts about the extent to which such a system can be made to work in Gibraltar. The Hon Mr Bossano says that there are similar options in France at the age of 60, you have the option to get a lower pension at 60 or you carry on working and get the higher pension later on. I have no doubt that if that system were to be introduced in Gibraltar people would abuse it, people would get around it. Law enforcement in Gibraltar, unfortunately, is not what it ought to be and it is not what it ought to be because Gibraltar is a very small community in which the people who are supposed to enforce the law have got cousins or brothers or uncles or what have you somewhere and this brings problems. There is then the Old Boy network, we all know each other, and there are difficulties in going for somebody and what I have no doubt would happen is that a lot of people would get their pension at 60 and carry on working surreptitiously. They might not be able to do it in the public sector, they might not be able to get a job with the Government but they could certainly get a job in the

private sector and there are many people, I do not mind saying publicly, in the private sector who would lend themselves to that kind of situation and it would be very difficult to stamp out that abuse, I have no doubt whatsoever about that and I am speaking with the experience of nine years as Minister for Labour and Social Security. The extent of abuse in Gibraltar on the question of social security is very much less, I am glad to say, than what it is in the United Kingdom but on the question of employment there are only too many people who are prepared to carry somebody in their books, it is happening now, difficulties that we are having about people coming in from Spain and getting employment without a work permit, we know that that is happening, it is very difficult to stamp it out because there are people that collaborate in this situation, they help out their cousins or their wife's cousins and that is what would happen with a system where you pay a pension at a lower age conditional on it being a retirement pension. What is the way ahead? I have always been of the view that people in employment must be prepared through their contributions to support people who have retired but the employment situation today is a contracting one. The latest employment survey shows - and we are going to be debating unemployment later on - we have the smallest labour force since records were kept. Is this the time to impose a further burden on that workforce, to pay higher contributions so that people can retire early, and what is the objective behind it? Is the objective to have something which is desirable or is there an economic purpose to it, there are so many people unemployed that the more elderly should make way for them and it should begin to happen at 60. The petition was given an impetus by the redundancies declared by the PSA, I think it was, the MOD perhaps as well, a few months ago. A lot of people were given notice that by the end of this year 200 people at the end of this year would be retired. The position now seems to be not as serious as it was. The position also appears to be, and again I am anticipating, that Appledore are going to have a shortfall if everything goes according to plan. Some people have taken voluntary redundancy and have been able to find employment. How many people are there due to be retired in the near future at the age of 60 who are going to find themselves without a job and who are going to find themselves with no pension or with such a meagre pension that they are going to suffer hardship? Let us quantify the extent of the problem because that is what we are talking about or are we talking about the general desirability of everybody getting a pension at 60 and either carrying on in employment because they are required to do so or everybody being retired and if everybody is retired at 60 then we can employ all our young people and we would probably have to import labour from outside. Is this the economic rationale behind the petition? It is not difficult to get signatures for a petition in Gibraltar and I do not wish to decry the seriousness of this or any other matter where signatures are obtained and the matter is of great public import but it is not difficult because people are reluctant when you knock at their door to say: "I won't sign this petition" because you know who they are and you will go

around talking about them and telling others "so and so didn't sign". People are submitted to pressure, to individual pressure by the very fact of having a petition. If instead of going around the houses all that you did was you said: "There is a book somewhere, please if you feel very strongly about it come and sign", then we would know how many people really feel strongly about it but in a nutshell the position is that everybody if he has a choice of course they would have their pension at 60, at 55 and at 50 if they could. Is this the time, are we not in Gibraltar at the crossroads where we have to be careful how much money we take out of the economy and put away in a fund? Is this the time to do it? Is this the time to increase contributions? Is this the time to lose a number of years of contribution and to have a number of years of extra benefits to pay? And there is another aspect I want to bring up as well. The Hon Leader of the Opposition well knows the stand that I have taken on the issue of the Spanish pensioners where I have said that I will resist any attempt that the people of Gibraltar should have to pay either through increased contributions or from increased taxes, assuming that the Spanish pensioners become entitled to the same level of pensions which we are enjoying today, that we should have to pay towards that bill and I said that the bill will have to be picked up elsewhere, by the United Kingdom Government. But the United Kingdom Government could conceivably also turn around to us and say: "What is this that you are saying you do not have money to pay, you cannot increase contributions today when you are able to have an additional benefit under your Social Insurance Scheme in lowering pensionable age to lower than we have in the United Kingdom". There was a motion at the Labour Party Conference, a composite motion, composite motion 62, on the question of the future of the social security system in the UK which made a reference to the introduction of equal retirement ages. Perhaps the two Hon Members opposite who were there might inform the House whether that meant reducing pensionable age to 60 or upping it for women to 61, 62, 63 or 64. I do not know, because all I have been able to get hold of is the motion but I do not know what was behind that. But in the days when I was Minister for Labour - and I will give way in a moment to invite Hon Members if they have the information to provide it - in the days when I was Minister for Labour and I used to follow these matters very carefully, I am aware of the fact that both, forget about the Conservative Party, but even the Labour Party could not realistically foresee the lowering of pensionable age to 60 as being a distinct proposition for decades to come, the country just could not afford to do that and if that is the position in which they are in, that they are perhaps having to think of a common retirement age at 63, say, for everybody, in other words, take away from women what they now enjoy which in my view is a retrograde step, if that is the position in which the United Kingdom is in, what is the position in Gibraltar, how will we look to them if on the one hand we are saying: "We are not going to pay a penny towards the cost of the Spanish pensioners, you pay", but we have a level of benefits as high as the United Kingdom in real terms

much better because our pensions are tax free and there is no country in the EEC, let me tell Hon Members opposite, which has got pensions tax free and contributions counting for tax relief, that does not happen anywhere, only in Gibraltar. You either have one or the other; either the contributions do not gain you tax relief and you get the pension tax free or, what is more common, is that the contribution counts towards tax relief but the pensions are taxable. Here we have in this motion a proposal to have a level of Old Age Pension for a married couple of £60.90. What is that worth in real terms? At least 30% more, at least £80 that is worth in real terms, depending on other income which a couple aged over 65 might have. So already we enjoy in many respects a social security system far better than the United Kingdom has. I remember Mrs Judith Hart when she was here in 1978, a well known left-wing socialist, not from the right wing of the Labour Party, from the left of the Labour Party, asking us for details; how did we manage to have the level of pensions that we did for the very low contribution that we are paying here because the contributions in the United Kingdom are more than double what they are here. How did we manage to do it? Well, we have managed to do it and the Fund has been able to grow reasonably over the years. I do not know whether it is worth in real terms today as much as it was worth in 1970 to 1972, it would be interesting to do an exercise, but it has been growing and we have been able to finance the level of benefits by drawing from investment income for many years and not have to increase contributions as much as would otherwise have been the case. I am not defining a definite policy here this morning. Our policy is that pensions at 60 are desirable, yes, and I think we should work towards that over a period of time, I would imagine, I think they are desirable, but what I am doing is bringing a number of considerations for Hon Members opposite because the matter is not as simplistic as the Hon Mr Mor has made it, nor is it entirely coloured by political overtones as the Hon Leader of the Opposition has done, there are many other facets of the matter which have got to be looked into. I shall give way to the Hon Leader of the Opposition.

HON J BOSSANO:

Mr Speaker, if he is going to move towards it, shouldn't there be some indication at some stage when the move is starting?

HON A J CANEPA:

But, surely, not this year for some of the reasons that I am indicating.

HON J BOSSANO:

Not this year.

HON A J CANEPA:

I also give way to see whether Hon Members have any information about equal retirement age as Labour Party policy.

HON J E PILCHER:

No, we don't, perhaps we weren't even there when this was discussed. Following the point that the Hon Member is making that it is a question of time, the Transport and General Workers' Union have been putting in petitions to the Government since 1977.

HON A J CANEPA:

The Transport and General Workers' Union wrote a letter to me in 1974 which I think Mr Michael Feetham signed. It is the easiest thing in the world to write a letter to the Government and say: "Please, can we have pensions at 60?" That is all that they did. I think, if they look through the files, the letter will probably still be found in the offices of the Department, that does not mean that they have mounted a campaign, that does not mean that they have made considered proposals, it is the easiest thing in the world. What does that mean, to write a letter asking that pensionable age should be reduced to 60? What is the import, what is the value of that? And even now all that they do is a public exercise asking the Government to reduce pensionable age to 60. What sort of detailed analysis have the TGWU done for the problem? Have they made any suggestions as to how the cost can be funded? Do they believe that there is a real cost to it or do they think that the Government is pulling the wool over people's eyes? I would invite them to go into the matter in great depth, it would be very interesting to see what they come up with. That is all that the TGWU have done and that anybody can do and that is why, as I say, I have serious doubts about the validity of a petition on this basis. Thank you, Mr Speaker.

MR SPEAKER:

Are there any other contributors?

HON J E PILCHER:

I think only, Mr Speaker, to highlight the point that I was making because the Hon and Learned Chief Minister did mention that he had only received the petition three weeks' ago and therefore what he was saying was that this petition would be looked at by the Government but he had not had enough time between then and now to come up with specific proposals.

HON CHIEF MINISTER:

If the Hon Member will give way. I did not mean that. What I said was that despite the fact that it was our aim and so on, that you cannot lightly dismiss a petition with 8,000 signatures and therefore we would be looking at it. That is all I said, I did not say we would be framing proposals, the only point is that a petition with 8,000 signatures requires a review of the matter on which we had already made our point of view known. It required a review of the matter and a review of the matter is on the lines that the Minister has now given you more details and that is a process that even if we carried it out and was beneficial could never have been ready for this meeting, perhaps not for the next meeting or the other meeting, it is a long process. That is all I said, I did not say: "You came too late we cannot have it at this meeting, we are having it at the next meeting". What I said was that they thought the matter was so simple as far as they were concerned that they thought it could be brought at this meeting.

HON J E PILCHER:

If I understand correctly what the Hon and Learned Chief Minister is saying is that if they have time to look at it and given the different situations that the Hon Mr Canepa has mentioned, if they can keep the level of people over 60 as they have done in the past since 1976 towards a lower level than that which was envisaged, if they can keep the level low and there are only 50 or 60 people involved, then it will not be a political problem for the Government and it does not really matter whether there are 50 or 60 people who are not getting enough money after 60 to be able to live. If the problem is such that there are 500 people, which creates a political problem for the Government, then they would review the situation. This is the only thing that the Gibraltar Government is looking at.

MR SPEAKER:

I will then call on the Mover to reply.

HON DR R G VALARINO:

Thank you, Mr Speaker. I thank the Hon Mr Mor and the Opposition for their support of this motion. I reiterate once again the fact that the Labour Party when in office in the UK for many years were never able to introduce pensions at 60. A point also raised by Mr Mor. A certain person on that television programme on this matter stated that he had been told that an increase of £3.20-odd per week would be able to pay for retirement at 60. I don't know where the figure came from but in any case this would not solve the problem alone. There would have to be legislation prohibiting those who got early pensions from taking up employment again and depriving younger people from jobs, these are the

realities which have to be faced. I deliberately avoided the mention of the reduction of pensions. One of the reasons which prompted the petition by the TGWU on this subject was the fear of the effect of redundancy of the Service Departments of the over 60's. Present indications are that the effects will not be as widespread as had been originally anticipated. In any event the Government's reaction to the original representation made on this aspect of the matter was that it would be necessary to assess to what extent and in which cases hardship would be caused to those over 60 made redundant. Finally, Mr Speaker, if one cares to compare pensions in Gibraltar with those in the United Kingdom, in Gibraltar the pension is tax free, this in UK can be grossed up to £86 per week which is 60% more than old age pensioners are getting at the moment and this is on a basic contribution of £12,250. Also in the UK the rate at which they have to pay stamps is only £7 a week so that is £3.50 after relief which in the United Kingdom is £17 a week. This shows, in fact, that the Gibraltar system is far more beneficial to the old age pensioners. I commend the motion to the House, Sir.

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

HON DR R G VALARINO:

Sir, I beg leave in view of the long wording of the motion standing in my name that it be taken as read.

MR SPEAKER:

I think it will.

HON DR R G VALARINO:

Sir, following on the previous motion, I am now moving this one which is intended to increase benefits under the Employment Injuries Insurance Ordinance by about 5% in January, 1985, in line with increase in benefits under the Social Insurance Ordinance. Injury Benefits for a man with a dependant wife goes up from £43.75 to £45.85 per week, with additions for children; gratuity on death due to an industrial accident from £9,900 to £10,400 and likewise for a 100% disability (or a weekly pension of £36.75 instead of £35). The weekly contributions under this Ordinance have not been increased since 1981 and currently stand at 16p (8p each from the employer and employee). Expenditure on benefits has, however, increased by 49% and it is accordingly proposed to increase contributions for 1985 by 25%, ie a 2p increase for each employer and employee. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

HON J BOSSANO:

Mr Speaker, last year I raised at this stage the inexplicable differences between the Benefits under one Ordinance and the other and I think the Government cannot complain about our criticism because here we have got an example of something where a year later it is obvious that the arguments which were put last year which were accepted as valid have had absolutely no effect. We have a situation where we are increasing benefits, presumably by a percentage which is the same sort of percentage that other benefits are being increased. I would like the Minister who is defending the motion to explain why it is that if a person is unable to work due to industrial injury, then that person gets £36.75 and £9.10 in respect of a dependant adult which would be his wife, yet if he is unemployed he gets £30 and £15 for the wife; for each child unemployed he gets £6 but in the case of industrial injury it is £4.90 for the first child and £3.15 for the second and subsequent. I said last year that quite probably the explanation was very simple, that nobody had bothered to look at it and that it was a historical accident that the benefits had been fixed historically at a certain level, that there had been percentage increases to those levels year after year and that nobody had really given any thought to the adequacy of the level. I pointed it out and I said I would not be moving any amendments, the Government said that it was a valid point and that certainly they would look at that and here we are a year later and they obviously have not done anything about it for the last twelve months because all that they have done this year is what they did last year and what they did every previous year which is simply to come along with percentage increases without asking themselves the question that I am asking them and which they seem to be incapable of answering. Can the Minister explain why he considers, why his Government considers that a person that is unemployed needs £6 increase in benefit for every child but a person that is unable to work due to industrial injury does not need £6, he only needs £4.90 for the first one and £3.15 for the second dependant child and I think, equally, the other benefits. There seems to be no rationale. I also think it is important to give consideration to an anomaly that appears to exist in the way the Government as an employer deals with the situation which we believe to be an illegal action on the part of the Government in depriving employees of their benefits, that is, the Government has got an administrative arrangement with the Labour Department as a result of which the Labour Department pays the industrial injury benefit to the employer and not to the beneficiary. We understand that the law requires them to pay the individual who is suffering from industrial injury but the individuals that have been in a situation of insisting on having the benefit paid have been refused on the grounds that there is an arrangement with the employing department. The reason why this matter has come to a head within the Government employment is because the employees feel that since under their entitlement to sick pay the amount of injury pay is deducted from their wages, when they go on half-pay it should not be

deducted from their half-pay, that is, we have a situation where, for example, it is one thing for somebody who is injured and is getting, say, £80 a week working, it is reasonable to say he should not get the £36 on top of the £80 otherwise it would be an incentive not to get better, fair enough, and therefore the £36 is offset against the £80, but when he goes on half-pay and he is getting £40 a week and the £36.75 is offset against the £40 then the man is only getting from the employer £3.25 and not half-pay and therefore what the employees have said in those circumstances is: "Well, I will then insist on the Labour Department paying me the £36.75 and let the employer try and recover the £36.75 from me out of the £40 that they are paying and let us have a test case". But they have been unable to pursue their rights under this Ordinance because in fact the Department has said: "There is an administrative arrangement and we refuse to give you your money", and I think that is something that is pertinent to bring to the attention of the Government since we are looking at amending the Ordinance and if it is not clear then we would expect the Government to correct the situation or else to defend the position politically in the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Thank you, Mr Speaker. I welcome the Hon Member's comments. I am afraid he was somewhat misled when he said that he was present at the last House when this was debated. There is no record in Hansard of his having said anything on the motion and he can look at the Hansard for himself. If I remember rightly, this was the time when a ship was on fire and he as a member of the Trade Union Movement had to leave in a hurry and go out and try to rescue various people but there is nothing in the Hansard about his contribution to that effect. He was entirely wrong when he said he had made a contribution because if he had made a contribution last year we would have taken it into account this year but he did not make a contribution he was too busy otherwise engaged.

HON J BOSSANO:

Not in my practice.

HON DR R G VALARINO:

With regard to the point raised by the Hon Leader of the Opposition now that he has brought it up I shall look into it and I shall take it into consideration when the matter comes up next time.

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

HON DR R G VALARINO:

Mr Speaker, I beg leave in view of the long wording of the motion standing in my name that it be taken as read.

MR SPEAKER:

I think leave is granted and you can proceed with the motion.

HON DR R G VALARINO:

Sir, this is the third and last motion in the annual series and deals with Retirement Pension and Unemployment Benefit. Retirement Pension, the cost of which is met from the Consolidated Fund, is a transitional benefit dating from the time of the introduction of Old Age Pension in 1955. There are now only 41 pensions in payment and no new cases have arisen for the past four years. It is considered that the relevant legislative provisions have outlived their usefulness and at a subsequent meeting of the House it is proposed to introduce legislation to revoke those provisions. The rights of present beneficiaries and any other rights which may be acquired by other persons in the future will be safeguarded by an administrative arrangement whereby they will be brought into a special category under the Supplementary Benefits Scheme and paid out of the provisions of that Scheme, the cost of which is also met from the Consolidated Fund. Meanwhile, and pending the preparation of the draft amending legislation, the Order proposes increases in Retirement Pensions under current legislation of the same order as other Social Security increases, i.e. 5%. Pensions will be increased by £1.60 a week (from £31 to £32.60) and £2.40 (from £46.60 to £49) in the case of a married couple. In the case of Unemployment Benefit, it is also proposed to increase the basic weekly rate by about 5%, from £28.50 to £30 a week, with increases of £15 for wife and £6 for children. Persons who qualify for the Benefit but who have not been either ordinarily resident or insured in Gibraltar for at least two years since July, 1970, receive much lower rates, and these are also being increased proportionately. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

HON R MOR:

Mr Speaker, I have a short contribution to make on this motion and I hope I do not incur the displeasure of the Hon and Learned Chief Minister this time.

HON CHIEF MINISTER:

You can say what you like.

HON R MOR:

The observation I am referring to, Mr Speaker, is of great concern to the Opposition. We notice that there is no indication in the Government motion to bring unemployment benefits and conditions up to a more realistic level. Mr Speaker, unemployment is a monster which is rearing its ugly head in this city of ours and it seems to be settling down for a long stay. Our figures of unemployment are at present alarming and the MOD Dockyard has not closed down yet. The figure of nearly 600 people unemployed suggests that the whole problem of unemployment needs raising in a new context. There is a need, Mr Speaker, to act now to take preventive action to ensure the welfare of our unemployed. The system we have had up to now has served us well because we have never really had serious problems of unemployment. The Government needs to provide a new system which will ensure that those unemployed may be able to keep their pride and dignity without ever having to feel the need to either beg, steal or borrow. Regretfully, Mr Speaker, in this motion there is no indication that steps are being taken in that direction. As I said at the beginning, I will support the motion with the reservations I have made.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

I think, Mr Speaker, the simple application of a 5% increase to the level of unemployment benefit is insufficient and I think what we would like to have an indication from the Minister is what he proposes to do about supplementary benefits. If I can just dispose of one item and that is his reference to retirement pensions which rather puzzled me. If he has said that legislation is going to be brought at a subsequent meeting of this House, presumably he is referring to a meeting between now and the end of the year as a result of which retirement pensions are being abolished and a different way of paying the beneficiaries which protects their rights is being introduced and we shall have to look at that when it is brought to the House, can he explain to me what is the point of increasing the benefit now from the beginning of January when, in fact, it will not exist in the beginning of January because that baffles me and I will give way if he can explain.

HON DR R G VALARINO:

Mr Speaker, Sir, I do not know what the Hon Member is getting at. I did mention that subsequent legislation will be needed to bring to the House at a subsequent meeting to go away with the way this is done and to bring it out from the Consolidated Fund. The EPP Regulations will also need legislation in the future so that we are able to process them in another manner and form and they go hand in hand.

HON J BOSSANO:

I am afraid the Hon Member has failed to grasp the question. What I am asking is, if it is the Government's intention to abolish retirement pensions at the beginning of January, 1985, then why are we increasing them at the beginning of January, 1985, when they will not exist on that date? It seems to me that if they were going to abolish it next month then all they had to do was to leave them as they are and then next month abolish them but we are voting to increase the pensions in January, 1985, in the knowledge that they will not exist then.

HON DR R G VALARINO:

Mr Speaker, I now get the Hon Member's point. This is really so that he has got an advantage of seeing the level at which we shall put these pensions on the 1st January, 1985, once we abolish the present Regulations and we introduce the other method of paying the pension. This will be the level on the 1st January, 1985, and at the subsequent meeting of the House we will change the basis of the supplementary benefits scheme, how the pensions will be paid. This is the level at which on the 1st January they will be paid out of the Consolidated Fund.

HON J BOSSANO:

Well, Mr Speaker, I am afraid it still does not explain why the Government is doing it because, in fact, all he had to do was to say that he was not increasing retirement pensions because they would not be existing in January but when they were they would be dealt with on the basis of the current rates plus 5% and we would not have needed to vote on something which we are voting in the knowledge that we are providing a benefit that is not going to be there when it comes into effect. I wanted an explanation because it seemed to me an odd thing to ask the House to vote for something and to inform the House at the same time that before the wishes of the House can be given effect, another Bill is going to be brought along to abolish it, that seems a peculiar way of legislating.

HON DR R G VALARINO:

If I may, Mr Speaker, this is really in order to get the administrative arrangements going.

MR SPEAKER:

Fair enough. Have you finished your contribution?

HON DR R G VALARINO:

Yes, thank you, Sir.

HON J BOSSANO:

No, Mr Speaker, he has interrupted me, he has not finished his contribution, he has not made it yet, I am still speaking.

MR SPEAKER:

With respect, I invited him to reply, he gave way to you.

HON DR R G VALARINO:

I gave way to you.

HON J BOSSANO:

No, Mr Speaker, I was speaking and I said if he could clear that point for me I would be willing to give way to him.

MR SPEAKER:

With respect, I have no doubt whatsoever, the Hansard will show. Perhaps you were not aware of the fact or it went by, I was very careful, he stood up, I said: "No, just a second. Are there any other contributors?" No one stood up and then I invited the Mover to reply. In fairness to the Hon Leader of the Opposition if the Hon Minister wishes to give way to enable him to say whatever he has to say, that is another matter.

HON DR R G VALARINO:

You are perfectly right but it is an honour to give way to the Hon Gentleman.

HON J BOSSANO:

I am sorry for the confusion, Mr Speaker. Coming to the point that I wanted to make in relation to unemployment benefit and the level of unemployment benefit. We consider that £30 for a single person and £45 for a married couple is an inadequate

level and what I was going to ask the Government to say in this context was what are they proposing to do about supplementary benefits because I think if we look at the nature of our Social Security system and I think it is relevant to what the Minister for Economic Development said in the other motion about how we had been able to finance the level of pensions that we pay with the level of contributions that we have. Well, I think the answer is not a mystery, it isn't because we have discovered some way of making £2 out of £1, it is because in fact Old Age Pensions account for the bulk of the expenditure from the Social Insurance Fund and there are other benefits provided for by the UK insurance like statutory sick pay now or sickness benefit before which take up a very substantial amount of money which we don't pay and because the unemployment benefits in UK and in most other places in Western Europe is payable for longer than thirteen weeks. I think the system that we have had in Gibraltar has worked well until recently because until recently the kind of unemployment that we experienced in Gibraltar was what is generally described as transitional unemployment where people were in between jobs for relatively short periods of time and therefore thirteen weeks was, in fact, a very

MR SPEAKER:

Do you intend to speak at some length on this?

HON J BOSSANO:

Only a couple of minutes but if it is 12 o'clock, Mr Speaker, I am prepared to stop in solidarity with the workforce.

MR SPEAKER:

No, it is perfectly in order.

HON J BOSSANO:

Mr Speaker, let me just say that we would like a response from the Government on this question because the point is that to some extent the short term unemployment benefit which is the thirteen weeks, one can argue that even if £45 is not very much money for a married couple it is within three months of losing one's job and people probably have got something to fall back on but we are now experiencing in Gibraltar a situation where there are people, I am sure the Minister can find out from his Department, who have been out of work for a year and a year and a half. Those people after thirteen weeks rely entirely on supplementary benefits which is generally at a lower level even than unemployment benefit and we think that if the unemployment benefit is going to be kept at the existing level which was sufficient in the situation of the early 1980/81 when we had 150 people out of work, then the Government has got to give a commitment that something much more substantial is going to be done to improve supplementary benefits to compensate for the longer term unemployed.

HON DR R G VALARINO:

Mr Speaker, Sir, let me reassure the Hon Leader of the Opposition that the review of supplementary benefits has not yet been completed and the Hon Mr Bossano's point will be taken into account. I must disagree with him in one respect. I have noticed cases where supplementary benefits, in fact, are higher than unemployment benefits because it really depends on the number of dependents. As to the thirteen weeks of unemployment benefit these will remain at thirteen weeks. We want to get as many people from Gibraltar employed and we certainly do not want to keep people on the dole for an indefinite period of time, Sir.

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

The House recessed at 12 Noon.

The House resumed at 2.50 pm.

HON A J CANEPA:

Mr Speaker, in the course of supplementaries arising from Question No. 166, the Hon Mr Michael Feetham asked about the apportionment of costs on the Viaduct Causeway Project. Based on the latest figures available, the apportionment is the following: The Government will meet 69.31% of the cost and the PSA will meet 30.69% of the cost. In addition to that, Shell are making a contribution of £30,000 towards the cost of re-routing their own pipeline.

MR SPEAKER:

I understand that the Hon the Leader of the Opposition has something to say by way of personal explanation.

HON J BOSSANO:

Yes, Mr Speaker, I would like to say something by way of a personal explanation to put the record straight for Hansard with reference to what the Minister for Labour said regarding my having previously brought to the notice of the Government the inconsistency in the benefits payable under the different Ordinances which we have amended earlier on today by way of motion. The Minister said that I had not said this last year because in fact I was not present last year, and he is quite correct but he refused to give way to allow me to point out that when I did say it was in the preceding year, in October, 1982, and what I said in October, 1982, is almost identical, word for word to what I said this year. I said that if there is a logical answer I would like to know what it is. We find that the actual benefit £33.25 paid to a person who is single is higher than the level of unemployment benefit

comparing the benefit that was then payable under Industrial Injury and the benefit under Pensions and Unemployment Benefit and the discrepancy for the adult dependent and for the children which at that time was of the same order but the amounts then were £5.40 in the case of the Social Insurance Benefit for Pensions and Unemployment Benefits and £4.27 for the first child and £2.80 for subsequent children in the case of Employment Injury. It seems, Mr Speaker, that although at the time the Government said they would look at it two years' ago, since I was not here last year to remind them, because as the Hon Member says there were some seamen with problems who required my assistance, nothing has been done and now he has promised to do it by next year by which time it will have been three years since I first brought it to their attention.

HON A J CANEPA:

May I say this, Mr Speaker, because two years' ago I was acting for the Hon Major Frank Dellipiani who was away from Gibraltar and it was I, I think, who presented the motions. I found myself in the rather awkward position of having to present motions, of having a number of points raised by Mr Bossano and also, I remember, by Mr Andrew Haynes, of which I made note of, naturally, and referred them to Major Dellipiani and to the Director of Labour and Social Security. I recall distinctly that some of the matters that were raised, particularly certain anomalies that were raised, were incorporated into the legislation last year. Obviously, the question of the difference between the level of benefits with regard to injury pay and unemployment benefit was not incorporated but most of the other matters, as far as I can recall, were acted on last year. At the time, two years' ago, it was not clear why there was this discrepancy in the level of benefit, what is the reason behind it, and one can only think of one factor and that is that unemployment benefit is only payable for thirteen weeks whereas injury benefits may be payable for an unlimited period of time, there is no such limitation placed on it.

HON J BOSSANO:

I understand it is twenty-six weeks, Mr Speaker.

HON A J CANEPA:

What, Injury Benefit, expires after twenty-six weeks? Well, there you are, what I was saying yesterday, I am not omniscient, I have just learned something that I did not know in all the years I was there.

MR SPEAKER:

We will go on to Bills.

BILLS

FIRST AND SECOND READINGS

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1984

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping Ordinance (Chapter 106) be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, on the 23rd August this year, Legal Notice No. 72 was published in the Gazette applying to Gibraltar the provisions of the Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) Order, 1982. This Order applied to vessels registered in Gibraltar wherever they may be and to other vessels when they are within Gibraltar or in our territorial waters. This Order, however, does not apply to either to hovercrafts or to seaplanes and whilst the latter are not in vogue these days, the former are very much so. In fact, from time to time enquiries are received from people who express an interest in operating hovercraft from Gibraltar. Because this point could arise, it is possible that a hovercraft service might be introduced in Gibraltar some time in the future, it is considered important by the Government that the provisions of the Order should be extended to hovercraft and, incidentally, to seaplanes just in case.

MR SPEAKER:

As a question of interest and nothing else, it has just occurred to me, does it apply to hydrofoils?

HON A J CANEPA:

Hydrofoils are vessels, they are already covered under the heading of vessels.

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, I wonder whether you will allow me to say something which is not really strictly limited to this field about the question of the Third Reading and Committee Stages of all the Bills which are down for this meeting of the House. I think it is a point that has been made previously in the House by the previous Opposition and I think it is a valid one and it is particularly relevant when we have a situation where we have met in June and we have not had a meeting since this and we find that we have a number of Bills some of which we have only had seven days notice of. We believe, as the previous Opposition did, that it is preferable to have the First and Second Readings in one House and the Third Reading and Committee Stage at a subsequent meeting in order to enable us to do a more thorough job of establishing what our own policy reaction should be to the Government proposals unless there are strong compelling reasons why a measure needs to go through, for example, it might be true of the Elderly Persons Pension that the thing needs to be done quickly in order to have the thing in operation by the beginning of January. It is obviously equally valid about the Supplementary Appropriation since these are sums of money which require to be spent and for which the authority of the House is required. But, in particular, for example, two of the Bills, one being the Trade Licensing Ordinance, which appears to involve the application of a new principle to the way the Trade Licensing Ordinance is going to apply, and the other one is the amendment proposed by the Government on the Income Tax Ordinance, which as far as their proposal is concerned, just involves a re-definition of Clause 221A but that which we propose to suggest something more radical and we think more effective in terms of home ownership, which we would like them to consider and which we think they may have difficulty in considering in one meeting of the House but which I would like to explain when we come to the general principles of that particular Bill and ask them to defer taking the Committee Stage until they have given thought to the matter. What I would ask the Government is that they should consider deferring those two Bills to a subsequent meeting to give us a chance to come up with our own policy reactions either for or against them.

HON CHIEF MINISTER:

Mr Speaker, according to the rules if we took them tomorrow we would be within the law but it is not that that we want, we want to give an opportunity to the Opposition to have a say. It looked to me that most of the Bills were purely short amendments to already existing legislation which did not carry great principle except one which I will refer to later. Certainly, except for those that are important, we do not insist that they be taken at this meeting. I am grateful for the helpful attitude in respect of the Appropriation Bill. On the Income Tax Bill if there is something new that they have to think about, I do not think there is any problem about it.

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

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken when the House resumes on the 19th November.

THE TRADE LICENSING (AMENDMENT) ORDINANCE, 1984

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Trade Licensing Ordinance, 1978 (No. 35 of 1978) be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. I am sure that Hon Members are aware of the difficulties that have led to the flea market not being yet operational and the main difficulty is that under the present legislation, people wishing to put up stalls in such a flea market would require a trade licence. At a meeting which was held some weeks ago by representatives of the Government, namely, the Chief Environmental Health Officer, my Hon Colleague the Minister for Health and Housing and myself, you will recall that we made it clear to interested parties that a trade licence was required and in fact we were told that it was no problem because the majority of people wishing to put up stalls already held trade licences. Apparently, that is not the case and the majority do not hold trade licences and, therefore, under the present legislation they would require to apply. This could be a lengthy drawn-out process because it might entail applications from 50, 70, up to 100 individuals which the Trade Licensing Committee, even if they were to be approved without much difficulty, would require a considerable amount of time to process. Notice has to be given, objections have to be heard and it could be months before these are processed. The trade, through the Chamber of Commerce, have in consultation with the Street Traders' Association which has been newly formed, agreed to a formula limiting the range of goods that would be sold in such a street market. The range of goods would be pre-1945, antiques, and goods emanating from what are termed cottage industries within Gibraltar. On the basis of that, the Chamber of Commerce have no objection to such a street market going ahead. My own view is that it is not desirable

that people wishing to sell that limited range in the peculiar circumstances of a street market where a stall is put up once a week, should need to go through the process and should require a trade licence. It does, however, raise the principle of double licences which at the moment occurs in respect of licences that have to be obtained for various Ordinances quite apart from under the Trade Licensing Ordinance. The intention is that the street market would operate, as I say, once a week, and that it should be set up behind the City Hall, in what I understand is called Sir Herbert Miles Promenade; more popularly known as "El Buleva" - and I defy Hansard to spell that one, Mr Speaker - and the reasoning being that it is central, it is near the centre of the city, access for stall holders is convenient from Reclamation Road below, there should be no traffic congestion, and it is in a central part of town where it would add a bit of life and colour to the centre of our city. It is the view of the Government where in such a case, if a person obtains a licence from the Chief Environmental Health Officer in his capacity as Superintendent of Markets, and I want to make clear that the Government will not run the flea market, it will be controlled by the Government but the Government will not run it. The Street Traders' Association will be responsible of clearing the place up, putting the stalls, taking them away and ensuring that the area which is used is restored to its former state of cleanliness. We do not want to see a mess around and we do not think that the Government should be involved because it is going to be one morning in the actual running of that. As I was saying, we do not think that it should be necessary for persons wishing to trade in this casual manner to need a licence and so what we are proposing in the Bill before the House and what is the main object behind the Bill, is that obtaining a licence under the Street Peddlars and Street Traders Ordinance should suffice for people to be able to put up their stalls. At the same time we are taking the opportunity of extending the principle to two other Ordinances, namely, the Petroleum Ordinance and the Firearms Ordinance. Under present legislation, a person wishing to trade in firearms requires a licence under the Firearms Ordinance and under the Trade Licensing Ordinance. A person wishing to supply petroleum, petrol and related products, also requires a licence under the Petroleum Ordinance and under the Trade Licensing Ordinance and because there are serious difficulties it is not easy to get a licence under the Firearms Ordinance, it is not easy to get a licence under the Petroleum Ordinance. In the former case for reasons of security it is a difficult business to get a licence, in the latter case, that was the Petroleum Ordinance, because there are many safeguards that have to be kept with regard to fire hazards, storage and so on, so it is already difficult and we do not think that it should be necessary for people to have additionally to get a trade licence to be able to trade in these matters. These are the principles and the reasons behind the proposed legislation, Mr Speaker, and I commend the Bill to the House. May I say that the reason why we would like to take this through all stages at this meeting is to give an opportunity if it can so be arranged, for the street market to get off the ground before winter really sets in to see what kind of response there is.

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, the objection that we have got to taking the Bill in all its stages at this House is, in fact, not related to the Market, Street Traders and Peddlars Ordinance which is the main purpose of the Bill. The point is that the Bill appears to be doing something else, additionally, which the Hon Member has mentioned, the Firearms Ordinance and the Petroleum Ordinance, but there is also in the next section when it says that persons who have got licences under the provisions of the Licensing and Fees Ordinance do not require a licence under this Ordinance if they are authorised to sell goods and that is in respect of a tavern licence, hotel licence, beer shop licence, club licence and then we have got another section that appears to say the contrary, that, presumably, if he is licenced under the Licensing and Fees Ordinance for something else, he is required to have a licence. We cannot honestly, Mr Speaker, vote in favour or for that matter against, because we have not had a chance to work out the implications of these changes. This is really our problem. I mean, if it was just a question that the Government was making

HON A J CANEPA:

If the Hon Member will give way. Under Clause 2, Sub-clauses 5, 6 and 7, the ensuing sub-clauses are just a reproduction of the law, as I understand it as it exists at the moment. We are not introducing anything new. We are just repeating what is already there which I think is just for the sake of tidiness, that is why I did not make any reference to these matters in my speech moving the Second Reading of the Bill because it is a reproduction of something which already exists.

HON J BOSSANO:

Well, it does not look like that, Mr Speaker. I accept the Hon Member's word that that is what they are proposing to do. If the Hon Member had brought, quite simply, a Bill that just added to the existing legislation Markets, Street Traders and Peddlars Ordinance - period, and everything else was unchanged, then there would have been no problem. I accept what the Hon Member is telling me that it is not their intention to change anything and that may well be the case, but we have not had a chance to compare what is proposed with what there is now and to satisfy ourselves that there are no changes and, therefore, since we believe that before we cast our vote we have to know what it is we are voting for, quite frankly, and we are not experts in law, perhaps it takes us a bit longer to work it out than somebody who has got legal training, we find ourselves that we are very reluctant, Mr Speaker, to vote for

things that we do not understand what the implications of them are because I think, quite legitimately, for example, if for the sake of omission it had an effect on somebody that was unintended, we would share part of that responsibility.

HON ATTORNEY-GENERAL:

If I can assist on this. If I were to read, Mr Speaker, the present subsection (4) and the Hon Leader of the Opposition could compare the Bill, he will see that it is identical. I am going to read from the present Ordinance subsection (4) of section 3 of the Ordinance. "Notwithstanding anything contained in subsection 6, any person who has been issued with any of the following licences under the provisions of the Licensing and Fees Ordinance, shall not require a licence under the provisions of this Ordinance to sell the goods authorised to be sold by such licence; (1) Tavern Licence; (2) Hotel Licence; (3) Beer Shop Licence; (4) Club Licence; (5) Club (Temporary Premises) Licence; (6) Canteen Licence". With regard to sub-clause 6, I read from sub-clause 5 of the present Ordinance: "Without prejudice to the provisions of subsection (4) but subject to the provisions of subsection (6), no person who has been issued with a licence (which expression for the purpose of this subsection includes any registration which authorises the sale of any goods), under any enactment specified in the Third Schedule shall be entitled to sell any goods under such licence unless he is the holder of a licence under this Ordinance". And the Third Schedule, Mr Speaker, contains the following: "Firearms Ordinance (Cap 60); Licensing and Fees Ordinance (Cap 90); Market, Street Traders and Peddlars Ordinance (Cap 98); Petroleum Ordinance (Cap 124); Wireless Telegraphy Ordinance (Cap 162); Medical and Health Ordinance (No 5 of 1973)". It is all consequential. The present sub-clause (7), Mr Speaker, has only been slightly changed and reads as sub-clause (6) of the present Ordinance: "Any person who on the 4th day of May, 1978, was registered as (a) firearms dealer under the provisions of the Firearms Ordinance; (b) was licensed as a baker under the provisions of the Licensing and Fees Ordinance; (c) was the holder of any of the following licences under the provisions of the Licensing and Fees Ordinance - (1) Manufacturers' Licence; (2) Wholesale Wine Merchant Licence; (3) Full Wine Merchant Licence; (4) Beer Merchant Licence; (5) Grocers' Wine Licence; (6) Travellers' Wine Licence - (d) was licensed to sell under the provisions of the Licensing and Fees Ordinance; (e) was licensed as a Street Trader or Peddler under the provisions of the Market, Street Traders and Peddlars Ordinance; (g) was licensed to sell or deal in wireless apparatus under the provisions of the Wireless Telegraphy Ordinance; (h) was selling medicinal products from a pharmacy registered under the provisions of the Medical and Health Ordinance, 1973, shall be entitled to a licence under this Ordinance upon application to the Licensing Authority to sell such goods as he was authorised to sell on the 4th of May, 1978, and the fee payable on the first issue of the licence shall not be payable on the issue of the licence under the provisions of this subsection for the

year ending the 31st September, 1978". What I did there was that I took the three Ordinances that we have taken out for double licences and removed that from that one. And (8) is the same as (7). "Any person who pays any fee in respect of a licence issued under subsection (5), who is refused a licence under this Ordinance, shall be entitled to a refund of such fee". And (9) is the old (8). "Any person who contravenes the provisions of this section shall be guilty of an offence". Clause 3 of the Bill repeals the Third Schedule. Virtually, it is the same.

HON CHIEF MINISTER:

Presentationally it has been altered but substantially it is for the three things that have been mentioned.

HON J E PILCHER:

Mr Speaker, on a point of clarification. I am not a legal expert but referring to the Market, Street Traders and Peddlars Ordinance (Chapter 98). Does that specific Ordinance say that nobody can sell in the streets unless it is pre-1945 or a cottage industry?

HON A J CANEPA:

If the Hon Member will give way. This will be a condition attached to the licence.

HON CHIEF MINISTER:

Under the Ordinance, conditions can be attached because it covers selling of vegetables in the market and so on.

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

HON A J CANEPA:

I wonder whether Hon Members are now in a position to agree and perhaps the Bill could be taken tomorrow for Committee Stage and Third Reading.

HON J BOSSANO:

We are satisfied.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1984

HON M K FEATHERSTONE:

Sir, I beg to move that a Bill for an Ordinance to amend the Traffic Ordinance (Chapter 154) be read a first time.

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

SECOND READING

HON M K FEATHERSTONE:

Sir, I beg to move that the Bill be read a second time. Sir, the purpose of this Bill is twofold. The first part is a very simple part and that is to put the onus on the Finance Officer to be the licensing authority instead of the Financial and Development Secretary. This is simply an administrative procedure and I do not see any difficulty in it. The second part, Sir, has a little bit of history. The Traffic Ordinance was amended some time last year to allow for two drivers to drive any one taxi and, apparently, this was not fully in accordance with the wishes that the Taxi Association would have liked to see. They wanted a system under which at certain periods of the year they could have two drivers to one taxi and at other periods they should only have either the main driver or the registered owner. The idea of the present Bill, therefore, Sir, is to try and meet the wishes of the Taxi Association under which the Government can allow always that a public service vehicles may be driven either by the registered owner or one named driver, or at certain periods which the Government may prescribe, by the registered owner and the named driver or by two named drivers. When will this specific period apply? It will apply when the Government on being approached by the Taxi Association that there should be two drivers for a taxi, considers it fit and reasonable so to agree but I would warn that in making this agreement, the law must not become either the toy or the tool of the Taxi Association. You cannot switch it on and switch it off as you do a light switch. It has to be put on at a considered period and last for a reasonable period and taken off after that period elapses or continue if it is so deemed a reasonable thing to do. The idea would be then that the Taxi Association would initially consult with myself as the Minister for Traffic. I would consult with the Council of Ministers and if we consider it reasonable we would then promulgate that there should be two drivers for a specific period at the end of which period the agreement would either lapse or would be continued if the Taxi Association had suggested to us that it should continue. It is to be hoped, of course, that with an open frontier most of the time we will be able to see that there are two drivers to a taxi to give a better service to the general public and better emoluments to the actual taxi trade themselves. There is nothing sinister in the Bill in

prescribing two drivers, it is simply that it is to try and see that the best service can be obtained from the limited number of vehicles that are actually on the road. 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 C PEREZ:

Mr Speaker, we on this side of the House welcome the amendment to the Ordinance. May I remind the Hon Member that perhaps if in the last meeting of the House of Assembly in answer to a question from me whether he could commit himself to bring this amending legislation to the House, which he didn't at the time, he would have answered me in the positive, then perhaps a lot of friction in the taxi trade could have been avoided. At the same time let me say that we support the Bill because as I suggested in that question to the Hon Member, we think that legislation affecting, for example, as in this case, taxi drivers, should be discussed with the body representing the drivers and this has been done and we welcome the initiative of the Government and we welcome the fact that they have made it possible that these amendments are ready for this meeting of the House. I would nonetheless ask the Hon Member to clarify for me that the whole of the Traffic Ordinance is going to be reviewed and whether this review is still going to be carried out notwithstanding the amendment and whether when this is done all representative groups that are affected will be consulted in the same manner as the Gibraltar Taxi Association has been consulted on this matter. As I already said before we support the Bill.

HON M K FEATHERSTONE:

Sir, I thank the Hon Mr Perez for his remarks. The intention is to make a comprehensive review of the Traffic Ordinance in due course. It will take some reasonable time before it actually comes to fruition and we shall be pleased to consult with as many bodies as are available in so doing.

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

HON M K FEATHERSTONE:

Sir, we have a number of amendments to the Bill which are being considered by both sides of the House and I therefore suggest that the Committee Stage and Third Reading of the Bill should be taken at a subsequent meeting of the House.

THE PRISON (AMENDMENT) ORDINANCE, 1984

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Prison Ordinance (Chapter 129) 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

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, for a number of years the duties and responsibilities of the Superintendent of Prisons have in fact been assumed by one of several senior officers. For example, it was the Commissioner of Police until 1975; the Deputy Director of Labour and Social Security for the years 1975, 1976 and 1979; the Captain of the Port in 1977, and the Director of Postal Services in 1978. From 1980 onwards, the responsibility has, in fact, been assumed by the Head of General Division. The need for a senior officer outside the prison grades to substitute for the Superintendent arose from the fact that successive holders of the post of Principal Officer, that is, the next officer in line, were considered experienced enough to act for Superintendent only in day-to-day routine matters but not to undertake the higher duties which the post entails. Although representations for the creation of a Chief Officer post have been made on a number of occasions in the last five years, it was felt, generally, that the time was not in fact ripe to effect such a move. I am pleased to inform the House, Mr Speaker, that great advancement has been made in the past few years in connection with the training of local staff in the United Kingdom ranging from the Superintendent himself to the latest recruits and it is, Mr Speaker, in recognition of the ever increasing maturity of the present cadre in prison matters, that it has now been possible to give formal approval by the Government, which has the full support of the prison staff, for the creation of this new post of Chief Officer who will, in fact, in future deputise for the Superintendent of Prisons. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

There being no response Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON J B PEREZ:

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

This was agreed to.

THE SAVINGS BANK (AMENDMENT) ORDINANCE, 1984

HON G MASCARENHAS:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Savings Bank Ordinance (Chapter 142) 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 G MASCARENHAS:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this is a very simple matter but it is a matter nevertheless that can and does produce hardship in certain quarters. At the present moment, relatives who suffer a death in the family can obtain \$500 from the Savings Bank without having to produce Letters of Administration or Probate. We find that in many circumstances these days a cost of a funeral happens to be more than \$500 and, consequently, we intend to increase this to \$1,000 to eliminate any hardship. Sir, I commend the Bill to the House.

MR SPEAKER:

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

R. MOR:
HON ~~MASCARENHAS~~:

Mr Speaker, this Opposition welcomes wholeheartedly the introduction of this Bill. It is however, inconceivable that a similar Bill should not have been introduced to date with respect to a motion carried unanimously in this House in 1980. The motion in question was moved by my Hon Colleague the Leader of the Opposition and read: "This House considers that the relevant Ordinance should be amended to allow the personal representatives of employees who die in employment, having completed the nomination form, to obtain payment of any money due from their employer automatically without the need to obtain grant of representation". Two years later, Mr Speaker, the Hon Mr Bossano again raised this matter in the House by asking Question No. 167 of 1982, and the question was: "Will Government give a firm commitment that by October this year" -

1982 obviously - "it will enact legislation to enable employers to introduce nomination forms for the payment of sums due to the next of kin without the need for letters of administration?" The Hon the Attorney-General replied to this question - at the time, in 1982 - and this is what he said: "I will ensure that the draft legislation is submitted to Government in time to enable it to take the course of action if it approves the details of the measures. Can I add that I am aware that this is a long outstanding matter and if the Hon Member will leave it with me I will expedite it". I think that this is yet another case of the Government moving expeditiously. The other case as you know is that regarding the part-time pension. Mr Speaker, I feel that for the good name of this House these matters should be proceeded with without undue delay and I would ask the Government to introduce a Bill on this matter as soon as possible.

HON ATTORNEY-GENERAL:

Mr Speaker, the Hon Member may like to know that I have drafted a Bill, but my problem is trying to devise safeguards for a Bill which would apply to the private sector as well as to the public sector. I have got to try and devise a way that if an employee of a shop decides he wants to make a nomination to his next of kin, he gives that to its boss, the shopkeeper. I have got to try and devise some means whereby the shopkeeper would keep that nomination and would act on that nomination in the event of the employee's death. It would be the easiest thing in the world to devise a Bill to apply to the official employers, the Gibraltar Government and the MOD but I just do not know what to do so far as private employers are concerned. How can I ensure that if an employee gives it to the shopkeeper, his employer, that he will act on that nomination? Should that nomination be filed with a central authority? That is the point that is exercising my mind. If it were only official employers it would be no problem, you might have had a Bill for this meeting.

HON CHIEF MINISTER:

I remember that I fully agreed and supported the motion at the time and, indeed, it is still bothering me that people with small sums have got to have legal representation for these matters, it cannot be done alone. I do not know that there are shop employees who have any hope of putting a nomination for anything that they are going to get working in a shop at the end of their lives. If there is going to be further delay on that I would rather proceed on the basis of the official employers.

HON J BOSSANO:

I think, Mr Speaker, that the Hon and Learned Chief Minister is absolutely right given the time that has elapsed already since the thing was originally agreed in principle in the House and given, in fact, the reality of the situation that

in the overwhelming majority of the cases, we are talking about people who have got a gratuity due from official employers rather than, you know, even in the week's wages in the private sector it isn't a widespread practice that people have a week in hand. I think in practical terms the nomination form would only be required for a very, very small proportion of private sector employees because only a very small proportion of private sector employees will have anything to collect. I think if it is a major obstacle, better to go ahead for the official employers and still try and think of extending it later on.

HON CHIEF MINISTER:

We might consult with the bigger private employers such as Shell, Cable and Wireless, Barclays Bank, people like that and cover them.

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

HON G MASCARENHAS:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) (NO. 2) ORDINANCE, 1984

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Chapter 76) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Section 21A of the Income Tax Ordinance provides that any individual who purchases for the first time a house or flat situated in Gibraltar for his own residential occupation and has paid towards such purchase a sum of money as a deposit, should be entitled to claim as a deduction from assessable income an amount equal to 20% of the deposit or £1,000 whichever is the less. It was not the intention, Mr Speaker, to exclude those persons who while fulfilling all

the other requirements, purchase their house outright rather than putting down a deposit and financing the purchase through a loan. The use of the word deposit in the present legislation unfortunately has that restrictive effect. The Bill accordingly provides that the deduction from tax assessable income be allowed on any payment by a first time buyer, whether it is on account of or in respect of the total sum for the purchase of the house or flat provided the deductible amount does not exceed 20% of the purchase price of £1,000 whichever is the less. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, this is one Bill that we would like the Government to defer taking the Committee Stage because I would like to suggest to the Government that they should consider doing much more than this to encourage home ownership. The GSLP is committed to providing incentives for home ownership and although that part of our programme is something that has a role within an overall framework, we feel that there are particular circumstances at present operating which make it important for the Government to provide the incentives even though we do not expect them to implement the entire GSLP manifesto wholesale. The reason for this is that there are two special circumstances at present. One is, Mr Speaker, that the amount of money that is going to be paid to ex-employees of the Ministry of Defence over the next three months could be very substantial and that there is a need for incentives to be provided to retain that money in Gibraltar. The Government, in answer to an earlier question, said that they had the intention of making available 250 Government flats for sale but it was clear from what the Minister for Economic Development had to say that this was not going to be done overnight, it would be over a period of time although the position would be protected so that the people who were offered the opportunity last were not prejudiced by the fact that they were last and that the price would be held. It is also clear that there are a number of projects on the drawing-board like the one for the Gasworks which will take some time to materialise. Therefore, if people wanted to buy property in Gibraltar in substantial numbers tomorrow it could not happen because the property is not available and the only thing that could happen would be an inflationary impact on house prices produced by excessive demand. In fact, this is not likely to be the case for the very simple reason that the attractions of buying property on the other side of the frontier are being plugged daily in Gibraltar and very aggressively and, therefore, Mr Speaker, we have a situation where we could have a very substantial amount of money

entering into the economy over the next few months, property purchases for home occupation being seen in Gibraltar as an increasingly attractive proposition particularly because of the rate of rent increases in recent years where the economics of purchasing as opposed to renting is shifting and people interested in selling property on the other side and the possibility of that money going in that direction or if it does not go in that direction going out of the economy in another direction and the difficulty of attracting it afterwards. It would certainly be a very bad thing if when the projects that are on the drawing-boards, or when the Government's intentions to sell reach fruition, the money to buy is no longer there. It is against this background and in that context that we think that the Government should do something on a much bigger scale than is being intended here. Therefore, we consider that the limit of £1,000 should be an annual limit, that is, that it should be possible to claim tax relief on the entire purchase price if people were paying £1,000 a year for a property, that is, they should get relief on the tax and on the capital. That is, in fact, a radical proposal in the sense that I do not think it has been tried elsewhere but we think that that would mean that the prices of houses in Gibraltar would become highly competitive. If you look at the ability to offset the cost of house against the income of the purchaser over a period of years, then in fact it would make the price of the house highly competitive with the prices that are offered across the border. We believe that that could stimulate development of houses for sale on a bigger scale than we have ever experienced and that the impact on employment and the impact on economic activity and the retention of that money here in Gibraltar would go a fairly long way towards compensating the Government for the inevitable loss of revenue that would take place if there were a lot of people taking up the opportunity of paying for houses and putting £1,000 a year towards the house. We also think that because the supply of houses would not exist immediately and if we created an incentive on this scale we could, if it works, be generating a very large level of demand for houses which could not be met, in order to retain the money here and in order not to create inflationary pressures, the scheme should work on the basis that there should be a special account in a building society, that is that by agreement with the Government, building societies should set up special accounts into which people could deposit money which could only be withdrawn in order to purchase a house in Gibraltar and not any other way. That means that the deposits from a number of people could then go to provide finance for the mortgage for the few people who are at present able to buy houses. The repayments from those people would in the next few years then provide the building societies with the flow of funds which would enable those who had been initially depositing money to withdraw their deposits towards the purchase of a house and borrow the difference and it would go a long way towards meeting the potential deficit in providing finance which the Hon Financial and Development Secretary, I think, hinted at in his reference to the talks with the banks and the difficulty

that the banks have to ensure that there is the necessary security and collateral available. I think if you have a situation which would be in some way an application of the principle introduced a number of years ago in UK under the Save As You Earn Scheme where in this case people would be saving towards a house, they would be obtaining tax relief in their savings and the savings would be done in such a way that it would ensure the retention of those funds for re-lending for purchases at this point in time. Because the proposal that we are making we would like the Government to give serious consideration to, we are asking them to defer the Committee Stage rather than simply my trying to move an amendment on behalf of the Opposition which the Government would then say: "We will vote against because we need to work out all the implications as a Government before we commit ourselves", and since we are not simply trying to get them to defeat it so that we can then accuse them of not doing anything to encourage home ownership, we really want them to give serious thought to this idea, we are asking them to defer the Committee Stage and, perhaps, we can discuss it in greater detail before the thing is taken either way. We have given some thought to this matter for some time and as I have said, it would have been an integral part of our own philosophy because we believe that there is no way that one can produce home ownership on a substantial scale in Gibraltar with present prices and present incomes unless something is done to bridge the gap between the cost of repayments and the income of the individual by giving tax relief on a much bigger scale. We believe that this will create a far more desirable balance between rented property and home ownership, would relieve some of the pressure on the Government to provide houses for rent, would do much to stimulate the building industry and as we can see a lot of things in favour although we recognise that from the Government's finances point of view, there is obviously a price that will have to be paid in that the more successful the thing is the greater the possible loss of revenue from income tax but we believe that that loss of revenue is a worthwhile investment from the Government if the other benefits flow from the idea.

HON CHIEF MINISTER:

Mr Speaker, I am glad that the Hon Leader of the Opposition has been able over the years to be able to be more precise in his thinking about home ownership because I invited him to provide me with his ideas some years ago and, unfortunately, the thing did not materialise. He was certainly alone in this House and offered to do the job, then he had a lot of other things that came his way but he and I know that we have thought about home ownership and the desirability of it for a long time, the only point is that it has picked up now. We have been thinking about this long before and it is now becoming attractive. Of course we can discuss these matters. I would rather ask him to do what he promised to do a few years ago, send me a bit of a blueprint of what you have in

mind and we will look at it. There is certainly no objection to leaving this to another meeting because in any case the proposals date back to the date when the amendment to the Bill was done because it was really an omission.

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 be taken at a subsequent meeting.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1984

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Chapter 75) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time. The purpose of the Bill is to extend the exemption from the payment of the fees that are payable under the provisions of the Fifth Schedule of the Imports and Exports Ordinance to all authorised passenger carrying ferries. At present this concession is limited to the Mons Calpe but as a result of this amendment the local liquor and tobacco merchants will be able to compete on more favourable terms for the supply of spirits and tobacco to all other ferries which call at Gibraltar regularly.

MR SPEAKER:

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

There being no response Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1984/85) (NO. 2) 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, 1985, 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. I think I explained during the Questions and Answers session earlier on in the meeting, Mr Speaker, that although the Bill now before the House seeks approval for a further approximately £600,000, this will not in fact have any effect on the reserves on the Consolidated Fund because as I explained earlier there was a corresponding adjustment to be made to the Consolidated Fund Balance as at 31st of March, 1984, of this amount, £600,000 approximately, of which approximately £500,000 was represented as an under-spending compared with the figure which was presented to the House at the time of the Budget in accordance with the revised estimates and £100,000 which was an improvement on the revenue side. The point is quite simply, Mr Speaker, that this Bill will have a nil effect on the reserves compared with the figures which have formerly been presented to the House and the balance of the Consolidated Fund will remain at £7.7m as seen at this stage.

MR SPEAKER:

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

There being no response Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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 ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT)
ORDINANCE, 1984

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973 (No 27 of 1973) be read a first time.

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. The object of this Bill is to raise the weekly rates of Non-Contributory Elderly Persons Pensions from \$15 to \$15.80 in January, 1985, in line with increases in other benefits that have been approved through the three motions in my name. As in the case of retirement pensions, the Government proposes to introduce legislation at a subsequent meeting of the House to revoke the provisions of the Elderly Persons (Non-Contributory) Pensions Ordinance and to safeguard the rights of present and future beneficiaries by bringing them into a special category under the Supplementary Benefits Scheme. This will have the effect of making the payments free of income tax.

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:

Sir, it is difficult to talk about the merits of the Bill which will never be law, Mr Speaker, because it is going to be repealed before it is effected. Am I right in thinking that this Bill will come into operation on the 25th day of December, 1984, but that before the 25th day of December, 1984, it is going to be repealed?

MR SPEAKER:

It cannot be repealed before it comes into operation, that much I can tell you.

HON DR R G VALARINO:

What will be repealed are the provisions of the Elderly Persons (Non-Contributory) Pensions Ordinance so that this category will come directly out of the Consolidated Fund and thus it will also be making it free of tax as from the 1st January, 1985.

HON J BOSSANO:

I assume that on this occasion I have just givenway, am I right?

MR SPEAKER:

Yes, I am assuming that too.

HON J BOSSANO:

My question is, Mr Speaker, that we are amending the Elderly Persons (Non-Contributory) Pensions Ordinance on the 25th December, 1984. We are amending the Principal Ordinance on the 25th December, 1984, that is when this will come into operation once it is voted. Am I right in that?

MR SPEAKER:

What is being done is that an existing Ordinance is being amended.

HON J BOSSANO:

With effect from the 25th December, 1984, and we have been given notice that the Ordinance we propose to amend with effect from that date is not going to be there on that date because it is going to be repealed before. I do not pretend, Mr Speaker, to have any experts on law on this side of the House but it seems to be a peculiar thing to want to do, to amend something, to pass an amending Ordinance now in the knowledge that what we are about to amend will not exist at the time that we propose the amendment should take effect and, therefore, if we repeal it before the 25th December, 1984, this cannot take effect. I give way again so that he can explain.

HON DR R G VALARINO:

Mr Speaker, what we are repealing is the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973, and I will say it slowly for the benefit of Mr Bossano.

HON J BOSSANO:

I know that.

MR SPEAKER:

When is this Ordinance being repealed? When is the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973, being repealed?

HON J BOSSANO:

If all Hon Members will give way, perhaps the person who introduced the Bill originally in the House might be able to clear the matter, Mr Speaker.

HON A J CANEPA:

Every year when the Elderly Persons Pension is increased by the Government, the Bill that sets the level of benefits at the rate at which it has been paid during the course of the previous year is repealed. That is why under Clause 2, sub-clause 2, the Elderly Persons Pension Ordinance of last year, the 1983 one, is consequentially repealed. All that the Bill last year did was to increase the pension from £14 to £15. What the Hon Minister for Labour and Social Security has given notice of is that the provisions of the original, of the Principal Ordinance enacted in 1973, the provisions of that Ordinance are going to be revoked by the Government. As to the legal point as to why this Bill should be introduced in the House today when in fact the provisions of the Principal Ordinance are going to be repealed at the beginning of 1985, that I cannot answer, that is a matter I think for the Attorney-General, if he can. The way that I see it is that the Government is committing itself here to pay beneficiaries under this Ordinance £15.80 on the 1st of January because it is on the previous week and if the Government did not introduce a Bill at the next meeting, if it didn't, revoking the original Ordinance, then by law the Government has got to pay £15.80 of Elderly Persons Pension on the 1st January. That is a declaration of intent by the Government and this Bill sets the level of benefits in January, 1985. If, however, at the next meeting the Principal Ordinance is revoked then what will happen is that on the 1st January the existing beneficiaries will get £15.80 of Supplementary Benefits and those who after the 1st of January, 1985, would have become entitled under the provisions of the original Ordinance, in other words, they have reached the age of 65 after the 1st January, 1985, and become entitled, will have those rights safeguarded by the Ordinance that will be enacted at the next meeting and which repeals the original. This is the way I understand it, I might be wrong.

HON CHIEF MINISTER:

There is one clear point which arises. First of all, that arrangements must be made now as to how the payments are to be made and books prepared and everything, and there must be definite resolutions and decisions. Arrangements must be made at this time for all the benefits and if we leave this one out and we put the other benefits it looks as if we are leaving them out completely.

HON J BOSSANO:

Mr Speaker, I understand all the explanations that the Minister for Economic Development has given because that is quite obvious. In the absence of the comment by the Minister for Labour that he intended to bring a Bill repealing, the issue would not have arisen because this would just have been what happens every year and all that is being done here is that the 5% that has been applied to other benefits is being applied to this one and so forth. But since we have been told that it is the Government's intention to repeal an Ordinance which we are being told here is being amended because in the front of the Bill it says: "A Bill for an Ordinance to amend the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973". That is, we are amending the original Ordinance with this Bill and it says that that original Ordinance is to be amended with effect from the 25th December, 1984.

MR SPEAKER:

Is to be repealed.

HON J BOSSANO:

No, Mr Speaker, there is an amending Ordinance of a year ago which is going to be repealed and replaced by this one and there is a Principal Ordinance of eleven years' ago which is not going to be repealed except that we have been told that it is in which case, by the time this is supposed to take effect, the original Ordinance will have been repealed by this House so we will have an amending Ordinance in the pipeline due to amend an Ordinance that will be repealed before the amendment can take place, as I understand it, Mr Speaker. Technically, even what the Hon Member says he wants to do, which is to safeguard or to have a sort of written commitment, would not apply unless we agree to amend the Principal Ordinance subsequent to the 25th December to allow this amendment to take effect. If we repeal on the 24th December, this Ordinance is total nonsense because it is seeking to amend an Ordinance that is no longer in existence.

HON CHIEF MINISTER:

What if it is not ready?

HON J BOSSANO:

Well, if it is not ready that is no surprise, Mr Speaker, because, after all, we have just been told that we are soon to expect the one that was going to be ready in 1980, so fair enough, if all we are doing is safeguarding the Elderly Persons Pensions against the almost inevitable delay in the Government being ready on time, then I have no more to say. The Hon Member would have done better not to mention that he was planning to repeal anything.

MR SPEAKER:

I am delighted to see that we are all in agreement.

HON DR R G VALARINO:

Mr Speaker, Sir, if the Honourable Member turns to the law and checks on the law, the law states that it is to amend the Elderly Persons Non-Contributory Pensions Ordinance, 1973, (No.27 of 1973) and to repeal the 1983, this is what the law actually says, and what we intend to do at a subsequent meeting of the House, we hope, is to revoke the provisions of the Elderly Persons Non-Contributory Pensions Ordinance and to safeguard the rights of present and future beneficiaries by bringing them into a certain category under the Supplementary Benefits Scheme. This will have the effect of making the payment tax free, which is very important. We said at a subsequent meeting but if by any chance we were unable to come to a meeting before the 1st January, we could then because we have amended this, we could start paying out from the 1st January the new rate.

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

HON DR R G VALARINO:

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

This was agreed to.

COMMITTEE STAGE

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Trade Licensing (Amendment) Bill 1982; The Prison (Amendment) Bill 1984; The Savings Bank (Amendment) Bill 1984; The Imports and Exports (Amendment) Bill 1984; The Supplementary Appropriation (1984/85)(No.2) Bill 1984 and the Elderly Persons Non-Contributory Pensions (Amendment) Bill, 1984.

THE TRADE LICENSING (AMENDMENT) BILL, 1984

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE PRISON (AMENDMENT) BILL, 1984

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

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

THE SAVINGS BANK (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 (1984/85)(No.2) BILL, 1984

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

CONSOLIDATED FUND SCHEDULE OF SUPPLEMENTARY ESTIMATES NO.1 OF 1984/85

Head 10, Judicial was agreed to.

Head 11, Labour and Social Security was agreed to.

Head 12, Crown Lands was agreed to.

Head 14, Medical and Health Services was agreed to.

Head 16, Port was agreed to.

Head 21, Recreation and Sport was agreed to.

Head 23 - Telephone Service

HON J BOSSANO:

Can we have an explanation on what is meant "to meet the cost of Income Tax", We were told previously that the British Teleconsult Contract was one to which there was no payment.

HON J B PEREZ:

Mr Speaker, as I stated at question time, we have a standing agreement with British Teleconsult whereby should we require their assistance, they then tell us "Yes, we are prepared to do it for so much". This goes back to, I think, 1981, in connection with International Direct Dialling and the agreement was that the contract was to be free of Income Tax, of Corporation Tax. Following that, in 1982 we were advised by the Attorney General that it was unlawful according to the

terms of the present Income Tax Ordinance for the Government by way of contract or otherwise, to do away with the payment of Income Tax, so therefore what we have had to do first of all is two things. One is make it a charge on the Telephone Department, that is why we now come to the House for the supplementary funds and also that in future any contract, anything that goes out for tender, we will have to make it quite clear that Income Tax will have to be paid so in future I do not anticipate any problems.

Head 23, Telephone Service, was agreed to.

Head 54 - Tourist Office

HON J E PILCHER:

Mr Speaker, I would just like to make the point that my Party will not be supporting the extra expense of £57,500 for the Tourist Office. We will not be voting against but we will be abstaining.. When the statement was made by the Chief Minister at the last House of Assembly we had no chance to comment on the actual breakdown of the expenditure because it was only a statement and, anyway, the money was going to come out of the I & D Fund. It has now come to this House. We do not oppose it because we think that if the Government is going to give Tourism a drive then it is entirely up to them how they do it. We will not support it because we are not convinced that the drive in tourism, this expenditure, and the way that they spend the money is the way that we would do it so we are abstaining.

On a vote being taken on Head 24 - Tourist Office, 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 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

Head 24, Tourist Office was passed.

Head 25, Trading Standards and Consumer Protection was agreed to.

Schedule of Supplementary Estimates Consolidated Fund, No.1 of 1984/85 was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.2 of 1984/85 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 ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (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.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Trade Licensing (Amendment) Bill 1984; the Prison (Amendment) Bill 1984; the Savings Bank (Amendment) Bill 1984; the Imports and Exports (Amendment) Bill 1984; the Supplementary Appropriation (1984/85) (No.2) Bill of 1984, and the Elderly Persons (Non-Contributory) Pensions (Amendment) Bill 1984, have been considered in Committee and agreed to, without amendments, and I now move, Mr Speaker, 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 R MOR:

Mr Speaker, I beg to move that: "This House is concerned at the discriminatory manner in which rent relief applies to private sector tenants and calls for immediate action by Government to amend the relevant regulations and correct this anomaly". Mr Speaker, as can be seen, this motion draws attention to discriminatory treatment which private sector tenants are subjected to with respect to rent relief. I have two leaflets here, Mr Speaker, which explain how rent relief is applied at the present time and it is quite a straight forward operation. After establishing all the income into the household and deducting a certain sum, the tenant has to take 25% of the remainder towards his rent and whatever difference there is between this and the statutory rent he should be paying, this is the amount of rent relief which he is allowed. Mr Speaker, in order to prove to the House how rent relief is discriminatory in the manner it is applied to private tenants, I will be referring to the two explanatory leaflets which I have already mentioned, the Landlord and Tenant (Miscellaneous Provisions) Ordinance and to a subsidiary legislation, the Landlord and Tenant Rent Relief Terms and Conditions Regulations. In the latter case it is purely to draw attention to an anomaly which to my mind makes the procedure applied to private tenants illegal. If I may refer to the leaflets, Mr Speaker, how it applies to rent relief in private accommodation, it reads: "Rent relief applied to persons living in private owned accommodation if they were tenants of the premises on the 1st January, 1984, and continue so to be. Furnished flats are not eligible". Mr Speaker, furnished flats, I would think that this is the first sign of discrimination although I quite agree that a tenant in a private dwelling should pay towards the use of furniture, I fail to see what the furniture has to do with respect to the tenant's economic situation. I fail to see, Mr Speaker, why the fact that a tenant lives in furnished accommodation should in any way be denied the right to apply for rent relief. If we carry on reading the leaflet, Mr Speaker, it says; "after establishing all income coming into the household, applications are dealt with as follows". If I may stop here and go back to what I said before about an anomaly which could well be illegal. If we refer to the subsidiary legislation, the Landlord and Tenant Rent Relief Terms and Conditions Regulations, in paragraph 6, it reads "where the tenant is in receipt of an average weekly income of less than 110 shillings and there is living with him in the dwelling house any other person in receipt of a weekly income in excess of 110 shillings, such other person may, notwithstanding any other provision of

this regulation be at the discretion of the Housing Manager to be the tenant only for the purpose of calculating the amount of relief payable under this regulation. This, Mr Speaker, I think is in direct contradiction to what is said on the leaflets where it says "after establishing all income into the household". We now come to what I think is the main cause of discrimination. Again private tenants. The first paragraph of how the rent of the private tenant is established with respect to the application of rent relief says that if the premises is inclusive of rates the area in this case is 100 square feet. It multiplies by £33.60 pence in order to determine what the rent should be. The rent applied by landlords should be the same, that is, if the rent declared by the landlord is higher, the tenant has to pay the difference. Mr Speaker, there is quite a difference in the way the rent is being established with respect of rent relief, to the way that the rent is established under Section 7A of the Landlord and Tenant Ordinance. According to Section 7A, it says that a private rent would be agreed between a landlord and a tenant and if the Government is satisfied that the rent is reasonable then that is accepted as a statutory rent. Mr Speaker, from our investigations, what the Government considers to be a fair rent, a reasonable rent, is worked out at £108 persquare which is 100 square feet. If I can give you just one example, under Section 7A the rent worked out on a 500 square foot flat would work out to about £16 per week, the rent worked out under this leaflet would work out to about £3.50 which means that if £3.50 is the rent established under this section it means that the person would be getting no rent relief at all whereas in the case of a Government flat that is not taken into consideration and whatever rent the tenant is paying is considered statutory rent and rent relief is granted on whatever rent the Government tenant is paying. If we carry on with the leaflet, Mr Speaker, we also see something which seems to be an anomaly, I really cannot find any information to this. There are two sections in this paragraph, one says that the area is multiplied by £33.50 if the premises is inclusive of rates, and the other section says that if the premises is exclusive of rates the area is multiplied by £24.37. Mr Speaker, in both cases the tenant is paying for the rates whether it is directly or included in the rent it is still the same so why should there be a difference of figures when the purpose is to find out just what the rent should be for rent relief purposes. Mr Speaker, this is all I have to say on the motion. I feel that the Members of the House should vote for the motion because it is discriminatory if not in all in most of the points that I have placed and I therefore commend the motion to the House.

Mr Speaker then invited discussion on the Hon R Mor's motion.

HON M K FEATHERSTONE:

Sir, I am afraid Government cannot accept that there is discrimination against the private tenant. The first point that the Honourable Mr Mor made is the question of whether furnished flats should be eligible or not. If we were to make furnished flats eligible, then the person who lived in an unfurnished flat and paid a fair amount of money to furnish the flat himself with high quality furniture etc, might turn round and say 'I have put the furniture into this flat, why don't you subsidise me for so doing?

HON J BOSSANO:

If the Honourable Member will give way. There is a difference, Mr Speaker, between saying the person shall be eligible for rent relief on the rent inclusive of furniture and saying that the person shall not be eligible for rent relief at all which is what the Government is doing at the moment. We have not said that we want somebody to be able to rent a luxury furnished flat for £100 and then pass the bill to the Government but the reality is and I am sure the Government can find this out if they look into their own department, the reality is that I can tell the Member that there was a particular case of somebody living on supplementary benefits getting £40 a week, she was living in a furnished flat, paying £30 a week rent and when I brought the matter to the attention of the Department they told me they could do nothing, that if she had been living in an unfurnished place they would have been able to do it. Well, surely, they could have assessed the rent as if it had been unfurnished and at least help towards meeting that part of the rent. I don't see how that cannot be done. At the moment this is impossible.

HON M K FEATHERSTONE:

That puts a different complexion on it. I think that there is, perhaps, some merit in a person living in furnished accommodation, in taking the value of that premises on an unfurnished basis in accordance with the method of calculation of what the unfurnished rent should be and that I am willing to look at. But the question of persons going into furnished accommodation and expecting if they are willing to pay a high figure for such furnished accommodation that that figure should be taken into account, I think we cannot accept. I am willing to look at the question of the equivalent value of the unfurnished area by itself. As to how the actual rent is assessed, this is done as the Honourable Mr Mor has said, by

a formula in which the area is taken and is multiplied by a specific figure, in one instance £33.60 if rates are paid, and I think it is £24.37 if rates are not paid. This gives what is basically considered to be the statutory rent. The Honourable Mr Mor has brought up the case where somebody under Clause 7A for his own convenience has accepted a rent from a landlord higher than the statutory rent based on those figures and which he says the Rent Assessor has accepted as the new statutory rent on application. If that is so, this has been done for the convenience of the actual tenant and I do not see that it is really for Government and the general public to suffer the increased rent that has been accepted over the basic statutory rent that the figure should provide and therefore I do not see that there is any discrimination if the person has accepted the higher rent for his own convenience. The figures that are used to obtain the so-called statutory rent are to put them on a par with Government accommodation but should the figure so obtained be considerably different to what the landlord is charging, then the tenant does have the remedy by applying to, I think it was the Director of Crown Lands, for remedial action to be taken against the landlord for overcharging the actual statutory rent and when the new Landlord and Tenant Act comes in he will be in an even stronger position. The method by which the actual amount of rent that should be paid by the tenant is calculated is exactly the same whether the person lives in private accommodation or Government accommodation so it would only seem to be that the Honourable Mr Mor is at variance with the way the statutory rent is calculated. This has worked well up to the moment and I do not see that there is any discrimination against the private tenant since he has the remedy, if he is paying an exorbitant rate for furnished accommodation, in his own hands. Government is, however, although not willing to support the motion, ready to look at the question of people living in furnished accommodation to see if the share of the rent for that furnished accommodation which would apply to the premises if they were unfurnished can be taken into account.

HON J L BALDACHINO:

Maybe I can clarify a few points with reference to what the Honourable Member has said. As a matter of fact, when you assess for rent relief purposes, people living in private flats are based on controlled rent and not under Section 7A, in other words, in pre-war houses, which are rent controlled at a very low rent. Once you have worked out the area, then you go into the other formula which is the one that is worked for Government flats. Mr Speaker, there is a clear discrimination between the two just by looking at the formula. There

is even discrimination, Mr Speaker, in the formula used for private flats because it does not make any difference whether the rates are inclusive or not. We feel that a Gibraltarian should have equal rights to rent relief depending on their income and not the place where they reside. Rent relief is applicable to very few people because it is based on income and if it is based on income then it can only apply to very few people. What we are saying, Mr Speaker, is that the least that the Government can do if they accept a registered rent under Section 7A, and accepts that the landlord is charging a fair rent for that then surely, that should be the rent that should be assessed under Section 7A, and not find out what the controlled rent of that building should be and then apply the other formula because if the Government accepts that as a fair rent, then the formula should be automatic in that case. As a matter of fact, Mr Speaker, I think that the formula for private flats should be done away. If the rent is under Section 7A then that is the rent that should automatically apply to the second formula which is based on the income of what should be the supplementary benefits which is £44.40. You take that away from what the person earns and then you take away 25% and that is what he pays for the rent and the balance is paid by the Government as rent relief. But what we are talking about Mr Speaker, really, is of people of low income. If people of low income are living in a private flat and all of a sudden we have the Dockyard closing and he loses his job and he has nowhere to go, then he gets no rent relief if the building is registered under Section 7A. We feel, Mr Speaker, that even if the Government does not go along with this motion, at least they should give the benefit to those buildings which are registered under 7A and take away this formula for rent relief in private accommodation and get another one which is more equitable. Mr Speaker, when the Government announced its increase in rates in the Budget, representations were made to the Honourable and Learned Chief Minister by the Tenants Association and as a result, the Government's policy was that they made eligible all their Government flats. As a matter of fact, in my opinion, they had no other option because if they had not done that what they were admitting was that they were not charging a fair rent to those tenants. If the Government accepts that they are charging a fair rent to their tenants then, logically, people living in 7A must follow suit because if they are registered and the Government accepts their rent to be a fair rent, then that rent is the one that should be applied. I think that the Government should consider this because there is clear discrimination between one and the other. I hope that even if they do not go all the way with the motion of my Honourable Colleague, at least they agree to have a look at the way they are working the rent relief for private dwellings

and also include buildings under Section 7A which, in fact, it covered under the new Landlord and Tenant Ordinance under Section 15. Therefore, Mr Speaker, I think that if the Government takes that into consideration at least they will stop the discrimination that is going on between people living in private flats and those in Government flats.

HON CHIEF MINISTER:

I am grateful for that contribution. It is true that when the increases of rents were announced, that the Tenants Association came along and I undertook to see that as a result of any increases no hardship would be created and, if necessary, there would be a review of the rent relief. I did undertake that and I think that in respect of Government housing there has been an investigation. In the case of private landlords there is one point which has been made by Mr Mor which I think is a valid one and that is that a furnished flat should have a notional value as an unfurnished flat and that there will be, no doubt, more cases for rent relief when the Landlord and Tenant Ordinance is put into effect because that gives an element of increase of rent for private landlords up to, I think, 1945, which had been up to 1940 and it will be necessary to look at it. With regard to tenants under 7A, 7A is the section which provides that if a flat is vacant and there is a Gibraltarian willing to take it, a rent controlled flat, they can negotiate a rent which is more than the old statutory rent. I think the criteria should be to set as standard for the value of the premises rather than for the rent that is paid. In that way you could give a more realistic value and no doubt as a result of this the 7A increases are tied up to rent control which is better and when you pay up to the level then you pick up with the others, that is to say, you make a tenancy agreement of a flat that was paying £25 a month at £50 a month and the statutory increases are authorised until they go up to £50. Then they level up and then they go up together. I think that there are two points that have to be looked at in this case. Though we do not accept the motion, as the Minister responsible has said, I think that it has served a useful purpose and we will look at these two points and perhaps, in the light of that the Honourable Member might think fit to withdraw it but that is a matter for him.

HON J BOSSANO:

Mr Speaker, I think there are a number of points in relation to the existing legislation which clearly shows that the legislation has been so long in the statute book that the Government itself is not sure how it operates, that seems

fairly clear. I think if we refer to the answers that I obtained in supplementary questions to Question 66 of 1984, when the Honourable Mr Mor raised the matter about the provisions of rent relief being inadequate in the case of the private sector, the Honourable Mr Featherstone answered that he did not accept that they were inadequate in the private sector but then he went on to say that his understanding was that relief was on the rent actually paid. Clearly, if his understanding was that people were getting relief on the rent actually paid, there is no reason why he should believe that the system was inadequate or discriminatory. But, in fact, today, he recognises that it is not on the rent actually paid and at the time the Honourable Member said in reply to a question, when I said to him "Does the Minister not accept that the formula which he is applying to the private sector does not relate rent relief to the rent actually being paid but to the rent that would be payable if the property was rent controlled outside the scope of Section 7A". And he said: "this is not the way I have read it, Sir, it is assessed from the rent that is paid". Obviously, under that impression, I would agree with him there is no discrimination and the system is adequate. Our contention is that it is wrong for one arm of the Government to say "I accept the rent agreed with the parties should be registered as a reasonable rent under Section 7A and become the statutory rent, and then for another arm of the Government to say: "We do not recognise this statutory rent. We will do our own calculation as to what is the statutory rent". There is a conflict, we have two different definitions of a statutory rent both in the same Ordinance, which is the Landlord and Tenant Ordinance. The new Landlord and Tenant Ordinance due to come into effect, protects the position of 7A tenancies and maintains them. The purpose of 7A tenancies, as we understand it when it was first introduced into the legislation was, in fact, to make it attractive to landlords not to rent to non-Gibraltarians and therefore to introduce a more realistic rent. Clearly, it cannot be the intention of the Government to make it attractive to landlords not to rent to non-Gibraltarians and then make it impossible for certain categories of Gibraltarians to be able to rent at a reasonable rent because they could then go through a period of unemployment and in that period they do not have the fallback protection of the safety net that a Government tenant has. We cannot believe it is the intention of the Government, we believe that it is a discriminatory situation that has arisen out of the fact that the provisions of the law for the private sector have remained static and the provisions of the law for the Government have progressed and the fact that they have progressed is the latest amendment introduced by the Honourable and Learned Chief Minister as a result of the representations where he agreed that if previously tenants in

the latest housing estates, Kosia and so forth were excluded, presumably on the argument that they had a choice whether to go there or not to go there in the first place knowing what the rent was going to be, he agreed to include it. That was a recognition of the fact that somebody can enter into a commitment and in the present circumstances where there is greater uncertainty about employment than there has been in the past, the persons might enter into a commitment and then find himself redundant and then what does he do? He cannot afford the rent, he cannot get rent relief, what does he do, Mr Speaker? I think we have to recognise that we are not asking for privileged treatment for the private sector tenant, we are not asking for landlords to be given a loophole where they could write themselves cheques and then pass the bill to the Government. What we are saying is that if the Government considers a rent is fair and reasonable and is prepared to give it the legitimacy of declaring it the statutory rent for the premises, then it ought to be the statutory rent for rent relief. If the Government thinks the rent is too high, then they ought to say it is not the statutory rent and refer the rent to the Rent Tribunal which is the other remedy that the law provides. The law provides a remedy for people who are paying excessive rents for the rent to be reduced and therefore, eventually, the philosophy that we believe in is in devising a system which provides equal treatment between landlord and tenant irrespective of who the landlord is and who the tenant is because it is the need of the tenant that should be paramount and not the nature of the accommodation or who the owner of the property is. We all know, Mr Speaker, that there are instances of people who are themselves landlords, living in Government premises on subsidised rents whilst their property is then rented to somebody else who may have less income than they have and is required to pay higher rent and has got less protection. If we are going to move to a system of removing anomalies, which is what we are urging the Government to do, then essentially the motion is not a criticism of the Government or a censure motion on the Government, it is a motion that draws attention to an anomaly in the law which we think is not an intentional anomaly and which we think the Government should put right. Coming to one specific point mentioned by my colleague which the Minister also mentioned but did not explain which certainly has got us baffled, perhaps the Honourable and Learned Attorney General can explain this situation, is this formula which obviously has been there for a very long time, which says that, no, in the Regulations, where it tells you how to calculate the rent for the purpose of assessing the entitlement to rent relief and a figure of £33 is used if it is 33/16ths to determine the rent where the rent includes rates and 24/37ths where it is exclusive of rates. We tend

to look at legislation as laymen and therefore I would welcome the Honourable and Learned Attorney General's expert advice of this if we have misunderstood what appears to be the law but our understanding of the formula that is being applied by the Government at the moment is that if we have got two identical cases, in one case the tenant pays a rent of £33 which includes rates and the Government then pays £9 of rates to the Government, the rent for rent relief purposes is the £33. If in another case, the tenant pays £33 but he pays £24 to the landlord and £9 to the Government in two separate payments, then the rent is £24. Effectively, what we are saying, as we read this section, is that a tenant would be better off by saying to the landlord "You pay my rates and charge me for it and then I can get more rent relief". It is incomprehensible to us because at the end of the day whether you pay £33 inclusive of rates or £24 exclusive plus £9 of rates, the total amount that you pay is the same, so why should one get more rent relief than the other. That point has not been answered by the Minister. We have gone over it a number of times to try and see what the logic of it is and it baffles us completely and clearly there is one obvious anomaly even without improving the system, on the system as it is based on the rents that are controlled rents going back to 1940 you have got one clear oddity there which I think requires explanation. I think we will not withdraw the motion, Mr Speaker, because the spirit in which the motion has been brought to the House is a constructive one and we really feel we ought to go through with it and vote.

MR SPEAKER:

If there are no other contributions I will call on the mover to reply.

HON R MOR:

Mr Speaker, I think it is important that this House should vote in favour of the motion because, as my Honourable Colleague has just said, the motion has been brought in good faith and it is in no way a criticism of the Government as such, but a criticism perhaps of the different interpretations. I think that the word discriminatory in the motion and anomaly and all that is purely based on the different interpretations that arise out of this. Throughout the debate it is quite obvious that the Government wished to look at the question of furnished flats not being eligible and they may look also at the substantial difference in what Section 7A of the Ordinance allows and what the rent relief formula produces. I think, Mr Speaker, that the Government should make an effort and vote in favour of the motion.

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

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 voted against:

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The motion was accordingly defeated.

The House recessed at 5.10 pm.

The House resumed at 5.40 pm.

HON M A FEETHAM:

Mr Speaker, I beg to move that: "This House expresses its grave concern at the record unemployment figures for September this year, notes the apparent failure of the measures announced by Government in answer to Question No. 11 of March this year which have had no reasonable impact and calls for an immediate initiative on Government's part to significantly reduce unemployment levels". Mr Speaker, here we are, nine months after the elections during which the Government announced that a committee of Ministers were studying the matter of unemployment but that unfortunately the work had been interrupted by the calling of the elections. Consequently, the first thing we did in the first meeting of the House after the elections, was to ask the Minister for Labour if Government had now completed their study and what they proposed to do to deal with the unemployment situation. Mr Speaker, it is the role of the Opposition to monitor the effectiveness of Government policies and as far as we can see, they are still so ineffective that the situation is that unemployment has been getting worse.

The six measures that the Minister announced in March of this year is, in fact, having no effectiveness at all unless, of course, Government is telling us that without having those measures the situation would be worse. That without having those measures instead of having 600 unemployed, we could be having, 1,000 unemployed. How many jobs have those measures created, Mr Speaker? Or is it, Mr Speaker, that they have not introduced those measures yet? How many jobs have been lost to the economy which is not reflected in the 600 unemployed? It is a record in unemployment since the new method of calculation was introduced in November, 1982, but there is a very important factor in these figures. On this occasion, however, a higher proportion of the unemployed are British subjects. There are 530 this time as against 388 in October, 1982. There were 83 juveniles as against 135 at present. It is clear as well that the Government plans for tackling youth unemployment have failed and recent events have shown that Government lacks imagination in dealing with the problem. The overall employment figures show the lowest since 1972; 433 jobs have been lost since April 1983, of which 430 are males, of which 200 are in the private sector. Particularly bad has been the wholesale/retail with 193 jobs lost and the retail trade with 118 jobs lost. The ship building has lost 147 jobs. The wholesale and retail trade figures reflect to a degree our view that the full opening of the frontier will cut even further into our job opportunities, particularly in the areas where it will not be possible to compete fairly with services coming in from across the frontier, primarily due to the two differently oriented economies from which we have obtained no derogation or special terms under the EEC, particularly in the light of Spanish entry. Every indication we have, on this side, is that in fact, the situation is going to get worse and at best no better. Every indication, Mr Speaker, is that the Dockyard situation will have an effect from November onwards. The last RFA is supposed to be completed in November, so in effect, the first Dockyard layoffs will begin to happen in November. Up to now, workers who have been leaving have been doing so on voluntary redundancies but they have been replaced by temporary workers insofar as the Dockyard is concerned. These temporary workers have been taken on to replace redundant workers but they themselves will find themselves redundant in the next couple of weeks. What is Government planning to do with the situation? They are therefore facing a situation which is 600 unemployed in September and it could be 700 at the end of November. It is also very, very clear that employment in the tourist industry is not going to provide any alternative. The employment expected to be generated by tourism will practically be nil. What we can hope at best is that there isn't a contraction in that industry and create even more unemployment. The Government needs to

explain the policies they announced in March of this year. What we would like to know is what has happened, have they implemented them, or some of them or none of them? That is what we would like to know. And furthermore what effect have they had or expected to have in the next few weeks. We also want to know if they do not produce the results if that is the end of the road or do we accept that they have failed and they need to come up with something better in their handling of the unemployment situation. We have brought this motion at this point in time because in the same vein as the Minister for Economic Development explained and argued the case for not lowering the pensionable age because it was not the right time, we feel that here is an occasion where we need to tackle this, we need to know what is going to happen in the coming months in the light that nothing has happened as all the figures indicate in the last 9 months Mr Speaker, and we hope that the Government can produce some of the answers.

Mr Speaker then invited discussion on the Hon M A Feetham's motion.

HON DR R G VALARINO:

Sir, despite the fact that the Government is naturally concerned at the high unemployment figure, it cannot accept that their measures have been totally ineffective and is unable to accept the motion as moved by the Honourable Mr Feetham. One should make a careful comparison of the unemployment figures for 1983 and 1984. It will be noted that though the September figure for this year is the highest since the new system was introduced, there were months in 1983 when the figures were almost as high. The figure for July, 1983, was in fact higher than the figure for the same month this year, ie 542 unemployed as opposed to 540. It must also be borne in mind that there is a very high proportion of unemployed persons who have been drawing supplementary benefits for many years and who unfortunately for a number of reasons are almost totally unemployable. I must also point out that during the past 4 months there has been a sharp increase in the number of non-Gibraltarian EEC Nationals registered as unemployed. During the month of September this year we have had 100 non-Gibraltarians EEC Nationals unemployed which amount to about 17% of the unemployment figures. However, under the present system of registration, an EEC National who registers only once during the course of the month is included in the unemployment figures for that month. The youth training schemes were originally designed to provide employment or training for approximately 60 unemployed persons, particularly among the juveniles. Unfortunately, as mentioned previously by me, there was no response to the Construction Training Programme B

ie the accelerated course of 44 weeks duration. In an effort to make it far more attractive, the conditions were modified as I mentioned yesterday, and the scheme was advertised for a second time and this produced no positive results. It goes on to show to some extent the reluctance amongst the youth to learn certain trades. However, Government will still be pursuing this scheme by other methods. At this stage I would like to give credit and express my appreciation for the very hard work which is being put in by the Youth and Careers Office in the efforts which they make in finding jobs for school leavers. I am pleased to say that one of the other Construction Training Programmes will provide training for 25 to 30 school leavers who hopefully will acquire enough practical skills to compete more effectively in the labour market. The Public Works Department have employed 6 boy labourers from that batch who received this training last year. Moreover, the current policy of the Manpower Planning Committee of reducing the quota for the public sector will certainly help in creating the sort of vacancies which could easily be filled by this type of trainee. Likewise, 14 new posts have been created to the Employer Based Scheme. It is also proposed to offer 20 posts for apprentices this year between the Gibraltar Government and PSA as against 8 last year. Last year, the PSA did not offer any places. I should like to add that 5 student technicians will also be taken on, last year only 1 was taken. In addition to the number of persons already recruited by the Gibraltar Shiprepair Limited, including apprentices and others who have already had offers of employment, the firm's current prediction is that there will be a shortfall of 140 in the labour requirement by the beginning of the year 1985. With regard to the measures announced by my predecessor in answer to Question No.11 of 1984, steps have been taken to start implementing Government's retiring policy and so far action has been taken in respect of those employees over the age of 65 who are already in receipt of or on retirement would qualify for an occupational pension plus social insurance old age retirement benefit. Approximately 40 of these employees are, or are about to be retired. Whilst the Government is determined to continue applying its retirement policy, it must nevertheless exercise extreme care that elderly employees whose retirement benefits are very reduced do not suffer hardship as a result of their retirement. A good majority of these employees have completed over 10 year's service but failing to satisfy the 20-year minimum qualifying period of service would not be eligible to a pension award if retired now. Their retirement must therefore await the lowering of the minimum qualifying period from 20 to 10 years which the Government proposes to introduce as part of the proposed unified pension scheme currently being drafted. Once the unified pension scheme is agreed with staff side and sub-

sequently implemented the Government will be able to proceed with the retirement of employees over the age of 65 without fear of causing hardship and approximately 150 job openings are expected to be created. To summarise, if we take into account the 14 new posts created by the Youth Training Scheme, the 12 extra posts for apprentices and student technicians, 140 for Gibraltar Shiprepair and the 150 jobs in the Gibraltar Government we are talking of recovering about 320 new posts. In view of this the Government cannot accept the contention contained in this motion about the steps taken to combat the situation. As stated in answer to question No.11 of 1984, a sub-committee was set up under the Chairmanship of the Minister for Public Works to consider the creation of additional posts by splitting up those which are conditioned to long working hours or by reducing current levels of high over-time working. The Committee has met on a number of occasions and considered a number of areas where it may be possible to apply the policy. The Staff Side will be consulted when the findings are finalised and it is expected that the first case will soon be presented. Other areas are being examined and it is expected that a limited number of additional posts will arise as a result of this exercise. Two other measures which were contemplated in answer to question No.11 of 1984 were the move towards a retirement pension instead of an old age pension and the control of part-time work. In his earlier intervention in the House my colleague the Minister for Trade and Economic Development expanded on the difficulty and the undesirability at the present time of moving towards a system of retirement pension. I concur entirely with all that he has said in this respect. The results of such a measure are so unpredictable that the administrative expenses which would be involved in monitoring the system are not considered justified.

HON J BOSSANO:

In other words, it has been killed by the Civil Service.

HON DR R G VALARINO:

I wish the Honourable Leader of the Opposition would not interrupt. You will have time later on to reply. The Government's assessment of unemployment levels measured against the employment opportunities which will arise in the near future does not justify the introduction of either of these measures at this stage. Having regard to the present unemployment situation we are now in the process of reorganising the labour section in order to produce more extensive and accurate information to enable the department to properly evaluate the position and plan for the future. Finally, I must add that the Government and the Department of Labour and Social Security

will always welcome any suggestions from any sector on measures which will alleviate the unemployment situation. Thank you, Sir.

HON J C PEREZ:

Mr Speaker, the Minister for Labour does not seem to read in the trend of the unemployment figures the seriousness of the unemployment situation. We are talking of about a level of 600 unemployed which more or less is 6% unemployment in an economy like ours and he says that his measures are going to create 320 new posts. We, on this side of the House, are not convinced that any of his measures are going to work but even if they were, 320 new posts in the context of 300 unemployed today might be a significant reduction but not in the context of the unemployment that is expected towards the end of the year and the trend is that in the private sector there are going to be further contractions and there is going to be more unemployment not only because of the present economic situation but because as a result of unemployment in the Dockyard the purchasing power of the people of Gibraltar is going to be reduced and that could cause further contraction in the private sector with further unemployment levels. He says that in July, 1983, the level was nearly as high. We are not talking about a figure only we are talking about the figure in the context of today and in the context of today's situation. It is no excuse to say that in July, 1983, we had more or less the same level. We do congratulate in the same way as the Minister does, the Youth and Careers Office for their efforts but the Youth and Careers Office cannot perform miracles, they have to work on policies and those policies are lacking on the part of the Government who are responsible for policies for the Department. On the question which he raised on Government retirement policy, Mr Speaker, where the Government is due to retire I think he said 40 over 65's, although we discussed this this morning, Mr Speaker, perhaps if under his same Ministry the Honourable Member would have considered reducing the pensionable age from 65 to 60 or to 64 and taken into account the repercussions in other areas economically, perhaps, that might have been a worthwhile policy to pursue because he could have killed two birds with one stone.

HON A J CANEPA:

I object to the killing of birds.

HON J C PEREZ:

Anyway, Mr Speaker, effectively what I am saying is that the Honourable Member is not proving in this House that he has

any immediate initiative to significantly reduce unemployment levels or is even conscious of the problem. That is all I have to say and I hope that Honourable Members opposite agree with us and give some seriousness to a very serious situation indeed.

HON H J ZAMMITT:

Mr Speaker, I am going to be very brief and just pick up on what the Honourable Mr Michael Feetham mentioned that tourism will not contribute in any way to the employment situation. Mr Speaker, the PEIDA Report stipulates and now that I have it in front of me, I will quote from it. It surprises me that the Hon Mr Feetham appears not to have done his homework particularly having regard to the words he has used with regard to tourism, its potential and the job opportunities that that industry opens up for Gibraltar and I am somewhat surprised because he has been concerned directly for a number of years with that industry in a professional capacity and therefore had it come from any other Member one would have accepted because of their short time in the House that they have not had access to the PEIDA Report but Mr Feetham is less justified to make such a wild statement without having taken this into account. The PEIDA Report mentions, Mr Speaker.....

MR. SPEAKER:

Are you quoting from the Report?

HON H J ZAMMITT:

I am not quoting the report Mr Speaker, what I would like to say Mr Speaker is, no, you are absolutely right, it has not been made public, I had not remembered that, Mr Speaker. But let me assure the Honourable Member that he has got his facts very wrong regarding the employment and job opportunities that tourism is able to open up and I think that certainly the Honourable Leader of the Opposition who has had the PEIDA Report, I think, well, if he hasn't I am somewhat surprised.

HON J BOSSANO:

It was removed from my possession, Mr Speaker, when I resigned from the Governor's Consultative Committee in 1981.

HON H J ZAMMITT:

Tourism is the industry that for the smallest investment possible opens up the largest amount of job opportunities. So it must not be dismissed so lightly by the Honourable mover

that tourism will not produce anything. It might not produce anything if we have the attitude of the Opposition in abstaining in the money we are seeking as was done earlier on in the meeting, Mr Speaker, in trying to improve the industry and in trying to create job opportunities in line with what experts say that investment in that line can open up. I apologise Mr Speaker, because I did not realise the Report had not been made public but I can say that it certainly is here and there is documentation to prove that the job opportunities afforded by the tourist industry are in excess of any other industry and when we talk of the tourist industry we must not just think of hotels and restaurants but particularly of the figure that the Honourable Mr Michael Feetham spoke of, of the reduction in the distributive trade which directly has a great bearing on tourism. I think that Mr Feetham will accept, having heard this, that tourism can contribute much more than he very quickly dismissed in his original intervention. Thank you, Sir.

HON J E PILCHER:

Mr Speaker, I understand the Honourable Minister's passionate reply when tourism was brought up but I think he has not understood the point that my Honourable Colleague was making. My Honourable Colleague is expressing his great concern at the record of unemployment figures for September of this year when we already know by the words of the Honourable Minister for Tourism that there will not be a great impact for the rest of this year or the initial period of next year on tourism by the inclusion of the funds which the Government is now spending. The point that my honourable Colleague was making is that this will have no initial impact on these figures. By the 1st January, 1985, tourism will not have any impact at all.

HON H J ZAMMITT:

I accept that. All I am saying is that the Honourable Mr Feetham said that tourism will not produce. Not that it is not producing, will not produce even in future.

HON J BOSSANO:

In the long term, Mr Speaker, perhaps tourism will produce but not only do we have no guarantee of that at all the figures that we have had since 1972 onwards do not show that this will be the case and that is why we abstained from the vote on the £357,000 because we are not convinced as a party that this expenditure, made the way the Government is doing now, will produce the amount of tourists that the Government

think that they are going to bring and if this is not the case then it will certainly not produce any increase. In fact, as my Honourable Colleague was saying, there might even be a contraction of the tourist industry as such. This was the point made by my Honourable Colleague and I think that irrespective of the impassioned reply the Honourable Minister for Tourism has to accept that this is the case unless he proves it otherwise at the next Budget or when he produces the analysis and the statistics for the Tourist Report, 1985.

The first necessary condition for the resolution of the problem is perception on the part of the person that has to resolve it that the problem exists and, therefore I am afraid the good doctor cannot cure the illness on this occasion, Mr Speaker. The Honourable Member dismisses the patient with a mild Aspro and tells him that there is really nothing wrong with him. We are using the figures produced by the Government which is all that we have to go on and the figures produced by the Government show a very disquieting situation because I don't know where the Honourable Member gets his figures from but the ones that I have got, produced by his Department, show, Mr Speaker, that there were 599 unemployed in September, 1984, 473 in September 1983, 587 in September 1982, 400 in 1981, and 241 in 1980. So that if we take the last 4 years, we have got a situation in 1984 which is twice the figure of 1980, more than twice. It is even worse than that because the reality of the situation is that in 1982, until November, the Government was calculating unemployment on the basis that anybody who was still entitled to unemployment benefit was counted as unemployed irrespective of whether they had made an appearance at the Department to seek employment or to collect their benefit. And in November, 1982, there was a figure of 634 unemployed. In October, 1982, the figure was the same as for September this year, 599. What happened in December? In December the Government announced that they were introducing a new method of calculating the unemployed, it was announced in the House of Assembly, which was supposed to produce a more realistic figure by only counting people who had made an appearance at the Department to seek a job within that month. Therefore, December shows unemployment going down from 634 to 475 but that it went down, it is that it was calculated more realistically. Therefore, when we are comparing the post 1982 with the pre 1982 figures the difference is much bigger because the figures that I have quoted before 1982 were calculated on a much more liberal basis than is being done today. It is even worse than twice, it is more than twice when we are comparing the old system of calculation with the new one. If we make an adjustment for that we are talking about unemployment in September

1984, three times unemployment in September, 1980, and the Minister for Labour does not think there is a problem. He has mentioned the policies that they have introduced. I do not know to what extent he has introduced those policies or not but he says that one of the things that was announced in the Committee was that there would be retirement of the people over 65 once a unified pension scheme was agreed with the unions. Well, that was announced in the House of Assembly by the Minister for Economic Development in December, 1983 and no proposal has yet been put to the unions in October, 1984, Mr Speaker. He cannot expect a reply when nothing has yet been proposed although it is ten months since it was announced in the House of Assembly and every one of those ten months unemployment has gone up in Gibraltar. We will all be unemployed by the time we see the unified pension scheme. He talks about the work in the Manpower Planning Committee and then he goes on to say that he welcomes ideas from every quarter. Well, I can tell him one idea. My experience in the Manpower Planning Committee, Mr Speaker, is that it has been the Trade Union side that has been fighting half his battle against the Government with notable exceptions here and there. I think the Honourable Major Dellipiani was certainly committed to reducing the quota and certainly the Honourable Member made a fine speech to reduce all the quotas in his first meeting and then promptly proceeded to try and increase them all in his second meeting. It is all very well to say that the initiative has not come from him or from the Government to reduce the quotas, the initiative has come from the unions that have maintained consistently that we have to protect workers who are here but we have to keep more workers coming in because in the long term we cannot have a situation where Gibraltar has got mass local unemployment and employs lots of foreigners because that is a socially explosive situation. We have got to have a sense of responsibility to the people who have lived and worked here for many years but if they want to go for whatever reason then we should not go out of our way to perpetuate the problem by keeping replacing them. That is the view which I think any sensible citizen would defend and any politician can defend with honour because we are not being discriminatory, we are not being racists but we are being practical in saying, well, if we had an unlimited number of jobs, well, fine, open house for everybody, but if we are going into a recessionary situation where the Minister for Economic Development in an earlier contribution pointed out that the latest employment survey shows the lowest numbers of jobs since we started collecting statistics and I do not think that there is any question about it the economy of Gibraltar is shrinking and it is difficult to see how we can stop it shrinking. That is a reality of life. But if the Minister is not aware that that is happening, then we are wasting our time to ask him to produce initiatives to cure an illness which in his perception

is not there in the first place. I think the Honourable Member mentioned that in September there were 110 non-EEC nationals. According to the statistics his Department produced there were 69, 67 of them males and two females. That left a total of the 599 as British Subjects or EEC Nationals, we are not very clear whether it is one or the other but that seems to be the global thing. The most important element in that category in terms of the nature of the problem, we have got a problem of youth unemployment, I think the problem of youth unemployment is a particular one which affects not just Gibraltar but many other areas and it is a difficult one to resolve because from an employer's point of view, a trainee is seen initially as a liability, that is, you are paying somebody to learn to do a job and clearly if you can choose between taking in somebody that you are going to be paying to teach and taking in somebody who might cost you a little bit more but whom you can expect to produce a return for the business, then your obvious preference is an adult. This is why the major source of employment for school leavers has been the official employers and, quite frankly, employers in the private sector have been very deficient in this over the years because they have preferred to let the apprenticeship be financed by the official employers and then at the end of the day when they have got a qualified craftsman coming out of the other end of the system, they offer a better wage or higher bonuses or piece work rates and they effectively pinch the skilled man and that has been happening for years, and in fact, the PSA in days gone by when there was less constraint on expenditure and where the Regional Director in Gibraltar had more freedom in exercising the level of employment, I remember that Mr Corcoran who was a great friend of Gibraltar always said that he did not really mind because he felt he was making a contribution to creating a pool of skills in Gibraltar even if at the end of the day he was really training some people whom he knew the moment they got their indentures, were going to finish the next day working for a contractor. The PSA today is working in a different world and in a different environment an environment where they have to justify every penny. This is the same of the other UK Departments. I think the Government of Gibraltar that has to come up at the end of the year with a way of financing its expenditure cannot simply go into the business of job creation by printing money. But that does not make the problem go away, the reality is there and the reality in our estimation is a serious problem, a deteriorating situation and one that is likely to get worse before it gets better. If there is a long term potential of a growth in the economy of Gibraltar in tourism or in commercial shiprepair, it is a long term potential and before things get better they are going to get worse. That is the message that I think the Government is

receiving from us and unless they accept and they understand that, then we are likely to get, quite frankly, a reply like the Honourable Member has given which can only be described in one way, it is a reply based on complacency. The Honourable Member is not worried by the situation. We do not believe for one moment that he is not concerned about the plight of the unemployed and that he would not be concerned if he thought it was serious but, clearly, he does not see it in the same light as we do and until he does then, clearly, he is not going to see the need to give it the impetus and the priority in his time and in the efforts of the Government that the situation requires and that is a matter for regret, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I cannot say that I disagree very fundamentally with most of the analysis that the Honourable Leader of the Opposition has made, because I think it is one that I share to a very large extent. I would describe the situation certainly as worrying and I agree that we cannot be complacent but the problem that we are facing must also be seen in its proper perspective and it has to be seen against the context of the problems which other countries in the developing world have. In Gibraltar we are very introspective. We are a very small community and problems are always exacerbated. A level of 5% unemployment in Gibraltar is much more serious than the same level of 5% in the United Kingdom. I think many countries in Western Europe and in the Western World, indeed, would yearn to have a level of unemployment of only 5% or 6%, they would count themselves fortunate, but in Gibraltar the problem is seriously exacerbated by the fact that we know precisely who are the people who are unemployed and we know - that the problem multiplies itself because if people queue up at the Social Security Offices to collect £45 a week unemployment benefit and at the counter next to them there is somebody getting a pension of £57.80 tax free and that person is also in employment and the person who is unemployed knows that that person is in employment, you begin to have a process of developing social tensions. That is the fear that I have always had of high levels of unemployment in Gibraltar and that was one of the reasons which impelled me to see that the commercialisation alternative was the only alternative because I honestly thought that to have, say, something in the region of 1000 or 1500 people unemployed early in 1985 would bring such strains and stresses into the economic, social and political fabric of Gibraltar that I was afraid that Gibraltar might not survive as the Gibraltar that we have always known and we wish to preserve. Unquestionably the level of unemployment of 5.99 is worrying and it is a level which indicates a deterioration in the situation over the last four years. What has contributed to this? I think it is important that we should know who has caused it because if we know what has caused it, then we might

be in a better position if something can be done, if not in the short term in the medium or the long term to rectify the situation or to avoid a worsening of the situation. One of the factors that undoubtedly has contributed to this higher level of unemployment was the damaging delay in getting another development programme on the way. There was a damaging delay of 2 years and so, the development programme, the previous one which was supposed to dovetail one into the other, and we got it right, Mr Speaker, in 1980, in 1981 and early 1982 we were spending £10million a year in the Government's development programme. All the criticisms that there have been from former Members of the Opposition for many years could no longer be levelled at the Government because we were having to come here for supplementaries because we were spending more than what we had actually voted initially. So we geared ourselves up and if there had been a smooth transition from one development programme to another and if the bulk of the present development programme had contained the projects that we wanted which were social projects, labour intensive projects, then the construction industry would not be at the lowest ever level as it is now because a few years ago the construction industry was employing over 800. When I came into office in 1972 it was employing over 1000. And between 1972 and 1978, there was a contribution through the development programme from the Government, chiefly through housing and schools, which led to labour having to be imported from outside Gibraltar. There was an important MOD contribution with their build at Europa Point. Filipinos had to be imported, then for the school I think they imported people from abroad and we were looking for labour. I led a mission to Malta because there was a serious shortage of labour. That is one factor, the damaging delay in the development programme and we must be careful that it does not happen again. We must be careful that if there is normalisation at the frontier next year, that the British Government does not turn round to us and say: "You are going to have an economic boom in Gibraltar", because that is what they were telling us in 1980, that the frontier was going to open and there was no need for any more development aid. And that is the wrong analysis. If they do that, we could, in 2 or 3 years, require budgetary aid because what they do not seem to realise is that there have been distortions brought into our economy during all the years that the frontier was closed which require a period of time for them to iron out and the first year or two after an opening of the frontier if anything might exacerbate the present situation then the outflow of funds might be greater before compensatory elements come in. That brings me to the second reason and that is the loss of jobs brought about by the partial opening of the frontier. The present discriminatory basis on which it is open is leading to a loss

in GDP of between £5m and £6m. That loss of £5m to £6m translates itself somewhere in the economy into jobs. The Honourable mover of the motion mentioned one area, the whole-sale and retail trade have suffered from the discriminatory partial opening of the frontier. There has been a loss of jobs there which I am sure can be put down to that. But in any case the multiplier effect of the loss of £5million circulating somewhere in the economy of Gibraltar, I think that that can be equated to a loss of at least 100 jobs, something over 100 jobs. And then there is the fact that I have already mentioned, the fact that the present development programme is not labour intensive, there is not a great deal of housing being built under the present development programme and it is housing that has been the main plank on which the high levels of employment in the building industry in the past were built. The building industry was employing more people than ever in our history at the time when Varyl Begg Estate was being built because that was a huge project of 700 units. I heard on the news today that the Minister had been quoted as saying that if we had another 700 units we would solve the housing problem. But 700 units presupposes some £28million of capital and, perhaps, we are no longer geared up for that kind of thing. We made the point to the British Government when we were negotiating £13million of Development Aid, we made the point ad nauseum that we attached a lot of importance to social projects because of the short term requirements to have labour intensive projects. Of course they are right when they say you have to look after your infrastructure, you have got to get things right for the future and therefore you have got to concentrate on areas like the Port, and we have to get right the situation involving power, water and so on, because without that then you are in trouble. But, really, the criteria that they have adopted has gone too far the other way and that is why the building industry is employing so few people. The nature of the unemployment that we are now experiencing as well is of a structural nature and this is where it is difficult when you replace one thing by another, even with retraining, it is difficult to be able to say, "so many people are employed on such and such an industry, we are going to make up the loss of jobs there by creating a similar number of jobs in another industry". You are bound to get some structural unemployment and then people who would have been unemployed for transitional periods you find that for a very, very long time they cannot be employed. As I mentioned this morning, the situation cannot be that bad when over 100 people, I don't know what the figure is but it is probably nearer 200, have been able to take voluntary redundancies in the course of 1984 and find employment elsewhere in spite of the contracting economy and in spite of its lower numbers being employed all round. I will come to where

I think there could be some amelioration of the problem and the direction, in my view, in which we need to move but the measures that the Government had announced earlier this year, although not of as positive a nature as the expansion of the economy would lead to in the creation of jobs, the measures that the Government announced were important and were useful in bridging the gap. The Government could take steps next month to employ 150 or 160 people if we had been able to bring to the House at this meeting legislation amending the Pensions Ordinance. Why haven't we done so? I think the Honourable the Attorney General has indicated the problems that he has been having. In the course of 1984, there was a period of time when he was the only one in his Chambers, there was nobody else in his Chambers. So no matter what priority you give to what is a complex piece of legislation, no matter what efforts are put, when you find yourself that there is one person in Chambers, and no matter how hard he works and how willing he is, that person is not able to produce complex legislation. It has not been done there, it has not yet been done in the shipping registry business, on Development Aid. I would have liked to have seen a Bill brought here in the context of home ownership. I am not giving excuses, it is a fact of life and whoever is sitting on this side would have had the same problem because you require people to draft legislation for you and if those people are not there you do not have legislation drafted. And if you do not have legislation and you cannot reduce pensionable age from 20 to 10 year's minimum, is it fair to sack people who have less than 20 but more than 10 years, I do not think so. We have got to carry those people in employment. Perhaps where we went wrong was that we did not think that so many months would go by without the legislation coming here and I shudder to think that many months may still go by before the legislation gets into the House.

HON J BOSSANO:

The point that I made, Mr Speaker, is that the Minister for Labour said that this was awaiting agreement with the unions of the Unified Pension Scheme. The point is that even if he had had the Attorney General's Chambers packed with lawyers all vying to get the Unified Pension Scheme on the Statute Book no proposal has yet been made to the unions. Surely, the first stage is to make the proposals to the unions before the unions agree and, surely, what will have to be put to the Attorney General is whatever is agreed with the union.

HON A J CANEPA:

The principles which the legislation is going to enshrine

should have been put to the unions because they have been made public and they were made public by me in a very detailed statement that I made here in December, 1983, so there is no reason why they should not have been put to the unions and the principles discussed as we do with many other things. For instance, a breadline formula was devised so that no one who is aged over 65 will be dismissed unless they have an income in excess of that breadline formula. That was the subject of detailed negotiations with the unions, because again, we do not want, what is the point....

HON J BOSSANO:

No, Mr Speaker.

HON A J CANEPA:

It wasn't? Then I have been misinformed.

HON J BOSSANO:

Yes, you have been misinformed, Mr Speaker. The earliest that the unions knew about the existence of the breadline formula was when one particular incident took place about two weeks ago and when somebody complained why somebody was being retained and somebody else was not, then the unions were told, "The reason is because there is a breadline formula in existence and that is the first indication other than the references by the Honourable Member in this House.

HON A J CANEPA:

Then I apologise. There is a breadline formula in existence. I thought it had been cleared with the unions, it was devised over a year ago. I do not know what the reason is, why it has not been done. Maybe it is awaiting, well, I will not say. But there is a breadline formula and the objective behind it is to ensure that we do not give notice to somebody aged over 65 so that he will have to go on Supplementary Benefits. Nor do we want to give notice to anybody aged over 65, so that we have got to employ somebody from Morocco, from Spain or what have you. We have to ensure that there is a Gibraltarian willing and able to take that job. The Youth Training Schemes, I think, in all fairness, require to be given a chance. In the same way as the previous Youth Training Scheme the first year was a failure, by the second year I think over 40 youngsters had enrolled. I am aware of one or two cases where, undoubtedly, it must have had a beneficial effect because if a youngster who has spent a year at the Landport Training Centre is considered today to be good enough to be taken on by A & P Appledore as a

first year apprentice, it must be because they are giving him the advantage of having had a year's training elsewhere which better qualifies him for an apprenticeship than people who have not had such an experience so it can have a beneficial impact. I think that the trouble is that young people, this is my experience over the years, they don't begin to seriously face the problem of unemployment until the summer holidays have gone by because having been at school till the end of June they want to have the two months of summer holidays. I think I know a little bit of what I am talking about because I do deal at first hand with youngsters. And then, in September, they begin to think, the holidays are over, the summer is over, they are not going back to school, how about a job. This is where the apprenticeships come in. The apprenticeships this year, which are about 20 by Government and PSA, the bulk of them by Government, have not yet been awarded. It is on Saturday that young people will go along to select their trade. Twenty youngsters are going to be taken on as a result of that. The student technicians, 5 of them were mentioned, as against 1 last year, were only interviewed about a week ago. Two or three weeks ago about 100 youngsters were interviewed for vacancies for Clerical Assistants and they have been wait listed and as vacancies occur, and they will occur, because for instance, I heard the other day that in the Income Tax Office alone, 4 C.A.'s were being promoted to C.O. so that would create 4 vacancies for CA's, so there is a process now that over a definite period of time over the next six months the Government is going to be employing a considerable number of Clerical Assistants which will also mean a reduction in the levels of unemployment. But what is unfortunate is that where-as the apprenticeships used to be given at the beginning of September, now the whole thing is being pushed back and it is being pushed back because with job opportunities generally being more scarce than what they were, young people want to play safe. You may well get a young man who applies for a Gibraltar Government Scholarship also applying as a student technician, and also taking the apprenticeship exam and so you have got to go through the process of seeing if he has got a scholarship. If he has, he does not take on the student technicianship but if he does not get a scholarship, he has got a second fallback position and then he has got a third fallback position and the apprentices are now being pushed back into November for the first time ever, last year I think it was in the middle of October. These delays are also aggravating the problem and the fact is that eventually in November or so, 50 youngsters find themselves with a job that they did not have in July, 28 being taken on by A & P Appledore and over 30 between the PSA and the Government. That is the sizeable contribution compared to last year and the year before when it should not be forgotten that MOD were not awarding any

apprenticeships at all. Something is happening, things are moving slowly but there they are. What about the future. The construction industry, I think, should benefit from the builds which the MOD are going to have of 60 or 70 married quarters, which have now been approved by the Treasury in the UK and funds have been provided. That will provide jobs in the construction industry. The Vineyard Project which we are launching in November, that will provide jobs, not overnight, but as it picks up over a period of time, that will provide employment. And then, of course, there are the tourist orientated projects in the pipeline. Rosia could come on stream much earlier, not so Queensway. Therefore my message is this, that I do not see a short-term improvement in the situation. I do not think it is going to improve in the next year or two but it should begin to improve after that if our forecasts are correct. If we are mistaken, no. If the frontier normalises and tourism begins to pick up, the tourist industry will expand, there will be jobs. The financial sector is already providing significant employment opportunities, the trouble is that they are going to people from outside Gibraltar. It is UK Nationals that are being attracted to Gibraltar and this has got to stop and the way to stop it is to ensure that we train our people to take over these opportunities. There is a need I think to get obviously the economy moving. I would hope that if the Commercial Yard is able to open its doors on the 1st January, that they will be able to build up as they indicate that they can to a higher level of employment in the course of 1985 than what the Naval Yard has been offering. But here, I think I also have to warn the House, that if there is a shortfall it could well be that because of the nature of the present unemployment which we are suffering which is of a structural nature, they may have to go outside Gibraltar to recruit in some cases. And again that is bad. That is bad from an economic point of view and from a social point of view but there may be no alternative, there may be no other choice because a lot of people have also been playing safe and people who could have been employed by A & P Appledore prefer employment elsewhere and have been getting employment elsewhere in the last few months. That has been happening so the skills that are left amongst the pool of unemployed, if there are skills, may not be such that A & P Appledore can absorb them. There is that problem and I think I have to warn the House about because that has got certain consequences. We have seen the reaction, and rightly so, that there has been with the move by the Ministry of Defence or PSA to terminate employment for the young people because there are others from outside Gibraltar who they considered merited priority treatment. This is the kind of situation where if it is exacerbated within our community, can produce the very great social stresses that I was referring to earlier. I hope,

Mr Speaker, having said all that, that the Honourable Members opposite will accept that there is on the Government benches an awareness of the extent of the problem, of the reasons behind the problem. We think that we have got policies that could ameliorate the situation if they were all to come off. Honourable Members opposite may not agree about the direction in which we want to move the economy. I would like to see them unravel that economic plan once and for all. Not put into effect because to put it into effect they would have to be here and I would rather be here and let them stay there. But at least they must accept that we have thought deeply about the matter and within the constraints that we have, we think that measures in the medium to longer term can be taken that will ameliorate the situation. We are not complacent, the level of unemployment is worrying. I would have liked to have seen what I call the more negative being taken earlier because the number of unemployed would then be lower and if the numbers of unemployed are lower the stresses and the pressures are less. I have explained the difficulties and I hope, as I say, that Honourable Members will agree that it is not because there is not a political will to do something about it that the level of unemployment is what it is today.

HON J L BALDACHINO:

After that lengthy intervention of the Honourable Member, I am going to be very brief. I hope that after the intervention of the Honourable Minister for Labour and Social Security who was very complacent he is now more aware of the grave situation we find ourselves in. I think that one of the main causes of the problem that we find ourselves in now is the delay in aid from UK. I think that for future reference the Government should not be the buffer between the British Government and the people of Gibraltar.

HON DR R G VALARINO:

If the Hon Member will give way. I deny totally that I am complacent. I said in my speech that the Government is naturally concerned. There is no complacency on this side of the House and there is no reason that I can see why Honourable Members on the other side should feel the need to accuse any Member on this side of the House of being complacent.

HON J L BALDACHINO:

Mr Speaker, the impression given by the Hon Member's contribution was one of being complacent. If he is not complacent then we are glad.

HON MAJOR F J DELLIPANI:

Mr Speaker, the Honourable Minister for Economic Development and the Minister for Tourism have mentioned certain spheres of activity which will produce, not in the short term but in the long term, employment in Gibraltar. If I recall there were three. One was tourism, the other was the build up of married quarters by the Ministry of Defence and the consequent activity that this will create within the building trade and the third was the financial centre. The financial centre is certainly creating work but as my colleague has mentioned because of the specialisation of that work it is attracting UK personnel. But that is a sphere that with proper training local people are attracted to that kind of work. However I beg to differ with both my colleagues because given the traditional attitude of the Gibraltarian towards a specific type of work, the tourist industry in the main will only produce work for other people, for aliens, and not for Gibraltarians. I am sorry to say that that tradition we have in Gibraltar has not changed and, unfortunately, even though I am a parent myself, that tradition must change otherwise what we are doing is providing work for people from outside Gibraltar. The same applies to the building trade because, unfortunately, in the building trade the main skills are again provided by the aliens. We provide the labourers and as an off spin the odd clerk, the odd storeman, timekeeper, MT driver but the bulk of the work is still carried out by craftsmen from other countries. This was why in my time as Minister for Labour I am sorry that it has not been successful, I will certainly try and think of other ways with my colleagues to do something about it. I saw a way forward in the schemes for providing accelerated training courses for two specific areas which have been identified not only by our own Government, but by the PSA/DOE and this was masons and painters. In fact, in a meeting I had with the PSA/DOE Director, he did say that there was a need for painters and rather than employ from other sources he would try and bring them on UK contract in the expectation that by that time we would have trained painters to replace them and that was very laudable of the Director of PSA/DOE. But unless the people of Gibraltar, and I do not blame the children, I blame the parents, unless people realise that we cannot all be clerical staff of the Government of Gibraltar, we cannot all be employed by the Gibraltar Government, that there are other spheres of work, whatever we do to create more activity only the spin off * will be for the Gibraltarian but the bulk will still be for aliens. This situation cannot continue because as you rightly said, we cannot have a situation where we have a huge force from outside and our own people unemployed. The social upheaval that that can cause is tremendous but it is not only the fault of the Government of

Gibraltar or of yourselves as the trade unionists because I am sure that for your part you do try to encourage people to look to other ways and means of finding employment. Everybody is hopeful of the longterm solution. I am worried already of the short term solution because if one person is unemployed who is employable, I worry about him because he is a person and I am human, I could be in that situation. The people of Gibraltar tend always to look at the Government of Gibraltar to provide work through the Public Works Department, and I happen to be Minister for Public Works and though I am not known now as a socialist I think that in my short time there I have already created some work but I would like some of that work which is created within the Government to be reserved for people who are unemployable not because they are social misfits but because they have either physical or mental handicaps. And the Gibraltar Government does quite a bit but I think there is room for more to be done within the Government because we must set the example and I am thinking particularly of a couple of people I have met recently. On the social misfits there is no way we are going to employ them because Gibraltar is very small and we keep sending the same people to the same employers and they keep coming back. What I am saying is that, essentially, if we are looking towards the building trade, if we are looking towards tourism, then we have to change our attitude, we really have to. I know of places within the tourist industry where they want people to work in hotels and other associated business but the youngsters do not want to work on Saturdays and Sundays. The aliens are prepared to work any time. If I remember one of the things that struck me most when I was Minister for Labour and the frontier opened in December, 1982, was the mass of Spaniards who came into Gibraltar and we kept telling them that there was no work for them and they kept going to every workplace and every shop in Gibraltar. The Moroccans still do the same. They will all go to every site, to every shop, to every employer they can think of to look for work but the Gibraltarians will only go to the Labour Department to see if we have work for them or to the union. They have not got that same spirit for searching for work that other people have, we have not got it. Maybe it is because we have had it so good for such a long time and we have got used to it and we are over protective towards our own children. Maybe that will change. But until that attitude changes no matter what scheme we think of our solution to reduce the problem will be even more difficult because even in England, I have been to UK three times this year, I have noticed the difference that before when you went into hotels everybody was either a Greek, a Spaniard, Italian or Portuguese and now you find English people working as chamber maids, as porters, as night porters, etc etc. This situation has not developed in Gibraltar. I hope that the changed attitude that I have found in the United Kingdom will also come about in Gibraltar otherwise what we

are going to have is an imbalance of Gibraltarians unemployed and lots of work for aliens.

MR SPEAKER:

I will then call on the Hon Mover to reply.

HON M A FEETHAM:

Mr Speaker, when I put the motion to the House I recall that I started by saying that it was the responsibility of the Opposition to monitor Government policies particularly those policies which have been presented to the House as a means of resolving a problem. In this case the motion dealt with unemployment and the motion was meant to monitor precisely the measures which were announced by the Minister for Labour in response to the unemployment situation. I said that if we were to look closely at the effect of those measures that in our view they have been totally ineffective. I must say that I was rather disappointed, if I may use that word, at the manner in which the Minister presented his arguments against the motion. The impression I got was that there was not an unemployment problem because I began totalling the figures that he presented to the House which I am disputing and at the end of it I came to the conclusion that we were suffering from an over employment situation, that we were short of workers, in effect. That is the distinct impression I got. However, as the debate developed, it was clear to me that the lack of awareness on the part of the Minister was not the lack of awareness which was reflected by the other Members of the Government. It became clear that in fact, Government recognises that not only do we have an unemployment situation but, in fact, much more positive steps have to be taken than the measures that the Minister announced in March this year. But the difference between what the Minister said and what the other Ministers have said is that those measures are going to take time to materialise and in fact one Minister said it could take up to 3 years. The hump that that is going to produce in the unemployment area is going to produce great social problems because unemployment is going to increase and it is going to increase substantially. What are we going to do to alleviate the situation in between? That is where the Government's responsibility lies in resolving it. That is what they were elected for. The argument on which they are basing their policy for resolving the problem in the long term and not the short term because in the short term it is clear to both sides that the problem is going to get worse is that they are basing themselves on tourism on the one hand and the Gibraltar Shiprepair Company as the two main pillars. I agree that it is going to take a long time before not only do we get rid of the unemployment situation but we find ourselves in an expansion

situation. I was really taken aback by the manner in which the Minister for Tourism intervened because I made the comment that tourism isn't going to generate employment in the foreseeable future unless of course we get an opening of the frontier but then we do not see that those jobs are going to be created in the permanent sector of the tourist industry vis a vis the hotels because if he wants an answer from somebody who knows just a little bit about the subject it really boils down to the Minister for Tourism deciding what his policy on tourism is going to be which is the market that is going to generate tourism to fill the hotels in Gibraltar because one day he is saying it is the specialist market, the next day he is saying the mass market. He has to decide so that the people that market will be able to go forth knowing that the Government has made a decision on the matter. The fact is that there isn't going to be a development in the short term and we recognise this. We have brought this motion because we are in fact putting Government on notice of the extent of the problem and that it needs to be tackled and we shall continue to raise the problem and we shall continue to monitor the situation because that is of course, our duty. It is not our duty and we have repeated this time and time again, and we shall repeat it so long as that side of the House keeps bringing up the matter, it is not our job to tell the Government how to resolve the problem and it is not our job to say how the economic problems of Gibraltar should be solved. We will do that when we are elected into Government. That will be the day when we will begin to unfold the economic plan that our colleague, I can assure you, has got in his brief case. Because all the contributors on this side have in fact answered all the points and have covered all the points that need to be covered, I don't think I ought to make any further contribution in support of my motion and in reply to the Ministers opposite.

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

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 voted against:-

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

The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon B Traynor

The following Hon Member was absent from the Chamber:-

The Hon E Thistlethwaite

The motion was accordingly defeated.

HON CHIEF MINISTER:

Mr Speaker, I beg to move that this House do now adjourn till the 19th of November, primarily for the appointment of the Gibraltar in Europe Group, and we have a little business that we can do later on before the final adjournment. Whilst in no way subscribing to support anything, I think it must be a sad day when a person who is elected to hold office is assassinated and we know that Mrs Gandhi died this morning. Whatever her policies, she was an elected leader and I think it is dreadful that differences should reach a stage in democracies where the only answer is assassination and I am sure that all Members here share with me the idea that this is abhorrent and repugnant.

HON J BOSSANO:

I would like to confirm, Mr Speaker, that we share entirely the sentiments expressed by the Honourable and Learned Member. We believe in parliamentary democracy and we believe in persuading people whose ideas differ from ours. Certainly, whatever one may think about the particular policies of Mrs Gandhi or in any other political leader, I think the strife that this could bring is one more distabilising factor in a world which is so small that we all need each other whatever the colour or creed and we need to help and give assistance to each other. An unstable India is a more unstable world than we have got and we have got one that is unstable enough already. I associate myself entirely with the Chief Minister.

MR SPEAKER:

As I normally do when both the Chief Minister and the Leader of the Opposition express regret in such circumstances and other matters, I will most certainly join with the words of regret that you have both expressed. It is, I think, sad to

see the life of such a prominent and dedicated politician extinguished in this cruel and horrible manner and I would say that both my prayers and sympathy go to her family and India generally. Having said that I would like to tell the House that I have received a further notice for a matter to be raised in the final adjournment of the House which will be the 19th as has been proposed by the Honourable and Learned the Chief Minister. It comes from the Honourable the Leader of the Opposition, and it reads as follows: "I beg to give notice that I propose to raise on the adjournment the illegal application of funds from the Gibraltar Shiprepair Limited Special Fund contrary to the provisions of Section 6(4) of the Gibraltar Shiprepair Limited Ordinance." I will put the question that this House do adjourn to Monday the 19th day of November 1984, at 11.30. I would ask Members that as we are meeting for a specific purpose, we do make it a point of being early.

HON A J CANEPA:

Mr Speaker, what will happen on the adjournment, are we likely to find ourselves going on beyond one o'clock?

MR SPEAKER:

It is suggested that we meet at 11.30 to hear the motion. We will then recess and return in the afternoon to finish the rest of the business.

The question was resolved in the affirmative and the House adjourned to Monday the 19th November, 1984, at 11.30 am.

The adjournment of the House to Monday the 19th November, 1984, at 11.30 am was taken on Wednesday the 31st October, 1984, at 7.25 pm.

MONDAY THE 19TH NOVEMBER, 1984

The House resumed at 11.45 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone - Minister for Health and Housing
The Hon H J Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite QC - 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.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, it is once again my pleasure and privilege to propose a motion on the subject of our representation in the European Parliament of which notice has duly been given. The Motion reads:

"This House -

- (1) resolves that the following British Members of the European Parliament, having expressed their willingness to represent the interests of the people of Gibraltar in the Parliament, are formally recognised by this House, on behalf of the people of Gibraltar, as representing their interests:

Lord Bethell
Mr Alf Lomas
Mrs Caroline Jackson
Mr William Newton Dunn
Mr Anthony Simpson
Mr Glyn Ford
Mr Tom Megahy

- (2) wishes to express the thanks and appreciation of the people of Gibraltar to the aforesaid Members of the European Parliament for their interest, for their goodwill and for their initiative in ensuring that Gibraltar is represented in the European Parliament, as an interim arrangement, in an indirect way; and
- (3) warmly welcomes the Gibraltar in Europe Representation Group on its second visit to Gibraltar."

Mr Speaker, it is just over four years that the House passed a resolution in very similar terms. Its origins lay in a suggestion which had been made, some months earlier, by Lord Bethell which had led to an invitation from the President of the Parliament to Mr Peter Isola, then Leader of the Opposition, and myself to pay a visit to the Parliament.

During the course of that visit we addressed the various groupings in the Parliament on various issues concerning Gibraltar, the three principal issues being the right of the people of Gibraltar to self-determination, the question of the Spanish restrictions and our wish to be given the right to vote in European elections.

We were heard with great attentiveness on these three main issues, and the interest of members, of all shades of opinion,

was shown by the intensive questioning which followed our presentations.

We made it clear, of course, that we were in no way seeking to obtain from the Parliament an adjudication on the merits of the dispute between Britain and Spain over Gibraltar. We were simply trying to establish that the rights of European nationals, however small a community they might comprise, were worthy of protection.

Perhaps because the question of Gibraltarians voting in European elections was the one that most directly concerned the Parliament, it was that to which many of those to whom we spoke addressed themselves. There was much sympathy for our position and I think it is true to say that the great majority of the members felt, in principle, that the right to vote should be ours. The difficulties of achieving this were recognised and it was then that Lord Bethell proposed to the Gibraltar delegation that, until the matter could be explored further, he and a number of British Conservative and Labour colleagues in the Parliament might represent our interests indirectly.

It was thus that the Gibraltar in Europe Representation Group was born. It was then decided that a motion should be proposed in the House of Assembly by means of which the elected representatives of the people would, on behalf of Gibraltar as a whole, 'adopt', as it were, the six European Parliament members concerned and thus formally establish their status as representatives of the interests of the people of Gibraltar in the Parliament. The resolution was duly communicated to the Parliament by Mr Speaker and was reproduced in the Parliament's Bulletin of 3 October 1980.

Today, as on the last occasion in 1980, I ask the House formally to recognise and establish this status, once more, in respect of the seven members named in the motion. In doing so, I should like to say, first, that we take particular pleasure in noting, among the list of names, as on the last occasion, those of Lord Bethell, Leader of the Group, and Mr Alf Lomas, now Deputy Leader; secondly, I should like to record in this House our thanks to them for their continuing interest in the affairs and welfare of the people of Gibraltar as well as our thanks to Mr Brian Key, Mr Kenneth Collins, Mr Adam Fergusson and Miss Gloria Hooper, members of the first Group but now no longer members of the Parliament; thirdly, I should like to thank the new members of the Group, Mrs Caroline Jackson, Mr William Newton Dunn, Mr Anthony Simpson, Mr Glyn Ford and Mr Tom Megahy for coming forward to assist in protecting the interests of Gibraltar. Mr Simpson and Mr Megahy have of course visited Gibraltar previously. We are aware of the multifarious activities which membership of the

Parliament involves and we are deeply grateful to them all for undertaking this additional task.

It is for this reason that the second paragraph of the motion notes particularly these members' interest, goodwill and initiative in ensuring that Gibraltar has at least an indirect representation in the Parliament.

It is regrettable that, through no fault of their own, but owing to delays between Victoria and Gatwick, Mrs Jackson and Mr Newton Dunn were unable to come to Gibraltar on this occasion. We look forward to an early visit.

The Group's visit to Gibraltar is necessarily a short one. We hope, however, that the new members in particular will have a sufficient opportunity to meet a good number of their adoptive constituents and be able to familiarise themselves at first hand with our problems and aspirations. We ourselves are making full use of this valuable opportunity to discuss these matters with them and we are of course ready, at any time, to provide whatever information may be required.

I should like to express my hope that it will be possible for members of the Group to visit us from time to time during their term of office and to keep closely in touch in this and other ways. It may also be possible to arrange, through and under the auspices of the Group, for members of other nationalities also to visit Gibraltar (I recall, for instance, the visit of Vice President Moller); and, lastly, it may be that a Gibraltar delegation should pay another visit to Strasbourg. In short, I consider it necessary and desirable for the links between Gibraltar and the Parliament to be maintained, strengthened and consolidated.

Sir, I refer now to the third paragraph of my motion in which I ask the House warmly to welcome the Group on its visit to Gibraltar. Although this is essentially a formal occasion and for that reason, Mr Speaker, I have not said anything of a controversial nature, it is right that the warmth of our welcome, which is also being demonstrated in other ways, should be placed on record in this House. We hope that during this visit, and on any future visits, the members of the Group will come to regard Gibraltar as a second home.

Finally, Sir, because of the formality of the occasion, I have refrained, in speaking to the motion, from referring to the current problems facing Gibraltar and to the aspirations of its people. We are discussing these in our informal conversations and the keen interest shown in these discussions augurs exceedingly well for the future relationship between this second Gibraltar in Europe Representation Group and Gibraltar.

If, in our anxiety to make full use of the Group's visit, we have overburdened the programme, I apologise. Perhaps future visits might be a little more leisurely and thus allow the Group's members to relax and enjoy their second home to a greater extent.

Sir, during the last twenty years in particular we in Gibraltar have undergone many stresses and tensions. We are a small community with no natural resources and no muscle in terms of international power. We have been consistently and unalterably determined to defend our identity as a people and our way of life, for this generation and for our children. We have been able to achieve this with the support of Britain and its people. It is a matter of enormous satisfaction and encouragement to us that this support should manifest itself also, once again, among the British members of the European Parliament. I speak from the heart, Mr Speaker, and I know I do so on behalf of the people of Gibraltar as a whole, when I express in this House our gratitude to the members of the Group who have come forward to help us in whatever may lie ahead. Thank you.

Mr Speaker proposed the question in the terms of the motion moved by the Hon the Chief Minister.

HON J BOSSANO:

Mr Speaker, it is indeed a privilege to be able to stand in the House and to have our friends from the European Parliament here at a time when we are moving a motion adopting them as our representatives. I think that the explanation given by the Hon and Learned the Chief Minister of how the group started and the problem of our having direct representation is one where we in the GSLP are conscious of the fact that in practice it is difficult to envisage that we could be better represented or more ably represented by having one member or one sixth of one member, which is proportionately what Gibraltar would be entitled to if it voted directly, than we are at the moment when, in fact, we have increased our representation from six to seven which means we are now represented by the equivalent of nearly one million people in the European Parliament. Lord Bethell's initiative in this respect is something that we must record and be grateful for because possibly if he had not taken the initiative we would not have thought of doing it in this particular way. We are committed, in fact, to direct representation and as far as the GSLP is concerned, that should be by Gibraltar being given a seat in the European Parliament like Greenland had until they decided to leave the Common Market and in the interim the representation that we have is, I think, unique in more respects than one because we all know as politicians, Mr.

Speaker, that there is nothing that sharpens the mind so acutely in political life as the need to go back and satisfy one's constituents who can then vote us into the House of Assembly or into a Parliament or out of it and therefore certainly one can say that our members of the European Parliament do it because they care for us and not because we are in a position to guarantee them their seats or to influence their re-election and therefore it is a labour of love and nothing else in their case. I do not want to draw any distinction between the commitment of the conservative Members and the Labour Members but I can say, and I am sure the same goes for all the friends that we have in the Conservative Party, that within the Labour Party the three members who are presently in Gibraltar and that are part of our group in the European Parliament have got a love and dedication for the people of Gibraltar which is absolutely rock solid and they are particularly valuable friends, I think, for us in Gibraltar because traditionally Gibraltar's position has been seen with a greater sympathy within the ranks of the Conservative Party because it has been linked to Britain's historical past and its now disappeared empire and many people within the British Labour Party and within Socialist Parties in Western Europe see Gibraltar as a relic of that past and as belonging in the past and our concern must be of necessity about the future and about the future of a Gibraltarian people who are as worthy of protection and defence as any community anywhere else in Western Europe irrespective of size. That message is the message we wish our members of the European Parliament to take forward and therefore, as well as expressing from our side of the House our gratitude on behalf of the people of Gibraltar for the honour that they do us by accepting being our spokesmen in the European Parliament, I think it is important that they should appreciate what we want them to say on our behalf and although this is a formal occasion, as the Hon and Learned the Chief Minister has said, and although he has avoided saying anything controversial for that reason, as you very well know, Mr Speaker, formal occasions have never inhibited me from saying controversial things. Therefore, I must say that I believe it is right that it should be said publicly that the proposed visit by some members of the delegation to our next door neighbour is something that the Opposition does not agree with and something that we would ask them not to do. I am sorry if this places Lord Bethell, whose initiative it was, in an embarrassing position and I appreciate that the initiative that he took was motivated by the best interests of the people of Gibraltar as he saw them and I regret that I was not asked for the view of the Opposition before the request was made to the Spanish Government but I think it has to be understood that the partial opening of the frontier is hurting Gibraltar not because of the people they prevent crossing the border in that direction, it is because of the people they prevent crossing the border in this direction,

Mr Speaker, and therefore to say that the Spaniards have in any way done anything other than maintain their restrictions because they allow an MEP, we know is not the case because, in fact, they have gone much further, they have opened the frontier and allowed a motorcade through because, of course

MR SPEAKER:

With respect, you have made your statement of principle on the particular issue as to the crossing of the border but I do not think we must use that as an excuse to expand on the policies that Spain is at the present time implementing towards Gibraltar. You have made the point and to that extent I think you were entitled to but we must not go beyond that.

HON J BOSSANO:

Mr Speaker, I do not think I am going beyond anything, what I am doing is explaining for the benefit of the members of the European Parliament who may not be aware of it.....

MR SPEAKER:

You are speaking about motorcades and such like and I am calling you to order to that extent.

HON J BOSSANO:

I accept your ruling Mr Speaker, but as far as I am concerned I think Lord Bethell ought to know that we have had Sheiks visiting us in this direction in cars and that that is a greater lifting of the restriction than what is going to happen if they let him through in the opposite direction and I think he ought to know. Mr Speaker, that we have had situations where tourists are given identity cards so that they can go across.

MR SPEAKER:

I do not want you to particularise, you can generalise and I think you have done it.

HON J BOSSANO:

I am sure that Lord Bethell when he moved into the situation that he asked the Spanish Government whether they would allow him to go across must have thought that he was establishing a precedent which perhaps as a result of what I am saying he appreciates, in fact, is a precedent that has already been

established in both directions. I think he also needs to know, Mr Speaker, that the elected Members of the House continue to abstain from visiting Spain although, in fact, the vast majority of the people of Gibraltar do so regularly and that is because we feel that part of the responsibility and part of the price that has to be paid by standing as Members of this House and by acting as the representative of the people, is that we put on ourselves voluntarily, without any pressure from anybody, we put on ourselves voluntarily a limitation because we feel that to go across and accept the restrictions that are being placed on the people who cross, the fact that there has to be a pedestrian crossing, the fact that things cannot be taken over and so forth, would be to acquiesce in those restrictions and that we must give leadership and therefore I would ask our members of the European Parliament to follow the example of our Members of the Gibraltar Parliament and out of solidarity, with the stand that we have taken, to refrain from going even though the authorities in Madrid have said that they will make an exception because we know the authorities in Madrid are prepared to make exceptions, we are concerned about the ordinary average citizen being treated at this particular European frontier the same as he is at any other European frontier and not with a Government that, we know only too well is prepared to have different sets of rules depending on whom they are dealing with. If you will be kind enough to allow me to stray a little bit more, Mr Speaker, seeing that I made up my mind to be controversial.

MR SPEAKER:

I am delighted you have recognised the fact that you have strayed.

HON J BOSSANO:

I just want to mention before I sit down that in the view of the Opposition it would have been useful for members of the European Parliament to be present in the Chamber when we debated the motion that we had originally intended to take on the adjournment but which have now given formal notice of and is being to be taken next Monday, dealing with the fears that we have about the way the negotiations are being handled by Her Majesty's Government on behalf of Gibraltar and the lack of information that we have in this House about what is taking place and the total absence of influence that we have on the course of negotiations. We think it was an important occasion for us because we believe that our MEP's should be winned, dined, welcomed, embraced and made to work while they are in Gibraltar, Mr Speaker, and therefore with those words I think I will commend the motion to the House.

MR SPEAKER:

Does the Hon Mover wish to reply?

HON CHIEF MINISTER:

Yes, Mr Speaker, I would like to say a few words. First of all, knowing Lord Bethell I do not think anything that is said here or anywhere else will embarrass him, he is a born fighter of good causes and he is not going to be intimidated by the Leader of the Opposition into not going to Spain if he wishes to and I think it is very bad taste to have raised that as a matter of principle because he knows exactly the position, he knows the position as to how we act on these matters and he knows what he thinks he ought to do and it is because he knows what he thinks he ought to do that he is here today with his colleagues, as the Hon Leader of the Opposition has rightly said, it was his initiative. I do not want to enter into a controversy over this, we all know the extreme views of the Leader of the Opposition about these matters, we respect them for what they are and in respect of the question of the visit that, of course, is something that has been followed by all Members, in fact, I understand that at the beginning there was a reluctance on the part of certain of his new Members to abide by the rule since some of them had properties in Spain but, be that as it may, the position is that these Members have come to Gibraltar to help us and we have to tell them all the information that we have for them to act, as the Leader of the Opposition very rightly said at the beginning because they have no commitment to us other than a voluntary commitment. With regard to the motion, if the reason for changing the notice given on the adjournment, and this meeting was specifically postponed in order to make it possible for members to be here, if they changed that to a substantive motion and thought that the Members were going to be bored here for three days listening to a long debate of which they must have heard many things to do with the EEC, well, I think, he wasted his time because in any case they are due to leave tomorrow and even if we had tried to we would not have been able to deal with this matter. The adjournment was purposely made to receive them and to appoint them and for that reason the proceedings will be adjourned until next Monday to deal with the motions and if he can persuade some of his friends in the group to come over I am sure they would be delighted to hear him and also the answers that will be given. I think this is a formal occasion and it is an occasion for agreement and unity and thanks and gratitude and it is in that spirit that I have addressed the House and it is in that spirit that I reply to the Hon Member.

Mr Speaker then put the question which was resolved in the affirmative and the motion was passed unanimously.

ADJOURNMENT

HON CHIEF MINISTER:

I now move that we adjourn until Monday the 26th November at 10.30 am.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Monday the 26th November at 10.30 am.

The adjournment of the House to Monday the 26th November, 1984, at 10.30 am was taken at 12.15 pm on Monday the 19th November, 1984.

MONDAY THE 26TH NOVEMBER, 1984

The House resumed at 10.40 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, MVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon H J Zammitt - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite QC - 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

ABSENT:

The Hon M K Featherstone - Minister for Health and Housing
(who was away from Gibraltar)

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House resolves itself into Committee to consider the Merchant Shipping (Amendment) Bill, 1984, clause by clause.

THE MERCHANT SHIPPING (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.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Merchant Shipping (Amendment) Bill, 1984, has been considered in Committee and agreed to, without amendments, and I now move that it be read a third time and passed.

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

PRIVATE MEMBERS' MOTIONS

HON M A FEEATHAM:

Mr Speaker, I beg to move that: "This House is seriously concerned at the continuing uncertainty over the political effects on Gibraltar on the enlargement of the EEC as reflected in the answers to Question Nos. 115, 116 and 138 by the Hon Attorney-General. It considers it unacceptable that negotiations on terms of membership for applicant countries should be taking place without Gibraltar having a say in the matter, notwithstanding the fact that it will be bound by whatever is agreed. It therefore requests that Her Majesty's Government should consult with the EEC Committee of this House before agreeing to any terms for applicant countries which impose obligations on Gibraltar which could prove detrimental to its economic stability". Mr Speaker, I believe that very few, indeed, if anyone in Gibraltar, will disagree with the sentiments expressed in the motion that I have just put before the House. If we deal with the first part, all Gibraltar is seriously concerned at the continuing uncertainty over the political effects on Gibraltar of the enlargement of the EEC. Equally, very few will accept that negotiations on terms of membership for applicant countries should be taking

place without Gibraltar having a say on the matter yet we are all bound by what is decided. Finally, no one will disagree with the fundamental rights of the Gibraltarians to be consulted before agreeing to any terms for the applicant countries which impose obligations on Gibraltar which could prove detrimental to its economic stability. Therefore, Mr Speaker, why is it necessary then for this motion to be brought to this House? Surely, very few will have reason to oppose it, not even those responsible for handling our external affairs, the Foreign Office, should find much in this motion to quarrel with. Yet, Mr Speaker, the unfortunate reality of the situation is that once the sentiments expressed in this motion go beyond the boundaries of the territory of Gibraltar, so many other interests come into play, that the rights of the people of Gibraltar takes second place to other considerations. On the matter of Gibraltar's membership of the EEC, the fact is that Gibraltar has had a very bad deal and all indications are, therefore, that it will continue so. We witnessed in 1972 and particularly since 1976, a manipulation of Gibraltar that for some of us it is very difficult to swallow. The Attorney-General's reply to my questions and that of my Colleague, the Hon Robert Mor, on EEC matters was one further indication of the unsatisfactory manner in which our Government is dealing with this matter and indeed responding with what can only be judged as the official line from the Foreign Office. The answers to our questions on rights of Spaniards and Portuguese nationals already resident in Gibraltar, was met with a reply that negotiations on Spanish and Portuguese accession to the EEC had not been concluded, the terms of accession including derogations and transitional periods had not yet been decided. It was, therefore, according to the Attorney-General, not possible to give the confirmation requested. Mr Speaker, that the Attorney-General should give such a reply at this late stage of the proceedings and, incidentally, that a similar reply be given in the House of Commons after my motion on the adjournment was tabled, confirmed what the Opposition has been maintaining all along and has been kept from us. It was therefore not possible, Mr Speaker, other than to come to the conclusion that there had been a contradiction of the previous position because, Mr Speaker, the replies we have been getting, certainly during the last four years, has been that Spain and Portugal would enter the EEC on the terms provided for by the Treaty of Rome, that Gibraltar's efforts to obtain derogations and similar safeguards would not be acceptable to other Member States and would go against the Treaty of Rome. We now find from the answer given by the Attorney-General, that negotiations are not completed and that derogations and transitional periods have not been concluded. Mr Speaker, I ask, what derogations and what transitional periods? Who has asked for them, which side of the table in the negotiations has asked for them and for what reasons, under what circumstances,

because Mr Speaker, it is precisely the answer to these questions that will demonstrate that Gibraltar which has had the same rights as other Member States to negotiate derogations and transitional periods, have in fact been denied so and yet other interested parties in their own national interest have not hesitated in putting forward their own case in defence of the interests of their own economy. Let me, Mr Speaker, before going any further, spend a little time because it is necessary as we have reached a very fundamental stage in the negotiations, to recall a little of the history of the Gibraltar EEC membership if only to show how badly Gibraltar has been treated and to what extent the Government has to take the responsibility for it. Gibraltar's ills, of course, commenced on entry into the EEC in 1972. It is now a matter of historical fact that the most inept piece of negotiation was done on behalf of the people of Gibraltar during the period from 1970 leading to membership in 1972, because, Mr Speaker, the very arguments that we are faced with today existed in 1972. Surely, it must have been as inconceivable then as it is today that Gibraltar could never achieve an economy of a similar nature to other Member States. Gibraltar could never compete on equal terms with other Member States. Gibraltar without special consideration could be wiped out as a nation with its own economy and consequently, Mr Speaker, fundamental to the rights of the people of Gibraltar would put paid to any political aspirations towards this end. At that time in 1972 these arguments were just as valid. The only difference was that Spain was still a Fascist country but nevertheless European and that Gibraltar was literally cut off from the rest of Europe. This, Mr Speaker, does not exonerate those with the political responsibility for having achieved this deplorable state of affairs. Lack of information, preparation, study and foresight on possible future Spanish intentions on the EEC indeed left many areas in our negotiations that should have been given more careful and detailed consideration but in fact received none at all. Gibraltar was simply admitted as a dependent territory without much detailed consultation and research into our needs. After all, Mr Speaker, amongst the economic policies pursued at the time was the enhancement of Gibraltar as a tax haven. The terms of entry achieved where, in fact, in direct conflict with those very policies which people were promulgating at the time because even today with the directives issued by the EEC since then it has become clear that Gibraltar's ability to encourage this line and this policy is now highly suspect. The difference between 1972 and today is that whilst the same secrecy and lack of information exists, the Government has had the benefit of hindsight of the agreements reached with other dependent territories, for example, the Isle of Man and the Channel Islands, indeed, of numerous representations by various influential sectors in Gibraltar and of opinions

which have been submitted to Government and, indeed the experience of being a Member of the EEC and therefore have had opportunity to begin to redress the situation. Yet today, Mr Speaker, there is greater uncertainty about Gibraltar's future in relation to the EEC and Spanish entry than there was in 1972 because today the reality is that much stronger. Since 1972 and up to 1980 when the GSLP brought a motion to the House seeking a re-negotiation of Gibraltar's terms of membership of the EEC, Government has had plenty of time to prepare the way for a determined piece of imminent negotiations and I say prepare the way with determination; with determination, of course, if the Government believed that Gibraltar's position was vulnerable. If they didn't believe that Gibraltar's position was vulnerable then Government should have said so publicly but instead, as they have always chosen to do in difficult situations, they have ridden the waves publicly and toed the line privately, Mr Speaker. Re-negotiation was possible, it was on and it was made possible by the Spanish and Portuguese applications, Mr Speaker. It is only at that time, at the time of enlargement, that a Member state can make a case of its own and put it forward as a basis for negotiation. The arrangements made for the Channel Islands and the Isle of Man which lead, for example, to the amendment of Section 227 of the Treaty of Rome, itself had clearly set a precedent which could have made it possible to re-negotiate the status of Gibraltar under the EEC during the course of the negotiations leading to Spanish and Portuguese accession to the EEC. There was, of course, also the other less attractive alternative but better than what we have today in our view which was to stay within the provisions of the EEC Treaty subject to certain derogations which could have been set out in a protocol and was done in the case of Greenland which was permitted to retain trade and other licence conditions. But what has happened, Mr Speaker, since 1980? In July that year my Colleague and Leader, the Hon Joe Bossano, brought a motion to this House calling for a study to be made on matters related to the negotiations of Spanish entry to the EEC and the implications for the economy of Gibraltar, for a study to be made on the economy of Gibraltar on trade and employment and that when the results were completed, to seek from Her Majesty's Government special arrangements with the EEC to protect Gibraltar's interests. The result of that motion, Mr Speaker, was that the Chief Minister set up a small sub-committee of the House to look at the matter with a view to seeking safeguards in the context of the negotiations of Spanish entry. That was in July, 1980. In August, 1981, the Chamber of Commerce produced an opinion by Mr Michael Burke Caffney on Gibraltar's position in the EEC and this passed to the Chief Minister soon after though it did not get to the Sub-committee of the House until January, 1982. The opinion,

though in a form of preliminary advice, was nevertheless well documented. Its final view to all intents and purposes endorsed Joe Bossano's motion of July 1980, because Mr Burke Caffney said that he would judge that it would be much easier to persuade not only the British Government but also the other EEC Members to agree to the desired solutions to the problems of Gibraltar if a fully researched and considered report was commissioned and made available with conclusions on the effects on Gibraltar of the accession of Spain to the EEC and recommending specific objectives to be achieved on re-negotiations by the British Government of Gibraltar's position under the Treaty as the price of agreeing to Spain's admission to the EEC. There, Mr Speaker, was another authority pointing the way forward and I have to admit that to expect the British Government to put Gibraltar's case as the price to agreeing to Spanish admission after Britain has allowed a Fascist Spain to throw its entire weight short of military intervention against the people of Gibraltar, would be asking too much but nevertheless the fundamental opinion was that a study could be made and that should be done in the process of negotiations for Spanish entry. Yet, Mr Speaker, whilst the Chief Minister through the Sub-committee is supposed to be looking at these problems, he did not hesitate, for example, in November, 1981, in telling the Chamber that the question of protection for business would run counter to EEC policies and could not be upheld. At the very time we are supposed to be looking at a comprehensive study of the implications for Gibraltar on whose advice, for example, did the Chief Minister give up the fight as early as eighteen months after the motion was presented by my Colleague if we hadn't finished what we intended to set out in doing? In fact, in August, 1982, Mr Natali, on behalf of the European Commission, made it quite clear that Gibraltar's position had not featured at all in the negotiations.

HON CHIEF MINISTER:

If the Hon Member will give way. I think that there was a denial that he had said that, an official denial that he had ever said that.

HON M A FEETHAM:

Mr Speaker, subsequently, it became quite clear in any case as I will say in my speech, that no representations had been made officially at that time by the British Government to the European Commission for re-negotiating Gibraltar's case. And in fact, the word used was that they were "sniffing around". Anyway, even if I were to concede that point, which I am prepared to do, there is no excuse that during this period all

questions by my Colleague Joe Bossano in the House on EEC related matters received very little if no reply in substance. The British Government could not deny that things were happening in Gibraltar otherwise their appointed representatives in Gibraltar were not doing the job they were supposed to be doing during their tour of service. The British Government knew what the position of this House was and what the uncertainty and the views of all the sectors in Gibraltar were in relation to Gibraltar's position and, in fact, in July, 1983, Mr Hannay, the Foreign and Commonwealth Office Under Secretary in charge of European Community affairs and his team visited Gibraltar about possible implications for us of Spanish accession to the EEC. Views were expressed to this team by various bodies concerned but no researched study was made available to them or was available, indeed, at any other level yet in 1st December, 1983, Mr Rifkind, Minister of State at the Foreign Office, in a reply to a Parliamentary question said that transitional arrangements for Spanish entry to the European Community would be the same for Gibraltar as for the rest of the Community, an answer which five months after the visit of the Foreign Office team went completely at a tangent with Gibraltar's case because we had been arguing up to that point in time that the circumstances and the relationship between Spain and Gibraltar in terms of size and potential damage to the economy is unique and practically unlike anywhere else in the Community and required special consideration. So much for the consultation process and so much for the rights of the people of Gibraltar and so on. That is why, Mr Speaker, the matter became an election issue in January, 1984, with the GSLP seeking in our manifesto a re-negotiation of Gibraltar's terms of membership consistent with our declared policy since 1980. In February, 1984, it will be recalled that the Chief Minister said that a progress report had been received and that the House of Assembly Committee on EEC matters would be re-constituted. In fact, in March, 1984, Mr Hannay and his team returned to Gibraltar and held discussions with the Committee. The end result, in a nutshell, Mr Speaker, is that the Chief Minister accepted the Foreign and Commonwealth Office team's advice that nothing could be done further and it was clear that he was not prepared to take the lead in not acquiescing. The Opposition Members of the Committee, my Colleague Joe Bossano and myself, found no support for a general and determined stand for re-negotiation, neither was a fully researched study ever made prior to our forming part of the Committee. The only matter on which we were able to proceed further, and we are still doing so, is on the question of seeking protection for labour. On everything else it seemed at that stage that whatever applied under the EEC Treaty to all Member States, including Spain, would apply to Gibraltar. Mr Speaker, in what can only be regarded as an epitaph rather

than what it was intended for because, surely, it was really out of context with the reality of the existing situation, the Hon Adolfo Canepa in September, 1984, in an address to the International Management Conference said, amongst other things:- "Gibraltar is a member of the EEC, size cannot be ignored in deciding Gibraltar's commitment to the Community particularly with Spain's entry. In economic means Gibraltar does not enjoy any of the benefits yet it will increasingly have to shoulder the costs of EEC membership. Although eligible in principle, Gibraltar does not on its own necessarily qualify for EEC funding. If we have to develop other areas, for example, Finance Centre activities, Gibraltar will need to secure sensible arrangements with regards to EEC directives, on the lines of the Isle of Man or Jersey. There is resistance to this but we cannot acquiesce easily". That is what the Hon Mr Canepa said in September, 1984, and nobody can quarrel with that, this is what my Colleague and Leader Joe Bossano had said in 1980, four years before, but the Hon Mr Canepa was saying it six months after and to all intents and purposes his Government had caved in to the advice of the Foreign Office, that is the difference. If Mr Canepa means by this Mr Speaker, that Gibraltar should not take much notice of EEC directives and simply put off the date for implementation, if this is what he means by not acquiescing, his answer for not having the political will to stand up with determination on the problem in obtaining a better deal for Gibraltar, let me just say that it is a mistaken and shoddy manner of running our affairs. Mr Speaker, that may be alright for Germany to do who could quite easily put off any pressures to implement directives for an unforeseeable length of time but does Mr Canepa honestly believe that Gibraltar can simply discard directives indefinitely? There is already there, Mr Speaker, the fourth directive on company law which puts a question mark on our ability to continue to promote effectively exempt companies in Gibraltar and there is already there a proposal to extend the principles of the fourth directive to a new directive which will embody the banks, Mr Speaker, and in five or six years time the problems that we are witnessing today in relation to the fourth directive on company law we are going to be facing in relation to the banks in Gibraltar. It is therefore not surprising that such uncertainty and such confusion exists in Gibraltar. The questions that brought this motion to the House originally were perfectly legitimate in the context of what we had been told so far in relation to Gibraltar's position. Why then, Mr Speaker, at this late stage of the proceedings is Government not in a position to give the people of Gibraltar answers to questions which should have been readily available and have been available, certainly for years, and would be pertinent and applicable once the restrictions are lifted by Spain and Gibraltar becomes in practice part of Europe for the first

time, if I may say so, effectively, though it has been a member since 1972. Furthermore, in the context of what we have been told up to now, there already existed certain incompatibility in some of the statements that have been made. Unfortunately, the Attorney-General's answers to my questions which lead to this motion has confused the matter even further. For example, Mr Speaker, when the announcement was made in the House of Commons and the House of Assembly Committee was informed in Gibraltar by Mr Hannay that the agreement on trade between Gibraltar and Spain would be the same as between the other Member States and Spain subject to derogations and transitional periods we were told they were in the context of the requirement on the Spanish side to reduce their import tariffs so that as a result of the negotiations Spain would reduce import duty on British cars over a ten-year period from their present level of 40% meaning that in the first year, for example, in the EEC British imports into Spain would pay 40% duty, in the second year 20% and so forth until the tariff disappeared altogether and on the other side Britain would do away with the tariff on Spanish cars straightaway. That is what the differences were in relation to derogations and transitional periods in terms of harmonisation leading to Spain becoming fully integrated in the common external tariff. Gibraltar is outside the common external tariff, Mr Speaker, and that means that Gibraltar is free to put whatever duty we wish on British cars and conversely, for example, on our re-importing them to the UK the export duty would be applied and also the question of VAT. We are not part of the free market to which Britain and the other Member States and to which Spain will belong so the relationship as far as trade is concerned between Spain and the other EEC countries is based on being within the free trade area subject to the transitional provisions. But, Mr Speaker, the relationship between us and Spain will be that we are outside the free trade area. It does not make sense for the statement to be on record that trade between Spain and us will be no different as between the other Member States and Spain. For example, if we are now required to give complete free access to the Gibraltar market for Spanish goods it means we cannot put any duty on their products if the relationship was the same. If they are required to do the same to us it would mean that we could flood the Spanish market with goods from anywhere in the world which would have to pay duty if the goods went directly into Spain but would avoid paying duty by coming into Gibraltar, Mr Speaker. What we are trying to find out is how both things can be compatible. That was the situation before the reply to my questions by the Attorney-General because to say that the chapter on trade has been agreed on the basis that it is exactly the same for Gibraltar as it is for the rest of the EEC does not make sense unless we are both inside the common external tariff and inside the VAT system, Mr Speaker. Can

we therefore have it made quite clear what the position is? At least if the Government are not sure what the position is or do not wish to tell us what the position is, at least by supporting the motion that I have moved in this House it clearly indicates what the House wants and what the people of Gibraltar want because very few people will quarrel with the sentiments of this motion. In the press release on the return of the Chief Minister and the Minister for Economic Development and Trade to the UK to meet the Secretary of State, it was mentioned that the enlargement of the EEC negotiations were also discussed. Perhaps, in view of that and in view of the motion that was already tabled and they knew that the motion was there, perhaps we can now have some answers and a report in this House on the situation. But most important of all, I hope that the Chief Minister took the opportunity of telling the Secretary of State that Her Majesty's Government should consult with the EEC Committee of this House before agreeing to any terms which impose obligations which could prove detrimental to our economic stability, thank you, Mr Speaker.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon M A Feetham.

HON CHIEF MINISTER:

Mr Speaker, the Mover has covered a very wide issue and I shall try to deal with the main points on these matters and I will try to give some answers. It is, of course, quite comfortable from the other side to take the attitude the Hon Member has taken and I am not disclaiming any responsibility because we were consulted at the time but the Government that hailed the entry of Britain into Europe and Gibraltar's participation, was the only Government that there has been in Gibraltar other than the AACR Government - the IWBP - to which the Leader of the Opposition later belonged after they had been out of office, of course. Perhaps if he had been there before better counsel would have prevailed. I think the Hon Member has mentioned the question of hindsight. He has done that in attempting to accuse the Government of not having had hindsight. If anybody in 1972, when the terms of Gibraltar were negotiated in full consultation with the Government and the Government consulted the Opposition and we were the Opposition then, that in twelve years' time or thirteen years' time Franco was dead and quite a number of his policies and so on had been eliminated because after forty years I suppose it would be very difficult to brainwash people to that extent, then of course we would be in a very different position. At the time, the terms of accession of Gibraltar were considered to be, first of all, hardly fought for and, secondly, most favourable. The VAT, the common tariff and the CAP were not going to affect Gibraltar in any way, we would have to make no

provision of the proportion of a VAT tax as is done by other nations and we are therefore not contributing in terms of cash any money to the Common Market funds. That is why we are not entitled, we have been told from time to time, we are not entitled to have access to their funds that arise out of these monies such as the European Investment Bank and so on of which we have attempted to make use. The other problem is, of course, that Members opposite very often speak as if we were in a Parliament of a sovereign state in which we do what we like and I have had occasion to draw attention; alright independence may be the answer but we are not independent yet so let us see how the thing is now. As I say, I will subscribe to independence any day provided Britain satisfies me that she is going to save me from my neighbours and, of course, other people will say: "Well, Spain will also satisfy you if you will take the letter of The Times seriously and so on". It is a very difficult situation and therefore in 1972, as I say, we do not disclaim any responsibility because we were consulted and not only were we consulted but we agreed and everybody agreed. What we didn't do was to send telegrams to Sir Alec Douglas Hume and say that the access of Gibraltar and Britain to the Community was a matter for jubilation as Major Peliza did at the time. We took it that we had got a fair deal and I am not talking about 1972, but subsequently my view has always been that not remaining part of Europe when Britain is part of Europe and Spain is part of Europe would put us in a worse position that we are now, a matter of opinion. The matter has not been as black and white as the Hon Member has put it. First of all, the question of the Channel Islands and the Isle of Man. They are not Member States proper, they are territories, particularly the Channel Islands, they are very interested and very concerned they were about their tomato crop and the difficulties of tomatoes in the Common Market. They had a special arrangement, they came into an agreement, they are non-members, they are not affected by anything other than the terms that they and the Common Market negotiated. They are not members wholly and the same as we are not members insofar as CAP is concerned and ETT and VAT because it was negotiated at the time, they are not bound by the other things which were negotiated by them. But to say that the Government has done nothing to try and ameliorate the position is, I think, Mr Speaker, very much of an understatement. Of course we have been urging the British Government at all stages when anything that is against Gibraltar's interests has been affected we have urged Gibraltar's interests to be safeguarded and it was precisely because of that that Mr Hannay came to listen to every point of view and Hon Members opposite, those who were then in Government or in the Opposition and everybody else had an opportunity of speaking to Mr Hannay and he came precisely to find out what the problems of Gibraltar were and how far, and this is where

we come to the fact that we are not in a position to be ourselves the negotiators, how far these could be ameliorated or prevented or avoid a deleterious effect on the economy, how far that could be done and I think he came back and reported how far he had been able to go and how far not. I think he came back and reported again, I am sure he did.

HON J BOSSANO:

If the Hon Member will give way. I was just making the remark, Mr Speaker, that he has come back but he has not shown how far we have been able to go, what he has shown is that we have not been able to go anywhere because he is still saying that everything applies to us exactly the same.

HON CHIEF MINISTER:

Well, not quite, I am glad that my memory was correct in that, not quite because there were quite a number of chapters that had been negotiated and which part of the negotiating process was to try and make sure when they closed the trade chapter that the position at the frontier under the Common Market had to be a normal one. To that, I think the Hon Leader of the Opposition will recall, that that was mentioned by Mr Natali at our meeting, that that was so, that they were already safeguarding our position, in fact, he took up some suggestions that they were not, the Hon Member will see that I did use some hard words at that meeting and he reacted very quickly to say: "What do you say, we have already done this". So really our interests in that respect were being looked after by the British Government and by the Commission. With regard to the more recent questions, the Attorney-General could not give you any more precise answers because the social chapter has not been closed. They may be closing it now or tonight or tomorrow morning or whatever it is, there is this big meeting which is being held by all the Commission but the social chapter has not been closed and in the social chapter - I am not giving anything away - there are quite a number of things some of which are in our favour and until that has been closed the Attorney-General cannot give an answer to questions that relate to a chapter that has not been closed. Have I told the Secretary of State about the concern of Gibraltar? Well, when papers become public, I suppose, in thirty or forty years time, history will say whether we did or we didn't. I can give Hon Members, the House, Gibraltar my honest answer is that within the parameters that one works in a situation where you are not completely independent, where you can use your influence to the extent that you can, I will die tomorrow happily, satisfied in that respect - not in others - that I have done my best in respect of representing to the British Government the extent

of the effect that the various directives have on the economy, that as much flexibility as possible should be used within the limitations set out by law long before we became members with Britain and that I have lost no opportunity of representing that to those who have to look after our interests because unfortunately we cannot do that in our own entirety. Therefore, whilst we cannot agree with the motion as worded, I sympathise quite a lot with many of the things that he has said. If I were in his position I would say the same apart from the considerations I have faulted him about the question of having hindsight in 1972, but I think the Hon Member and his Leader is aware that detailed discussions have been held between the Committee of the House and the UK Government officials on a number of issues relating to Spain's accession and, in fact, the concern of the Committee of the hidden implications that there may be whether they arise out of the existing EEC requirements or which may arise out of the continuing negotiations on Spain's accession and these have been brought to the notice of the British Government in no uncertain terms. I wish I could agree but there is one difficulty here and that is that motions that are brought here, and the Hon Leader of the Opposition has been very adept at doing so, are motions that attempt to use the House in order to limit the extent of the Executive to which this House is responsible but which have a considerable amount of latitude of the prerogative as we have seen recently in the United Kingdom in respect of the use of the prerogative in many other matters which I need not mention now and that is the function of the Executive, to be able to manoeuvre and to work without having had its hands tied, which is what the Hon Member has tried to do many times, its hands tied in respect of how to move. It is for these reasons that this motion, Mr Speaker, cannot be accepted by the Government

MR SPEAKER:

Have you suggested that there might be an amendment?

HON CHIEF MINISTER:

No.

HON J BOSSANO:

Mr Speaker, I do not know whether the motion is intended to control the Executive and who the Executive is, whether the Executive is the United Kingdom Government.

HON CHIEF MINISTER:

I was referring to the Executive of Gibraltar.

HON J BOSSANO:

What the motion is clearly trying to do is to make the British Government answerable to us for the things which are going to affect us even if we are not a sovereign state because we seem to forget, Mr Speaker, we are going to be facing the closure of the Naval Dockyard in a month's time, we are in a situation where we are constantly being told by everybody that visits us from UK that the world doesn't owe us a living and we have to stand on our own feet. That, apparently, is not in conflict with not being a sovereign state, it is fine to be told that we earn our own living in the world and that we make ends meet ourselves and that we are not to expect handouts from UK and the fact that we are not a sovereign state is no impediment to that but when it comes to say: "Well, if I have the political responsibility to the people who have put me here" - and that is true for fifteen of us, Mr Speaker, in this House - if that is the case then we can only discharge that political responsibility if we have the opportunity to influence the course of events that are going to affect the future of the people of Gibraltar and their economic wellbeing. The reason why the motion is necessary and the reason why the motion has been phrased in the way that it has is because, in fact, what the Hon and Learned Attorney-General had to say in answer to this question is contrary to the parameters within which we have been discussing these things as a result of Mr Hannay's visit. At no stage did Mr Hannay tell the EEC Committee that the question of the payment of family allowances was negotiable but if it is negotiable then the British Government must ask us how do we feel about it and then the British Government must take a position with the EEC which includes our position because we do not have a spokesman ourselves. We have assumed, certainly for all the time that I have been in the EEC Committee and I have had requests for information answered, that that was an area where there was no margin for negotiation, that is, it was a Treaty obligation if the situation was that family allowances had to be paid they had to be paid, period, and it was a question of finding out whether they had to or they did not have to. At no stage did we consider either of two possibilities - (1) that we could negotiate some sort of derogation for Gibraltar on family allowances different from other people, or (2) that in any case it was possible to do something for family allowances in the case of the applicant countries which was different from family allowances in the case of the existing members

and we were told fairly consistently that that would run contrary to the fundamental concept of non-discriminatory treatment as between EEC nationals. Having been told that in private we ask the same questions in public because we believe that people should know and we believe there should be debate on this and because this has been raised by me, Mr Speaker, in 1982. I asked the Government in 1982 whether they would have to pay family allowances and whether they recognised the serious problem that that would throw up given that we have got other immigrant workers in Gibraltar.

HON CHIEF MINISTER:

Perhaps the Hon Member will give way. I may want to ask him the same favour later on but to clear this matter perhaps it is better if he were to say that when you are talking about family allowances you are talking about family allowances to members of the family of non-resident workers.

HON J BOSSANO:

At present presumably the legislation is that there are a few immigrant workers in Gibraltar who have obtained the necessary permission to have their dependent children living with them here and they are getting family allowances for their children here. It is clear that the EEC Rules which apply in every case other than France show that family allowances are paid to EEC nationals in respect of their dependent children who are resident in the EEC irrespective of where in the EEC and one can see the rationale behind that. The whole basis of the Common Market is that it is a Common Market and the geographical location does not give anybody either an advantage or a disadvantage. Against that background we were told and have been told until this question came up, Mr Speaker, that it was axiomatic, it was a fact of life and it was not so much a question of saying: "Can we avoid paying family allowances?" it was more of saying: "What are the implications of paying family allowances and what kind of social and political pressures will that throw up if we have a situation where we have got three clearly identifiable immigrant groups in Gibraltar - the Moroccans, the Portuguese and the Spaniards - and two of those immigrant groups are told: "You can now claim family allowances for your dependent children in Portugal and Spain", but the Moroccan is told: "You cannot do it in respect of your dependent children in Tangier". That has to be faced. If that is going to be what is going to happen in a year's time the Government has got to start saying it now and saying how they propose to handle the situation but, in fact, if the situation is that there may not be a necessity to pay family allowances because that is still undecided, that is still under negotiation, then the

view of the Opposition is that the British Government should have said to us already: "This is being discussed, it may or it may not happen. What is your position?" And we would say to them: "Well, our position is that we will see enormous problems if it happens and that we think you should oppose it because it is bad for us". And what is true of family allowances is true of a range of things so it is no answer to say: "The social chapter has not been closed and we do not know what we are going to be letting ourselves in for until it is closed". No, we do not want that.

HON CHIEF MINISTER:

With respect, that must be said against the background of the fact that the points Gibraltar wanted are being considered at the time when the chapter is being discussed.

HON J BOSSANO:

Well, I wish I knew what it was then, Mr Speaker. What is Gibraltar's position on family allowances, do we know that?

HON CHIEF MINISTER:

The position is as in the law and that is that you have to be resident here for a period of time before you can get family allowances.

HON J BOSSANO:

Then how is it, Mr Speaker, can the Hon and Learned Chief Minister tell me why is it that we have an EEC Committee that is so confidential that we are not even allowed to take away a copy of the minutes which records what we have said, we had to go there to read it, and yet in that Committee we had not been told what he had just said openly in the House, that is, that Gibraltar has put a view to the British Government saying: "We want you to defend the position that we have currently and that that should be continued to be maintained". We didn't know that that had been done, it has never been mentioned.

HON CHIEF MINISTER:

I am not referring to recent meetings of the House of Assembly, I am referring to the general representations made by the Government about matters that could affect Spain's entry into Gibraltar.

HON J BOSSANO:

Mr Speaker, the motion is quite specific, it says: "it considers it unacceptable that negotiations on the terms of membership for applicant countries" - whether it is Spain or Portugal or anybody else, is irrelevant - "for applicant countries should be taking place without us having any say in the matter notwithstanding the fact that we will be bound by whatever is agreed". It is a very reasonable and a very old philosophy, Mr Speaker, that if you are going to be affected by something you ought to be able to influence the decision before the decision is taken and what we are saying is that Her Majesty's Government should take note of the fact that this is our view and should commit itself not to agree to something without the people in the EEC Committee having been consulted on the subject and that cannot be said to breach any confidentiality because to my knowledge there is nothing more confidential than the EEC Committee for the reasons I have explained. The situation is that the social chapter has not been closed. Well, the EEC Committee has not been told what are the different options, what are the possibilities that the social chapter may contain, this or that or the other, that has not happened and we have not been asked of the number of options that are available which we would prefer from Gibraltar's point of view. It may be closed or it may not be closed but the point is that we are totally in the dark and if there is one valid argument for continuing with the EEC Committee and continuing with its secrecy, it is that we are having some effect on what is happening. If all that is happening is that the British Government stands up in the House of Commons and says, as they continue to do, Mrs Thatcher was asked by Mr Eric Forbes about the question of dealing adequately with the problems of agricultural products and Gibraltar rather than being too obsessed with bringing Spain into the EEC on the 1st January, 1986, on any terms at all and her reply was very categorical as always, making it absolutely clear that as far as Gibraltar was concerned Spain would not enter the Community unless the barriers were fully up but, of course, it is not just the barriers being fully up, that isn't the beginning and the end of the story, period, it is welcome that at least when she gives an answer to a question she doesn't say that it is inconceivable, she says it won't happen, period. That is welcome but the point is that that answer suggests that as far as the British Government is concerned the protection for Gibraltar begins and ends with the removal of the restrictions and it surfaces every time. Mr Tim Brenton answering Mr Albert McQuarrie on the 16th of November saying that no arrangements had been concluded for Spanish Nationals to have EEC rights in Gibraltar went on to say that they would be entitled to the full rights under the EEC Treaty throughout the Community

including Gibraltar. So the philosophy, the answer, the consistency in the position of the British Government is that whatever applies to the Community applies to Gibraltar, that we are an integral and an indivisible part of the Community. The difference is that because we are not a sovereign state we are peculiar in the whole of the Community, that we are the only people who are affected by whatever is decided for everybody but have no say in it, that makes us the unique and very special part of the Community and that is unacceptable to us. This is not a declaration of UDI but it is, in fact, a very clear statement which we would have preferred to have gone to the British Government from both sides of the House but which will no doubt be relayed back even if it is from one side of the House, that sovereign state or no sovereign state either we are brought into the picture with plenty of time to be able to say: "We won't be able to wear this for all these reasons", or we will not consider ourselves bound by things that are decided for Gibraltar against Gibraltar's interests without proper consultation taking place. We are not in this House of Assembly to play games, Mr Speaker, we are here with a very clear concept of the kind of mandate that we have from the people of Gibraltar in the support that they gave us in the elections and we intend, within the limits of the fact that we are in a minority in the House, to do everything in our power to fulfill our responsibilities to those people. Coming to the question of the difficulty in answering because the social affairs chapter has not been closed and by contrast the fact that the chapter on trade has been closed, why is it then that we cannot get an answer on the chapter on trade if that has been closed? If the answer for the other one is that it is still under negotiation why is it that we still cannot find out from the one that has been closed what does it mean when it is said in Parliament that the relationship between Spain and the EEC as far as trade is concerned and the relationship between Spain and Gibraltar as far as trade is concerned will be the same subject to whatever derogations and transitional periods are agreed which as my Colleague, the Hon Mr Feetham has explained clearly means as far as the information we have been provided by contacting the Commission, clearly means the transitions and the derogations that Spain is seeking and obtaining to protect Spanish industry from a flood of imports. The only derogation that we are talking about is that just like the EEC is saying on agriculture there has to be a period of time before Spanish agricultural products are entirely free to circulate throughout the Community because they represent very serious competition to existing producers, so Spain is saying there has to be a period of time before EEC industrial products circulate freely within Spain because it would represent a serious threat to existing Spanish producers who, as we all know have developed domestic industries behind very high tariff walls which will have to go. But where do we fit into that

picture and the chapter of trade has been closed and if we cannot get the answer on the ones that haven't been closed because they haven't been closed, why cannot we get the answer on the one that has been closed? When we went to see Signor Natali, as the Hon and Learned the Chief Minister said, he in fact put it very strongly to us that it was not true that they had done nothing because they had upset Spain quite a lot by insisting on normalisation at the frontier and on normal trading relations but it seems to me, Mr Speaker, that whereas our perception of reality in Gibraltar is that it would be totally unacceptable and totally contrary to every principle that we subscribe to if we were ignored and if our rights were ignored by the EEC and Spain was allowed to obtain membership of a Community and still discriminate against an existing member of that Community, that to us is more than just inconceivable, that would be a complete denial of every principle that is defended in Western democracy from the perception of the EEC the fact that they have been willing to take a stand on this issue seems to be something that people expect us to be falling over backwards in gratitude and they are surprised and resentful that we do not think that that is enough, we still want more. Shouldn't we all be getting down on our knees and thanking the protectors of Gibraltar that they have told Spain that they need to remove the restrictions, what more do we want? That seems to be the kind of feeling and, therefore, Mr Speaker, I think it has to be made clear that we do not think they have done a great thing for Gibraltar by saying to Spain: "You have to remove the restrictions", because in fact it would make utter and complete nonsense of the concept of the Treaty of Rome, of the concept of equality, and as you know, Mr Speaker, it is not that we on this side of the House think that the removal of the restrictions are going to solve Gibraltar's economic problem by a long shot.

HON CHIEF MINISTER:

We don't think that either.

HON J BOSSANO:

But nevertheless it is absolutely clear that in political terms if the frontier was closed or had restrictions on it and Spain was in the EEC, in political terms it would be seen as a situation where the EEC was washing its hands off Gibraltar and its people and not sticking up for them as it has an obligation to do because we are nationals of the Community and Governments are supposed to look after the welfare of their nationals and in every society, in every group, it is almost axiomatic that existing members get a little bit more say than applicants and that is what we are asking. All that we are asking is

that we are getting new members joining the organisation to which we have belonged now for eleven years, we understood that there were certain things that they would be entitled to on joining which would place a burden on us, it now seems that those certain things do not follow automatically on obtaining membership, that the actual conditions of membership are negotiable and alterable and if they are negotiable and alterable for the benefit of other members of the club why shouldn't they be for the members that happen to be here? If the wine growers can influence the negotiations when it comes to talking about wine and the olive growers can influence the negotiations and the fishermen, why cannot the people of Gibraltar notwithstanding that they are not a sovereign state because they are not a sovereign state but they are not in the slave trade either, they have got certain rights as EEC nationals, they have got a right to be listened to, they have got a right to have their views taken into account. If we were a sovereign state we might be taking a completely different line, we might be saying: "We will lay down our terms of membership to the EEC and if they do not like it we are out". We are making very mild and very reasonable demands as far as we are concerned, Mr Speaker. I think there is, apart from the dissatisfaction on our lack of influence on what is taking place and the lack of information reflected in the answers that we have had, I think there is another particular aspect which perhaps the motion itself does not make a reference to but which is implicit in the kind of relationship that we have with the EEC and which is perhaps implicit in why the Isle of Man and the Channel Islands have one sort of deal and we have another. The reality is that member states of the EEC feel with a certain degree of legitimacy, in my view, Mr Speaker, precisely because we are not a sovereign state that the state that ought to be primarily concerned with protecting our interests and looking after our welfare is the state on whom we are dependent and this has not been done in Gibraltar, it certainly has been done in the Channel Islands and in the Isle of Man because what did the British Government do in their case when it came up with the problem of free movement of labour? The EEC was absolutely clear, the EEC said: "Look, what you cannot have is the right of an Englishman to settle in the Isle of Man and not give that same right to a Frenchman or a German or an Italian or another EEC national because then the Manx Government would be having discriminatory legislation which would distinguish between one EEC national and another but you can stop them all coming in". So what did Britain do? Britain agreed with the Manx Government that the Manx Government could exclude UK citizens and the UK would not exclude Manx citizens and therefore there is a situation where under the terms of membership of the Isle of Man and Jersey and Guernsey they can keep their doors closed to all the 300,000,000 in the EEC but they have got an open door into the

United Kingdom which is what really interests them and what they really care about. In our case what happens? We have the choice of either opening our doors to everybody or losing our right of access to UK and the only way we have got the right of access to UK was, in fact, through a situation where as EEC nationals we went in because we all know that there was this peculiar administrative arrangement where because of the frontier restrictions the Commonwealth Immigration Acts were not applied to us with the same rigidity as they were applied to other people but that is not good enough, that is not a right, that is, in fact, somebody saying to you: "Well, look, I will look the other way while you go past me", until somebody decides that they are not going to look the other way or there is a political change or they want to put pressure on you. The reason why you have got a situation between these dependent territories of the United Kingdom and the United Kingdom which puts them in a privileged position vis-a-vis the rest of the EEC is because it is a relationship which at the end of the day does not affect anyone else in the EEC and the same things happen in other places. There are peculiar arrangements between the member states and the dependent territories of that member state all over the place which the EEC does not mind and which does not breach EEC principles because it is, if you like, a domestic arrangement in a peculiar domestic situation. Our problem is that we are being treated as a sovereign state as far as all the obligations of being in the EEC are concerned but we are not a sovereign state when it comes to determining the nature of those obligations and we are not a sovereign state when it comes to deciding whether we have to apply them or whether we do not have to apply them and other dependent territories are not treated in the same way, Mr Speaker, and therefore what the Opposition is saying with this motion and it is saying it, really, to the British Government and asking the Gibraltar Government to join it in saying, is that they cannot have their bread buttered on both sides. We are prepared to accept a measure of responsibility but we want the power that goes with it otherwise we will say to the British Government and to the Gibraltar Government if they take the line of saying that they are now consulted and that they are happy with the relationship that there is and the level of consultation, that they must carry the responsibility at the end of the day for what happens because we won't.

HON CHIEF MINISTER:

I certainly never said that we were happy with the results, we were consulted, I did not say that we were happy with the results.

HON J BOSSANO:

Then, perhaps, Mr Speaker, the Hon and Learned Chief Minister would be a happier man if we were all consulted.

HON A J CANEPA:

Mr Speaker, I think the Hon Leader of the Opposition is probably right when he says that with regard to obligations in the Community arising from the Treaty of Rome, Gibraltar is being treated as a sovereign state with all the consequences that that is having for us but I wish he would have gone a little bit further and also seen the whole matter of the problems for Gibraltar of Spanish accession and the actual detailed negotiations on Spanish accession in a proper perspective and set the background because I think the background is also important to a better understanding as to why Gibraltar is being treated, in my view, in that way and I think it goes beyond just the requirements of the Treaty of Rome and it goes beyond the nature of Gibraltar's membership. The matter has to be seen in this perspective and that is that I think the difficulties of Gibraltar are difficulties in putting a case across, first of all, to the British Government and through the British Government to the Commission or even directly to the Commission, our difficulties stem from what I consider to be the overriding political commitment that there is to having Spain join the Community. There is no doubt in my mind that the democratic countries of Western Europe who are members of the Community want to have Spain in and primarily for political reasons. I do not think that the reasons in respect of agriculture, in respect of fishing and so on are compelling, on the contrary, they all pose serious obstacles to Spanish entry. Nevertheless, in spite of all the difficulties that the Spaniards think that they are having in the course of the negotiations, I think that, by and large, the Community is bending over backwards to accommodate Spain, to be helpful ideally to try and see them join on the 1st January, 1986, and I do not think that I have to spell out what the political considerations are because anybody who has followed not the history of political developments in Spain particularly in the last decade or so will find ample reasons there for that view. Spain has been wanting to achieve in the course of these negotiations a privileged position, she has been trying to achieve that what applies under the Treaty of Rome should, as far as she is able to, not apply where it does not suit her so she has adopted a difficult stance on fishing, a difficult stance on agriculture and on social affairs and she was adopting a rather difficult stance on the question of trade. That is why, in a way, what has been achieved in the process of negotiating and closing the chapter on trade, more so with regard to the declaration affecting Gibraltar, can be seen as a very

considerable achievement because the Spaniards did not want that just as they do not want a seven-year transitional period on movement of labour, they do not want any transitional period whatsoever so it also has to be seen in that respect. Why the insistence on the part of the United Kingdom that whatever applies to the Community should apply to Gibraltar? Why the insistence that Gibraltar be considered as an integral part of the Community? It could well be that it is the view of the British Government that unless this is so there may be no leverage to get the Spaniards to lift the restrictions at the Gibraltar frontier and it could well be that the British Government attaches a great deal of importance to the lifting of those restrictions. We have no doubt on this side that over the years, ever since the restrictions were imposed, from the human point of view we have been attaching a lot of importance on this side of the House, the AACR has been consistently over the years, to the lifting of restrictions because we have consistently maintained that that was not a normal state of affairs. And if certain derogations of which we have given an indication in the general memorandum that we submitted had been obtained for Gibraltar the British Government's view could well be that Spain could then turn round to the Commission and say: "Gibraltar are not full members of the Commission, their relationship is of such a loose nature that we do not have to abide in respect to Gibraltar by what we are prepared to be committed to with respect to the Community and therefore trade no, labour no, and so on". We have enough difficulties already having regard to their interpretation of the Treaty of Utrecht as to whether that is a frontier or a police post not to compound them further. I do not know for certain that this is the case but it could well be and I think that Mr Hannay on the second occasion that he was here, I seem to recall that he gave some indications that without the matter having been put to the test, I think he was a little bit worried, I think there were indications that the British Government could be worried about the matter actually having to be put to the test. So, again there must be an understanding of these factors because they are all part and parcel of what is a rather complex picture because the matter is not, as the Chief Minister said, is not a black or white or as simple as the Hon Mover of the motion made out. The Mover of the motion and, indeed, the GSLP for some time, have been making a great deal of play about the lack of political will. I would like the Mover of the motion when he exercises his right to reply to tell the House what constitutes political will, how do we judge whether political will exists or does not exist. I would like him to tell the House what the GSLP would do if they were in Government in order to show that they have the political will which they say that we do not have. What have they been suggesting in the last ten months from the Opposition benches that is indicative

of the existence of such a political will on their part. The issue of the EEC figured quite prominently in the electoral campaign of Members' opposite but did they, for instance, ask the electorate to give them a mandate to get out of the Community? Did they make Gibraltar leaving the Community an issue at the election? They didn't. Again, I would like the Hon Member to tell us a little bit about that, to expand somewhat on the question of Gibraltar leaving the Community. During the period between sometime in 1980 when the Hon Mr Bossano, as he then was, when he wasn't Leader of the Opposition, moved the motion that led to the setting up of the House of Assembly Committee and the submission of the first memorandum which was in general terms, the House of Assembly Committee though not meeting on average as often as we have been meeting during the course of 1984, nevertheless held many more meetings than what the press have indicated. I remember on one occasion having to ask for a correction about the fact that only four meetings had been held and when we checked, in fact, we found that ten or eleven meetings had been held but a great deal of time was spent in studying the matter because the matter then was even more complex than what it is now because then we knew even less about it than what we know now. A great deal of time was spent in studying, in considering a legal opinion which the Chamber of Commerce obtained. That led to our engaging the services of Mr Forrester that ushered in a period which the Hon Mr Feetham very well put as a period of sniffing around but we haven't been sniffing around all the time you know, Mr Forrester did do a certain amount of sniffing around in Brussels which he does very ably but we did not spend four years just sniffing around. The other thing I think that must not be lost sight of is that between 1981 and 1983 we in the Government had our energies almost totally engaged on the issue of the Dockyard, that was undoubtedly the number one, the cardinal, the most significant issue facing Gibraltar but the fact that we were not ignoring the problem of Spanish accession and the problems that that would pose for Gibraltar can be seen by the fact that that same week, that same day that the House was meeting here, I think it was July the 27th, 1983, when the Chief Minister and I returned from our first meeting with the Prime Minister and the Chief Minister made a very lengthy statement in the House and we had a very lengthy and important debate on the question of commercialisation, nevertheless at that same time Mr Hannay and his team of officials were here in Gibraltar so the Government was pressing for the matter of the EEC to get its due importance and in spite of our preoccupation which was undoubtedly the most important problem, we were making a very serious effort to find the time to deal with this other matter. I myself, during that intervening period up to about April or so 1983, on many occasions was pressing the Chief Minister and the Administrative Secretary to inform me about the progress that was being made on

this issue and the difficulties that we were having and I do not honestly think that if anybody else had been in Government, either the Members of the then Opposition or the Hon Members opposite, more could have been done practically to advance the issue. I, as Hon Members know, devote a great deal of time to politics. I am to all intents and purposes a full-time politician though not paid as such, I must stress, and I do not think that any Hon Member opposite would or could give and devote more time to Government than I do, not even the Hon Leader of the Opposition because he has got commitments at the industrial level which I do not have and I am not employed by anybody, I am not in business, my work is full-time politics and therefore I make it my business to find the time when I am in Secretariat to sniff around and to press around. I go trying to bring pressure to bear on those responsible to get things moving and in spite of that no more could be done than what was done. We come then to the alternatives. The Hon Mr Feetham mentioned directives, can they be ignored? If you are a member of the club you are not supposed to ignore directives. Are they being ignored? Yes, by Britain, by France, by Italy, by Germany; by virtually the whole lot, they do ignore directives and sometimes they ignore them with impunity and sometimes they are taken to the European Court but they implement them or they still ignore them. Can Gibraltar ignore directives? We should not. We have outstanding a piece of legislation which I think even now we are not taking through Committee on sex discrimination, I think we should have acted on that certainly during all the years when I was Minister for Labour virtually but we sat on it, we sat on that because we did not want legislation similar to what the United Kingdom has because it was ridiculous. The Bill is in the House and we are still taking a somewhat relaxed view about it, it has been before the House for nearly a year but let us come to the cardinal issue. Must we and can we ignore directives? If the situation is such that a directive is intolerable, if it is going to destroy the social, the economic, the political life of Gibraltar, the future of Gibraltar, we may have no choice. We may have no choice but to say to the Community: "You are a club catering for sovereign nations involving millions. What you are doing, what you are deciding cannot be applied to a community of 25,000 people because then we are lost". What if they do not take any account and say: "We are very sorry, you have to comply". The Hon the Leader of the Opposition mentioned the problem of family allowances, I am going to mention another problem which is bigger, the problem of the Spanish pensioners where I have said repeatedly in the House and I say today that the people of Gibraltar cannot and therefore will not pay the bill for that. If we had to pay the bill which is a small matter of £6m a year nothing more than that, a small matter of £6m a year, it would destroy Gibraltar economically and with the

breakdown and with the collapse in economic terms of Gibraltar comes the collapse of all our aspirations and the struggle for us to continue as a separate entity, as a people with an identity of our own. I have no doubt and therefore we must say to the British Government: "Sorry, we cannot pay", and the community likewise: "Sorry, we cannot pay", and then the British Government in the exercise of its overall responsibility must judge as to what it does. Does it continue to expect Gibraltar to pay if that were to be their view or are they prepared to pick up the bill themselves which if everybody wants to bend over backwards to get the Spaniards in because that is important for the Community, it is important for democracy, it is important for NATO, it is important for the West, £6m is nothing. So in that sense such a directive would not be automatically applied to Gibraltar, that is one issue. Then I come back to the other alternative and the other alternative is you are told: "Sorry, you have to comply", you don't comply and if you do not comply because you cannot because there is a difference between not doing something because you do not want to because you are obstructionist because you are difficult, and not doing something because the practical reality is that you cannot and then Gibraltar can either be kicked out or we leave the Community. If we leave the Community let us consider very, very carefully what are the consequences; is it better to stay, is it better to leave, do we have a choice or don't we? There my views stand, Mr Speaker, as usual I do not think I have the answers but I would like to pose the problem at least and I would invite the Hon Member to try to respond with the same frankness and in the same open manner to what I have said as I have done. Thank you.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, as is always the case in motions, a great deal is said by both sides and normally the Mover of the motion has to reply to certain points which are raised which either require clarification or require obviously a reply. I am going to concentrate a little bit on what the Hon Mr Canepa has been saying and the questions that he has been posing particularly at me as the Mover of the motion and not perhaps on one or two other points which the Hon the Chief Minister has raised which I wanted to reply but I am not going to dwell a great deal on the matter. Mr Speaker, I purposely restrained myself from looking at the implications of the motion in relation to the political situation of Gibraltar particularly in relation to Spain and I

did it because there is another motion later which has some relevance but I have been drawn into it by the contribution by the Hon Mr Canepa. This side of the House is quite clear as to the manoeuvring that is taking place. It is certainly quite clear as to the lack of maturity on the Spanish side, a country that has been subjected to fascism for such a long time and finds itself practically overnight being a democracy and not really learning what democracy is all about. It is not surprising, therefore, that we find that from an extreme position they should go to the other extreme position in relation to what they think democracy is all about, into what they think negotiation is all about and they have gone into perhaps the major negotiations which the Spanish Government has undergone and that has been in relation to the entry into the EEC with that sort of mentality that here we are, we have achieved democracy and that we have got the right to have the best of both worlds. Of course, what they haven't got is the backbone which democratic countries in Europe have achieved through an awful lot of blood, sweat and tears and in that negotiating process Spain is just another country entering a club and every other member wants to ensure that Spain's terms of membership are as good as theirs or less better terms. Secondly, every member state wants Spain to come in even though they are in the negotiating process trying to achieve the best they can for themselves, everybody wants Spain in because Spain forms part of Europe. But where does that put us, the Gibraltarians, and where does that put us in relation to Britain who negotiates on our behalf? Simply that Britain has got a problem with Gibraltar because one particular member, Spain, has an outstanding claim on Gibraltar and in that sort of relationship in the negotiations, we believe on this side that Gibraltar in all honesty and in all frankness is taking second place in the overall national interest that there exists between Spain and Britain and it is this sort of motion that we present here, not that we want to tie down the House or the Executive from moving or manoeuvring, it is because we want to tie down the British Government because in our relationship with Britain we ourselves want the best deal despite the fact that they are our best friends, despite the fact that constitutionally we have developed in discussions and in agreements with Great Britain, everything else is irrelevant, what we want is the best deal for Gibraltar, Mr Speaker, but it is clear, and I say it with all sincerity, that Spanish democracy, Spanish accession into the EEC, the terms of accession, the lifting of the restrictions, our relationship with Britain has began to work against the interests of the people of Gibraltar because the prime principle of the Common Market, of the European Community, is integration of the economy and it is of fundamental importance for the people of Gibraltar in desiring to continue their links with Britain and constitutionally

develop even further than what we have because we have an outdated Constitution in Gibraltar, to ensure that the economic position of Gibraltar is in no way damaged or impinged or manipulated in future by a country which is supposed to be a member of the club but has an outstanding claim which is sovereignty over Gibraltar and it is the decisions that we make today, Mr Speaker, that will ensure which way Gibraltar goes in ten, fifteen, or twenty years time economically which would lead to a political re-assessment of the position of Gibraltar in relation to Spain. When I am asked by the Hon Member opposite to expand on the political will, our political will is clearly very little different with the Government's but to the extent on this issue that we have said quite clearly that we wanted a re-negotiation of the terms of membership of Gibraltar in the EEC and we have brought a motion to that effect with the full political will to see it through. The end result would have been seen in the light of those re-negotiations. The difference between our political will and the other side of the House was that they amended the motion to set up a study into the matter, that is the difference in political will between that side of the House and this side of the House and that was in 1980 and in the election campaign no mention, if I recall, I stand to be corrected, was made about Gibraltar's membership of the EEC in the manifesto of the party in power.

HON A J CANEPA:

But you did.

HON M A FEETHAM:

Of course, we did because we saw it as very important.

HON A J CANEPA:

Tell us in the context of that what you would have done if you had been in Government.

HON J BOSSANO:

For a start the motion would be passed today.

HON CHIEF MINISTER:

Is that the way to govern?

HON A J CANEPA:

In practical terms what are the steps that Hon Members would have taken? For instance, would they have had a confrontation

with the British Government and if so, of what nature?

HON M A FEETHAM:

You know, Mr Speaker, I don't really understand this. Every five minutes that the Opposition or the Trade Union Movement or anybody that does not agree with the policies of the Government, says anything which sounds like, "We have got to discuss this with the British Government," the first thing the Hon Chief Minister says or any Member of the Government says is: "Do you want a confrontation with the British Government?"

HON A J CANEPA:

If the Hon Member will give way. What is the strength that Gibraltar and its Government has? Can we send troops into battle, what do we do in practical terms other than having a confrontation with the British Government and, if so, are we sure that we are going to come better off? Are we sure that we are going to advance the interests of the people that we are trying to serve? I am not accusing Hon Members of wanting a confrontation, what I am saying is are they prepared to consider that, is that an alternative, is that the way ahead and, if so, to what purpose?

HON M A FEETHAM:

Mr Speaker, let us forget about guns, let us forget about the Gibraltar Regiment, let us get down to a serious debate. What we would have done and it would have been a first step forward, the end result we do not know because we haven't had.....

HON A J CANEPA:

But you must know when you take any steps what the end result will be.

HON M A FEETHAM:

Let me finish and perhaps I can clarify. The end result nobody knows when one sits down in a negotiating position, nobody knows because as far as Gibraltar was concerned Appledore was going to leave Gibraltar because they couldn't afford to pay shift allowances to the workers and after the negotiations.....

MR SPEAKER:

Order.

HON M A FEETHAM:

Let us not try to bring red herrings into this debate from that side of the table. We would have got down to negotiations with Her Majesty's Government to seek a re-negotiation, that is what we would have done, the end result we do not know because we do not know what would have been achieved but the fact is that that is the step that we would have taken, Mr Speaker. I do not accept this red herring about confrontation should come into this at all because I do not believe that confrontation in the way you promulgate the situation is in the best interest of the people of Gibraltar, that is quite clear, but neither is it becoming puppets of the British Government in the best interests of the people of Gibraltar. On the question of directives, Mr Speaker, of course there are countries which do not implement directives, of course there are, but the fact is that we are in the position of having to consider implementing them and surely we will have to implement them sooner or later. We haven't implemented a directive on company law which has been there for years and we are now being pushed into it in the same way as we are being pushed on the Sex Discrimination Bill and in fact all that Government was required to do was to modify it to suit Gibraltar and we could have passed it already, we have been in discussion on this matter, it is up to you to bring it to the House so, Mr Speaker, there are clearly defined differences, we differ on the approach and we differ on the emphasis but what is disappointing is that the Hon Chief Minister should say that a motion which is a reflection of the situation as it exists today, the uncertainty is a reflection that it would be totally unacceptable to enter into an agreement which would be detrimental to the people of Gibraltar and a motion which reflects the rights of the people of Gibraltar to be consulted should be defeated by a Government majority on the basis that it is going to tie down the Executive from being able to manoeuvre. Is this the political will that the Government has in their approach to this matter, Mr Speaker? It is a negation, in fact, of the rights of the people by defeating this motion today and, in fact, Mr Speaker, in many ways you are actually weakening the opposition in whatever you want to do because the emphasis on Her Majesty's Government consulting us and consulting the EEC Committee you do not appear to give a great deal of importance to, certainly there are wide differences between us, Mr Speaker. Thank you.

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

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 voted against:.

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez.
The Hon Dr R G Valarino
The Hon H Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Member was absent from the Chamber:

The Hon M K Featherstone

The motion was accordingly defeated.

HON CHIEF MINISTER:

Mr Speaker, I think I ought to ask you to say quite clearly that if there had been no vote on the part of the official members the motion would have equally failed.

MR SPEAKER:

It is clear from Clause 44(4) of the Constitution that when the votes are equal the motion is declared lost.

HON J BOSSANO:

I beg to move, Mr Speaker, that: "This House declares that the granting of any rights or privileges within Gibraltar to non-Gibraltarians, other than in fulfilment of Gibraltar's obligations as a member of the EEC, are its sole prerogative. It requests that Her Majesty's Government should note this and should therefore not give any undertakings the effect of which would be to grant such rights or privileges until the matter has been fully debated in and approved by this House". Mr Speaker, the motion talks about rights within Gibraltar to non-Gibraltarians other than EEC nationals and does not specifically make reference to any particular nationality but I am sure that Members of the House must have guessed that there was one particular nationality in mind when drafting the motion and it is in the context of all the things we have heard and read

floating about in the media in the last few weeks as a build-up to the meeting between Sir Geoffrey Howe and Senor Fernando Moran, that the motion acquires particular significance and also in the context of the question that I put to the Hon and Learned Chief Minister earlier on which he said he could not understand and he then went on to say how much he trusted the British Government, which we all know, and then refused to answer anything else. I was asking the Hon and Learned Chief Minister whether in fact on defined domestic matters it is the case that the British Government cannot go round offering not just our next door neighbours but whoever else they may please, rights here in Gibraltar which infringe the constitutional rights that we have because if we have got defined domestic matters they must be for something. We are not a sovereign state, we all know we are not a sovereign state, we know that there are two major impediments to being a sovereign state - the defence of Gibraltar and its economic viability - the same two impediments that any sovereign state anywhere else in the world faces irrespective of size. Essentially, any sovereign state has got a problem in supporting itself and in defending itself so we are no different in that respect, it may be more difficult for us because we have got a neighbour that is hostile and has shown hostility to us throughout our history, it may be more problematical because we have less easily identifiable natural resources than other people but at the end of the day we have got a Constitution, Mr Speaker, which came into effect in 1969, which was found very objectionable by Spain because it was supposed to be putting us on the road to self determination and on the road to being independent. That was one of the major objections of Spain at the time and it was supposed to be doing that partly because it actually listed areas of responsibility for which Ministers elected by the people of Gibraltar would have jurisdiction and retained other areas. Obviously, it is not possible to draw up an exhaustive list and it is certainly clear from a reading of the Constitution that the way that it is planted enables interpretations to be put which appear to conflict in one way or another. For example, if we have got a situation where to go back to some of the matters raised in the preceding motion, Mr Speaker, family allowances is in the list of defined domestic matters but immigrant labour is not, do family allowances on immigrant labour fall under the immigrant labour which is not a defined domestic matter or under family allowances which is a defined domestic matter? So, clearly, it is possible by a loose interpretation of the powers of the British Government retained within the Constitution, for them to basically do whatever they like, whenever they like and simply pay lip service to the rights of the elected representatives of the people of Gibraltar to give directions in matters which are of concern to us. I think it has to be clearly

understood, Mr Speaker, that as far as this Opposition is concerned when we are defending the rights of the Gibraltarians to determine matters that affect us, we are defending the right of the Government of Gibraltar even though we might have different policies from that Government. We are defending them as the democratically elected Government of Gibraltar, a Government with a majority and a mandate, we are defending their right to take policy decisions for which we are then entitled to hold them responsible when the mandate that they have terminates but what is clearly not possible is to hold them responsible for decisions that they are not taking unless they tell us, as they do with a great deal of consistency, that they are very happy on the one hand that they are being fully consulted and on the other hand we get situations like that presented by the Hon Minister for Economic Development and Trade who said that unless we have a situation where the British Government, for example, pays the pension for Spaniards to which they would become entitled on accession to the EEC, then if we are required to foot the bill that would bankrupt us and presumably in a situation such as that one it is not so much a question of confrontation, it is a question of survival. Clearly, if that is an area which we have sought to separate, that is, if the Hon Member thought the previous one was seeking to establish the right of a sovereign state, then I do not know what he thinks of this one because in our judgement this is an even clearer statement of what we think ought to be the dividing line and what we are saying is if it is a matter of EEC obligations then we are asking for Gibraltar and we are asking for the Committee of the House of Assembly the same opportunity to be completely up-to-date and to influence decisions as other member states have got. If it is a matter that is not a question of EEC rights and it is not a question which devolves from Treaty obligations, if it is a question of a bilateral situation, then as far as we are concerned the British Government should not commit itself or promise people something until the people in Gibraltar, at whose expense it is being promised, have had an opportunity to hear the arguments for and against and to have the matter debated in the forum which is the forum that reflects the existence of a democratic process in Gibraltar. It is here, it is in this House, Mr Speaker, and certainly what we do not want is a repetition of the situation we had with the Shiprepair agreement where I think the Hon and Learned Chief Minister may have felt that certain actions by the then Opposition pre-empted the way that he had intended to go about it which was to bring the matter here and debate it here first and commit himself afterwards. I think he used in defence of the Government's decision, he used at least partly the fact that the Opposition at the time had on their own initiative written to everybody about it in the House of Commons and so forth. I think in

this situation what we are saying is what we do not want is to be told that the process of consultation in the House of Assembly or the debate in the House of Assembly is going to consist of us being told after it is irrevocable: "This is what is going to happen and now let us put it to the vote". That is nonsense, better not bring it here, let us not go through a farce of putting something to the vote when the result is as predictable as the result of the motion that we bring which is that at the end of the day the Government may stand up, they may say as they have done today already, Mr Speaker, a lot of things three-quarters of which would appear, I submit, to any objective listener to be arguments in favour of the motion and then they vote against it. We do not want that situation. The Government is in fact correct in thinking that we are trying to pinpoint their responsibility, it doesn't mean it is a question of controlling the Executive, I didn't quite grasp what the Hon and Learned Chief Minister meant by that in the previous motion. For me, the Executive is presumably what is headed by His Excellency the Governor, the head of the administration in Gibraltar.

HON CHIEF MINISTER:

If the Hon Member will give way. When I said that I meant the elected Government, I was speaking in general terms, I was not speaking constitutionally, I do not read the Constitution very often.

HON J BOSSANO:

Well, it might be helpful if the Hon and Learned Member reads it, Mr Speaker.

HON CHIEF MINISTER:

I know it by heart.

HON J BOSSANO:

I don't think what we are trying to do is to tie his hands, I think we are trying to pinpoint responsibility in a way which, fine, if he takes a line and if his Government takes a line which is different from ours because in principle they disagree with our arguments or there is a difference of ideology or philosophy, that's fine, that is what political alternatives are about but it is difficult to understand how anybody committed to the democratic process of Gibraltar, committed to maintaining parliamentary institutions, committed to having elections as we have where people are given the choice of either returning the same Government or putting another one,

can not want at the same time that it should be the House of Assembly that ultimately should have the last word on whether rights are granted in Gibraltar to those who do not have an entitlement to those rights either because they have been born in the place or because we have got international obligations with other member states in the EEC who give us those rights in their countries and where we have got to give it to them, they are two separate issues, we are not happy, Mr Speaker, as you very well know, both from the previous motion and from the many other times we have raised it in the House, we are not happy about our present terms of membership and we would prefer and we would have preferred that the stand should have been not simply to take the limited stand that we took on protecting a major and a very important part of the present relationship, we would have preferred to have pressed ahead with what we were told was not on and that was a re-negotiation of the whole thing but without even going into that area accepting that that part of it seems to be now beyond retrieval, it makes it even worse, it makes it even more of a nonsense if on the one hand we all accept that there are major unquantifiable but very worrying implications in granting EEC rights in an open frontier situation and at the same time we hear left, right and centre that there is constant talk of a negotiating process to bring those rights forward. The Hon and Learned Chief Minister in answer to another question said that his view still was that there should be no new agreement to replace the Lisbon Agreement and there should be no negotiations prior to the removal of restrictions but that that did not stop exploratory meetings. I am not sure whether he is ever going to define another one of these exploratory meetings as a make or break one again after the last time he defined it as such and left us all with bated breath waiting for the thing to break or make and apparently it neither broke nor - make. What happened was that the usual bland statement to which we have all become boringly accustomed came out saying that things were progressing satisfactorily, that both sides were happy, peculiar adaptability that British Foreign Ministers seem to have that they consistently tell us that they have got a line on respecting the wishes of the people of Gibraltar, no move on sovereignty and so forth which to the simple minded might appear to be dramatically opposite to the Spaniards and yet that they are both making progress on mutually incompatible positions. We are asking the Government to share with us the determination that it should be clearly stated as a view of the House of Assembly that we have got obligations which we accept are there and those can only be changed by negotiation and by changing our terms of membership of the Treaty but there are other things which we have still got which we have got to protect and defend because they still belong to us, Mr Speaker. I remember when we changed the Trade Restriction Ordinance, the Immigration Control Ordinance and all the other Ordinances on

accession to the EEC and we were told then that although we were actually debating and voting on these things, effectively, there was no choice because if we didn't change them they would be challenged or they could be challenged and they would be declared to be ultra vires and contrary to the Treaty of Rome and consequently unenforceable laws just like you cannot pass laws that are in conflict with the Constitution. As far as we are concerned for anybody other than the House of Assembly to talk about defined domestic matters in relation to non EEC nationals and to consider granting rights which do not exist in law today, is incompatible with the protection the Constitution of Gibraltar is supposed to give the people of Gibraltar and the rights and privileges of its House of Assembly. I commend the motion, Mr Speaker.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon J Bossano.

HON CHIEF MINISTER:

Mr Speaker, the Hon Leader of the Opposition, who it is always a pleasure to listen to, sometimes says very silly things and sometimes says very un-understandable things for a person of his wide knowledge and logic. Therefore he finds it difficult to understand the Minister speaking about difficulties in respect of one area when in fact we say that we have happy relations in another area but that is bound to happen when you have an on-going relationship sometimes of conflicting interests in which you are happy with the result of some things and you are not happy about the result of something else, it is perfectly consistent. That reference by the Mover of the previous motion that either you fight the British Government or you are a puppet, you don't, the answer to that is the way of compromise because it is the only way we can maintain our relationship with the United Kingdom. There are areas of conflict, of course there are areas of conflict, and in fact, it has been said in a wider issue that a democracy is in many ways a Government by compromise and particularly that applies to Gibraltar because there are conflicting interests and what I say in one respect may not necessarily apply in another respect. Therefore, it is perfectly understandable that we have areas in which we are not happy. We haven't explored them yet, they are there, mention has been made, we explore them, either we agree or we disagree, if we disagree we will say so. If we have a conflict with the British Government we will say so, we have had many, as far back as 1955 when we left the House because we would not agree to the use of the veto by the then Governor, so this is really old stuff as far as I am concerned and I do not have to be told these things, not that the Leader of the Opposition is attempting to tell

me what to do, all he says is what he would do. If I said about the attempt on the part of the other motion of being an attempt to control the Executive which was objected to but now agreed, this is a bigger one, of course it is, but the terms of the motion and I think his interpretation of the other agreement was wrong. The agreement says 'this agreement is subject to approval by the House of Assembly'. When you say that if you come along to the House before you agree, then you virtually give the Opposition a veto on the Executive and therefore the Executive has got the power and that is why it has the responsibility to take decisions, bring them here for approval and if they are not approved by the Opposition and they are approved by the majority they are being approved in a democratic process. Rights and privileges cannot be given effect to without the enactment of legislation by this House and therefore, perhaps surprisingly or disappointingly, I am going to agree with the Hon Member but that is not to say that this side of the House is not free to consider any proposals that might be put forward and if we were to believe that any such proposals are likely to be for the benefit of Gibraltar whether they are against what the Hon Member has said in this motion or not we will bring them here to give them its backing and support. Hopefully, we would like to see whether we could make some areas of agreement but otherwise.....

HON J BOSSANO:

If the Hon Member would give way. Would the Hon and Learned Member not agree that, in fact, the wish that he has expressed since the official opening of the House that the Opposition should not be here simply to obstruct whatever the Government brings, Mr Speaker, must imply that the Opposition cannot simply be here just to vote for or against but also to amend and therefore there cannot be a 100% commitment to whatever is being brought prior to the thing being debated.

HON CHIEF MINISTER:

Of course we can, you are wrong, completely wrong, of course we can, otherwise there would never be any Government. How can a decision be taken by the Executive in any parliamentary democracy; take the United Kingdom which is the one, I hope, we know best; decisions are taken by the Executive. The other day we were in the House of Commons, the day there was a slight incident there. We happened to be there we were not looking for it, we have enough here. Prior to that the thing had led up to a question of a civil aviation amendment on which a vote was carrying on and more than ever anybody who is acquainted with the House of Commons, you are having dinner or whatever it is, you do not know what you are voting but the

bell goes and you join the lobby. How much more is it here where we are so close together that when you make a decision, the Government makes a decision and that decision is implemented by the majority. Of course, the last words I said before I gave way to the Hon Member were that if we can get the Opposition with us in part or anything that we do so much the better, there is more consensus, but ultimately it is our responsibility whether we do it before or we do it then. I make no apologies about the way the other agreement would handle constitutionally. I was committing myself as the Executive, as the Leader of the House, as the Leader of my party, I was committing myself and my colleagues. Naturally, I have an element of consultation, it is a matter for each party how to do it, and the way people speak here shows quite clearly that I do not muzzle Members to say anything that the British Government may not like and I do not muzzle myself in anything that I want to say if I have to say it but, ultimately, the responsibility must be of the majority. We cannot come here and say: "Before we go to London may we say this or the other?", and if the Opposition say: "No", then I do not go to London. We have to take the leadership, be it bad or be it good, of saying: "We think this is good for Gibraltar, we have an elected majority" - I am not attempting to use these terms as being an imposition. I think the Hon Member, I hope, knows me well enough to say that where we can find a consensus I look for it, I have always looked for it, and therefore what I am saying is that if in fact we think that there is a decision to be taken, the Executive must take it and bear its responsibility by an Opposition. What happened last time? Look at what happened with the other motion, such a hullabaloo so near the elections. Well, alright, I took that chance, it was a difficult one. I am glad that the result was better at five o'clock in the morning than at three. Having made that clear, Mr Speaker, we are delighted to agree to the motion.

MR SPEAKER:

In the light of what the Hon and Learned Chief Minister has said, does any other Member wish to contribute? Does the Hon Leader of the Opposition wish to reply?

HON J BOSSANO:

No, Mr Speaker, I am very happy that the Hon and Learned Member is going to support the motion.

Mr Speaker then put the question which was resolved in the affirmative and the motion was passed unanimously.

The House recessed at 1.05 pm.

The House resumed at 3.30 pm.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House is seriously disurbed that public funds continue to be disbursed from the Gibraltar Shiprepair Limited Special Fund in contravention of Section 6(4) of the Gibraltar Shiprepair Limited Ordinance - 1983; Section 5(2)(d) of the Public Finance (Control and Audit) Ordinance 1977; Clause 64(2) of the Gibraltar Constitution Order 1969, and Section 213(2) of Colonial Regulations Part II. It condemns the complacency of the Government in permitting this situation to persist after it was brought to their notice in this House in June and calls for immediate action to stop any such further payments until the position is regularised in compliance with the law and the Constitution". Mr Speaker, we are told that this is a mere technicality, the fact that there are so many infringements of the provisions of the laws of Gibraltar which are concerned with the control of public funds. I think the importance of this lies in the respect that the Government has for the House of Assembly if it has any at all, Mr Speaker, because the situation arises out of a decision on the part of the Government itself. The Government came to this House of Assembly and introduced the Gibraltar Shiprepair Ordinance. In October, the law was introduced and I think it was in the December meeting that the Government explained, the Financial and Development Secretary, in fact, explained that the way it was being done - on page 165 of the Hansard of the 6th December, 1983, Mr Speaker - the Hon Financial and Development Secretary explained that it was a technical provision to allow the £28m to pass through the books of the Gibraltar Government and to dispense on the purchase of assets to enable the Dockyard to operate and to draw down working capital. In the course of the debate on the Bill, the Government accepted a criticism that I made that in having a Bill which stated that the £28m could only be used for the purchase of shares it seemed to me they were making it impossible for the Government to spend money on the refurbishment of the assets without breaking the law and as a consequence of that point, in fact, the Government then came back and introduced an amendment which is shown on page 173 of the same Hansard moved by the Hon and Learned Attorney-General which added: "or for expenditure on assets belonging to the Government that are to be leased by it to the Company". So, in fact, whereas it had been the Government's original intention that the money could only be used for the purchase of shares, it was subsequently amended to allow it to be used for either of two things. In June of this year we raised the question in the

House of how it was that people in the Gibraltar Shiprepair Limited were being paid if in fact the share capital was still £1,000 and that was as a result of Question No.35 asked by my Colleague, the Hon J E Pilcher. At the end of a series of questions the Financial and Development Secretary said: "I think I need time to consider the provisions of the Ordinance in greater detail before replying to the Hon Leader of the Opposition's learned question". Fair enough, it is not the first time that we get that kind of answer, in fact, in that meeting we had that kind of answer to quite a number of questions. What we cannot accept, Mr Speaker, is that we come back in October and we get what is an admission because, in fact, there cannot be anything other than admission, Mr Speaker, the Ordinance is absolutely crystal clear. The Ordinance says, Section 6(4): "There shall be charged upon the Fund such monies not exceeding in aggregate £28m as the Financial and Development Secretary may authorise for the subscription or purchase by the Government of Gibraltar of shares in the company or for expenditure on assets belonging to the Government that are or are to be leased by the Company". The Financial and Development Secretary is the controlling officer of the Fund and we are not interested in his function, as Chairman of the Company, we are talking to him as the controlling officer of a Special Fund set up under the provisions of the Public Finance (Control and Audit) Ordinance, 1977. This lays down how public funds are handled. The reason and the justification for setting up this Special Fund, Mr Speaker, were given initially in the House but in fact had the Government not done this, had the Government not set up the Special Fund under the provisions of the Public Finance (Control and Audit) Ordinance, the money would have gone into the Improvement and Development Fund because the Ordinance lays down that all the money received by way of grants from the British Government which is to be used for development purposes goes into the Improvement and Development Fund. The Special Fund was set up to enable the Government to keep the money provided by ODA for the purpose of setting up a commercial dockyard separate from the rest of Government money and the machinery for transmitting that money from the Government to the Company was by the Company issuing and selling shares to the Government. Perhaps, after the thing was done that way the problems associated with it might have come to light but what we cannot have is a situation where here we are a year after the legislation was passed and we know because it has been admitted in the House that the money has been paid to the Company and the Company has not issued any shares in exchange for that money because the authorised share capital of the Company is still the same. The reason why I have pointed out in the motion, Mr Speaker, how the action of the Financial and Development Secretary as the controlling

officer is in conflict not just with the Gibraltar Shiprepair Limited Ordinance of 1983 but with the other Ordinance is because in fact they are all inter-linked. If we take the question of the Constitution, Mr Speaker, Section 64 of the Constitution provides for withdrawals of money from the Consolidated Fund or other public funds and the Gibraltar Shiprepair Limited Fund is a Special Fund under the provisions of the Public Finance (Control and Audit) Ordinance and therefore a public fund as defined in the Constitution and the Constitution says that money from public funds can only be used either on the authority of this House or as provided for by law. We in this House have not voted for the Financial and Development Secretary to use that money in any other way other than that provided in the Ordinance and if he is using it another way he is not only then in conflict with the Ordinance, he is also in conflict with the Constitution and what I would think was even more worrying for the Hon Member is that Section 213(3) of Colonial Regulations Part II says that any officer making, allowing or directing any disbursements without proper authority shall be held personally responsible for the amount and I would have thought, Mr Speaker, that £3m from the Hon Member's bank account will make quite a big hole in it. Not only can we say that he is doing it without the authority but, in fact, under Colonial Regulations we can hold him personally responsible for having disbursed money without proper authority from a public fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On a point of order, Mr Speaker, in the motion moved by the Hon Leader of the Opposition the reference is to Section 213(2) of Colonial Regulations Part II and in his speech he has just quoted Section 213(3), I think I heard correctly.

MR SPEAKER:

I do not think he is restricted in quoting other Sections in the course of introducing the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would like him to make it clear which one he has in mind.

HON J BOSSANO:

I am talking about Section 213(3), Mr Speaker, this is obviously a misprint because Section 212(2) concerns payments in the United Kingdom by the Crown Agents, nothing to do with the subject matter. It just says that disbursements in England have to be made through the Crown Agents, that is what

Section 212(2) says, and I am talking about Section 213(3) which says that the Hon Member is exposing himself to the possibility of having to fork out £3m from his own pocket as a result of having made a disbursement without proper authority which must be quite a worry for him, I would have thought. The other reference, Mr Speaker, which is that of the Public Finance (Control and Audit) Ordinance, is because the Fund is a Fund made under the authority of that Ordinance and consequently when we are talking about the Regulations covering Special Funds which is included in the major Ordinance, any use of any Funds other than laid down by the law is automatically an infringement of the Ordinance under which the subsidiary legislation is made although these are not subsidiary legislation by virtue of the fact that they are Regulations. If one looks at the actual Ordinance that we passed, the Gibraltar Shiprepair Limited Ordinance, we will recall that when the Ordinance was introduced into the House it was pointed out that it was in compliance and in consonance with the provisions of the Public Finance (Control and Audit) Ordinance and that to any extent that there was any conflict between one Section and the other, that was specifically mentioned in the Ordinance. For example, the fact that the money is not going to the Improvement and Development Fund notwithstanding the fact that it is a grant from UK which is what the Public Finance (Control and Audit) Ordinance says. There is nothing to say that the Government had to do it in this particular way, I think this has to be absolutely clear. It isn't that the Government could not have exercised its majority in the House of Assembly to pass a different kind of law to do something different because the original Gibraltar Shiprepair Ordinance was passed with the Government votes in favour and the Opposition voting against, so I am not defending the particular way of doing it, what I am saying is that it is wrong that a law should be brought to the House by the Government which restricts their power to do certain things and then they ignore the law that they brought to the House because then it makes a complete nonsense, Mr Speaker, of the job that we are doing in this House of Assembly and not only is that situation allowed to persist but what is worse is that when we bring it to the notice of the Government, as we did in June, and we go through the whole argument all of which were to some extent a repetition of some of the things that had been said in December and in October of the preceding year, the Government says: "Fine, we are going to look at the situation in the light of the arguments that you have put forward", and then they forget the whole thing until the next House of Assembly comes along in October. I do not think this is an acceptable way to carry on, Mr Speaker. I do not think it is good for the credibility of the House of Assembly, I do not think it is good for the maintenance of the respect

for the rule of law. If the Government wants to do something different then the Government should have different legislation but what it must not do is pass legislation which then it disregards on the basis that it is only a technical omission of the law which will be corrected retrospectively. It is not on, the law does not say that, the law does not say that the Government can spend £3m in buying steel plate and then six months later be issued with £3m worth of shares as if the shares had been issued before the steel plate was bought which is effectively what we are being told is going to happen to correct the anomalies and certainly, Mr Speaker, we decided to bring the matter on an adjournment motion when the answers that we were given proved to be unsatisfactory, we have brought a full fledged motion in the hope that we will be able to persuade the Government that they should initiate action on their own to put matters right and if they don't, and if the Government chooses to defend this then we will have it tested. If the Government is going to stand up and tell us that it isn't true, that this way of conducting the use of public funds is not, in fact, an infringement of a number of pieces of legislation then we will test it in Court to see whether it is true or it isn't true. I commend the motion to the House, Mr Speaker.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon J Bossano.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, there are a number of general points I would like to make before dealing with the details of the motion by the Hon the Leader of the Opposition. The structure of Gibraltar Shiprepair Limited and the relationship between the Management Company and the Supervisory Board and the relationship between the Company and the Government bearing in mind that commercialisation is at present funded entirely by ODA development aid, the relationship with Her Majesty's Government as far as the project is concerned, all these are complicated matters which are bound to take some time to sort out entirely. The Dockyard venture, it is entirely unnecessary for me to say this, is a completely new departure for Gibraltar there are a few precedents on which to go. On the one hand the Company has been set up as a private company rather than as a statutory corporation and it is to be run by commercial managers and not by civil servants or under Ministerial control. This was the advice given to the Government by consultants in 1982 and 1983 when the project was at the feasibility stage and that advice was accepted by the Government, it was followed by my predecessor and by the Hon Attorney-General's predecessor in office. If I may be permitted to quote from the speech made by the then Attorney-General on the Second Reading of the Gibraltar Shiprepair Ordinance, he said: "You can either have

what is known as a statutory corporation or you can have an ordinary commercial company subject to a greater or lesser degree of control from the outside. May I say I think it is fundamentally wrong in relation to this operation to use the device of a statutory corporation, and customarily statutory corporations are used to establish public bodies, bodies of a public nature which this undoubtedly is, but of a non-trading nature. There are some that do establish trading concerns, I would accept that, but customarily they are used to establish non-trading bodies where there is great advantage in having a commercial company to establish public bodies of a trading nature because it is far better constituted towards commercial operations, it is much more flexible". But, unfortunately, Mr Speaker, the matter is not quite.....

MR SPEAKER:

May I ask where you are quoting from?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That was the meeting of the 18th October, 1983. Well, unfortunately, Mr Speaker, the matter is not quite as simple as that learned extract might suggest, it is rather more complicated because first of all there is the question of assimilation with the laws of Gibraltar as they apply to projects funded with development aid, what I might call the domestic constitutional dimension and, secondly, there is the question of complying with the conditions to which HMG ask us to conform when they grant development aid, what I might call the external dimension, and one of the conditions of the agreement with HMG as is usual in such circumstances, was that the £28m should be made available to the Gibraltar Government, so the Gibraltar Government is therefore accountable for the expenditure of GSL to HMG in that particular regard. In the normal course of events where the funds are for something like a new Power Station, a desalination plant which is a Gibraltar Government project, there is the project controlling officer, a civil servant responsible to the Minister, and this arrangement works reasonably well because it is a tried and tested arrangement and everyone is familiar with the rules. In this case we had no rules which to follow. In the case of GSL, which is a private company, a trading company, new arrangements had to be devised to meet the requirements of external accountability and satisfy Her Majesty's Government and the civil servants in the ODA but also, of course, to retain the flexibility required for commercial operation which are mentioned in the learned extract from the then Attorney-General which I quoted earlier. There are also a number of difficult areas where the conditions on which ODA aid is granted on the one hand and the requirements

of the Gibraltar law on the other interface and some of these areas have been mentioned from time to time in the House in the margin of questions. It is unfamiliar territory for which there are no precedents to guide us. The difficulties arise in many, if not most, instances because of the status of GSL as a private company for which there is no statutory responsibility as far as Government is concerned, as far as its operation is concerned. On the other hand there is a degree of accountability because the company is wholly owned by Government and it is a recipient of development aid. Then there are rules and regulations which normally apply to Government projects but whose application to a privately registered company is uncertain - I think the word commonly used by lawyers to describe the situation I have outlined, Mr Speaker, is hybrid, the company is a hybrid. One of the difficulties to which I have just referred was perceived after the Bill had received its Second Reading but before the Committee Stage and that led to the introduction of the additional Section 6 including Section 6(4) which is the subject of the motion by the Leader of the Opposition and without the additional Section as the Hon Leader of the Opposition has pointed out, it would have been difficult if not impossible for the company to operate, operate as a trading company in a commercial environment. Expenditure would have been subject to the procedures of the Finance and Appropriation Bills, estimates and perhaps subhead by subhead would have had to be prepared and the authority of the House sought when additional funds were required for purposes not specifically approved by the House at the estimates stage. In short, the company would have been constrained in much the same way as a Government Department which was clearly not the intention. Section 6(4) of the Bill provided a mechanism for the setting up of a Special Fund and for the Fund to use for purchase of shares in GSL which was seen as a way of avoiding that constraint. The Hon Leader of the Opposition himself made a helpful contribution on that occasion, I think, Mr Speaker, it is worth mentioning that, he drew our attention to it in his speech just now, by drawing attention to the distinction which is now reflected in that Section of the Ordinance between expenditure on fixed assets belonging to the Government but to be leased by the Government for the company and other expenditure by the company for which the shares would be issued. These are highly technical matters, Mr Speaker, and there are other matters affecting the company's position to which further consideration will be given and indeed is being given from time to time. If Hon Members argue that all this should have been fully considered and perhaps debated in this House, well, it is a tenable viewpoint and with the benefit of hindsight it could be argued that all these matters should have been provided for in the GSL Bill which might well have included a great many other things as well, powers of direction

by the Government to the company and other matters, in which case I think the Bill would probably have provided explicitly for Ministerial responsibility but in those circumstances the distinction between a private and a statutory corporation would certainly have been blurred. I now turn to the question of the alleged illegality of the payments which have been made by the Government to Gibraltar Shiprepair Limited, Mr Speaker, and you doubtless have noticed that I use the phrase 'alleged illegality' because I do not accept, the Government does not accept that any breach of the law has taken place. I did say so in my answer to a supplementary question raised by the Hon Leader of the Opposition during the meeting of the House on the 26th June and I now reiterate that the Government has acted within the law but I acknowledge that this was one of the difficult areas which we took time to sort out and I am grateful for the Hon Member's recognition, amongst the criticisms which he made, that such problems do take time to sort out. Section 6(4) of the Gibraltar Shiprepair Limited Ordinance 1983, provides for the Financial Secretary to charge to the Fund monies used for the purchase of shares in GSL by the Government and also for expenditure on assets to be leased by the Government to the company. I agree with the Hon Leader of the Opposition that it provides for nothing else, however, the Ordinance also states in Section 6(2) that the GSL Fund shall be a Special Fund within the meaning of the Public Finance (Control and Audit) Ordinance 1977, and accordingly all the provisions of that Ordinance that apply to Funds declared to be Special Fund shall apply to the Fund. The Public Finance (Control and Audit) Ordinance has, amongst other provisions, one which perhaps, Mr Speaker, the Leader of the Opposition in spite of his encyclopaedic knowledge of the legislation may possibly have overlooked and I hope that some Members of the House, Mr Speaker, will immediately be seized with the fact that I am referring to Section 10(1) of the Public Finance (Control and Audit) Ordinance which permits the Accountant-General on the authority of the Financial and Development Secretary, to make disbursements of public monies for the purpose of making advances and if we read on through the various subsections of Section 10(1), Mr Speaker, that is to say, Sections 10(a), (b) and so on, we eventually arrive at subsection 10(1)(e)(5). Section 10(1)(e) states: "that such advances may be to or on account of the various Special Funds nominated in subsection 10(1)(e)" and, finally, under Section 10(1)(e)(5), it will be seen that disbursements can be made to or on account of any other Special Fund where such advances are recoverable before the close of the financial year in which such advances are made. And this is what is being done, Mr Speaker, and will be done as an interim arrangement within the law prior to the close of the current financial year, from time to time the advance accounts will be cleared by the issue of shares in accordance with the provisions

of Section 6(4) of the Ordinance. There are, in fact, a number of advantages in dealing with the matter in this way, practical advantages. Firstly, it avoids the frequent issues of shares for if one were to follow Section 6(4) literally one would I, think, need to issue shares at very frequent intervals, perhaps even daily, to match the flow of funds from the ODA via the Government accounts, in some cases by the Crown Agents, as they are made. Secondly, one might have to make frequent adjustments to account for variations which have been estimated and actual flows of funds. There are difficulties in determining precisely from day to day how much is on assets belonging to the Government, how much on assets which will feature in the company's balance sheet, how much on working capital to pay wages, to make local purchases and so on. In due course the advance account will be cleared by the issue of shares and there will be a statement of expenditure on Government assets, the company's balance sheet and profit and loss account will show the application of funds in use by the company and the source of those funds will be the money in the GSL Fund balanced by the issue of shares to the appropriate account and all of this will be subject to audit by the Principal Auditor and the Auditors of the company. I have studied the other references in the Hon Member's motion, Mr Speaker. As far as Clause 64(2) of the Gibraltar Constitution is concerned, that prohibits the use of public monies except where the issue of public monies is in accordance with the provisions of the law and as I have just explained the law in this case is Section 10(1) of the Public Finance (Control and Audit) Ordinance which I have referred to. Section 5(2)(d) is mainly concerned with the investment of monies and I think it is relevant to the issue under debate, it is not immediately obvious and I think in any event the Hon Leader of the Opposition meant it as a subsidiary to his main point about acting within the law. I did turn to Section 213(2) of Colonial Regulations with some hope, Mr Speaker, that like the Colonial Regulation referred to earlier by the Learned Chief Minister in answering a question about the salary paid to the Acting Director of Tourism, it might conceivably state that it was illegal for the Financial and Development Secretary to perform any other office apart from that of Financial Secretary on an acting basis without adequate remuneration but instead of that it simply states that 'disbursements shall be made by the Crown Agents', so I came here this afternoon, Mr Speaker, with an elaborate defence of our action under Section 213(2) of the Colonial Regulations, I discovered or rather the Hon Leader of the Opposition put me right on that in the earlier exchange at the beginning of his speech. I feel that sometimes when I am answering questions from Hon Members opposite other than from the Hon Leader of the Opposition, my position is rather like that of someone who has stopped to offer a lift to a pretty girl on the A1 or some similar dual carriageway and having

stopped the car and opened the door, the girl's mother or ugly sister or someone pops out from behind the hedge. I have noticed that when answering questions by other Members of the Opposition who have - excuse me for referring to them as pretty girls in these circumstances - as soon as they have asked their question and I have provided an answer, the Hon Leader of the Opposition pops out from behind the hedge and asks a supplementary. In the case of this particular Colonial Regulation, I do not think I need to explain or I hope I do not need to explain the position about disbursements from the Crown Agents and as far as the other Regulation is concerned, well, I do not think I really owe the Government £3m or whatever it was that the Hon Leader of the Opposition mentioned. Thank you, Mr Speaker.

MR SPEAKER:

Are there any other Members who wish to contribute to the debate?

HON CHIEF MINISTER:

Mr Speaker, in the first place, I think the Hon Leader of the Opposition has been here long enough to know that, certainly, the House attempts to abide by the rule of law. We were instrumental in 1977 in agreeing with the provisions of the Finance (Control and Audit) Ordinance which, if I remember rightly, later had to be amended because the Financial Secretary had tied his hands so much that he found it difficult to work it and he himself had provided for it and therefore we stand by the rule of law, we stand by the proper control of public expenditure by this House. I will come to the technicality in a moment but if there is a general allegation, I think the motion says something about complacency of the Government, I would certainly refute that, there has been no complacency, but the Hon Mover made a remark towards the end which I think is the most pertinent and that is that it would be a matter for the Courts. We are dealing now with the question of interpretation. I did not want to burden the House with all sorts of books from my Chambers which would have told you what Judges have said upon interpretation on different things at different times. Looking at it from a purely common-sense point of view, on the dispute of interpretation, really, until the highest Court has decided who is right it remains a matter of interpretation. It is a little more than that because it is a matter of approach towards interpretation. The Government was advised by the Attorney-General, as is his duty that there is nothing illegal as was suggested by the Leader of the Opposition either earlier or today. The Financial and Development Secretary has made his own contribution and has

explained details, into which I will not go, as to the practicality of funding this new project to satisfy all sorts of criteria, the main one being the giver of the money because after all they have very strict control themselves, and to satisfy how to gear that problem towards the question of having a private Ordinance and so on. I do not think, Mr Speaker, that this House is the venue for a matter of interpretation. I am sure that what has been heard this afternoon so far even though it is between a politician and an experienced civil servant, is more the sort of thing you hear in Courts of law when arguing on interpretation and therefore we refute any suggestions that we have been complacent. We think that the Leader of the Opposition is bona fide bringing this motion because he thinks that he is right, we think and I have advice also, not me, the legal adviser of the Government thinks that he is wrong and the person who is likely to be responsible to whom we will have to ask the £3m or what have you, also thinks that he is right and he is prepared to defend that wherever it is necessary.

HON J BOSSANO:

If the Hon Member will give way. Can the Hon and Learned Chief Minister explain why they have never said so before in all the previous questions that have been put in the House? Why is it that never before until now the Financial and Development Secretary has not stood up and said: "I am making an advance under Section so and so. Why?

HON CHIEF MINISTER:

I do not know, that I cannot tell you. All I can tell you is that when I considered the matter and it was a matter for interpretation, I said it was a question for the Courts to decide and the rule of law is established by the fact that even interpretations of Attorneys-General and everybody else and then you have to go to the very top because you might have difficulties on the way up, as it happened in a case where one Judge said it was right and the Court of Appeal said it was wrong and the House of Lords said it was wrong, or rather the other way about, one said it was wrong and the other two said that it was right, it was a proper order. Therefore it is a matter which if the Hon Member has either not been satisfied by the explanation given today or thinks that they require further consideration, of course he knows that any interpretation given to a law by the Government is subject to review by the Courts and if he makes an application and the Court supports his interpretation, well, we shall take whatever steps are necessary. On the other hand if he finds it not to be, in fact, a valid point, he will have had the satisfaction of having been told that by a Judge of the High Court or the Chief Justice or

the Court of Appeal or the Privy Council, whoever has to decide. The Government cannot act on behalf of a Member of the Opposition who has a different view or because of the views of a Member of the Opposition in any particular case. There is no question of neglect of expenditure. I would have thought, and this is purely my own view, that satisfying the ODA that payments are justified is something which requires very considerable amount of persuasion that things are being done right because of the control that they exercise apart from the fact that it is so close linked that that is the best way of dealing with it.

MR SPEAKER:

I will then call on the Hon Leader of the Opposition to reply.

HON J BOSSANO:

There seems little point, Mr Speaker, in other Members coming forward with arguments because it is quite obvious that possibly because the Hon Financial and Development Secretary is devoid of an ugly sister or a fairy godmother or whatever it is to jump out of the hedge to save him what he has had to do is to produce a magic card from under his sleeve, he produced five aces in order to win this round and I am afraid we are not going to swallow the fifth ace. Mr Speaker, the motion has been brought, as the Hon and Learned Chief Minister quite rightly assumes, in good faith to this House and not out of any mischievous intent and it has been brought in good faith precisely because we feel and we felt that we had brought to the attention of the Government something that clearly for any ordinary person other than a legal expert was a patent infringement of the requirements of the law that the Government had passed and we thought we had been reasonable in giving them enough time to look into it and come back and either tell us: "Yes, you are quite right, it has been an oversight or a mistake and it is being corrected", or else: "You are wrong because of (a), (b) and (c)". That has not happened, Mr Speaker, we raised the thing in June, we were told by the Hon Financial and Development Secretary that he would look further into it, we raised it again in October because we heard nothing from him since. In Question No.105 and No.109, what do we get told? The question by my Colleague, Mr Pilcher, No.105: "What disbursements have been made?" Did the Financial Secretary say: "Well, what has happened is that I have been making advances under Section 10(1)(e) of the Public Finance (Control and Audit) Ordinance and these advances are going to be repaid before the end of the financial year"? Is that what he said that he had been doing? He told us then that he had been paying money for contracts placed with offshore companies and the remainder

were locally incurred. So what is it, is he making advances to offshore companies and those offshore companies are now going to repay him the money and then when they repay him the money he will then buy shares and then when he has bought the shares CSL is going to pay back the company because that is what he has to do under Section 10(1) and that is what he has told the House that he is going to do. He is now going to go back to all the people that he has paid money to and ask them to pay him the money back before the end of this financial year and then when he has got the money back from the contractors he is going to buy shares in the company and then when the company has issued the shares to him they are going to go back and pay the contractors for what has already been paid after they have repaid him the advances that he has said he has been paying. That is the explanation of the Financial and Development Secretary, Mr Speaker. I honestly believe that it must have been with relief that the Hon Member thought that he had discovered a way out in this Section but I am afraid it will not wash because, in fact, what does the Section say that he has quoted? The Section says that he can make advances by warrant authorising the Accountant-General to make those disbursements. Well, we will check every penny that has been paid to every person that has had any connection with GSL and there had better be a warrant signed by him authorising the Accountant-General to make those disbursements because that is what Section 10(1) says and it says that he can do it for a range of purposes which includes payments to or on account of the Improvement and Development Fund, the Electricity Undertaking Fund, the Potable Water Fund, the Telephone Fund or any other Special Fund and that such advances are recoverable before the close of the year, they are recoverable, and if he has done them under the authority of that Section, Mr Speaker, he is going to have to show to the House when he made the advance and when he recovered the money.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way, Mr Speaker. The point of an advance account is that it is an advance account and that is that the payments which have been paid to contractors or whoever it may be from that advance account are payments proper to that account. It is the GSL Fund which has to be reimbursed when the advance account is cleared so there is no question of asking contractors for their money back so that it can be given back. I think the Hon Leader of the Opposition is attempting to draw us into an absurd practice which clearly is not necessary to comply with the terms of the Ordinance.

HON J BOSSANO:

It may be an absurd practice, Mr Speaker, but that is what he has

told the House he is going to do, an advance account not an advance account of the Gibraltar Shiprepair Limited as a private company, it is an advance account of the Special Fund set up in the Ordinance and that money has been drawn out of that Special Fund for a purpose other than the purposes of shares. Yes, Mr Speaker, he has not made an advance payment to GSL to buy shares because he is not allowed to do that, the law is quite specific and it may well be that the Hon and Learned Attorney-General is now advising the Hon Financial and Development Secretary that this is possible as long as it can be made to fit with that Section but in this House a couple of weeks ago, Mr Speaker, this is not what the Hon Member said. The Attorney-General had to say in the House: "The money out of the Fund, Mr Speaker, must be used only for the purposes specified in the Ordinance, namely, the purchase of shares or the acquisition of assets belonging to the Government". We asked the Hon Member: "Has the money been used for anything else?" He said: "Yes, the money has been used to pay wages, to buy material, to buy cars, to buy potted plants", not a penny for the purchase of shares which is the only thing he can use the money for. He may be able to make an advance payment but he can only make an advance payment for the purpose for which the Ordinance allows him to spend the money. He cannot make an advance payment for something else if the payment is on account of the GSL Special Fund.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again, Mr Speaker, I think I must make the point clear for the Hon Leader of the Opposition's benefit that payments are not being made from the GSL Fund, the Ordinance says quite specifically that payments are to be made to or on account of and that is an accounting convention which, I think, possibly the Leader of the Opposition is not clear.

MR SPEAKER:

What you are saying is that the advances have been made from the Fund to the Gibraltar Shiprepair and the payments have been made by Gibraltar Shiprepair.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, the advances are of public monies on account of the Fund, that is what is provided for by the Ordinance.

HON J BOSSANO:

Yes, Mr Speaker, but the Hon Member has been making advances. We asked the Hon Member in this House: "What disbursements

have been made from the Gibraltar Shiprepair Limited Fund stating the dates, the amounts and the purpose to which such disbursements have been made?" The Hon Member did not stand up a fortnight ago and said: "There have been no disbursements from the Fund, all that has happened to date is that we have been making advances under the provisions of the Public Finance (Control and Audit) Ordinance because we have discovered" - as was pointed out in June - "that we could not use the money other than for the purchase of shares and since that has not happened in order to avoid being in breach of the law what we are doing is making advances". He didn't say that. He said: "Mr Speaker, the total amount authorised for payment to date is £3.1m; £2m represents payment for contracts" - if he is talking here about payments for contracts either he has been making advances on an advance account or he has been making payments for contracts. If he has been making payments for contracts then I want to know how it is that the money that has been disbursed as an advance to a contractor is going to be recovered as required here which he says: "that any payment made under Section 10(1) on account of any Special Fund can only be where such an advance is recoverable before the close of the financial year", and it is not going to be recovered by the end of the year, it is going to be covered by an issue of shares by GSL for which no payment will be made because payment will have deemed to have been made at the original date and I told the Hon Member that it seemed to me that that is how he intended to square the circle and his answer was: "The Hon Leader of the Opposition may have expressed it admirably". He didn't say to me: "No, you have got it all wrong, I am making advances".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think to be fair to the Financial Secretary, Mr Speaker, the Hon Leader of the Opposition ought to refer to supplementary question No.105 of 1984. He quoted the substantive reply which I gave to, I would hesitate to say his pretty girl friend, I am not using that phrase in any offensive way, but it was to the Hon Mr Pilcher and then the Hon Leader of the Opposition popped up and said: "Has any of this money from the Fund been paid direct to the Government or through GSL?", and I said: "The money has been paid or, I should say, it has been accounted for by the Government".

HON J BOSSANO:

One can understand why the Member says he is going to be making advances all over the place, Mr Speaker. Clearly, if he makes advances like that then my friends on this side of the House, Mr Speaker, do need an ugly godmother to come out and protect

them. Therefore, Mr Speaker, I am afraid that our assessment of the reply that we have had from the Hon Financial and Development Secretary and from the Government, generally, because he is saying that this is the Government view, is that it is in fact a valiant attempt to justify the way that they have handled the situation rather than admit that they should have paid more attention to the inconsistencies that we were pointing out and which, certainly, we shall see tested. We shall see whether in fact the Hon Member has been making advances or has not been making advances but, certainly, I think he must accept and I think the Government must accept that if they had come to us at an earlier stage and genuinely said: "No, it is that you are misinterpreting the law", and not simply say: "Yes, we are in breach of the law but only technically in breach of the law", which is the message we had before, we do not accept that answer. We do not accept that the Government can be technically in breach of the law because the Government is the last person that needs to be in breach of the law, they can actually change the law, the average citizen has got no choice, Mr Speaker, but if the Government thinks a particular law is wrong or too restrictive or anything, they do not need to break it, they change it so why should we have a situation where the Government is technically in breach of the law when all they needed to do was to amend the law in October or in June or whenever they found it necessary to do so. That is the answer we have had until today, that answer is not acceptable, today we are being told that there is another Section of the Ordinance that appears to be in conflict with the one that we have been quoting and with all the arguments that we have been putting which have not been satisfactorily answered until now and we just think that this is really an attempt, in fact, as I say, having found something that appeared to make it possible to defend the indefensible, an attempt to do it and it is an attempt that does not convince us.

MR SPEAKER:

I would like to rule that I consider this to be a vote of no confidence on the Government and that consequently in accordance with Section 44(1) of the Constitution the two ex-officio Members do not have a vote.

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

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 voted against:

The Hon A J Canepa .
The Hon Major F J Dellipiani
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt

The following Hon Member was absent from the Chamber:

The Hon M K Featherstone

There being an equality of votes for and against Mr Speaker declared the motion lost.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move the adjournment of the House sine die.

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

The adjournment of the House sine die was taken at 4.30 pm on Monday the 26th November, 1984.