

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

26 MARCH, 1985

VOL. I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventh Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 26th March, 1985, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan CBE, LVO, 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 Thistlewaite 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.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 15th January, 1985, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Hotel Occupancy Survey - 1984.
- (2) The Air Traffic Survey - 1984.
- (3) The Tourist Survey Report - 1984.

Ordered to lie.

The Hon the Minister for Education, Sport and Postal Services laid on the table the following document:

The Biennial Report of the Department of Education for the period September, 1982 - August, 1984.

Ordered to lie.

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

- (1) The Accounts of the Government of Gibraltar for the year ended 31st March, 1984, together with the Report of the Principal Auditor thereon.
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 6 of 1984/85).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 7 of 1984/85).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 2 of 1984/85).
- (5) Supplementary Estimates Consolidated Fund (Excess Expenditure 1980/81).
- (6) Supplementary Estimates Consolidated Fund (Excess Expenditure 1981/82).
- (7) Supplementary Estimates Consolidated Fund (Excess Expenditure 1982/83).
- (8) Supplementary Estimates Improvement and Development Fund (Excess Expenditure 1982/83).

(9) Supplementary Estimates Consolidated Fund (No 3 of 1984/85).

(10) Supplementary Estimates Improvement and Development Fund (No 3 of 1984/85).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

MOTIONS

HON DR R G VALARINO:

Mr Speaker, Sir, I have the honour to move the motion standing in my name in the Order Paper.

MR SPEAKER:

I imagine that you do not wish to read the actual terms of the motion.

HON DR R G VALARINO:

Can we take it as read, Sir?

MR SPEAKER:

Yes, but I would like to ask one question. They are regulations and sub-paragraph (2) of paragraph 1 says: "This Order shall come into operation on the blank day of blank 1985". Are you passing the motion as it stands or should it read 'on a date to be appointed'? Perhaps the Hon and Learned Attorney-General will help on this one.

HON DR R G VALARINO:

It should be the 1st April, 1985.

MR SPEAKER:

I thought I would bring it to your attention unless you have a date and if you have a date you can put the date now before you propose it.

HON DR R G VALARINO:

The 1st April, 1985, Sir.

MR SPEAKER:

Perhaps the Hon Minister wishes to speak to the motion.

HON DR R G VALARINO:

Yes, Sir. With frontier normalisation it is likely that over a period of time there will be some influx of persons residing in Spain who will be working in Gibraltar. This may well include persons of UK origin, Portuguese and Gibraltarians as well as Spanish workers. It would be useful, therefore, to obtain statistical data on frontier workers in the six monthly employment survey. This data would be particularly helpful in monitoring trends, in assisting the work of my Department, the Income Tax Office and the Treasury. It is therefore proposed that the Statistics Employment Survey Order, 1971, should be amended to include a new question to enable the Government's statistician to collect data on the residential status of employees working in Gibraltar from April, 1985, onwards. Thank you, Sir.

Mr Speaker then proposed the question as moved by the Hon the Minister for Labour and Social Security.

HON M A FEETHAM:

Mr Speaker, the Opposition, of course, welcomes this motion as it reflects the policy that we have actually requested Government to pursue since before the frontier opening and will certainly assist all concerned in monitoring frontier workers. We welcome this.

MR SPEAKER:

Any other contributors? Does the Minister wish to reply?

HON DR R G VALARINO:

No, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that: "This House notes the Principal Auditor's Report on the Accounts of the Government

of Gibraltar for the year ended 31st March, 1984". Last year, Mr Speaker, the Hon the Leader of the Opposition moved a similar motion in the House. In recognition of the importance which the Government attaches to the Principal Auditor's comments and to the accounts it was felt right that this year the Government should itself introduce a similar motion. One of the problems with the procedure under which the accounts are laid before the House almost a year after the year to which they refer has come to an end is that the transactions to which they refer are ageing by the time any motion is brought, nevertheless, the underlying issues raised are still relevant and important. The comments made by the Principal Auditor and the issues to which he has drawn attention can and will be the subject of further consideration by the Government which has not had time to complete this process yet and that will be done through the medium of the Expenditure Committee chaired by the Minister for Economic Development and Trade. There may also be some points to which Ministers themselves may wish to draw attention during debate or on which Members of the Opposition wish to comment. I would like to focus on one particular aspect which falls within my general area of responsibility as the Government's financial adviser and in view of the discussion we had last year and the contributions which were then made and the attention which this subject has subsequently received, it will not surprise Hon Members to learn that I am referring to the question of arrears. I said during my contribution to the debate last year that one of the problems in this area lay in a certain lack of coordination between the various parts of the Government's machine concerned with the preparation, issue and despatch of bills for municipal services and this has indirectly contributed to the problem of arrears and I am glad to say that arrangements subsequently made have led to an improvement in this respect. However, the fact that bills for municipal services are issued monthly means that the arrangements for collection are still vulnerable to delay in the issue of bills and some problems have still been incurred which interfere with what I would regard as the desirable norm, namely, quite simply, regular intervals of one month between receipt by customers of bills for the services in question. This will continue to receive attention. As the House is aware, improvements in the arrangements for collecting arrears were also made, an Arrears Section was set up which we did not have before, and the Arrears Section found itself confronted by a formidable task and a very long tail of debt - a 'tail' I mean - tail of debt by which I mean debts which extended back towards and, indeed, beyond the six-year limit about which there was a brief mention during question time this morning. One problem to which I drew attention last year was that we did not really have sufficient information about the age structure of the debt to municipal services and

this was an essential preliminary to tackling the problem. Indeed, analysis revealed that this was really the major problem for electricity, water and telephone service. I can perhaps illustrate that remark by referring to the latest information of outstanding bills for electricity and water service. The outstanding bills for a date inclusive of the March, 1985, issue amount to approximately £2.8m, I should explain that this figure does not include some bills which have not yet been received by consumers, it is an estimate and it also includes the February and March issue so there is no question of that figure, £2.8m, representing a figure of genuine arrears. If I can break down the figure of £2.8m in more detail: 1985 bills account for approximately £1m; 1984 arrears account for approximately £700,000; 1983 arrears account for £360,000; 1982 arrears account for £260,000; 1981 arrears £200,000; and then arrears for a period up to 1980 account for a further £200,000, and this is what I meant by the long tail of debt and the age structure of the debt. The comparable analysis to the telephone service reveals a broadly similar pattern. The problem has therefore been largely one of identifying the individual consumers and subscribers to whom these accounts relate over a very long period of time and this has been compounded by the fact that a large number of accounts have become inactive, that is to say, the individual or company to whom they relate has given up service or been disconnected, has moved house, has ceased trade, has gone out of business, has become bankrupt, has left Gibraltar, has disappeared or died and we are talking about thousands and not hundreds. There has therefore been a need for the Arrears Section to divide its attention on its limited resources between the collection of aged debts on the one hand and current debts on the other. I cannot speak too highly of the staff of the Arrears Section, Mr Speaker, and the way they have set about what is not a popular activity and is a difficult task. The Government is, moreover, very conscious of the fact that the adverse conditions during the past year has meant that the very circumstances which have contributed to the debts have made it that much more difficult for individuals and companies to meet their commitments. Nevertheless, there has been a small but significant improvement made in the collection of outstanding debts. To put this in perspective I think it is necessary to take the figures in the Principal Auditor's Report and the Accounts for all outstanding bills for electricity, water and telephone service at the end of 1983/84 and relate these to the total number of bills issued for that year and then to compare these figures with the latest information on bills issued and outstanding for 1984/85 which I will now give to the House. The total amount representing bills issued for 1983/84 in the case of these three services comes to a figure of approximately £9.4m, and the figure of

outstanding bills at the end of the financial year was £4.7m or just about 50% of that total. In 1985 the total amount of bills issued is estimated at approximately £10.2m and the comparable figure for outstanding bills at the end of the financial year is put at £3.8m or approximately 37%. Bearing in mind that debts went on increasing, the arrears increased until 1983/84, I think that does represent an improvement. Another point I should make is that the figure of arrears includes a very large number of consumers and subscribers who are on agreement, that is to say, that the Government has an agreement with the individual or the firm under which provided that they continue to pay current bills the Government will accept an arrangement whereby they pay off arrears at a negotiated rate which takes account of ability to pay. In the case of electricity and water, the total of on agreement accounts represents about £500,000 of the ageing debts or, roughly speaking, half of what I would regard as ageing debts. That leaves the figure, again, of the order of £500,000 or rather more which can be regarded as bad debts but I should point out that this latter figure also includes a small number of individual debts of very large amounts and these are on the part of firms with whom the Government has negotiated or is on the point of negotiating agreements under which they will pay interest on outstanding balances at a concessionary rate and similar arrangements apply to the telephone service as to electricity and water. Mr Speaker, referring again to the latter, the requirements of commercial confidence preclude me from mentioning any names but it is an open secret that one or two may be expected to benefit substantially from the influx of tourists to Gibraltar following the full opening of the frontier. Indeed, the improvement in trade and in tourism and the economic conditions, generally, is something which should make it easier for the poor prospector to pay off his debts to the Government. The Government has in the past, Mr Speaker, been prepared to temper financial discipline with humanity in the case of individuals and also sympathy for the difficulties of trade and commerce in trying times but it cannot continue indefinitely to act as financial nanny when the circumstances no longer call for such assistance and the poor prospector can be expected to enjoy a substantial increase in turnover in trade and, indeed, profits. To sum that up, Mr Speaker, there has been an improvement in the collection of bills for municipal services and a reduction in the arrears, the Government looks to further improvement during the next financial year but it will be necessary to write off a proportion of bad debts and the information I have given, the figures I have quoted to the House, don't include the amount which will be considered necessary to write off this year but that is the subject of a Bill which is to be introduced to the House and the Supplementary Appropriation Bills refer to this, Mr Speaker. The

position on rates is not as good as it ought to be and the amount at 31st March, 1984, shown in the accounts increased from £705,000 to £848,000 at the latest estimated date which represents an increase from 28% to the end of last year to about 29% of the total rates issued in annual terms and there is clearly scope for improvement here. One of the difficulties, of course, with the collection of rates is that the action at the Government's disposal, the action which the Government can take in respect of arrears of rates is less immediate than the case of electricity, water and telephones. One cannot cut off rates and pursuing debtors through the machinery of the Courts, obtaining judgement and enforcing judgement debts is time consuming, costly and not always effective. If I can now refer briefly to income tax. I think the problem of income tax is mainly one of slow payment. It is not as straightforward a matter as the collection of municipal debts for electricity, water and telephones although one might query a meter reading the actual assessment of tax liability is essentially a more complicated matter, it involves in many cases a dialogue between the Commissioner of Income Tax and the taxpayer and there may be more than one assessment, the Principal Auditor himself has referred to this, he has referred to the assessments issued under Section 49 where an individual has failed to make a tax return and of course there may be more than one assessment arising out of this so I think the figure of arrears are perhaps a little inflated by comparison with that for the municipal debts. Nevertheless, if I may give the House some information about the progress which has been made with the arrears reported of £2,136,276.58 at at 31st March, 1984, a reduction of approximately 50% in these arrears has been achieved by action subsequently and of the remaining 50%, one is talking about company balances, individual balances, PAYE and so on, 90% of company balances are awaiting Court action and the remainder are being followed up. Of the individual balances approximately half of these are awaiting Court action and the remainder are being followed up or are the subject of assessments raised under the provisions of Section 49 of the Ordinance. As regards PAYE, that is PAYE which has not been handed over, the figure of £205,000 represented at the 31st March, 1984, that was reduced by action on the part of the Commissioner of Income Tax to £66,000 by the end of 1984 and of that virtually about 90%, in fact, is awaiting Court action, that is to say, they are being pursued through the Courts and the remaining 10% is being followed up. I think the position on income tax is well in hand, Mr Speaker. With those few comments I thank the House for their courtesy in listening to me.

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

HON J C PEREZ:

Mr Speaker, I hope that the opening remarks of the Hon Member that because we had moved a similar motion last year he is moving it this year does not in fact create a precedent in that all the motions that have been defeated in the House which have been presented by us will in the coming year be presented by the Government and supported but I take the point that it is about the Auditor's Report and that it is taking note of the Report and that it is a different matter. Notwithstanding that I think I found it strange that the Hon Member has moved this motion so soon in that we took note last year of the Hon and Learned the Chief Minister's comments that he thought we had raised the motion too soon after the Auditor's Report had been published and had the Government not moved this motion I am sure that the Opposition would have waited some time before doing so because of the comments of the Hon and Learned Member last year. I am not going to deal with a lot of the issues that have been raised by the Hon Member because I haven't had a lot of time to study the Report myself having only arrived from the UK last Sunday but I am sure that my Colleague, the Leader of the Opposition, will be able to deal with these points. Notwithstanding that I think I ought to be somewhat critical of the Auditor's comments on the Electricity Undertaking if one compares it with his comments last year on one point only, that whereas last year he was more specific on the question of Hawker Siddeley and he in fact pointed out that the waiver of income tax was in conflict with the provisions of the Income Tax Ordinance he did also point out that he thought that this ought to be charged to the Electricity Undertaking Fund. I take note that the Auditor is saying that the secrecy provisions of the Ordinance preclude him from being more specific on this matter but one is not sure how the issue was settled and the Auditor, I believe, was more specific last year in pinpointing what the actual problem was. One is not sure whether the income tax has been charged to the Electricity Undertaking Fund or not and one is not sure whether it has been settled in a different manner. I would certainly hope that a Bill which is to come in front of us later as an amendment to the Income Tax Ordinance to exempt from tax the emoluments, inducement allowances and grants paid to certain individuals recruited from outside Gibraltar have nothing to do with Hawker Siddeley. Mr Speaker, on the Public Works Department I again take note of what the Auditor says in relation to the unsatisfactory internal control of the operation of the Stores which is something that he has been pointing to for a very long time and it seems that nothing is being done between one Report and another to try and alleviate the problem. I would hope that the Government during the year takes a look at the situation so that we might

be able to avoid that the Auditor should have to refer back to the same issue in his Report next year. On the last point that I wish to raise which is the Post Office Savings Bank and Philatelic Bureau, I note the complications of collecting fees on wireless telegraphy licences and I also note that the Auditor has said that an additional Executive Officer has been appointed to that establishment. One doesn't know whether it has been a transfer from another Government Department but what one should perhaps make sure is that the cost of that extra officer is not higher than what the loss in revenue in collecting the licences actually is at the end of the year. Those are my only comments, Mr Speaker, thank you.

HON A J CANEPA:

Mr Speaker, Hon Members opposite will recall that the procedure for dealing with the Principal Auditor's Report once it had been debated in the House was for the then Public Accounts Committee to set itself up in what I would call its inquisitorial role and direct their attention chiefly at certain unfortunates in the Public Works Department in particular. Hon Members opposite will recall that after the general election last year they were disinclined to participate in a similar arrangement and therefore what we did on the Government side was to set up a small Committee that would partly and only partly fulfil the role of that Public Accounts Committee. This Committee I have the honour to Chair, it is known as the Expenditure Committee, the other members of it are the Hon Mr Featherstone and then there are three officials, the Establishment Officer, the Finance Officer and the Principal Auditor himself. Perhaps I should explain the procedure that we adopted in dealing with last year's Report. It is the practice for His Excellency the Governor to ask the Heads of Departments whose Departments are singled out for comment in the Principal Auditor's Report to explain what are the reasons for the comments that have been made about their Departments and what we did was that my Committee sifted the explanations that were submitted by the Heads of Departments concerned and having sifted them we selected three or four in order to require the Controlling Officers to appear before my Committee and gently take them, unlike the days of Torquemada, gently take them through the comments which the Principal Auditor was making. We concentrated on three or four and during last year we spared the Public Works Department, we thought that they had been too much the subject of interrogations and that at least for one year they could be let off. We went through what we considered to be the most important comments in the Principal Auditor's Report and then produced a report for submission to Council of Ministers making a

number of recommendations. One of the areas that we concentrated on was the problem that the Income Tax Office was having in following up the question of arrears, mainly for two reasons perhaps. First of all, a considerable turnover of staff at the level of Clerical Assistants and, secondly, an over-preponderance of female staff at the level of Executive Officer, married women who were reluctant for family commitments, who were reluctant to work overtime in the evenings enabling the Department to catch up on the question of arrears. We recommended that a separate Arrears Section should be set up strengthening the Department in this way, we have asked the Establishment Officer to be careful about deploying married women who are Executive Officers or above to the Income Tax Office and we are also in the process of asking the Establishment Officer to review the recruitment policy of the Government at the level of Clerical Assistant whereby that is the point of entry, it is at that level that we recruit and that perhaps it should be widened so that there is also direct entry at the Clerical Officer grade because apart from this turnover that I have mentioned, we have a bottleneck situation. I think the Government employed something like seventy Clerical Assistants as against about 250 Clerical Officers so it is a very great imbalance and if your Clerical Officers are all going to come from the grade of Clerical Assistant and there are only seventy there, you have a serious situation and what is happening is that they are coming in as Clerical Assistants with very good qualifications and within a month or two or three months they move on and in fact a Department like the Income Tax Office does need four or five Clerical Assistants who are good Clerical Assistants and only good Clerical Assistants otherwise within a few months they have to train another group of people and there is filing to be done, there is varied work which you need a Clerical Assistant to do and only a Clerical Assistant. We have recommended a strengthening of the staff and the setting up of an Arrears Section. As regards other arrears and municipal arrears in particular, I have got rather strong views about these matters and as Minister for Trade I have felt that the trade in Gibraltar has gone through about four or five very difficult years and I do not believe for a moment that in the seven weeks since the frontier opening the improved business that is evident around Gibraltar has already lead to a dramatic improvement in their fortune but the signs are there and over a period of time business and trade in Gibraltar is going to benefit considerably. Whilst I do not think that in seven weeks they can get out of the red into the black, the prospects are now there and one would expect the Financial Secretary has made reference to negotiated agreements - one would expect the generality of traders and business concerns in Gibraltar who do owe the Government substantial arrears to be able to enter into realistic agreements with a view to wiping off these

debts over a reasonable period of time. I have strong views in particular, which I have voiced in the House before, about arrears under the telephone service in respect of, for instance, hotels. If the hotel occupancy figures have increased dramatically and are going to remain very high, if arrangements are not made by the hotel to hand over to the Government the money that they collect from the use of the telephone in particular for overseas calls by their client, then the debt is going to increase even greater because there are more clients using the service to a greater extent. These are matters on which the Government cannot contemplate any excuses, we cannot allow any excuses to be made and if people in such a situation do not meet their commitment regularly, I have no doubt that the Government will have to contemplate taking drastic action. It is unfair otherwise, it is immoral to allow such a situation to be perpetuated so what I am saying is that the Government is prepared, I think, to give people a reasonable period of time so that as their fortunes improve they should be in a better position to meet their arrears provided that they keep up with current commitments. That is a sine qua non, I don't think that the Government can any longer bend over backwards as we have been doing for a number of years in order to ensure that business did not collapse and they would have collapsed and the economic and social impact and repercussions of that would have been very serious for Gibraltar. They have kept going but we cannot bail them out any longer and I hope that the message will be loud and clear. Given a reasonable period of time, the Government will expect realistic arrangements to be made otherwise in respect of the telephone, in respect of electricity, in respect of water, there can be no reason for drastic steps not to have to be taken because the alternative is that the debts are going to increase and I hope that the fact that bad debts are being written off in this meeting of the House, that the wrong signal doesn't get out, I think it is necessary that the wrong signal should not get out so that people can think that they can get away with it for a number of years and that eventually those bad debts are going to be written off. I am very concerned about what the Financial Secretary has said in respect of rates because if we are going to have an improvement in the telephone, in the electricity and in the water accounts where the Government can apply sanctions but in respect of rates the only sanction we can apply is a 5% penalty and if they don't pay what does the 5% penalty matter because they don't pay that as well. I think we must ensure that the Court procedures are prompt and I would hope that we don't get the kind of situation that one reads about that people who owe on the PAYE system thousands of pounds are allowed by the Court very modest arrangements for repayments, this is farcical and if that is what is going to happen I think serious executive action

is going to have to be contemplated and I think that the question of rates must be the subject of further soul searching on the part of the Government, I think we have to give our attention to this particular point and make sure that there isn't an escalation in the amount of debts. With those thoughts, Mr Speaker, that is the extent of my contribution. I think the way that the Principal Auditor's Report is now being dealt with is a much more realistic approach, it is a much more sensible approach and, quite honestly, I don't think that there is a great deal of point in four Members of the House of Assembly meeting over twenty times a year, generating a great deal of gas in those meetings and then have reports being brought here to the House at very high levels of overtime, let me say, levels of overtime which were sometimes in excess of the savings which if those recommendations had been implemented would have been realised. Thank you, Mr Speaker.

HON R MOR:

Mr Speaker, in noting the Auditor's Report I would like to make observations on the arrears of revenue and on the Education Department. As regards the arrears of revenue I find it rather astonishing that the debt of £5m should have now increased to £6.5m and I would tend to criticise the overall policy adopted by the Government in the collection of arrears. We know that the main bulk of this debt has been due to hotels and big businesses and, possibly, self-employed persons not having paid their bills and in this respect I think there is a moral issue involved as regards the general policy of the Government because on the one hand they have been protecting the biggest debtors of this debt and on the other hand people who have been on a very less fortunate position financially than hotels and big businesses have had their electricity and water cut off because they have not paid up their bills and in many cases recently there have been lots of people receiving warning letters from the Government. Mr Speaker, I think the Government must show responsibility and must treat all people equally. You cannot in any way adopt a position where you defend, in whatever manner, a situation where hotels and big businesses owe big amounts and yet any individual and in some cases because of my contact with the Department of Labour and Social Security I come across lots of cases where these are people on very low pensions and on all sorts of benefits and they do have the electricity and water cut off and, in fact, some of them are still chasing up the Department because I think it is immoral that all these businesses and hotels have got away with their debts and these people are being penalised. As regards the Education Department, Mr Speaker, there has been an observation by the Auditor as regards the stores control and he makes reference to the fact that in his previous Report he had raised this matter and

that nothing had been done about it and at the end he said that the matter was brought to the Director of Education's attention in June, 1983. Mr Speaker, I made some enquiries as to why this was happening and I was told that the staff at the Education Department were heavily loaded with work and there was no way that they could improve the control of stores. If you recall, Mr Speaker, not so long ago when we were discussing the transfer of the Collège to the Gibraltar Government, I did raise the point that the MOD employers should be transferred with the job and I was told by the Minister for Education that they would be handling the College through a centralised system in the Education Department. Well, if the staff is already overloaded with work as seems to be the case, then I think that that excuse given earlier by the Government is really not on at all. The other observation I have on the Education Department, Mr Speaker, is the loss of a substantial amount of water as a result of a major leak at the Girls' Comprehensive School. We are now given a sum of £40,608 which is still pending and I think this House is owed an explanation as to what is happening and whether that money will be recovered or not. Thank you, Sir.

HON J BOSSANO:

Mr Speaker, the first point I would like to make is that we are slightly surprised by the fact that the Hon Financial and Development Secretary has introduced the motion because last year I gave an undertaking that we would not do so in deference to the point made by the Hon and Learned the Chief Minister. On page 68 of the Hansard of March, 1984, Mr Speaker, I said that of the comments made by the Government side the only one that we accepted had some validity was that the motion had been brought too soon after the publication of the Report, that was the only point we accepted which is precisely the point that the Hon Financial and Development Secretary has totally ignored this time round so I was rather surprised to find him doing it because in fact, I said: "I think there is only one point I would like to make and that is a practical point; it may be a difficult one to meet. First of all, let me say that I accept entirely the position of the Government in this respect and that therefore in future, the next time round, we will have a wider gap, that is, what we propose to do would be to bring a motion to the House to debate the matter at the meeting subsequent to its presentation which will give the Government time to do it" - that is, to do their homework and be able to give us answers. We accepted that they had an element of logic on their side in saying that they had had hardly sufficient time to study it and therefore, as I say, having accepted the point made by the Hon Chief Minister, having said we would not put them in the situation of asking questions which they wouldn't be able

to answer because we hadn't given them enough time, we now find that the Hon Member is asking the House to note the Auditor's Report and I think that although in introducing it he said that he was doing it in order to show how highly or how much importance the Government attached to the Auditor's Report, quite frankly I don't think that washes at all because I cannot believe for one moment that the fact that they didn't do it last year implied the converse, that is, that last year they didn't attach importance to the Auditor's Report and that is why they didn't bring a motion to the House. I think if we are asking the House to note things then we bring the attention of the Government to the things we want them to give us answers on. If the Hon Financial and Development Secretary is asking the House to note the Report what particularly in the Report does he want us to note, what are his criticisms of the Government that he wants us to take account of? Perhaps he is going to say that in his final reply but certainly that is the purpose as far as we are concerned of bringing a motion asking the House to note the Report. It is not a motion of censure on the Government but it is a motion where we highlight the things that we think on the Opposition the Government should pay particular attention to.

HON CHIEF MINISTER:

We will take in turn each year.

HON J BOSSANO:

We can switch over to that side each year in turn, is that what the Hon Member is proposing? Apart from that, I think, Mr Speaker, the Hon Member in asking the House to note the Report has simply confined himself to the question of the progress on the collection of arrears which certainly was something to which we drew attention last year and which we highlighted last year as a matter on which the Government had to come up with answers because, clearly, the situation is that even now, even after last year, the position at the end of 1983/84 is a deterioration on the position at the end of 1982/83 and if we go back through every Auditor's Report we find that every Auditor's Report with monotonous regularity makes the same criticisms going back as long as I have been in this House - thirteen years - every year the same criticisms and the year after they say: 'There has been no progress, we have got an amount of debt there which is inactive accounts' - and which apparently something is being done about the inactive accounts but it seems incomprehensible how the inactive accounts got to being inactive in the first stage without anybody noticing it because certainly I can tell the House that the people who come to me with worries about their arrears are people who I have known, who have sent a warning saying that the electricity is

going to be cut off or the water is going to be cut off if they don't pay up and they may owe only £20 or £30 or £50 or £100. It may be that this is done with regularity and, possibly, the small consumer, the elderly persons and so on get frightened by a notice and somebody owing £1m just throws it in the waste paper basket, doesn't pay any attention to this and nothing gets done. That may be why in some cases the big businesses seem to get bigger and the small ones seem to be the one that respond most to any threat of action before the action is implemented. The Hon and Learned the Chief Minister last year made a point of saying that the question of the collection had to be tempered with humane treatment and we agree entirely that this is valid in terms of the domestic consumer. We have had cases where there has been correspondence between my Hon Friend, Mr Mor, and the Government on some unfortunate cases of people on supplementary benefits, with young children, and threats of water being cut off and what do they do? If the water is cut off and you have got a young child what do you do? It had been cut off, in fact, and it still is cut off. So I think when we are talking about humane treatment that is where we think humane treatment has got to be shown. We certainly think that there are areas where there is clearly abuse taking place and the two areas that we identified last year and we certainly welcome the fact that one of them seems to be progressing rapidly towards having the situation eliminated which is the question of PAYE where I drew particular attention because I think it is one thing for an individual consumer or taxpayer to go through a bad patch and not be able to pay up his debts and there it is a matter of judgement whether you stand to lose by enforcing the situation or you stand to gain by doing the opposite and giving the person a breathing space and a chance to recover and pay when his fortunes are better and another thing is to allow somebody to collect something that belongs to the Government on behalf of the Government and then to pocket it. That is totally indefensible and as I mentioned last year there have been occasions where people having paid then find, in fact, I have been in correspondence with situations even during the last twelve months, Mr Speaker, where some people who had come to arrangements with the Government on the payment of arrears, when the arrears was not their money, was their employee's money, there were a couple of cases where at the close of the financial year some people had taken employment in the Dockyard having worked previously in the private sector and they then found that they had a tax rebate due to them which the tax authorities accepted was due to them but which the tax authority could not pay back to the worker because the employer had not yet paid the tax to the tax authority although the tax was two years old and the tax was due to arrive eventually through this arrangement on catching up arrears. So you had a situation where, for example, in

1981/82 the worker had the money taken from his pay packet and in 1984/85 he could not, having been given his final assessment, he could not recover the over-deduction because the employer had not yet passed it on to the Government and although the Government accepted that the money was due back they said: "We cannot give it to you, we haven't received it". This was happening last year, in the last twelve months. I am not saying there are hundreds of these cases but, quite frankly, there should be none at all because the person concerned feels that he is being subjected to highway robbery, a number of these people were immigrant workers, some of them had been taken on casual in the Naval Dockyard prior to its closure, they knew they were going to get the sack at the end of the year and there was money owed to them and they said: "What kind of place is this? My employer takes more tax from me than he should, he then keeps it instead of giving it back to the Government, the Government then admits that they owe it to me, I want to pack my bags and go back to my country and I cannot get my money back, I cannot get my money out of this place". I think it leaves a very bad taste behind and quite frankly I would have thought that if the Government has got limited resources at its disposal in terms of the machinery of Government they ought to really concentrate their resources in those areas where the default of non-payment is most reprehensible and I think certainly PAYE arrears is a clear-cut case as far as I am concerned and I certainly think the one the Minister for Economic Development has mentioned is a parallel. If the consumer in the hotel or wherever pays his bill and in that bill is included the charge for telephones which quite often carries with it a surcharge which means that the actual hotel owner makes a profit on the service the Government provides to the actual guest, it is bad enough that they should keep the element of profit but not that they should keep the whole thing and be able to make money on it simply by either reducing their overdrafts or investing it in a bank and waiting until they are on the verge of being prosecuted in order to pay up. I think those two areas, certainly, require priority and I am glad to hear from the Financial and Development Secretary, Mr Speaker, that the PAYE situation seems to be on its way to being eliminated because it is completely indefensible, the money belongs to either the worker or the Government but certainly not to the intermediary. I think, passing from that particular aspect, the arrears of rates and the question of the arrears on the Funded Services, we have a situation which I drew attention to last year and to which the Hon Member has not made any reference and which I have mentioned, I think, in some of the meetings of 1984 when we have dealt with the question of the accounts and the presentation of the accounts and that we have an anomalous situation. I accept entirely the point that has

been made on successive occasions about the tax yield based on assessments not being a clearcut situation where you can say because the Commissioner of Income Tax sends out an assessment it means that that is a final assessment because people then come back and claim allowances that they have not claimed or whatever and therefore the bill can be completely different. But this is the only area where there is this element of an unknown quantity between the initial assessment and the final assessment. In the rest, where the assessments on rates and so on are presumably not negotiable, the rateable value is the rateable value, period, and once the time limit laid down in the Ordinance for the person to object to the rateable value is passed then there is nothing they can do about it, presumably - we shall find out more about that in a motion that is down on the Order Paper - presumably, they won't be able to do anything about that until the following year. If that is the case then one of the peculiar situations that we find in today's presentation of the accounts as compared to the pre-1976 situation when the Funded Accounts did not exist, is that some arrears of revenue are included as having been collected in the Consolidated Fund and some are not and therefore there is an inconsistency of treatment, that is to say, the arrears of electricity, water and Government domestic rents are included as part of the Government's assets in the Government's reserves in the Consolidated Fund whereas, for example, the rents on leases which has shown a 100% increase in arrears is not included and I think that is a peculiar situation in that if one is making an assessment of the real financial position at any given point in time either one has got to knock out all the arrears, in my judgement, or one should include them all in order to get a realistic picture of being able to compare like with like, particularly if one is taking a longer term view and seeing how the position of the Government in relation to its reserves and its debts and its revenue and expenditure on the recurrent budget compares from one year to the next. I have, in fact, been in correspondence with the Hon Financial and Development Secretary on this matter because I thought it was desirable to try and find a way of extracting the arrears from the actual figure in the Consolidated Fund and show what the position in the Consolidated Fund was net of arrears, a figure which I think he has been somewhat reluctant to divulge on a number of occasions arguing that the net liquidity position of the Government was one where you had to take into account the balances in the Improvement and Development Fund and so forth. But that is not the point, the point is that if we are using the Consolidated Fund today and comparing the position of the Government today in assessing its ability, for example, to meet increases in expenditure which we might think is desirable, then a legitimate way to do it would be to say.

"Well, how does it compare to the situation five years ago or ten years ago when so much money was being spent and there was so much money in the kitty". And, of course, in the kitty ten years ago the amount of money was the amount of money, it was not the amount of money plus £4m of unpaid bills. The £4m of unpaid bills might be there but they were not counted as being in the reserves until they were actually collected and to the extent that that was changed by the creating of the Special Funds, I think it has masked the weakening financial position by creating an appearance of a stronger reserve position than has actually existed compared to the past and I don't think that was ever the intention of the creation of the Funded Accounts. The intention of the creation of the Funded Accounts according to the budget speech made by the Hon and Learned Chief Minister in March, 1977, was that we should have a move towards accurate accounting standards which in fact most of the experts who have looked at the situation of the sort of trading funds have recommended and are still recommending as something that is required and which we ourselves believe it is very important to do and I think we need to stress this, Mr Speaker, because in the context of looking at arrears, for example, I have argued with the Hon Member, the Financial and Development Secretary, that if you have got a situation where you start off at the beginning of the year with the reserves of the Government including, for example, £1m of unpaid telephone bills and you finish the year with the reserves of the Government showing £1m of unpaid telephone bills then it is reasonable to assume that throughout the year the telephone account has in fact been operating with what amounts to £1m overdraft from the Consolidated Fund for which there is no charge and to the extent that we want to see what is the total true cost and this is what we believe needs to be done and it is what from the information available to us, from the Housing Report that was given to us by the Government a week ago, the 1983 Report by the ODA consultants, the Report produced by Coopers and Lybrands on water and electricity, all of them recommend the policy that we have been recommending for some time now which is that it is essential if you are going to make decisions about allocating resources that you should have as accurate a picture as possible of the actual true costs and then it is a matter of political decision how you actually finance it. If you say: "The Government as a matter of policy is going to decide that senior citizens who are living on their own should have free telephones", that is fine, you know what you are doing, you vote the money and the telephone account as if it were a telephone company, I think it has to be treated as if it were a Government owned telephone company which has got a client relationship and where the Government decides to subsidise part of its consumer base but the accounts must show the

true cost of telephones because then the Government must decide in terms of allocating scarce resources what are the pros and cons of allocating some of those resources into telephones or water or electricity or what have you. The situation on the arrears is a vitally important part. If you have a situation, Mr Speaker, where we had each of the Funded Services having to operate on commercial lines, then the arrears position of each of those Funded Services would be, in fact, reflected in a situation where the electricity would have an overdraft, the telephones would have an overdraft, the water would have an overdraft and each of those overdrafts would carry an economic cost which today is being borne by the Government through loss of income to the Consolidated Fund, that is, the money that is being advanced in the advances in the estimates. In the audited accounts, Mr Speaker, we have a breakdown, I think it is statement 13 if my memory doesn't fail me, Mr Speaker, it is in fact where it shows the relationship between the Special Fund and the Consolidated Fund and there are some Special Funds that are in surplus and there are some Special Funds that are in deficit. The Finance (Control and Audit) Ordinance lays down rules as to how the income derived from the investment of the surpluses should be allocated. Again, I have been in correspondence with the Hon Member where we disagree as to how the income that might arise out of the investment of the surplus on the Improvement and Development Fund, whether that should go to the Improvement and Development Fund or the Consolidated Fund, but if we look at the statement which is Statement 12, we have a situation where each of the Special Funds is then shown as being in surplus or in deficit and then the surplus or the deficit is either credited or debited to the Consolidated Fund. Taking Statement 12 for 1983/84, Mr Speaker, and 1982/83, that is, the current audited accounts and last year's audited accounts which we asked the House to note, there we see this banking relationship that I am talking about and that is where the significance of the increase in arrears comes to the surface because if we look at the first line of that page which is page 74.....

MR SPEAKER:

With respect, I think that we are getting away from the point at issue. You are discoursing in the way that the accounts should be prepared and not in the manner the arrears should be collected.

HON J BOSSANO:

I think what I am doing is what the Hon Financial and Development Secretary wants me to do which is to note the Auditor's Report for 1983/84 and I am noting it particularly in respect

to page 74, Statement 12. Having been asked by the Hon Member to note it I cannot turn down an invitation like that, Mr Speaker.

MR SPEAKER:

May I ask, have you still got a long time to go?

HON J BOSSANO:

I think I have got a fair while, yes.

MR SPEAKER:

I think we will recess for tea then.

The House recessed at 5.25 pm.

The House resumed at 6.00 pm.

HON J BOSSANO:

Mr Speaker, I was drawing the attention of the House to Statement 12 on page 74 which is where the changing situation between 1983/84 and 1982/83, that is, between the accounts that we considered in a similar motion a year ago and the accounts we are considering today is shown in terms of the impact it has on the Consolidated Fund. We have seen, of course, the Consolidated Fund itself coming down in nominal terms in the intervening period. Whereas the figure in the Consolidated Fund in 1983 was £11.9m, almost £12m, in 1984 it was £7.75m and at the same time the amount available to the Government within that figure has been reduced by virtue of the relationship between the Consolidated Fund and the Special Fund where the main arrears of revenue exist, that is, telephones, water and electricity, clearly, are the major areas on page 74, Mr Speaker, and this is, I think, the importance that we want to emphasise in noting how the arrears position pointed out by the Auditor effectively means that if one translates it to the end of this year, that is the position at the end of this month, appears to be one where the actual amount in the Consolidated Fund is now reduced again in nominal terms to something in the region of £3.6m, this is what we shall see, that is, a year from now, Mr Speaker, we shall be getting an Auditor's Report that tells us what is the situation today and I am saying to the House that in looking at the situation in the accounts of twelve months' ago and in looking at the situation in the accounts of twenty-four months' ago, we see the real seriousness of the position of the Consolidated Fund in that the Consolidated Fund is coming down and the number of unpaid bills in it is going up and if one considers

the position today net of unpaid bills as it would have been presented before the Funded Accounts were shown separately when the bills were only taken into account as revenue, when they were paid rather than when they were issued, we would then today be saying: "There are no reserves, the balance in the Consolidated Fund is either nil or minus". The situation has been masked by a change in accounting practice which doesn't change the real financial position. The change in accounting practice created by the setting up of Special Funds, the setting up of the Funded Services in 1977 was intended to create a more accurate picture for the trading funds of the Government. In practice what it has created, if we look at the accounts in front of us today, is a situation where the Consolidated Fund balance consists entirely now of unpaid bills and nothing else. How can the Government defend that position any more? I would draw the attention of the Hon Financial and Development Secretary who wants us to note the Auditor's Report.

MR SPEAKER:

With respect, the Government have defended their position before and we are not trying to do that now. What we are trying to do now is to take note of the accounts as they have been approved, as expenditure and revenue were approved previously. I think we are really expanding the orbit of the debate.

HON J BOSSANO:

Mr Speaker, I am afraid I don't agree that we are expanding the orbit because as far as I am concerned if we are noting the Auditor's Report, one of the inferences in noting the Auditor's Report is how does what the Auditor have to say, how does the audited accounts of the Government of Gibraltar now in front of us for their first year since we have been in this House, how does that compare with their defence of the situation in the past? Whereas until now we have been dealing with estimates, here we have got audited accounts and the audited accounts tell us, on page 8, the Auditor mentions the fact that notwithstanding the provisions of the Loans Empowering Ordinance (1984/88) - which we opposed recently - the position is that the Government will not actually have a cash flow problem because of borrowing for recurrent expenditure but he says, in what I consider can only be thought as the least offensive way of saying it, that is the most in-offensive way of saying it is to say that 'the risk will not be insignificant'. Obviously, the Auditor may have to measure his words but we don't and in noting the Report we would say that that is an understatement to say that 'the risk will not

be insignificant'. Unless we are entering an era where the Government's cash flow is going to be materially improved either by the business community paying up arrears which in some cases appear to go back to 1981 or because the Government itself is able to collect revenue from other sources, whether it is St Michael's Cave or whatever it is, unless that situation changes in that case one must consider that in the light of the Auditor's Report, in the light of the comments of the Auditor, the Government should think seriously about whether they ought to proceed with making use of the powers that they obtained under the Loans Empowering Ordinance, whether they ought to be making use of those powers given the reservations that we have clearly stated in this House and given the reservations which I submit are implied in the comment of the Auditor who says that the cost of using borrowed funds to maintain a positive balance in the Consolidated Fund balance and to bridge the gap between recurrent revenue and recurrent expenditure will involve a cost which will not be insignificant in avoiding cash flow problems. If, in fact, the cash flow situation changes then I would submit that the risk if it is not there then the cost can be avoided and if the cost can be avoided the Government ought to think twice about proceeding with borrowing this money because I think it is something that the Government may have felt at the time that they had no choice because they could not see an improving situation. If they see an improving situation now then I submit, Mr Speaker, that the policy embarked on last year requires review as indeed the Hon and Learned Chief Minister has agreed to review the question of the Quarry Company applying for cement because we are in a new situation. I think if we are in a new situation there are a number of other things that need reviewing. In moving, therefore, Mr Speaker, towards a position where the Funded Services and the Special Funds and I think this is relevant, again, in a situation where we have had exchanges at question time, for example, on the question of the Shiprepair Company where the Hon Financial and Development Secretary has said we will have an opportunity to see that when the accounts of the company are brought to this House. Well, before the accounts of the company are brought to this House, presumably, we shall have the Special Fund, that is, the payments into the Special Fund and the payments out of the Special Fund that was created by the Ordinance setting up the Gibraltar Shiprepair Special Fund. In questions on the costs of the Post Office, the Hon Financial and Development Secretary referred us to the accounts of the Post Office which are shown separately in the audited accounts and that is quite true but the situation is that what we have in front of us in the audited accounts is what it cost the Government to run the Post Office in 1983/84. In two or three weeks time we shall be shown what it cost the Government to run the Post Office Savings Bank and the Postal Services in 1985/86.

MR SPEAKER:

1984/85?

HON J BOSSANO:

No, 1984/85 we have got the revised estimates but we will not have the segregation of the banking side available to us until two years time which is when it appears as a separate thing because the only Special Funds for which the House is given estimates of expenditure are the Funded Services and the Improvement and Development Fund. Although there are a number of other Special Funds, the only Special Fund where we get an estimate of revenue and expenditure at the beginning of the year are the Housing, Electricity, Water, Telephones and the I & D. The Post Office as a Special Fund we have no projection of expenditure of and we have no revised estimates of expenditure of, what we have are the final audited accounts which we get, as I say, a year later and it is a question simply of looking at the historical situation. I think if the Hon Member was trying to persuade us that there was no need in the forthcoming estimates of expenditure to segregate expenditure on Postal Services from expenditure on running the bank and we are suggesting this purely because we believe that the philosophy of the Government ought to be one that is consistent with what they themselves have said in the past of trying to identify areas where it is possible to see revenue and expenditure because if you are going to have trading funds and the Post Office Savings Bank, surely, is as much of a trading fund as the Telephone Service is, why shouldn't we have an accurate assessment at the beginning of the year of how the Government is planning to finance the bank and what profit it expects and, equally, I think if the House is going to have to wait for the audited accounts of the Gibraltar Shiprepair Limited and no one knows when that will be, we have got no idea when the company intends to close its accounts or how long after they are closed they will be presented to the House but, certainly, there is a Special Fund from which that money comes and I would put it to the Government that they should bring along in the estimates and presumably next year in the audited accounts for 1984/85 there will have to be a new Special Fund shown which will be the Gibraltar Shiprepair Special Fund. I would imagine that that will have to happen because that Special Fund, presumably, under the Finance (Control and Audit) Ordinance will have to have its closing date for the accounts at the same time as all the other Special Funds to coincide so we shall be able to look at that a year hence but I think it is desirable, Mr Speaker, that information on those Special Funds should be available to the House in the forthcoming budget estimates when the estimates of expenditure and revenue for 1985/86 are presented to the House. In looking at the

audited accounts in terms of some of the comments made by the Auditor, I think we have got again a situation where the Auditor last year made some comments on the question of contractual payments being made and the position as regards the income tax liability not having been considered prior to such contractual payments being made. It was made in relation to the Hawker Siddeley Power Engineering contracts and we ourselves have raised it in the context of the management contract that existed in respect of the Gibraltar Quarry Company prior to a locally engaged manager being recruited. At one stage it appeared as if we were going to get some information and then subsequently the Financial and Development Secretary indicated that he was not able to give us the information and the same thing happened with Hawker Siddeley and yet we have got a Bill in this House, Mr Speaker, down for First and Second Reading today, presumably, which makes a reference to tax free payments to persons employed in Government-owned companies which presumably includes the Gibraltar Quarry Company. Having been unable to obtain information we are now asked to pass legislation, presumably, legalising things retrospectively on which information has not been available. I think the value of the procedure that we are now following in debating the audited accounts rather than in referring them to a Public Accounts Committee of the House is precisely in that we are concerned with matters of policy and only refer to matters of detail to the extent that we consider that they are relevant to illustrate points of policy and this is all that we are doing because the point is that it is a matter of policy whether it is possible to negotiate tax free allowances or tax free salaries and it must be a matter of Government policy that must apply universally in Gibraltar and it is also a matter of policy how you handle arrears and it is a matter of policy how you deal with your Special Funds and it is a matter of policy whether you have trading accounts which you treat as trading accounts or whether you just treat it as part of Government expenditure and it is in the context of this that we think the comments of the Auditor are pertinent and it is in this context that we consider that the motion is worth supporting and we will vote in favour for it in that spirit.

MR SPEAKER:

Any other contributors? I will then call on the Hon Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I intend to be very brief, Mr Speaker, and I don't wish to attempt to answer all the points which the Hon Leader of the Opposition has raised. Just in passing, I think I would

comment on a point which the Hon Mr Mor made. I think he exaggerated slightly in saying that we know where that debt comes from, that it is mainly the hotels. I don't think that is quite true, I may have slightly misrepresented him but I would point out to him that we don't have a thousand hotels whereas the figure I mentioned earlier was a thousand inactive accounts. It is not something which is confined to hotels nor is it always the individual who is clobbered. On the other hand I do admit that it is the debts of some of the hotels which are the largest but, having said that, I should also point out that it is these particular accounts which are the ones which are liable to pay interest on the outstanding balances and we haven't asked any individual consumer to do that yet and I hope we won't. As far as the Hon Leader of the Opposition's comments are concerned, I don't think that he and I will ever agree on the analysis of the Government's accounts. I do think that many of the problems which he has referred to arise because of the consolidation of the accounts for municipal services and those of the Government, you are in effect consolidating trading accounts with cash accounts. I think that is a very difficult operation and it does give rise to the hybridity of the accounts which I think underlies a great number of the Hon Member's representations. As regards his final comment, really, about the Principal Auditor's references in paragraph 5 and, indeed, 6 of his Report, on the Consolidated Fund, well, of course, I think with respect to the Principal Auditor his comments there that if the downward trend in the value of the Fund continues and substantial progress is not made over the collection of public revenues, particularly in the cases of the Funded Services, there is a growing risk that the Government could face cash flow problems. I think perhaps stating the obvious there, it is not something which the Government has been totally ignorant of or is indeed unaware of but the financial management which is my responsibility, my responsibility to the Government, really consists of the question of judging how much it is necessary to borrow, how much improvement in the collection of public debt one can secure; what the Government can afford to spend and, of course, what the Government is likely to raise in revenue. These are all part of financial management and one can only judge in the light of progress of the individual variables. I think I would not wish the Opposition to think that we are unaware of these problems and I hope that they will give us credit for making some attempt to control it, Mr Speaker.

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

MINISTERIAL STATEMENTS

MR SPEAKER

The Hon and Learned Chief Minister has given notice that he wishes to make a statement. I will now call on the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, I would like to apologise, the statement should have been read immediately after question time as it normal but it wasn't ready. It is on the question of MOD lands on which there was a release the other day.

Sir, in the negotiations which we undertook with the British Government in 1983 which, as the House will recall, included two meetings with the Prime Minister, we had two main objectives. One of these was to secure the best possible terms for Gibraltar on the closure of the Dockyard and the other was to achieve the conditions under which other economic activity might be generated in Gibraltar. In my statement to the House on 27 July, 1983, I said that the first essential requirement for commercial development in Gibraltar is land and that the only way in which this requirement can be met is by asking the Ministry of Defence to release areas suitable for such development.

I then went on to announce that we had negotiated a new agreement on the question of Ministry of Defence Land, the terms of which were considerably more beneficial to Gibraltar than the previous arrangements. After announcing the release of the two sites at Queensway and Rosia, I informed the House that the British Government had undertaken to look further at their long-term property requirements for defence purposes to see what other sites might in the future be released to the Gibraltar Government. I also stated that a Joint Consultative Council was to be established in which the two major land-holding authorities in Gibraltar would work together, in the closest possible consultation, and with a mutual understanding of each other's needs, to ensure that every single inch of Gibraltar land is used to the greatest mutual benefit.

As the House is aware, a Press Release issued by The Convent last week stated that, during the past few months, at the request of His Excellency the Governor, a study had been undertaken by the Deputy Fortress Commander and his staff at Fortress Headquarters, in consultation with the Ministry of Defence, into the feasibility of declaring parts of the Ministry of Defence estate in Gibraltar surplus to requirements. The Release went on to say that, as a result of that study the Ministry of Defence had declared to the Governor a

significant number of properties and lands as being surplus and thus available for transfer to the Government of Gibraltar under the terms of the 1983 Lands Memorandum.

I am now able to inform the House of the proposals for transfer which have been presented to the Government through the Joint Consultative Council and which are now being examined by the Government. As already announced, some of the land and properties are immediately available; others will become available over the next few years; and the transfer of a number of others will require further negotiations over such matters as re-provision.

It is my intention to circulate to Hon Members, and to make available to the press, copies of the list of land and properties in question which will include brief comments on each item. I would however like to mention some of the items now. These are as follows.

The Air Terminal Car Park, which is currently held by the Government under a short lease, will be transferred subject to agreement on absolute air safety criteria.

The Ministry of Defence are prepared to release the Apes Den and to administer and maintain it for a short period after transfer. The same applies to land on top and to the east of the Rock including O'Hara's Battery, Jews Cemetery, Mediterranean Steps, Levant Battery and Spur Battery. It will be necessary, in this case, to consider the problem of traffic control to the Upper Rock.

The facilities at the Fortress Officers' Mess at Bomb House Lane are being moved elsewhere and the building will then be released.

Central Hall at South Barracks is to be refurbished and it will then be possible to release Ince's Hall. Consideration would be given to civilian administration of the annual Drama Festival.

Subject to the Gibraltar Government bearing the cost of re-provision and relocation, it is proposed to transfer that portion of Governor's Cottage Camp at present occupied by 1st Fortress Specialist Team Royal Engineers, which can be achieved this year after relocation on Ministry of Defence land, and the PSA Workshops, Store and Contractors site. Discussions on these PSA facilities can start this year but the Government may have to find land for relocation.

Lower St Michael's Cave and the former USOC Tennis Courts

site at Queensway will be transferred to the Government subject to compensation being paid to the Nuffield Trust. I think they pay some money initially.

The conditions for the transfer of seven Married Quarters at Casemates have already been agreed with the Government and the matter is now being dealt with by the Development and Planning Commission.

Berths 53 and 54 at the Detached Mole will be transferred subject to the Government agreeing to certain MOD restrictions.

'A' Block at the Royal Naval Hospital will be released under terms which are being discussed by a sub-committee of the Joint Consultative Council.

The next three items are listed as freeholds and as such, would not be governed by the 1983 Memorandum. The position in regard to MOD freeholds is that their disposal is a matter for local Ministry of Defence recommendation and the asking price has to be approved by the British Treasury and, in some cases, the House of Commons. The three items listed are New Mole Hostel, approximately three acres of the gardens at The Mount, subject to future development being in keeping with the character of the location; and, subject to detailed survey, and excluding the Married Quarters and the PSA Nursery, a portion of the Upper Bruce's Farm Area.

There are seven items on the list which relate to longer-term transfer plans during the period between now and 1990. These include the facilities at Governor's Parade consisting of Fortress Warrant Officers' and Sergeants' Mess, the GSP Training Centre and Social Club and RMP facilities. This would be subject to reprovizion at Gibraltar Government expense and it is noted that a portion of the area is freehold. The transfer could be possible in 1988.

The basis for the transfer of Rosia Bay has already been agreed and tenders for its development as we have heard earlier on today, are to be vetted by a sub-committee of the Joint Consultative Council. It is hoped that the transfer will take place this year.

As a possible expansion of the Rosia Bay project the Government have asked for the release of the Victualling Yard including seven Married Quarters, the PSA Timber Store and a strip of land surrounding Fortress Headquarters. This has been agreed subject to the conditions outlined in the Addendum to the Development Brochure for the Rosia Bay project and will be effected on completion of reprovizion.

The Nuffield Swimming Pool may be released subject to complete reprovizion at no cost to Ministry of Defence and to payment of compensation to the Nuffield Trust. The matter is currently being discussed by a sub-committee of the Joint Consultative Committee.

Subject also to complete reprovizion at no cost to the Ministry of Defence, the Dockyard Services Association Club and Married Quarters Exchange Store, East Queensway, will become available on reprovizion.

The sub-committee of Joint Consultative Council dealing with the Royal Naval Hospital is also considering the transfer of some land and property to the east of Europa Road opposite the Royal Naval Hospital. Release may be possible in 1988.

Subject to complete reprovizion, in this case at Her Majesty's Government's expense as part of the long-term Naval Base Development Plan, it will be possible, around 1988-1990, to release HMS Rooke Sick Bay and Families and Dental Clinics.

The study carried out by the Deputy Fortress Commander has included a general tidying up of the status of certain land and properties which are already in full use for civilian purposes. The House may be surprised to learn that these include the Victoria Stadium, the Mediterranean Hotel site, and the Laguna Estate.

Sir, I believe the House will agree that the list of land and properties is an impressive one and that their release will open up significant and important opportunities for economic development.

As the House knows, much work and effort went into the negotiations which resulted in the 1983 Memorandum. That Memorandum, as well as the 1983 decision of the British Government to review their long-term requirements, have themselves resulted in the decisions on release which have now been taken. I am sure this House will wish to join me in thanking His Excellency the Governor for providing the impetus for the study to be undertaken as well as for much work on the lands issue behind the scenes ever since his arrival. Thanks are due also to former Governor Sir William Jackson who also took a particularly special interest in this matter and to former Attorney-General David Hull.

Finally, I wish to place on public record the Government's great appreciation of the task so effectively carried out by Brigadier Hume and his staff and generally to thank the three Heads of Services, the Brigadier, Admiral Vallings and Air Commodore Pack, who have shown such great understanding of the

Gibraltar Government's needs during a difficult period of economic transition and whose personal goodwill has contributed so much to the efficient and successful working of the Joint Consultative Council. I would also like to take this opportunity to express our best wishes to Admiral and Mrs Vallings, who leave Gibraltar very shortly, as well as our regret at their departure.

Finally, I assure the House that consideration of the proposals for release made by the Ministry of Defence, the conditions proposed and the ways in which a number of the sites and properties should be used or developed, will be undertaken with a due sense of urgency.

MR SPEAKER:

Does the Hon Leader of the Opposition wish to say anything on the statement?

HON J BOSSANO:

I think it is, quite frankly, difficult to react on the spot in assessing the significance of the list without working out exactly what it is going to mean in economic terms. It is clear that some of the areas mentioned are areas which will involve additional cost to the Government and I think one needs to look at that aspect of the thing as well. Clearly, as far as the principle is concerned the position of the GSLP has been for many years, particularly in the way we reacted, Mr Speaker, to the 1981 Defence White Paper and the Dockyard closure was to say that if we were faced with a need to re-orientate the economy of Gibraltar one could not do it by looking exclusively at what was being released from the old Naval Dockyard, one had to look at all the resources available taking the whole of Gibraltar, which is very small, for us it is our entire world but in the context of any other place in the world we are still talking about a very, very small chunk of land and even if they gave us the entire Rock the whole of it would still amount to a very small amount of land but, obviously, it is one more step, I think, in a direction which we have been travelling for a very long time of transfers of land from defence uses to the use by the Government of Gibraltar so that it can be either exploited economically and produce an income which will help the Gibraltarian people to enjoy a reasonable standard of living comparable to other places in Europe or else, in fact, for them to live in slightly less constricted areas than they have in the past because of the disproportionate shareout that there has been between the amount of land occupied by MOD in terms of density and the amount of land occupied by Gibraltarians in terms of density and therefore we support entirely the move in this

direction but I think we need more time, quite frankly, to digest what has been produced by this move and perhaps at some future date we may want to come back with questions asking for clarification. I think on the basis of the statement that we have got we welcome the fact that the Government has made it available so quickly, we thought they might want more time themselves before they made it available to us and, of course, we are in favour of the soil of Gibraltar being at the disposal of the Gibraltarians to whom it belongs.

HON CHIEF MINISTER:

I thank the Hon Member for that and I entirely agree that some of the things require considerable study but I think the great merit of the operation is that for the first time, certainly for the first time since I have been in public life and that is a long time, a real attempt has been made to examine the whole of the MOD estate. Whether we agree with some of the things that still remain or not is another matter but there has been a thorough study, so much so that, in fact, we have discovered that land which we thought had already been transferred to us like the Laguna Estate and the Victoria Stadium had not been. I wonder whether the ODA would have given us money to develop the Victoria Stadium if they were not sure that the land on which it was being done wasn't ours but this is the haphazard way, if I may say so, that in the past years before the 1983 Memorandum things were done with regard to land and sometimes the high handed way in which it was done ten, fifteen, twenty years ago. This has been a very long and exhaustive job when you look at the details and if we were to look at the plans where everything is itemised and detailed it will be appreciated that they have done a thorough search of title deeds going back many years to be able to identify the properties and what I think is also important is to identify what will be required in five, eight, ten years time which has never been done before and say: "You can have that, you cannot have it now but you can have it in 1990". At least planners can think and prepare things and perhaps it may not pass unnoticed that what has always been the subject of local comment about the Mount whether it is freehold or not we will have to investigate into that, anyhow the point is that three acres of land in Gibraltar is a lot of land and that will become available.

MOTIONS CONTINUED

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move the motion standing in my name on the Order Paper. This is the Imports and Exports (Amendment of Schedule) Order, 1985, and I think I can explain by way of

elaboration that we are in fact here giving the approval of the House to the reduction in imports which were introduced prior to the opening of the frontier and whereas it would have been necessary to seek the approval of the House beforehand if we had proposed to increase the duty on imports prior to the opening of the frontier, it is not necessary to do that if one is, in fact, merely reducing the duty, one can do it and then bring a motion to the House for its approval subsequently.

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

HON J BOSSANO:

I don't think there is any Opposition in the world, Mr Speaker, that votes against reductions in duty.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again, Mr Speaker, I beg to move the motion standing in my name on the Order Paper in respect of Licensing and Fees. These fees are charged in respect of visas and other entry clearances issued to persons who wish to enter the United Kingdom and who need to obtain prior entry clearances in order to do so. Gibraltar provides this service on behalf of the United Kingdom and the resulting revenue accrues to Gibraltar. The fees charged locally correspond to the fees prescribed under the United Kingdom Consular Fees Order. The United Kingdom last increased its fees with effect from the 1st January, 1985. At the same time it also introduced the fee for the issue of entry certificates, entry clearances for Commonwealth citizens which until then had been issued gratis. The proposed amendment to the Schedule brings the fees charged locally into line with those currently being charged by the United Kingdom.

There being no debate Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1985

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance

to amend the Public Health Ordinance (Chapter 131) be read a first time.

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

SECOND READING

HON M K FEATHERSTONE:

Sir, I beg to move that the Bill be read a second time. In the 1983 Budget certain rent increases were made to Government flats and at the time it was commented that the increase in the rateable valuation be deferred for a year so that it would not be too great a burden to bear at the time. This new valuation is now due to come into effect in 1985/86 in the annual Valuation List and it will increase the valuation of properties by a fair percentage. The Government gave consideration as to how this extra burden of rates could be ameliorated for the average person and it was considered that the poundage might be reduced but it was afterwards thought that before such a step would be taken much further consideration would need to be given which would reflect also on business premises. The actual amount of the increase of domestic rates would work out to some £367,000 and Government therefore turned its mind as to other ways in which this increase could be ameliorated and they solved the problem by suggesting that this House should agree in this Bill to be brackish water rates which at the moment stand at 12½p to the pound being reduced to 2p in the pound. This would give a very good yield of some £310,000 so you can see that the increases in the net annual valuation is almost entirely offset by the reduction in the brackish water rates being reduced to 2p in the pound. I therefore, Sir, commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

There must be some merit in a Bill that actually announces a reduction, Mr Speaker, and we have a feeling on this side of the House that this is pre-emptive action on the part of the Government resulting from some exchange of correspondence that there has been. I think there is an important point as regards the principle involved which we want to highlight because it isn't so much a question of saying: "Well, we are

going to reduce the burden on the domestic consumer by producing a rating for brackish water which effectively offsets the increase on the general rates". I think, in looking at it, we have to look at it in the context of a situation until now where the salt water charges from 1972/73 to 1983/84 have gone up from £32,000 to £267,000. That is, I think, probably one of the biggest increases in any one of the sources of revenue open to the Government and if the Government today is reducing it because I think they realised that they would likely find themselves under a lot of criticism if they had a situation where they had increased rates for tenants on the 1st April and a situation which for a number of years now has been that as far as the average tenant is concerned he seems to be getting two rent increases a year, one in April and one in July. He doesn't know the difference between the rates and the rate of what one is in aid of or what the other is in aid of and I think part of the problem is that with the movement that took place with the amalgamation of the City Council and the Government we seem to have lost in the process a great deal of the control that existed and the relationship that existed between what people were paying for and what they were getting in exchange. It is a sensitive area that I have never forgotten, Mr Speaker, because it was something that happened in my first budget in 1973 and the Financial Secretary at the time said: "Hon Members will be aware that it is mandatory upon me by statute to make provision to cover any overall deficit in these accounts". An then at that stage he went to say that the brackish water rate was going to be 1.67p for business premises and 10.42p for domestic premises. That was defended on the basis that the amalgamation required that the municipal services should be collectively self-financing, that is to say, that whereas it would have a deficit on electricity, there had to be a surplus somewhere else so that the whole range of financial services financed themselves and that was the position when I arrived in the House in 1972, this is the first budget that I faced and as far as we were aware we were told that that was the case and consequently there seemed to be little political leeway because the Government couldn't decide to subsidise other than by cross-subsidisation, that is, they couldn't subsidise from general revenue the municipal services. That changed with the funded accounts because when the Special Funds were set up in 1976 what the rates were just ceased to have any meaning from 1969 till 1976 part of the argument for rates increases was that they were alternative to increases in other elements in the municipal services so you might have raised rates at a particular level because you thought it was better to have the amount collected through rates and subsidise electricity than to have lower rates and higher electricity but then, of course, when the electricity was taken out of the picture completely by being made a Special

Fund and the funded accounts were set up in 1976/77, the element that we had been told was a statutory obligation it transpired that it wasn't a statutory obligation after all and the rates still kept going up but the reasoning behind the original establishment of the poundage was lost and clearly has not been looked at since and I think in that context we shall obviously be voting in favour of this reduction. Clearly, it is important that if the burden on the average household can be reduced it should be reduced but we think that one of the things the Government should be looking at is what is the relationship between salt water charges and what areas of expenditure can be identified as having a relevance to it and I think it makes more sense if the Government comes to the House and says: "We are putting 2p in the pound because we don't really need more than 2p in the pound and the idea is not to make money out of brackish water but to let the brackish water pay for itself". But we are still not in that situation, we still don't know whether the 2p is too much or too little but, clearly, since it is better than overpaying we will support it.

HON A J CANEPA:

Mr Speaker I think that is a valid point and, again, the Government is in a similar position in respect of this measure to what I was referring to this morning on another matter, namely, that of Social Security Benefits, the EPP and the Supplementary Benefits. We have been concerned to ensure that the increases in rent that were implemented in July, 1983, should not now be reflected in increases in rates for Government tenants which effectively they would see as from the 1st April has been an increase in rates. The question of the valuation then comes in and whether you should disturb that valuation list by doing something about the net annual value. Do we tamper with the net annual value or do we allow the net annual value of properties to reflect what happened in July 1983. We have chosen the cause of allowing adjustments, effectively increases in the net annual value and try to offset the consequential increases in rates which for Government tenants appear to be rents, would occur on the 1st April. The Director of Crown Lands recommended to the Government that that could be achieved in this way by lowering the poundage from 12½ pence to 2 pence. Fine, we have achieved it on this occasion except that there are going to be some minor, some small variations in the levels of rents here and there. Some people may find in some estates, for instance, in Laguna Estate, they may find that they get a very modest increase, a small increase of 50 or 60 pence a week and some people elsewhere may get a decrease in rent of a similar small sum. What we have tried to ensure is that the loss in revenue to the Government under the Salt Water Rate Account will be roughly

as near as possible equivalent to what the increase in revenue would be as a result of the net annual value going up but we cannot get the equation completely right throughout Government dwellings. Some people, as I said, will get some small increases in rent and others are going to get small decreases. It can be done on this occasion but what happens in two year's time? Supposing in 1987, when the rent increases that took effect on the 1st July, 1984, are due to work their way through, supposing we do not want the rates to go up so that people effectively do not suffer an increase in rent, what do we do? Do we decrease the poundage by another 10 pence and make it minus 8 pence in the pound? It is not possible. Then we are going to be in a situation where we have to look closely at the valuation list and at the net annual value. I think on this occasion this is the best alternative even though I have no doubt that a poundage of 2 pence in the pound does not in any way reflect the cost to the Government which now provides the service of providing the salt water or the brackish water service to the community. I do not think two pence does reflect that. But, as I say, what is the choice in the future? We did not think we should tamper with the net annual value now because the property market is now going to be in a somewhat more volatile state because of the opening of the frontier and the effect that that is going to have on property value and therefore, perhaps, it is less dangerous in two years time once some kind of pattern has established itself to consider having to do that than on this occasion. Briefly, Mr Speaker, the purpose behind the measure is that Government tenants should not have to suffer an increase in rents. Rents have been going up very considerably for some time. Rates have been a very buoyant source of revenue for the Government. Not painless, because it is pretty painful when it is reflected in your rent, and so we have opted for what you can do once but beyond that the situation becomes anomalous and we do seriously have to consider before 1987 how we are going to move ahead in this particular area of Government financing.

HON CHIEF MINISTER:

I would like to add one or two things. I am afraid I must take exception to my colleague's reference to tampering with the NAV. I don't think we can tamper with the NAV. The Net Annual Value is that set out by the Valuation Officer who is a quasi judicial officer and it is done on criteria which is of a general application but you can tamper with the poundage, of course.

HON A J CANEPA:

I can explain what I meant. The Government could take a policy decision to make as a matter of policy a reduction,

could give an allowance that would be equivalent to a reduction of, say, 15% or 20% in the net annual value. I think such a policy decision can be taken.

HON CHIEF MINISTER:

I do not like the word tamper. As an old City Councillor, where the rates as the Honourable the Leader of the Opposition mentioned, reflected what was required to provide the municipal services. But with the greatest respect to the Financial Secretary of 1973, whatever he said then did not have much sense because there were no accounts there were only notional accounts. The Honourable Member well knows we had a struggle to get proper accounts because when the merger came it was done in a bit of a hurry and nobody thought about preparing proper accounts of the funded services. They had to wipe out everything that smelt like the City Council and that was done in a hurry. It was only as a result of the insistence of having proper accounts and not notional accounts. We had no idea, as the Honourable Member knew when he was either with his colleagues or on his own, that it was a great effort. I think the credit for that is due to Mr Collings, one of the predecessors of the Financial and Development Secretary, because that had to be done and you will recall they had to have huge amounts of money, millions of pounds, sent from one account to another to put them in their proper place because after the enquiry it was found that there was a deficit on one side and credit on the other. The question of rates in an organisation like the Government now is really one more way of taxing people through their properties but the way we have done it deprives us less of rates from the people who pay high rates. We are benefitting the people we want to benefit. If we had altered poundage it would have been a step of great significance and particularly also, the payment of rates by the Ministry of Defence who pay a lump sum.

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

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

This was agreed to.

THE CONTROL OF EMPLOYMENT (AMENDMENT) ORDINANCE, 1985

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Control of Employment Ordinance (Chapter 33) be read a first time.

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Manpower Planning Committee is established under Section 6(A) of the Control of Employment Ordinance, Subsection 6(A) provides for the appointment of the General Manager of Her Majesty's Dockyard as a Member of the Committee. As a result of the closure of the Naval Dockyard, the General Manager's Department has ceased to exist and it has been proposed that the Civil Establishment and Finance Officer of Her Majesty's Naval Base should replace him on the Committee. In fact, this officer normally represents the General Manager at routine meetings. The purpose of this Bill is, therefore, to provide for the appointment of the Civil Establishment and Finance Officer as a Member of the Committee.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, obviously, we are going to support this because there is no point in having a legislation which says the General Manager of the Naval Dockyard should form part of Committee, although in fact he could do it because he happens to have retired to the Costa del Sol and he can commute for Committee Meetings which are held 4 times a year. I think what perhaps the Government should be giving some thought to is the composition of the Committee in a changing situation in Gibraltar because OK, we are going to have the Civil Establishment and Finance Office there and to some extent that is an improvement in any case because he represents the whole of the Ministry of Defence and not just the Naval Dockyard. I think it is a move in the right direction, possibly the person that would theoretically have inherited the post occupied by the General Manager should have been the next Head Manager who has taken over that role but I think having the Civil Establishment and Finance Officer is an improvement in any case which would have been possibly preferable even before because he deals with Army and Navy and RAF and, therefore, he controls employment throughout the Ministry of Defence. I think that in a situation where the proportion

of people employed in the UK Departments is declining and even if it isn't declining very rapidly in absolute terms, it is certainly going to decline if the Honourable Member's predictions about a 1000 extra jobs being created materialise because then as a proportion of total employment the UK Departments will become smaller and I think at some stage we have to consider whether the committee is representative enough. I just put that forward as a thought because I think it is relevant if we are changing the composition.

MR SPEAKER:

Does the Minister wish to reply?

HON DR R G VALARINO:

Yes, Mr Speaker, I agree with the Honourable Member that some thought will have to be given to this.

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 the meeting.

This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The purpose of the Bill, Mr Speaker, is described briefly in the explanatory memorandum but perhaps I can say a few words by way of further amplification. The Bill provides for the duty free importation of goods, both by GSL and by contractors engaged by GSL in connection with the

refurbishment of the Dockyard and for the period during which Dockyard commercialisation is financed by ODA Development Aid. While GSL itself qualifies for relief from import duty under Section 15A of the Development Aid Ordinance, this mechanism would only extend to GSL imports and would not include the importation of plant and machinery used by contractors working for GSL, that is to say, on GSL contract, hence this amendment is required. The requirements do not arise if these were Government contracts financed by ODA Development Aid like, for example, the desalination plant or the Causeway project because obviously the Government does not pay the import duty to itself but because GSL is a private company, although Government owned, it cannot shelter under Government exemption. I would moreover just add that it was never the intention that plant and machinery imported for the purpose of establishing the dockyard should attract import duty. Indeed, as Honourable Members will be well aware, the conditions which apply to ODA Development Aid are that such goods and services are free from the imposition of local taxes and duty. The reason for this is that if the aid itself is taxed then it becomes a form of budgetary aid by another name and neither the UK Treasury or the House of Commons would agree to that. The only other comment I make is that this does not effect the entitlement of Gibraltar Shiprepair Limited to the drawback facilities provided under legislation which has already been passed. The latter, that is to say the drawback arrangements will continue in existence when the provision in the Bill before the House expires because drawback arrangements apply to goods which are imported and then re-exported in connection with ship repair work whereas the amendment now before the House is addressed specifically to plants and machinery being imported for the establishment of the commercial dockyard and during the period while it is financed by ODA Development Aid.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, the Opposition are supporting the Bill but there are one or two points which come to mind which have been discussed in the House previously in connection with other things. First of all, we are not quite clear because we understood that any project that was ODA funded would not need to have to pay import duty when the materials or whatever is being used is actually in connection with that project. I do not see the need in that connection for this amendment to be brought here, perhaps you can clarify that. We have expressed,

certainly I have expressed from this side of the House concern that when we have two contractors who undertake jobs in Government contracts, that in applying for extension of duty in respect, for example, machinery which they are going to use that this is closely monitored because what happens with that machinery once it finishes the project and is left in Gibraltar? One thing is to insist wholeheartedly as we all wish to make sure that a Government owned project is viable and another thing is for anybody to take advantage of this and use that as a vehicle for unfair competition against other people. If we have assurances in this House about this concern which we are expressing then of course the Opposition will be supporting the Bill.

HON CHIEF MINISTER:

The point that has been made by the Hon Mr Feetham is very valid. I seem to remember we had to monitor some special concessions made in respect of lorries that were coming here for special MOD contracts which were exempt from duty at one stage and when they ceased they remained here, the import duty was collected and, in fact, the matter has been raised in this House in the course of debate at the time drawing attention to this. I think it is a very valid point and there are difficulties which I am sure the Financial and Development Secretary will take care of.

HON J BOSSANO:

I think, in fact, Mr Speaker, on that point, it is something we have raised before in questions and there was a particular incident of a particular crane being used in GSL which subsequently re-appeared in Library Street in a totally unconnected project with the development of the Dockyard and there has been a comment, I think, in a previous Auditor's Report as to certain provisions which exist which enable the Government to require money to be deposited in advance which they can make use of if they need to, if the Imports and Exports Ordinance is being circumvented. I think the Honourable Financial and Development Secretary said in answer to a question here that he felt that the Collector of Revenue was in control of the situation which I suppose he was since I was giving him telephone calls to make sure that he was in control. I think we are slightly mystified as to why the amendment is necessary in the first place. I don't think that has been adequately explained really by the Honourable Member.

HON CHIEF MINISTER:

GSL.

HON J BOSSANO:

Yes, but the Honourable Member has said that if GSL imports the equipment, it does not require to make use of this provision because under the Development Aid Licence that it had it is able to import duty free. It is also true from previous answers to questions in the House in relation to other things, for example, the question of furniture imported from UK by GSL, before this amendment was passed, that goods purchased from ODA funds have to be exempt from import duty because ODA funds cannot be used to pay local duties or taxes. We have discussed that matter on several occasions. So, clearly, it is not for that occasion that we are doing this because that is again covered already. What exactly is it that we are amending this for if it seems that GSL is either covered because the money is from ODA, or is covered even if the money is not from ODA because it has an import licence. If we are talking about the question of the contractors working on the site, as far as we are concerned, presumably, the bulk of what the contractors are importing on the site to refurbish the dockyard are building materials which are exempt from import duty. Nobody pays import duty on building materials. If we are talking about the plant and equipment by the contractors, then since the money is coming from ODA, there have been previous occasions without any amendment to this Ordinance where the ODA financed contracts have automatically produced exemptions for the contractors - we had it, for example, with the building of Varyl Begg Estate. Every time that Taylor Woodrow was importing stuff for Varyl Begg Estate they used to sign a statement saying what it was going to be used for and that was sufficient because it was ODA money. If it is necessary to achieve the exemption from import duty then fine, we will support it, but I don't think the Honourable Member, in introducing the Bill, has given us an explanation of what it is that we are exempting that isn't already exempted. It just says to permit certain goods, imported exclusively for the purpose of establishing the commercialisation of the Dockyard. I have already given a number of instances which seem to cover every possible eventuality so what goods are left eliminating all those that otherwise would not be exempt and which we are now exempting and we are exempting it backdated to the 1st April, 1983, Mr Speaker. We are not happy, quite frankly, and I shall make the same point with reference to other legislation we have got in the Order Paper, in a situation where not only are we talking about retrospective legislation but we are talking about retrospective legislation after a general election. Members in the House are voting changing laws which take effect a year before they were elected by the people of Gibraltar to vote for those laws. There is virtually a majority in the House now of new Members post 1984 and those new Members are passing

legislation with effect from the 1st April 1983, which is twelve months before they arrived here and I think there is an important parliamentary principle there which we ought to avoid unless there are very compelling reasons but I would have thought that if we are making this retrospective to 1983, it can only be because between 1983 and today duty has been paid, otherwise somebody has been breaking the law, duty has been paid which is now going to be reimbursed. Can the Honourable the Financial Secretary, who is the Accounting Officer for Customs, explain to us what goods these are that we are now going to have to repay the duty on since we are now making legal the non payment of duty. Or he is telling us that in fact, they have been brought in, they have been exempt from duty, that it has been illegal and that they have now discovered the illegality and they are making something that was previously illegal now legal, because then I think those explanations may well condition how we vote. We have not got anything against the policy of saying: "Well, if this is needed to get the commercial dockyard off the ground, fine, we will support it". The Government knows the strong views we hold on the subject and also knows that we are strongly committed to accepting the concepts of parliamentary democracy, that is, it is Government policy to get the commercial dockyard working and we shall not be using our position in this House to create unnecessary obstacles. It is not so much that it is for the dockyard, it would be exactly the same point that I would be making if we were talking about something else. I don't know if this is up to date, Mr Speaker, but I have asked to look at the actual paragraph 25 of the first part of the First Schedule which is what we are apparently amending and there, on the copy that there is here, we have got a duty of 10%. That is wrong is it? It says goods not otherwise enumerated on the second part of this Schedule unless imported by or supplied to a public statutory authority exclusively for the purposes of a public utility undertaking or imported to or supplied to Cable and Wireless Limited exclusively for the purpose of transmitting or receiving telegraphic messages. That is the paragraph. And then after that it says "or imported exclusively for the purpose of the commercialisation of the dockyard". But that carries 10% duty.

HON CHIEF MINISTER:

Unless imported.

HON J BOSSANO:

So, in fact, if they are imported for one of those three; that is a public utility, Cable and Wireless or the commercial dockyard, they would not pay the 10% so then we are talking about specific goods on which the duty would otherwise be 10%.

Shall I give way Mr Speaker, because I will not be able to speak again. Or doesn't anybody want me to give way? It is just that we would like to know what it is we are voting, Mr Speaker, if the Government can tell us.

MR SPEAKER:

We hope that the Honourable the Financial and Development Secretary, in his reply, will give you an answer to that. Any other contributors? Then I will call on the Honourable the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the reason for this, why it is necessary to have this amendment to this Bill is of course that, yes, it is not a Government department. The Honourable Mr Feetham mentioned that it has been a long standing arrangement or understanding that anything which is financed by ODA is free of import duty, any project which is financed by ODA money. The law does not provide, subject to correction by my Honourable and Learned Friend the Attorney General, the law does not provide specifically for a project which is financed by ODA development aid to be free of import duty in this respect. It is a fact that projects financed by ODA and development aid have been Government projects. GSL is a private company and therefore this is not a Government project in law. It is essentially a technicality, I accept that, but the advice that we received was that it wasn't sufficient to rely on the relief that GSL would obtain under the Development Aid Ordinance. Indeed, I think, again subject to what the Attorney-General may have to say, technically that particular Ordinance would not cover the GSL situation. I suppose if the development aid release were originally exempted for a half of the import duty then that might create problems. That is the first point but secondly, of course, we are talking about contractors who a fortiori, are not working on Government contracts, they are working for GSL and they are not covered, obviously, by the provisions I am not sure, I don't think they are, covered by the Development Aid Relief Ordinance. It is to make sure that we are staying within the law.

HON J BOSSANO:

Mr Speaker, then how was it done in the case of the Gibraltar Quarry Company which is in exactly the same position? The Gibraltar Quarry Company was financed by ODA, the Gibraltar Quarry Company did not pay import duty on the equipment it imported and the Gibraltar Quarry Company is not a public utility or a Government Department, it is a 100% owned private company the same as GSL is.

HON M K FEATHERSTONE:

Everything the Quarry Company itself has imported has paid duty.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the Honourable Member mentioned the position of the crane which he drew our attention to after having asked the question in the House, and got the answer from me. I believe he then rang me up and told me about the crane and we took action. It is a point which we are very much alive to and the company concerned apologised.

HON J BOSSANO:

If the Honourable Member will give way. I think, Mr Speaker, it is important for us to be clear. We are in fact not simply correcting a situation which apparently has....

MR SPEAKER:

May I suggest that when we reach the Committee Stage, you will have enough time to do that and in the meantime you might clear your lines with the Financial and Development Secretary.

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 INCOME TAX (AMENDMENT) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, 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 as read a first time.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir I have the honour to move that the Bill be now read a second time. The amendments to the Income Tax Ordinance in the Bill before the House are akin to the amendments to the Bill we have just discussed in that the need for this has arisen mainly because of the commercialisation of the dock-yard. As regards the first of the amendments, new paragraph (R) which refers to the emoluments paid to contractors and consultants staff, the application would, in fact, be wider simply than those contractors and consultants staff working on GSL contracts financed by ODA development aid. The House may recall that there have been one or two cases in recent years where Government contracts have been placed with UK firms whose employees have come out to Gibraltar and where it has been erroneously assumed that no tax liability arose either because the contracts were Government contracts or because the individuals concerned were only here for a short period of time. That assumption was not soundly based in law which provides that the income of any person accruing in Gibraltar is assessable for tax although I should add that there are a number of well established exemptions, namely, MOD and PSA employees, expatriate civilian staff and, indeed, employees of the Gibraltar Government from time to time such as doctors and teachers and other experts who are engaged on OSAS terms. The important point is that the exemption would be conferred only in the case of those projects which are financed by ODA development aid and where the emoluments of the staff concerned are paid in the United Kingdom so they will therefore be liable to UK tax. This is in keeping with the conditions which normally apply to Development Aid from ODA and to which I referred to in connection with the Imports and Exports Ordinance. I could perhaps add that the amendment refers only to the emoluments of consultants and contractors staff, that is, employees to the companies concerned and not to any profits made by the companies arising out of their earnings in Gibraltar. The second amendment, new paragraph (f), although it could apply to any company established in accordance with the provisions described therein, has of course been drafted with GSL specifically in mind. It is drafted in a way which distinguishes between salaries on the one hand, and inducement allowances and gratuities on the other. Whilst the need for this amendment does not arise primarily as a condition of the granting by ODA of Development Aid, the latter is certainly a relevant consideration in as much as the emoluments of GSL staff will be financed wholly or in part by ODA aid for the next year or so and that applies to all GSL employees whether they are expatriates or Gibraltarians. The need for this is because it is necessary

to pay expatriate staff an inducement to attract them and to retain them in Gibraltar. As I have already said, Mr Speaker, this is by no means a new departure, we are not establishing a complete precedent here, the individuals I mentioned earlier, MOD and PSA civilians and other itinerant employees of the Government, receive overseas allowances of one form or another but these are not taxed either in Gibraltar or in the UK. The important difference in the case of GSL expatriate employees is that they will be assessable at Gibraltar rates of tax on their basic salaries, so it is the additional allowances and gratuities that will be free of tax. I believe that this way of meeting the situation will preserve the principle of parity as between the Gibraltar and expatriate employees as far as basic salaries are concerned, whilst recognising that the expatriate employee is entitled to some extra allowance by virtue of the disruption and the circumstances attaching to his employment with GSL. Perhaps the most important point of all which I should make is to emphasise the essentially short-term nature of the provisions which are envisaged because as the House will be aware it is the declared aim of the company to reduce the number of expatriate employees in the GSL management structure and for these to be replaced by Gibraltarians as far as this is practically possible and as early as possible. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

It will be very welcome, Mr Speaker, when we have the new laws of Gibraltar printed and they do not look like a jigsaw puzzle any more because it is extremely difficult to try and find out what exactly is the latest version of the Income Tax Ordinance or any other Ordinance being amended. I think we have to make it clear that we do not support this legislation. I do not think that it is true to say that this is simply the parallel of the Bill that has just been passed on the Imports and Exports Ordinance because from the explanation that the Honourable Financial and Development Secretary gave on the Imports and Exports Ordinance, it would appear that no import duty had been paid because the goods purchased had been financed by ODA and consequently cannot be paid. Yes, Mr Speaker, the Government has just brought a Bill to the House which exempts from duty everything imported for GSL since April, 1983, or am I not right? Therefore the stuff has been brought in already. I asked the Honourable Member whether

duty had been paid which now had to be reimbursed and he did not answer so I can only assume that his silence meant that they did not pay the duty, that they have now looked at the law and decided that although they exempted them from duty on the grounds that it was ODA financed, technically the Imports and Exports Ordinance did not provide for that and consequently they are now regularising the position. Are we saying the same thing here? Are we saying that there are people who have not been paying tax since July, 1983, when they should have been paying tax and that we are now going to make the fact that has been infringing the Income Tax Ordinance legal retrospectively? No? Well, then why are we making it retrospective to the 1st July, 1983? We are not talking about legislating for future emoluments, we are talking for legislating for past emoluments. I don't see how we can support a situation where one minute we are talking about arrears of revenue, £2m of income tax, that the Gibraltar must cough up the money that he owes and nobody likes paying the tax in Gibraltar, none of us do, nobody in this House and nobody outside the House does. If there are people who have been allowed to draw payments which are taxable under our current law, it is one thing to debate whether it is desirable that they should continue to be taxable and another thing to come here and to say we are now going to make them non taxable, backdated to the 1st July, 1983. Again, I can only suppose that we are not talking about repayment of income tax like we were not talking about repayment of import duty in the last legislation, we are talking about people who have not paid tax. If that is the case, under what provision of the law is the Director of Tourism being given a tax free annual allowance? He is not paid by ODA, is he?

HON CHIEF MINISTER:

He is not paid by ODA but he gets a gratuity free of tax at the end of the period, 25% a year of his salary.

HON J BOSSANO:

Mr Speaker, I know that. I know that the Government provided I think it was in 1975 because I remember that I voted against it. I got very upset. There is a gratuity at the end of the service and that gratuity which is 25% of the annual salary is then paid at the end of the 3 years tax free. I think it was the Honourable Mr Mackay, who was the Financial Secretary at the time and who introduced this legislation I think in 1975, which I voted against and I was very upset about it because he had just taxed our gratuities in Gibraltar and then he came along within a matter of months and untaxed his which I thought was just not on. If we have got a situation today and I think the Government told us that in answer to questions

in the last House of Assembly, that the newly recruited Director of Tourism would get on top of the terminal gratuity an allowance on top of his salary and that the allowance would be tax free, that is the answer we got. If there is an allowance being paid, I think that the figure mentioned was something like £4,000. We asked whether it was tax free and I think we got a yes or a nod from the other side which indicated it was. I remember fairly distinctly because this was only a couple of months ago. I do not know whether or not we were misled on that point but if we were not misled and he is being paid an allowance tax free because the salary that was being offered was unattractive to the people who were willing to apply for the job, then.....

MR SPEAKER:

You are now speaking on the 3-year gratuity?

HON J BOSSANO:

No, Mr Speaker, I am talking about an annual payment over and above like the one that is going to be paid to GSL managers. I am saying if the payment of the GSL managers is not provided for in law and the Government is now amending the law so that the GSL managers can get it, under what provision does the Director of Tourism get it if he gets it, and we were told that he did. Mr Speaker, it was Question No. 13 of 1985 and the Honourable Attorney-General said that he got an overseas inducement allowance of £4,000 and then I asked: "Am I right in thinking that the gratuity will not be liable to income tax and will the allowance be liable to income tax and the Honourable the Attorney General said "No Mr Speaker". And I said: "The allowance will not either?" and then you said: "Next question". I took the no to be in answer to "will the allowance be liable to income tax?" and the Honourable and Learned Attorney General said 'no', and then I said: "The allowance will not either?", and then you said, Mr Speaker, "Next question". We certainly took that to mean that the question had been answered and that the answer was that the £4,000 overseas inducement allowance was not taxable. I am asking if that is permissible under the current Income Tax Ordinance, what is the explanation why it is permissible for the Director of Tourism, not permissible for the.....

MR SPEAKER:

You might perhaps, establish whether it is or it isn't.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

One is a Government employee and this Bill is concerned with GSL employees, Mr Speaker. I do not know whether, in fact, the Director of Tourism is covered by the OSAS.

HON J BOSSANO:

As far as I am aware, there is nothing that said that the Government can pay its employee tax free allowances in the Ordinance because the liability to tax arises on the part of the recipient of the income. The person receiving earnings or emoluments or income arising in Gibraltar is the person who is liable to tax. Therefore, as far as I am aware from a quick reading of the Income Tax Ordinance, Government is no more free than anybody else to pay emoluments free of tax unless the Government grosses them up and nets it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Will the Honourable Member give way, Mr Speaker. The Income Tax Ordinance does, I think I am right in saying, provide specifically under the exemptions which are fairly extensive for various inducement allowances paid under the OSAS Scheme but what is in doubt is whether the Director of Tourism is covered by this.

MR SPEAKER:

In any event, you are objecting on principle.

HON J BOSSANO:

Yes, we are objecting on principle to the general principles of the Bill and we are objecting to retrospective legislation and we are objecting to the payments but I am also questioning Mr Speaker, if it is money that is paid by OSAS then if it is an inducement allowance under (w) as the Honourable Member has suggested it might be, then in fact it is not money that we are paying ourselves from our revenues so it is not being paid by the Government of Gibraltar it is being paid by the UK under technical assistance, presumably, the £4,000. If it isn't, if it is money being paid by Government to one of its employees, as far as I am aware the Government is no more free to pay one of its employees tax free payments than any other employer in Gibraltar and, therefore, if that is the situation then it seems to me that here we are legislating for tax free payments to employees of a company wholly owned by the Government and the Government is already breaching the law, it would appear, according to the answer we got to Question No. 13 in January this year. As regards the question of the

inducement allowance or gratuity paid to an individual recruited from outside Gibraltar and employed or seconded to a company wholly owned by the Government of Gibraltar, first of all, it is not limited to GSL, presumably, the same would apply to the Gibraltar Quarry Company. Yes, Mr Speaker, the Gibraltar Quarry Company is a company wholly owned by the Government of Gibraltar. If we go back to the Estimates of 1983/84, we may find that part of the money which was, for example, reimbursed by Robertson Research and which went back into the company and which we voted in this House was money that initially came from ODA. We are not talking about the fact that the money is actually paid to the individual by the British Government or by ODA, we are talking about the fact that the company is partly or wholly financed by ODA. It is a wholly owned Government company but the payment of the allowance to the individual does not necessarily have to be a payment by the UK Government because it says here that it is an inducement allowance or a gratuity paid to an individual recruited or seconded to a company and paid either wholly or partly out of grants and loans originating from ODA. The grants and loans are to the company, to GSL and then GSL has got a total budget and I suppose you could argue that a part of the inducement allowance comes out of it because it would then be considered to be pro rata to their total income but it is not that the ODA is paying that money whereas I think on the first part, Mr Speaker, the first amendment talks about emoluments paid in UK. I think we are talking about a situation where we have always assumed that in any case since the law provides that income that is taxable in UK you can offset against any tax liability in Gibraltar, then, presumably, if the emoluments are paid in UK by the British Government, then it seems odd that we should need to legislate not to tax it here. I can only say that if we need to do this to 1983 then we ought to be thinking of doing it considerably further back than 1983. We have been paying a lot of consultants, I am sure, tax free emoluments. A lot of consultants, Mr Speaker, going back many, many years and if we do it in 1983 and we have not taxed them and the statute of limitation that the Honourable Member mentioned is 6 years, then the Commissioner of Income Tax has now got an obligation to go back to the people 6 years back who are not exempted under this legislation, that is, the people who have been paid emoluments in the United Kingdom prior to 1983 and have not paid tax will now have to be pursued by the Commissioner of Income Tax. Unless, Mr Speaker, I have read the law incorrectly in which case I will allow the Member to interrupt me and explain to me where and why I am reading it incorrectly but to me, logically, it seems we are being asked to correct an anomaly in our law. We are being told in this House that since July, 1983, there have been consultants engaged outside Gibraltar and paid in the United Kingdom by the United Kingdom Government who technically acquired a tax

liability in Gibraltar and should not have and that makes sense. I think it makes sense to any person outside this House that if the British Government is sending somebody out here at their expense to give us advice, it is a bit of a cheek if on top of that we tax the bloke when he steps off the plane, I think the average person will understand that. My argument there would be, well, fine, if we need to do that to correct something that is wrong, if we are so concerned about putting the law right, why the 1st July, 1983, there have been many cases before 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the answer to that is that it is common sense.

HON J BOSSANO:

I don't see why, Mr Speaker, if somebody got emoluments in June, 1983, there is more common sense in allowing him to break the law in June, 1983, than allow him to break the law in July 1983. Is it a totally arbitrary figure or is there somebody caught out by July that is not caught out by June, or what? What is the explanation for the 1st July, 1983? The House, Mr Speaker, is entitled to have the justification provided by the Member that is asking for support for a measure of legislation. We are not saying we are against this just because the view of the Opposition is that if the Government says yes we say no. We are saying, you convince us that this is necessary or desirable or correct. I have already mentioned that we have got an objection in principle to going back to 1983 when Members of this side of the House, with the exception of me, have been asked to make something legal in 1983 and they were voted by the people of Gibraltar to this House in 1984. I think there is an important parliamentary principle at stake that people are voting laws when they had no right to vote those laws when the laws are coming into effect, a year before they arrived. If it is something that there is an anomaly, a mistake, something that is important that is going to affect people and we need to put it right, alright. The argument was to some extent acceptable in the case of the Imports and Exports Ordinance, although it, seems to me more a technicality, as the Honourable Member said, that GSL is not a public utility and is not therefore covered by that section of the Imports and Exports Ordinance but he certainly has not explained why we are doing this for money paid in UK in the last two years but not for money paid before the last two years when it would have been equally liable to income tax and equally not being subjected to income tax. As far as the second part is concerned, we have to say that we are completely opposed to that. We are opposed, certainly, to GSL managers being paid tax free inducement allowances backdated

to 1983, GSL opened its doors, Mr Speaker, on the 1st January, 1985, not on the 1st July, 1983. So what are these inducement allowances that we are making tax free from July, 1983, and who was getting them, where were they? The yard did not start functioning until the 1st January this year. We will be, in fact, opposing this measure but even so, Mr Speaker, if the Government thinks that they can come up with rational arguments that will justify us doing something that we consider to be totally incorrect and improper and devoid of common sense, quite frankly. We are legislating here for inducement allowances to a company that did not exist in 1983. It was not even incorporated. How can you make tax free payments to managers of a company that didn't exist in 1983, and that did not open its doors until 1985? And if they don't exist why are we legislating? I mean it makes a nonsense of the whole thing, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, two points. The Hansard which was read is correct except on the last question of the Honourable Member was not answered since the Speaker said 'Next Question'. However, I have been able to find out from some people who work hard and late, and I think that the Hansard is perfectly correct. The inducement allowance, where it says - "The salary of the Director of Tourism will be whatever it is, plus an inducement allowance of £4,000. In addition both the basic salary and the overseas inducement allowance will attract a 25% tax free gratuity payable at the end of his 3 - year contract". Then Mr Bossano says: "25% duty will be paid on the salary and the allowance. Am I right in thinking that the gratuity itself will not be liable to income tax", and he said no. He pays income tax on his total emoluments while he is here. What he doesn't pay tax on is the gratuity which covers 25% of his total emoluments.

HON J BOSSANO:

If the Honourable Member will give way. If I asked will the allowance be liable to income tax and the answer is no, I take that to mean, no it will not be liable to income tax not, yes, it will be liable to income tax.

HON CHIEF MINISTER:

What we told you is that you are not right in thinking that the gratuity itself will not be liable to income tax and the allowance will be liable to income tax. A perfectly proper reply. It was a simple reply to a lawyer's question. Members opposite, of course, can vote as they please. I think that the question made on the point about 1983 in this

Bill will be the subject of discussion at the Committee Stage. I must look into that point.

HON MAJOR F J DELLIPIANI:

Mr Speaker, of course I am not going to support anything that the Honourable the Leader of the Opposition has said but every time the Gibraltar Shiprepair Limited is mentioned in any form I will express my views on the Gibraltar Shiprepair Limited and the policies that they have introduced and the way that they are operating. The Honourable Financial and Development Secretary did mention the question of inducement allowances to bring all these experts from all over the world. He said that this was part of the policy of the Gibraltar Shiprepair Limited

MR SPEAKER:

No, in fairness what the Financial and Development Secretary said was that the policy of the company was to cut down on expenses.

HON MAJOR F J DELLIPIANI:

That is exactly what I was going to say. I hope that some day or other I will see this programme where they actually produce the chaps who are going to replace the fantastic experts that have come over from all over the world because I still have not seen a programme and until I see a real programme I am very doubtful whether this is going to happen and we are going to have another colonial situation which we had before with the Ministry of Defence.

HON J C PEREZ:

Mr Speaker, it is not for nothing that they call Major Dellipiani the Opposition Member that votes with the Government.

HON CHIEF MINISTER:

We can afford to have a party of people who express their views and still toe the party line.

MR SPEAKER:

Does the Honourable the Financial and Development Secretary wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, thank you, Mr Speaker.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon 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 following Members voted against.

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

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 (1980/81) ORDINANCE, 1985

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, 1981, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Supplementary Appropriation (1980/81) Bill,

1985, seeks to appropriate a net unauthorised excess expenditure totalling £120,553 incurred in the financial year ended 31st March, 1981, on six of the Consolidated Fund Heads of Expenditure and which was the subject of comment in paragraph 26 of the Principal Auditor's Report for 1980/81. Details of the excess expenditure by sub-heads is detailed in the schedule of the Supplementary Estimates 1980/81 which I tabled earlier in the meeting. Only the net excess in the Heads requires appropriation. The totals by sub-heads exceed the amount to be appropriated as the savings in the other sub-heads are deducted in order to arrive at the net excess. No extra money will be required.

MR SPEAKER:

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

HON J BOSSANO:

This is an even more important general principle, Mr Speaker. At this rate I can see ourselves passing Supplementary Appropriation Bills dating back to when the Honourable and Learned Chief Minister first arrived on the political scene. I think everything that I have said about going back to 1983 applies with even greater sense to going back to 1980/81. Alright, the money has been spent, I know that the money has been spent, but the money has been spent without the authority of the House of Assembly. The House of Assembly is now authorising the expenditure of money that took place when totally different individuals made up the House of Assembly. I don't think, Mr Speaker, that it is anything that happens with any great frequency in any other Parliament in Western Europe, quite frankly. I would be very surprised if in the House of Commons you had a situation where Mrs Margaret Thatcher was to bring to the House supplementary appropriation bills dating back to Harold Wilson, quite frankly. I don't think one can simply sweep it off and say, well this is just an accounting thing. It might be a technical thing but we take our job seriously in this House. It is much easier, Mr Speaker, to simply sit here and say 'aye' to whatever goes through and that is it. As far as we are concerned, we are trying to earn our keep by standing up and putting across reservations that we have about things that we consider to be important matters of principle. This is why we are talking about the general principles of the Bill. The general principle of the Bill as far as I am concerned is not about the fact that we are appropriating £X but that we are appropriating £X with effect from 1980/81, when it does not mean anything anymore. I find it peculiar to say the least, Mr Speaker;

that if this is picked up at the end of the financial year when the auditor makes his comments.....

HON CHIEF MINISTER:

Surely, if you see the explanatory memorandum, this arises out of the report of the Public Accounts Committee. They used to be lawful in the past, they are much less now. These were identified after the examination by the Public Accounts Committee of the Auditor's Report as having been money spent for which there was no parliamentary authority. It is not now that it was found, it was found then. Why it has come now is another matter, it should have come immediately after the report.

HON J BOSSANO:

This is precisely what I am questioning, why is it coming now and not then. Because it is coming now, the principle that I think is at stake is that we are now deciding something which if it had come then might not have been decided, presumably, that is, that the views that we put forward in authorising this expenditure need not necessarily be the views that would have been held by the people who were here then.

HON CHIEF MINISTER:

But the people who recommended this Ordinance were the people who were elected when the money was spent and who looked at the whole thing and after having sifted all the inquisitional work to which my colleague referred this morning, identified these items as being the items that had not had parliamentary authority.

MR SPEAKER:

There must have been an Auditor's comment already.

HON J BOSSANO:

Of course, before that. If we take the one dealing with the financial year ending 1983, there is no reference there to the Public Accounts Committee. The report of the Principal Auditor on the Annual Accounts of 1982/83, states, inter alia, that excess expenditure incurred in the financial year ending on the 31st March, £48,000 in the Consolidate Fund, and £121,000 in the Improvement and Development Fund.....

MR SPEAKER:

It does refer to the Public Accounts Committee.

HON J BOSSANO:

The Expenditure Committee, Mr Speaker, not the Public Accounts Committee. The Expenditure Committee is a Committee of the Government.

MR SPEAKER:

The explanatory note says that the House of Assembly has approved the third report of the First Session of the Public Accounts Committee.

HON J BOSSANO:

This is the one the Honourable Member has quoted. I am saying that the next one does not say that.

HON A J CANEPA:

That is because in respect of the Principal Auditor's Report for the Financial Year 1982/83 the Public Accounts Committee never got around to considering that because there was a general election in January, 1984.

HON J BOSSANO:

And we do not agree with the Public Accounts Committee and we refuse to take part in it and it has disappeared but it still does not alter the principle, Mr Speaker, that we are bringing legislation here, long after the event, and assuming the responsibility here today for approving money that has already been spent and that the people taking part in that vote, to a large extent, are people who were not members of the House of Assembly at the time the money should have been approved. That is the point I am making and I am making it in relation to all these backdated Supplementary Bills. I have been in this House, Mr Speaker, for thirteen years and I know, from past experience, that when we have retrospective legislation the Government has come along and virtually apologised for infringing an important principle of not legislating retrospectively.

HON A J CANEPA:

We won't do so on the pensions for part-timers, we won't apologise.

HON J BOSSANO:

I don't see how you can apologise, Mr Speaker, because there is nothing left now to apologise, you have had to eat

humble pie so many times. I think that you have run out of apologies on that one but there you have got an agreement which you have not fulfilled. This is a situation where you are bringing laws and you have never done this before, Mr Speaker, in this House of Assembly to this extent. There have been occasions when something has had to be corrected with retrospective effect and there have usually been powerful and compelling reasons why we were doing something that was abnormal. Here we are and practically two thirds of the Bills that we have got in this meeting of the House all deal with things going back two years and three years and four years. On this occasion, I think on this particular Bill we will abstain to demonstrate the reservations that we have got on this matter.

HON CHIEF MINISTER:

It is very undesirable, I entirely agree. But on the other hand, once they are identified, and in fact the purpose of the Public Accounts Committee now when they look at the accounts and they find that some expenditure has been incurred without parliamentary authority, I think if I may say so with respect, it magnifies the importance of the control of expenditure of the House in bringing this because this has all been paid and done away with but it is still not legal until it is authorised by the House and it is undesirable. I think the reason why three Bills should come together, I do not know exactly the details, but it is quite clear that one of them was the subject of a Public Accounts Committee Report which recommended it, one was because they would not take it on yet because they took so long with the first one, it took over a year. Normally you should do that every year as it comes, and now it is done by the Expenditure Committee which has substituted the Public Accounts Committee. Except for the present one, which is on-going and which we will discuss in detail because there are schedules, the others are all of the same principle. I take the point of Honourable Members. I respect their abstention but I am glad they are not voting against.

MR SPEAKER:

May I ask whether the Honourable the Financial and Development Secretary wishes to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, thank you, Mr Speaker.

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

The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon G Macarenhas
The Hon J B Perez
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon J L Baldachino
The Hon Dr R G Valarino

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 (1981/82) ORDINANCE, 1985

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, 1982, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. This Supplementary Appropriation Bill seeks to appropriate the net unauthorised excess expenditure totalling £4,591 incurred in the financial year ending 31st March, 1982, on two of the Consolidated Fund heads of expenditure which was the subject of comment in paragraph 17 of the Principal Auditor's Report for 1981/82. Details of the excess expenditure by sub-head is detailed in the Schedule of Supplementary Estimates 1981/82 which I tabled earlier in the meeting. Only the net excess in the head requires appropriation. The totals of five sub-heads exceed the amount to be appropriated but savings in the other sub-heads were deducted in order to arrive at the net excess.

MR SPEAKER:

Does any Honourable Member wish to speak on the general principles and merits of the Bill. I imagine Mr Bossano that some of your comments in the first Bill applies to this one.

HON J BOSSANO:

Yes, it applies to this one.

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

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1982/83) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1983, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Supplementary Appropriation (1982/83) Bill, 1985, seeks to appropriate the net unauthorised excess expenditure incurred in the financial year 1982/83. There was excess expenditure on four Consolidated Fund heads totalling £48,282 and of £121,964 on IDF Head 110 - Electricity Service. These excesses were referred to in paragraph 13 and 40, 41, respectively, of the Principal Auditor's Report.

HON J BOSSANO:

Mr Speaker, we shall be voting against this. This is a matter that we raised, I think, last year in the context of the audited accounts for 1982/83, and we have raised it since in correspondence, I think, with the Honourable Financial and Development Secretary. I may be mistaken, I may be identifying the wrong item, but if I am not mistaken, we have got a situation here where the money allocated to the Improvement and Development Fund included part of the running costs which the Auditor commented should have been more correctly treated as part of the recurrent expenditure and instead was included in the Improvement and Development Fund and subsequently subject to the same amortisation policy as the question of the equipment and the building. We disagreed, that is, we agreed with the Auditor's view that the running costs should have

been allocated to the cost of producing electricity in that year and not spread over the 20 years and that the fact that part of that running cost was financed by a direct contribution and part of it was financed by obtaining supplier credit, does not alter the economic function of allocating running costs to the year in which they take place and allocating capital expenditure to what is considered to be the relative life of the asset which is purchased with that money. Consequently, the source of the finance does not alter the analysis, this is a point made by the auditor in the 1982/83 report which we raised when we noted the Auditor's Report last year and I think I raised it in a question which, in fact, the Honourable Financial and Development Secretary answered a few weeks ago in correspondence. Therefore, we are against it because we disapprove of the way it was done.

MR SPEAKER:

Any other contributor? Then I will call on the Honourable the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I note what the Honourable Member says, and I confirm that we are in fact talking about the same thing. I have really nothing to add to what has already been said in this House and, indeed, to what I said in correspondence with him. I accept that he does not accept my point of view and I appreciate he has a different one.

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

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

The following Hon Members voted against:

The Hon J L Baldachino
The Hon J Bossano
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon R Mór

The Hon J C Perez
The Hon J E Pilcher

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, 1985

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:

Sir, I have the honour to move that the Bill be now read a second time. I do not think, indeed, it is not customary Mr Speaker, for the Financial Secretary, in introducing a Supplementary Appropriation Bill, to make an extensive speech because any matters of detail can be taken by Honourable Members at the Committee Stage if they so wish.

MR SPEAKER:

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

HON J C PEREZ:

Well, Mr Speaker, notwithstanding the last comments of the Honourable Member opposite, I would just like to give notice that the explanations on Head 28, sub-head 1 and 2, are not very clear to me and I would like to give notice to the Honourable Member that I will be asking for a breakdown of this at the Committee Stage.

HON J BOSSANO:

We will be voting in favour of this and then we will wait until the Committee Stage.

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:

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

This was agreed to.

The House recessed at 8.20 pm.

WEDNESDAY THE 27TH MARCH, 1985

The House started at 10.40 am.

COMMITTEE STAGE

MR SPEAKER:

I will remind the House that yesterday evening we finished the Second Reading and we will now move to the Committee Stage.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that this House should resolve itself into Committee to consider the following Bills clause by clause: The Public Health (Amendment) Bill, 1985; The Control of Employment (Amendment) Bill, 1985; The Landlord and Tenant (Amendment) Bill, 1985; The Imports and Exports (Amendment) Bill, 1985; The Income Tax (Amendment) Bill, 1985; The Supplementary Appropriation (1980/81) Bill, 1985; The Supplementary Appropriation (1981/82) Bill, 1985; The Supplementary Appropriation (1982/83) Bill, 1985; and the Supplementary Appropriation (1984/85) (No.2) Bill, 1985.

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

THE PUBLIC HEALTH (AMENDMENT) BILL, 1985

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

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

THE CONTROL OF EMPLOYMENT (AMENDMENT) BILL, 1985

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 LANDLORD AND TENANT (AMENDMENT) BILL, 1985

Clause 1

HON ATTORNEY-GENERAL:

Sir, I beg to move two amendments to Clause 1. Firstly, Sir, to delete the reference to sub-clause 1 and in Clause 1 to omit the figures '1984' and substitute them for the figures '1985'.

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

Clause 2

HON ATTORNEY-GENERAL:

I beg to move that Clause 2 be amended by omitting the word 'revoking' and substitute the word 'repealing'.

Mr Speaker put the question on the terms of the Hon the Attorney-General's amendment which was resolved in the affirmative.

MR SPEAKER:

I understand, Mr Baldachino that you have an amendment to Clause 2.

HON J L BALDACHINO:

Mr Chairman, I would like to move that Clause 2 should be amended by removing the fullstop and the addition of the following words: "and by amending Section 22 by deleting the words "that this Part shall not apply" where these appear therein and substituting therefore the words "a new statutory rent taking into consideration the capital expended in the structural alteration and the improved nature of the accommodation provided, which shall apply". Mr Speaker, as the

Ordinance stands now, it sees a way of decontrolling pre-war dwellings in such a manner that landlords only have to carry out certain alterations and the dwellings can then be decontrolled in that way. If that happens, Mr Speaker, then three things could occur. One of them is that being a decontrolled dwelling, the tenants of those dwellings would not be able to claim rent relief if the rents are high and I am saying this, Mr Speaker, because even though I have been looking through records, I have not found anywhere where it says how many such dwellings are in the private sector. I think there are about 400 of those dwellings. And if we look at the composition of the dwellings, seeing that they are in the nature of pre-war, obviously, one can assume that people living there or the persons living in such dwellings are elderly people because they have been there a long time. If we decontrol the dwellings as is stated in the Landlord and Tenant Ordinance of 1983, Section 32, as it stands now, then the burden could be put on them by a higher rent. In turn, they would not be able to claim rent relief for those dwellings because it is not provided for in the regulations of rent relief for private dwellings. Even if we take into consideration, Mr Speaker, what the Honourable Minister for Housing said that they were looking into the question of rent relief, that would not be the case because it could become a decontrolled dwelling and what they are looking into might not reach that far, going by what the Honourable Member said. Also, Mr Speaker, it would be a farce to have Section 15 because Section 15 of the Landlord and Tenant Ordinance is where a landlord and a tenant agree on the rent and then that rent is registered and it becomes the statutory rent as a fair rent. Therefore, I am sure, Mr Speaker, that if a landlord has the two options, obviously the option he would take would be to carry out certain alterations on the dwelling itself and then have it decontrolled rather than have a negotiation between landlord and tenant. As a matter of fact, Mr Speaker, by having this Section 32 as it stands, it could be a burden on Government because most probably they could either find themselves with more people homeless or with a decision of having to make facilities for those people and they will then be subsidising private landlords in that way. Having said that, Mr Speaker, I understand that rents in the private sector on controlled dwellings such as the pre-war ones have very low rents and therefore there is no incentive for the landlord to carry out repairs because of the low rent they are getting. My amendment, Mr Speaker, makes provision for that. My amendment, Mr Speaker, protects the tenant, protects the Government and at the same time gives a margin to the landlord to be able to increase the rent. What my amendment says, Mr Speaker, is that if the landlord carries out certain repairs then the Rent Assessor could assess the rent for that dwelling and it would then

become a statutory rent. In that way the landlord would be able to increase the rent at the same time as protecting the tenant by having it controlled. Giving the housing situation in Gibraltar to decontrol completely at this stage, Mr Speaker, could result in a lot of people at the lower income bracket being left without any dwelling whatsoever and then the burden would be on the Government either to provide housing for those people or, Mr Speaker, as I said before, by extending rent relief for those dwellings and they would have no justification if they do that, not to extend rent relief to other dwellings which are post-war and decontrolled. I think this amendment is more equitable for the tenant in a Landlord and Tenant Ordinance which this side of the House thinks has very little provision or very little protection to the tenant itself and if we take the Landlord and Tenant Ordinance as it stands now it would further reduce the little protection afforded to the tenants. I think, Mr Speaker, that the amendment I am bringing to the House is a fair one in that it provides protection to the tenants in pre-war dwellings, it might alleviate the Government's burden and also, Mr Speaker, it will allow a margin to the landlord to increase the rent.

Mr Speaker proposed the question in the terms of the Honourable J Baldachino's amendment.

HON CHIEF MINISTER:

Mr Speaker, on a point of clarification. What the Honourable Member is seeking to obtain is the automatic enquiry by the Rent Assessor into assessing flats that have been repaired or improved, rather than that the landlord should go to the Rent Tribunal and ask that this be done. Is that not the main point?

HON J BOSSANO:

On the Government's proposal the Rent Tribunal would not fix a rent, the Rent Tribunal would determine that the Ordinance would not apply and therefore the landlord would then be free to fix whatever rent he likes. What the amendment seeks to do is to replace the non applicability of rent control by the applicability of rent control, but at a fair rent, not at the old statutory rent.

HON M K FEATHERSTONE:

As long as that is the rent which is acceptable by the Rent Assessor.

HON J BOSSANO:

Yes.

HON J BALDACHINO:

Mr Speaker, what we are trying to achieve by this amendment is that if a landlord carries out certain alterations to the building, we personally think that being a controlled dwelling and having such a low rent, the rent should be increased but it should not be completely decontrolled so, therefore, if you use the Rent Assessor, then the Rent Assessor could establish a statutory rent or a fair rent.

HON J BOSSANO:

What we are proposing, Mr Speaker, is that the criteria that the Rent Assessor should use in deciding what the new rent should be, should in fact reflect the investment made by the landlord.

HON M K FEATHERSTONE:

Taking into consideration the point that has been raised by the Honourable Mr Baldachino, on the condition that the new statutory rent is acceptable to the Rent Assessor, we can go along with the amendment.

HON ATTORNEY-GENERAL:

I think sub-section 4 will have to be amended. When an Order made under this section comes into effect, the premises to which it relates shall thereupon cease to be a dwelling house or dwelling houses to which this part applies. It remains within the Ordinance as an increased rent fixed by the Rent Tribunal and therefore Subsection 4 must go.

HON J BOSSANO:

Mr Speaker, as we see it, it isn't so much that it is acceptable to the Rent Assessor but that in fact the Rent Assessor is the person in the ideal position to establish what the rent ought to be, except that in the case where the rent is being fixed under Section 22 it will be able to go beyond the limit otherwise laid down in the Ordinance. As we see it, it is reasonable that if a landlord is improving the property, then he ought to be able to obtain a reasonable return on his investment and, therefore, if he cannot do it he won't improve the property and that is not good for the development of the private sector market and development of Gibraltar and the economy, generally, so we

can see the logic of that being there. However, on the other hand, if one can think of a situation where you have got a very low statutory rent and you can obtain decontrol by investing money, then irrespective of the economic logic of it, it may be a good way of decontrolling the property where the purpose is not the actual investment and the return on the investment but a way of getting it out of the law.

HON ATTORNEY-GENERAL:

Sir, I beg to move that the Hon J L Baldachino's amendment be amended by the addition of the following words after the last word 'apply' - "and by the consequential repeal of subsection 4 of Section 22".

Mr Speaker put the question in the terms of the Hon the Attorney-General's amendment to the amendment which was resolved in the affirmative and the amendment to the amendment was accordingly carried.

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

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

Clause 4

HON ATTORNEY-GENERAL:

I beg to move one amendment and that is to omit the word 'revolving' and substituting therefor the word 'repealing'.

Mr Speaker then put the question which was resolved in the affirmative and Clause 4, as amended was agreed to and stood part of the Bill.

Clause 5

HON J L BALDACHINO:

Mr Speaker, I have a further amendment to Clause 5, and it reads as follows. That Clause 5 be amended by the removal of the fullstop and the addition of the following "and Section 29(1) is amended (a) by omitting the words "to which this part applies" where these appear therein. (b) by deleting the word "produce" in subsection (b) where this appears and substituting the word "submit" and (c) by omitting the words "at the request of the Rent Assessor" where these appear therein and adding the words "who shall maintain a record of the particulars

inserted in the rent book". Mr Speaker, I will not take up much of the time of the House on this one because this one does not affect either the tenant or the landlord. The intention behind my amendment is more on the monitor side, where the Government can monitor the development in the private sector in rents and of the levels that private dwellings are being rented if there is an increase or a decrease, which at the same time will help the Government to project in the future what the housing needs of Gibraltar are. At the same time, Mr Speaker, if this amendment is accepted, then the Government will be able to see if they are recovering the right amount of tax and therefore in that way monitor the situation. It does not in any way, Mr Speaker, affect either the landlords or the tenants because it is not controlling or decontrolling anything. All that the Ordinance is doing, Mr Speaker, is that the landlord provide the Rent Assessor with all the details of the property that he is renting. Mr Speaker the intention is to help the Government to monitor the private sector and nothing else.

Mr Speaker proposed the question in the terms of the Honourable J L Baldachino's amendment.

HON M K FEATHERSTONE:

Sir, I am afraid that we cannot go along with this amendment. This amendment basically purports to widen the need to keep rent books etc, to every rented accommodation rather than to only those to whom the Landlord and Tenant Bill under this part should apply. We cannot see that there is any basic need. Government, I think, has ample opportunities to monitor what rents are being charged through the Income Tax Ordinance on landlords and we do not think that it is essential that those properties which are not included in the part under discussion should have to have a rent book provided, etc.

HON J BOSSANO:

First of all, I think the argument that has just been put by the Honourable Member that he is able to obtain the rent paid in properties by the income tax returns of the landlords, is nonsense. The Honourable Member knows full well that every time we have asked questions about people's income tax returns, including people who are paid by Government, we have been told that this breaches the confidentiality provisions of the Income Tax Ordinance. Unless he can clarify he can do it in the case of rents and in no other case, I think that is a smoke screen. If the Government does not want to have that information, it is very peculiar because, in fact, they provide here for the information to be available on the initiative of the Rent Assessor. What we are suggesting is

that instead of the landlord having to produce the information to the Rent Assessor at his request, it ought to be an automatic thing and I will remind the Hon Member that I have been making this point since the Select Committee was set up in 1980, that it is important for Government, even if they are not controlling, at least to know what is happening, at least to know what is the standard of the average or the range of rents in the private sector. How can the Government think in terms of economic development, in terms of encouraging landlords, in terms of people investing in postwar property to rent if they have got no idea what is the rent and they certainly cannot get them from income tax returns. This gives a situation where there would be an automatic flow of information to the Government which the Government can use if it wants and not use if it does not want but at least it will be there. Secondly, I think it gives a very limited measure of protection which is indefensible not to give given the history of this legislation. I would remind the Member that it was his Government that brought legislation to this House controlling rents until 1980. Property up to 1980 were to be controlled originally and then this thing went to a Select Committee and the date was 1965. And then from 1965 it became 1954, and then from 1954 it became 1945, and the situation now is that the only properties that are going to be controlled under the new Ordinance are the properties that are controlled under the old Ordinance because we were told in a meeting of the House, in answer to a question that I put to the Honourable Member, that there were no houses built between 1940 and 1945. So though we are, theoretically, moving the date of controlled properties from 1940 to 1945, we are doing it in the knowledge that it does not alter the houses controlled because none were built in that period. We are suggesting that having gone back entirely on the whole philosophy that they produced in the House as the reason for the need to introduce an amended Landlord and Tenant Ordinance because the other one was out of date and we are now talking about properties built 45 years ago and that there was a need to update that, having started on that road and having gone back completely on it, we think that the least that a landlord can be required to do is to give his tenant a rent book so that the tenant has got a piece of paper as evidence of the rent that he is paying. Why should he not have that right? If the Government is not prepared to give him any protection at least let the person have evidence of the rent that he is paying and let there be an official record kept by the Government of what is happening in the private sector. I really cannot understand why the Government should resist an amendment which is simply putting a very limited protection in the hands of the tenants, in the sense that at least he can prove the rent he is paying, he has got evidence of it, and in UK it is normal. It is normal in all Rents Acts and Housing Acts that people should be entitled

to
of a rent book as evidence of the rent that they are paying. We are suggesting that by having a flow of the details of the rent book having to be copied to the Rent Assessor, even if nothing can be done to stop exorbitant rents, it might be an influencing factor in putting a limit to how far people are prepared to go. I suppose there may be some landlords who will think twice particularly even though as I said already there isn't a way of checking the returns on the income tax because this is not permissible under the secrecy provided in the income tax ordinance, even though that may be the case, it may be that if the person is putting one thing in the rent book and another thing on his tax return he may think twice about doing it if it has to go to an official Government Department. The proposal that we are making is only something that makes good Government and we do not see why they should resist it.

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 Pérez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The amendment was accordingly defeated and Clause 5 stood part of the Bill.

Clause 6 was agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Sir, I beg to move that this Clause be omitted from the Bill.

Mr Speaker, Clause 7 purports to amend Section 62 of the Ordinance. Section 62 of the Ordinance in Part IV, and as I said in answer to Question No. 136 of 1985, the Government wishes to take a little more time to think about Part IV of the Ordinance having regard to the open frontier situation.

MR SPEAKER:

Does any Member wish to speak on the proposed amendment for the deletion of Clause 7.

Mr Speaker put the question which was resolved in the affirmative. Clause 7 was accordingly deleted.

Clause 8

HON ATTORNEY-GENERAL:

I beg to move that this Clause be omitted from the Bill for the same reasons as I gave for the omission of Clause 7.

Mr Speaker then put the question which was resolved in the affirmative and Clause 8 was accordingly deleted.

Clause 9

HON ATTORNEY-GENERAL:

I beg to move two amendments to this Clause. The first amendment is to renumber Clause 9 as Clause 7, having regard to the omission of Clauses 7 and 8, and to omit the present Clause and substitute a new Clause in the terms of the amendment which has been circulated. Sir, this Clause, as circulated, follows the present Section 16 of the Ordinance fairly close and the only real changes are to re-name the former Sinking Fund as the Reserve Fund and to ensure that a percentage of all the rents received are paid into the Reserve Fund. Section 16 required only the rent receipt from domestic premises in the building to be paid into the fund. This was somewhat at odds with paragraph 16 of the report of the Select Committee which stated that the landlord must put 33½% on all rents received aside into a Sinking Fund.

Mr Speaker then proposed the question as moved by the Honourable and Learned the Attorney General.

Mr Speaker then put the question which was resolved in the affirmative and Clause 9, as amended, was agreed to and stood part of the Bill.

Clauses 10, 11 and 12

HON ATTORNEY-GENERAL:

Sir, I beg to move that Clauses 10, 11 and 12 be renumbered Clauses 8, 9 and 10.

Mr Speaker put the question which was resolved in the affirmative and the Clauses were accordingly renumbered.

Clause 13

HON ATTORNEY-GENERAL:

Sir, I beg to move that this Clause be omitted from the Bill. This is one of the Schedules, it deals entirely with business premises and as I said in answer to Question No. 136 Government wishes more time to think about business premises.

Mr Speaker put the question which was resolved in the affirmative and Clause 13 was accordingly deleted.

New Clause 11

HON ATTORNEY-GENERAL:

Sir, I beg to move that a new Clause 11 be inserted in the terms of the amendment which is being circulated. Sir, this amendment is similar to the amendment made by Clause 4 of the Bill and extends the provisions of paragraph (g) of the second schedule to include the son or daughter aged over 18 years of a previous marriage of either the husband or his wife.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 11 was agreed to and stood part of the Bill.

MR SPEAKER:

Since we are in Committee Stage, may I ask, as a man who is involved in these things professionally, if the Ordinance is intended to be enforced as from the 1st of July and if Part IV is not going to be done, what happens? Will the moratorium be lifted for the business premises or what is going to be the position?

HON CHIEF MINISTER:

We will deal with the business premises as one. In fact, in the United Kingdom the Landlord and Tenant Act of 1954, which was the one that was introduced here, is separate from dwellings.

It was made all in one here for the sake of convenience in 1959 or whenever it was that the Landlord and Tenant Ordinance was amended.

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

HON J BOSSANO:

The bringing into force of the amendment of the 1983 Ordinance will not repeal the whole of the old Landlord and Tenant Ordinance, is that the case?

HON CHIEF MINISTER:

No.

HON J BOSSANO:

So we will have the new Ordinance coming into effect for the purpose of dwelling houses and the old Ordinance remaining in force for the purpose of business premises.

HON CHIEF MINISTER:

And the moratorium.

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1985

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 INCOME TAX (AMENDMENT) BILL, 1985

Clause 1

HON CHIEF MINISTER:

I have considered the points made last night in consultation with the Financial Secretary and the Attorney-General. I do not think there will be any harm in making the first part, I do not know how the amendment would go. I suppose sub-clause (2) of Clause 1 would have to be amended accordingly but subparagraph (r) will be deemed to have come into operation as stated there, on the 1st July, 1983, in fact, the operation and the consultancies started at the beginning of 1983 but for neatness for financial year purposes it should only be July, 1983. With regard to subclause (s), 'the date on which the Ordinance shall be deemed to have come into operation shall

be the 1st March, 1984 which is the date of the incorporation of GSL or rather the day after the incorporation. I think that meets mainly the point. I know it is not very pleasant to have to go back but it meets the point made by the Leader of the Opposition as it can be done in the circumstances.

HON J BOSSANO:

Mr Speaker, it is not just a question of making it tidier. If one is talking about the inducement allowances of the managers of GSL then

HON CHIEF MINISTER:

If the Hon Member will give way. I spoke about (r), making it tidier to leave it at the 1st July even though there were some consultancies before then but that is because it is the cut-off point at the beginning of the taxing year, not in respect of the second one.

HON J BOSSANO:

Mr Speaker, we have got an Ordinance brought to the House by the Government and the Government doesn't seem to be able to explain to the House why it is doing it.

HON CHIEF MINISTER:

I think we have.

HON J BOSSANO:

I don't think so. With due respect to the Hon and Learned Member, I don't think he has because he cannot tell the House that he only realised between yesterday and today that GSL was incorporated in March, 1984.

HON CHIEF MINISTER:

I didn't I can't tell you that straightaway, I am honest enough to tell you. I didn't link one with the other. I admit it, why should I not admit it?

HON J BOSSANO:

We have had, I think, a situation very recently, the number of the amendments that we have now passed in relation to the Landlord and Tenant Ordinance are, in fact, the amendments so that our laws can be grammatically correct. We have had situations in previous Ordinances where, clearly, somebody's shaky drafting has produced situations where an amendment

has been put. I was recently shown an amendment to one particular section where it was quite obvious that the amendment should have been in substitution of what was there and it was put in addition to what was there so you had one clause in an Ordinance which started off saying black and ended saying white. How do you actually enforce laws like that and therefore I think if the Government brings a law to the House of Assembly, one would think that they had done their homework on it and that they would be able to answer questions as to why they are doing it because although they have got a majority to pass the law, theoretically, in a parliamentary system, the House is supposed to have to be persuaded about the wisdom of the actions that are being suggested to it. When I raised it in the earlier stage I was told that it could be dealt with in Committee. Well, what is being suggested in Committee Stage is that we apply the 1st July to the emoluments paid in UK to consultants from 1983 and that we apply the 1st March for the inducement pay to individuals recruited from outside Gibraltar and seconded to a company wholly owned by the Government of Gibraltar. I mentioned, in fact, that there are two companies wholly owned by the Government of Gibraltar, the Gibraltar Quarry Company and Gibraltar Shiprepair Limited and consequently the amendments that we are carrying out to the law apply to both. It says "either directly or indirectly", Mr Speaker, and the money that set up the Gibraltar Quarry Company, if the Hon Member looks back in the Improvement and Development Fund, was money that came from ODA to the Government of Gibraltar and from the Government of Gibraltar the equipment was then passed over to the Gibraltar Quarry Company. It is quite obvious that the process is the same, one can argue that the money that GSL is obtaining it is not obtaining from ODA, it is obtaining from selling shares to the Government of Gibraltar.

HON CHIEF MINISTER:

I don't think the Hon Member need worry very much whether it applies to the Quarry Company or not, if it applies, it applies.

HON J BOSSANO:

It is not that I am worried about it, Mr Speaker. It is like saying: "We are going to pass a law and we don't need to worry about it very much because it doesn't really apply to anybody in Gibraltar". What is the point of doing it when we have got a situation when we are told in this House, with innumerable apologies that the pressure on the Hon and Learned Attorney-General's Department is such that important and required legislation has to wait for years, why does he spend time drafting unnecessary legislation? The pensions amend-

ment is going to have to be done eventually backdated to August, 1977, and here we are passing legislation which doesn't apply to anybody. I don't know why he is doing it. I was asking, is it that the Government have discovered that people have been paid who should have been liable to tax and have not paid tax or is it that people have been taxed and are going to get the tax reimbursed. I have had no answer. It must be one or the other, logically, because if, in fact, there isn't anybody in either category between July, 1983, and today, why are we doing it? Why are we passing legislation backdated to the 1st July, 1983, which applies to nobody? Is it because they have got so much time on their hands and so other little work to do in terms of legislation that they have to pass unnecessary and incomprehensible legislation? The onus of responsibility, Mr Speaker, is on the Member that introduces the Bill to the House to satisfy the House as to the necessity for that Bill. We have all got other things to do. There are other important things that require doing and I cannot see why the Government cannot come to the House and tell us: "This piece of legislation does not apply to the Quarry Company it would have been legislated for GSL but it wouldn't have applied to GSL because GSL did not exist and we don't know whether, in fact, anybody has been paid an inducement allowance which should have paid tax or hasn't or somebody has paid tax which now has to be rebated and we don't know whether there are people who have received emoluments in UK after July, 1983, and either have been taxed or not been taxed and we cannot tell you what happens to people who obtained emoluments before July, 1983, if they have got a tax liability which, presumably, one law, that is the Income Tax Ordinance, tells the Commissioner he must pursue because we are not legislating to exempt them.

HON CHIEF MINISTER:

I think the reality of the situation and I am only making my assessment because I think this is necessary and I think that with regard to the second point, there would be no liability for tax, or rather the liability for tax or for no tax would be from the 1st March. Any liability for tax would be up to the 28th February so that there is no liability for tax from the 1st March, 1984. That would bring in only to the end of June, 1985 so that the release that could be given would be that, that is, to regularise the situation. Probably because the whole matter was under discussion no assessments have been made. I don't know but all I want to say is that we do not bring it here, as far as I am concerned, unnecessarily. It is as a result of a lot of discussions at level of Government, the Board, and

so on respecting certain arrangements which were made at the beginning which were not formalised. I think that is as frank a reply as I can give you.

HON J BOSSANO:

Mr Speaker, by implication, what the Honourable and Learned Member has just said suggests to me that not just the second amendment but the first amendment is dealing exclusively with Gibraltar Shiprepair Limited or with A & P Appledore International, with one or the two. Presumably, we are talking about Gibraltar Shiprepair Limited and emoluments or inducement allowances of people recruited in UK in the case of GSL and presumably we are talking about the consultancy of A & P International before. But we are not legislating specifically for them. We are saying that the emoluments paid in the United Kingdom to an individual recruited from outside Gibraltar by consultants or contractors engaged on development projects or studies financed either directly or indirectly by ODA. I would then ask the Government what happens to the emoluments of the consultants engaged in 1983 who did the housing study? This applies to them, or does it not apply to them?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think he has made a valid point and he has mentioned the Housing Study or others. It is not a simple matter and would not be a simple matter for the Commissioner of Income Tax to determine whether the individuals who came over here in connection with the housing consultancy were liable to Gibraltar tax. Before the commercialisation project got going, there would have been and indeed has been in the past, a number of consultancy engagements of a similar nature. I think one must have regard to (a) the relative infrequency in these and also the fact that it would not have been a simple matter for the Commissioner of Income Tax to determine whether they were liable because of the short duration of their stay and the problem of enforcement, in effect. What we are in effect saying is that before 1983, before the commercialisation project, the incidence of these consultancies was relatively rare. The Appledore situation, if you like, has drawn attention to a lacuna in the tax law, a technical point. Some of these consultancies may have escaped tax, it is arguable whether they would have been liable to tax but what is I think indisputable is that since the Dockyard commercialisation project there has been more of them. We were not thinking simply in terms of A & P Appledore but A W Wallace, whatever they are called, all the rest of them, quite a lot. The problem that really mounted to a dimension which, and again in the light of the comment

made by the Principal Auditor in the recent report, the problem cannot be ignored, it cannot simply be left to the discretion of the Commissioner of Income Tax because that would place an unfair burden on him.

HON J BOSSANO:

I am glad for that explanation, Mr Speaker, because quite frankly I think this is how the thing should have been introduced initially. If that is the thinking behind it, it should not have required so much to drag it out into the open.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if the Honourable Member will give way. I have the notes of my speech. I hope he will read the Hansard report and see that I have not been totally remiss in explaining this matter.

HON J BOSSANO:

Mr Speaker, I asked him originally, is it that we have paid people gross emoluments which should have been taxed or is it that people have been taxed and are now going to claim a rebate. He could not tell me. I also mentioned to him, is it not the case that under the existing Ordinance if you are liable to tax in UK, because that is one of the arguments he used initially that it is unfair that if you are taxed in UK that you should be taxed in Gibraltar. I said then "But is it not the case that if you are taxed in UK that is taken into consideration in assessing your tax liability in Gibraltar?"

HON CHIEF MINISTER:

I know that, personally, in a very small way. A professional person who does any work in the United Kingdom and keeps the money in the United Kingdom has not got to declare it for purposes of income tax in Gibraltar because he is liable for income tax in UK.

HON J BOSSANO:

That is my understanding and therefore my argument is, why are we doing it? If the money is paid in UK, why are we doing it? My understanding, Mr Speaker, is exactly what the Honourable and Learned the Chief Minister has said that it is possible, for example, even for somebody based here in Gibraltar, that is what I have been told by people who have got clients outside Gibraltar, accountants, or legal practices

of what have you, who have got a clientele in Gibraltar and an international clientele. As far as they are concerned, the emoluments that they obtain from work that they do in Gibraltar, provided that they are not remitted here, don't have to be declared here because they are not earning the money here, they are earning the money there. That is my understanding of the position. If somebody contracted in UK, and I said that earlier on, if somebody is contracted in UK and if he is paid by the UK Government and if it is a UK firm, I think quite frankly that to say that they should not pay tax is a very sensible thing because it would appear very cheeky on our part if on top of the fact that we are getting the expertise and we are passing the bill to somebody else, on top of that we expect to tax the person who comes here and it is reasonable that he should not be taxed if he is being paid by the UK Government. If he has to pay tax at all then it is reasonable that the tax should go back to the Treasury in UK and not to the Government in Gibraltar. If we are financing it ourselves, then I would say a different consideration should apply. Even though technically it may simply cost more to pay in gross and deduct tax even then I still think it is better. This was the point made in relation to the Hawker Siddeley arrangement, that if you are paying for work done in the generating station which produces taxable income, even though in money terms the effect on the overall Government accounts on the Consolidated Fund would be unchanged if what you do is you pay 50% more gross and deduct 30% tax and you are left with the same amount because it is an expenditure on one side and an income on the other, even so it is a better reflection of the true cost of providing the service and from the point of view of the allocation of resources it is better to have more accurate figures which reflect better what the real cost is. One could argue quite legitimately, never mind about Hawker Siddeley, one could argue quite legitimately by extension that if you simply pay the wages of the generating station to the workers in the generating station net, then the cost of electricity comes down. Whether the man that is operating is employed by Hawker Siddeley or employed by the Government of Gibraltar the reality is that if you are earning £4m and deducting £150,000 in income tax, one can show the cost to be less by paying £315,000 net and saying that the people who are in the generating station do not pay tax. But, of course, that has got two things against it. One is that it distorts comparability in terms of the real cost of providing the service as compared to using those resources for something else and, secondly, that it would create a great deal of resentment from tax payers in other areas who would say, "Well, if they can get their money free of tax, why can't I?" Therefore, exempting emoluments of this nature in this way seems to me that we are putting on the statute book something

that gives the impression that we are giving a privileged status to a select group. If the emoluments are paid in UK to an individual recruited from outside Gibraltar, well then that in theory means that he doesn't have to be recruited in UK, he can be recruited anywhere and he can arrange for the salary to be paid in UK rather than here. He can be recruited five hundred yards down the road and that makes him recruited outside Gibraltar, there is nothing here about him having to be recruited in UK as the Government has brought the legislation. I cannot see that the existing legislation doesn't already provide for what has always been done to continue to be done because we have never taxed these people before and it seems to me that we may be creating a greater anomaly than we are resolving because, in practice, we are being told that it isn't that anybody has actually been taxed and complained, it is just that until now, because of the infrequency of their consultancies, it was simply taken for granted that if a consultant was engaged in UK he was paid in UK, he came out here to do a job and he went back then, clearly, that person is carrying out his economic activity in UK, not in Gibraltar, that is obvious and I don't think there has ever been any quarrel.

HON. FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. It is simply on a point of fact, Mr Speaker. No, the Commissioner has raised assessments, because of the existing law as he interprets it, against the classes of individuals included in (r) that is to say, he has raised assessments and the matter is still pending so there is a need, in his opinion, for this because he feels that to comply with the law as it stands he must raise an assessment and this matter has obviously been taken up at a sort of government level and representations have been made by the ODA on the matter.

HON. J. BOSSANO:

But he hasn't presumably raised assessments prior to July, 1983, because those will still have to be met then?

HON. FINANCIAL AND DEVELOPMENT SECRETARY:

I think the answer is, if the Hon Member will recall my earlier comment, the answer to that is probably, no.

HON. J. BOSSANO:

Mr Speaker, I think we have exhausted the argument on this issue.

HON CHIEF MINISTER:

As I said at the beginning I am grateful to the Hon Member for drawing the attention and it is true that perhaps everything should be thoroughly investigated before it comes here but I don't think that is true of any Legislature otherwise there would be no reason for an Opposition to be on the lookout for weaknesses and therefore I am grateful for that. I don't think that it is wrong but when it is pointed out if it is corrected, really, that is the process. I think that the parliamentary process and the democratic process really starts when what is being done is being questioned.

MR SPEAKER:

I understand that there is an amendment to Clause 1, sub-clause (2), is that right? Perhaps I am sticking my neck out, perhaps it might be easier if Clause 2 is amended to read as follows: "The emoluments paid subsequent to the 30th June, 1983, in the United Kingdom", and then in (s) "any inducement, allowance or gratuity paid subsequent to the 28th February, 1984". That might meet the point.

HON ATTORNEY-GENERAL:

Mr Chairman, I would suggest this - Clause 2 should read: "Section 7(1) of the Income Tax Ordinance is amended by inserting after paragraph (q) the following: (1) (r)" as set out; "(2) - (s)" as set out; and then amend Section 2(1)

MR SPEAKER:

With respect, I will have to have it in writing if that is the case. Could you also give consideration to doing it in this particular way which perhaps might be simpler - subclause (2) would read: "This Ordinance shall be deemed to come into operation on a date to be appointed by the Governor" - it is as simple as that - and then subclause 2(r) would read: "the emoluments subsequent to the 30th June, 1983" and then as it stands, and "(s) any inducement, allowance or gratuity paid subsequent to the 28th February, 1984". In any event it is up to you. We could most certainly defer further consideration of the Committee Stage of this Bill until a subsequent time.

HON CHIEF MINISTER:

We might get on with the other Bills.

HON J BOSSANO:

May I perhaps ask before we move away from this and defer it, I have not had any success in tracking down Section 23(3). Can the Hon Member give me some indication of what it is because there are so many bits of paper stuck on top of the thing that I really cannot make head or tails of it. I would like to know because we are saying that this does not apply to people to whom Section 23(3) does.

HON ATTORNEY-GENERAL:

Section 23, subsection (3) reads: "Rules made under Section 74 may prescribe that a non-resident individual (whether or not he is an individual referred to in subsection (1) of this Section), on such conditions as may be specified in the Rules, shall be a person to whom the proviso to section 25 applies and shall be entitled to the deductions, allowances and reliefs....." This was put in by Ordinance 10 of 1980.

MR SPEAKER:

If the Hon the Attorney-General is working under pressure we could do the other Bills and come back to this one.

It was agreed to defer consideration of this Bill to a later stage in the meeting.

THE SUPPLEMENTARY APPROPRIATION (1980/81) BILL, 1985

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

The Schedule

MR SPEAKER:

May I ask the Leader of the Opposition whether he is interested in going through the Schedule item by item?

HON J BOSSANO:

Not yet, Mr Speaker, because we made the point that we are abstaining on all of them and on the 1982/83 Bill where because of the Hawker Siddeley element since what we are doing is really establishing our position on it, that is all, it doesn't really alter anything, we don't want to waste the time of the House.

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

Clauses 2 and 3 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION 1981/82 BILL, 1985

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

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

Clauses 2 and 3 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1982/83) BILL, 1985

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

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

Clauses 2, 3 and 4 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1984/85) (No 2) BILL, 1985

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

The Schedule

Supplementary Estimates Consolidated Fund No. 3 of 1984/85

Head 2 - Customs was agreed to.

Head 4 - Electricity Undertaking was agreed to.

Head 5 - Fire Service was agreed to.

Head 6 - Governor's Office was agreed to.

Head 8 - Housing was agreed to.

Head 10 - Judicial, Supreme Court was agreed to.

Head 11 - Labour and Social Security was agreed to.

Head 12 - Crown Lands

HON J BOSSANO:

Mr Speaker, on Crown Lands because I wanted to make the point a little bit earlier but it is the same thing. On the question of the increase in rates as a result of increases in the net annual value of Government buildings, I am rather surprised at that because my understanding was that, in fact, the only part of the Valuation List that has been re-valued was the one dealing with dwellings. I think the Minister for Economic Development mentioned in the budget last year that the commercial premises had been deferred for a number of years and that they were due for next year.

HON CHIEF MINISTER:

This is an annual valuation.

HON J BOSSANO:

It says here 'increases in rates resulting from increases in the net annual value of Government buildings'.

HON CHIEF MINISTER:

It is done every year and it is more so in respect of business premises because in the others except in the Government-owned sector which is the one we were trying to help yesterday with the reduction of the rates, new tenancies or new leases are reported and the Valuation List every year reviews the rents of business premises. What it does every five or every seven years, according to what is convenient, is a re-valuation as a whole and then bring in more, the result of one or the result on others where there has been no movement, but in respect of all the new leases that are being continuously made despite the moratorium, they have to make a report, the documents are filed in any case and the landlord and the Valuation Officer when he knows that there is either a new tenancy or a new lease sends the report and then if the rent has gone up and it is sent back to the Valuation Department, in the Valuation List the net annual value of all these premises are increased and it is normally ten times the rent paid and therefore if anybody was paying £1,200 a year rent and is now paying £2,400, the rates go up from £1,000 to £2,000 as net annual value.

Head 12 - Crown Lands was agreed to.

Head 14 - Medical and Health Services was agreed to.

Head 18 - Prison was agreed to.

Head 20 - Public Works Annually Recurrent was agreed to.

Head 23 - Telephone Service was agreed to.

Head 24 - Tourist Office, (1) Main Office was agreed to.

Head 26 - Treasury was agreed to.

Head 28 - Contributions to Funded Services

HON J C PEREZ:

Mr Speaker, I gave notice yesterday that I would be asking for a breakdown. I think that the explanation given in the increase in cost of fuel largely offset through the fuel cost adjustment formula doesn't seem to me to be self-explanatory. I think it would be better if one got the breakdown first to be able to do some comparisons.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I accept the Hon Member's point, I think that perhaps the compression of the explanations has suffered from a little tacit and brevity which is to say that it is obscure. The increase in expenditure as a result of the cost of fuel has been voted by the House at a previous session. However, it is a fact that although the increase in the cost of fuel is recovered by increases in the fuel cost adjustment, through that formula, this does not always recover 100%, it tends to recover about 90% through the operation of this. What we are really saying is that about £55,000 represents the fuel cost not recoverable. We attribute £90,000 here to fall in demand, that is to say, lower demand for electricity, lower consumption of electricity, than budgetted. A further £220,000 is attributable to the third item, that is to say, the final payment to HSPE and, again, of course, the expenditure was voted by the House, the actual expenditure I am referring to now. And the write-off of bad debts amounts to £140,000, that is in the case of electricity. As regards potable water, subhead 2, the fall in consumption compared with estimates was much larger amounting to £335,000 and £75,000 - I am talking now in terms of this particular subhead - the write-off amounts to £75,000 and that gives a total of £411,000. That is offset by a decrease in expenditure mainly on the distillers, a decrease in expenditure on potable water, a saving I should say, a saving in expenditure.

HON J C PEREZ:

Mr Speaker, we will certainly be voting against this on the £220,000 final payment to Hawker Siddeley. That, perhaps, was predictable already for the Government but I am not satisfied that there has been an explanation - let me first ask for the explanation - the writing off of bad debts, Mr Speaker, what criteria has been used to decide what is a bad debt and why is it being done at this particular stage?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We had a lengthy discussion about this yesterday, Mr Speaker. The criteria for bad debts, I think, is essentially a matter of judgement but if I can recall what I said during the debate on the motion on the Principal Auditor's Report. I explained that there were a great many inactive accounts, I explained - I think that we were not talking about hundreds, we were talking about four figures here - I explained that many of these people had left Gibraltar, firms that had gone bankrupt, others had disappeared, people had died. There are many, many reasons why a bad debt becomes bad and irrecoverable. Obviously, there is a certain element of judgement, one can pursue an individual debt if one makes enquiries, one writes to the premises, one tries to find out where the person has gone, one can pursue it and one can spend more time and resources in trying to recover the debt than the debt is worth - that is putting it at one extreme - obviously, there must be a matter of judgement. I think the majority of these debts will be, indeed, I know that they are of relatively small amounts. We are not talking about large amounts because the large amounts tend to be: (a) you want to recover them, and (b) if they are in the name of a firm, if the firm has not gone bankrupt or ceased trading and cannot be pursued through the Courts, one may have to write it off but in many cases one can trace the ownership of the firm, one can trace the accounts if it has become inactive, one could follow it up but it is difficult to talk about criteria, there are many criteria, it is essentially a matter of judgement. One must, I think, rely on the experience of those concerned with the arrears section. We have a very experienced officer in charge, it is based on his recommendations, the judgement of the Accountant General and, indeed, my own judgement in the last resort as to what constitutes a bad debt.

HON J C PEREZ:

Mr Speaker, would it be possible for the Hon Member to give us a breakdown of the bad debts and how that has been arrived at?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not quite sure what he means by a breakdown, Mr Speaker. Domestic and business - even that might be difficult because we are talking about names, some people who would ostensibly be domestic consumers and may, in fact, be business consumers. It is very difficult to trace them if they are of four or five years duration. I am not quite sure what he means.

HON J C PEREZ:

Mr Speaker, if the reasons that the Hon Member has given for writing off these bad debts is accurate then if the people concerned are deceased it wouldn't matter. If the company concerned has gone bankrupt I am sure that it wouldn't matter that that information be made available and if the person with the debt, the debt hasn't been able to be recovered because it is over six years.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I understand the sense of the Hon Member's request and I think that because these are really commercial matters and we are talking about names, I think it would be both invidious and, indeed, a breach of the normal commercial confidences to reveal them.

HON J BOSSANO:

The Hon Member has got an extraordinary reticence about the sensitivity of people who owe him £140,000. Commercial-in-confidence and that people may feel embarrassed, I can tell the Hon Member if he wants to give me £140,000 he can put it on the front page of the Gibraltar Chronicle and I wouldn't be embarrassed because as far as I am concerned I know a lot of people who are persecuted, if not prosecuted, for being in arrears and those people will want to know why it is that they fall in arrears three or four months and they are hounded down and they may be unemployed and they have to make arrangements to pay a few quid a month as best they can on what they are getting on supplementary benefits and somebody else is getting off with not paying £140,000 of electricity bills. I think people are entitled to that and if people are embarrassed all they have got to do is cough up, they can pay and the embarrassment disappears and we certainly want to know how old his debt is because if this is a very old debt then we are talking about very, very substantial levels of consumption. I am not talking about today's electricity charges, we are talking about the electricity charges of four or five years ago. I think to slip this in which is, I think, a major policy decision, we have never written off this kind of amount

ever in all the time that I have been in this House we have never done it before. I can remember that when the amalgamation of the City Council with the Government took place and I think they wrote off £300,000 for the whole of Gibraltar and there was a hell of a fuss about it for years afterwards so I think since then I suppose it may be as a consequence of that nobody has ever dared write off anything else but the situation is that I think it is a major move which is necessary, as a matter of policy, if the thing is irrecoverable. I agree entirely and the Opposition agrees entirely with the analysis of the Auditor year after year that to have in your reserves unpaid bills which you are never going to collect is just deluding yourself because it is not really a reserve, it is not there, but I think the Government in moving into a direction which may be inevitable of having to accept that there are certain debts that are never going to be paid, has got to be seen to be acting fairly to the general body of consumers and I don't think that it can be done on the basis of saying: 'Here we are, a supplementary estimates, we are now increasing the contributions to the Electricity Undertaking by £0.5m and in that £0.5m is a writeoff of £140,000 of electricity bills'. This is a major policy decision and it requires explanations and it requires information as to how old the debt is, whether in fact it is just people who have disappeared or people who have died or people who have gone bankrupt or whether it is mainly commercial. I think more information is required.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think we can certainly provide information by financial categories, how many of the accounts are of under £100 and possibly by duration as well, I don't think that would be any problem. What I do feel would be quite wrong would be to categorise them by means which would constitute a breach of confidence. That is my own view and I think this is one which would be sustained by most commercial operators.

HON J E PILCHER:

I think, Mr Speaker, we have to sort of balance what is more wrong, the commercial-in-confidence or the actual owing to the Government, what is more wrong. The Hon Member says we are talking about thousands, we are talking here about four figures, here we are talking about six figures in total in the arrears, £0.25m that we are writing off. I think from the Opposition's point of view apart from accepting that that is part of the breakdown that we want, we would want to know what major writeoff is made and what are the companies involved because they might have written off at one stage and then be

operating as another company now, this could be quite natural.

HON CHIEF MINISTER:

May I mention one matter which I can speak about with a little practical experience of writing off professional debts and that is that you do a percentage of them to some extent because you know you cannot count with the cash but there have been many cases where writing them off doesn't mean that when they come to pay you cannot collect them. We said yesterday you can collect twenty years so I think what Hon Members, whose concern I entirely appreciate, should be mainly concerned is to see whether the criteria for writing off is the right one or not because if it is not a right one then we are throwing good money away but if it is a right one it is money that is irrecoverable and that is what the Financial Secretary is asking the House to do because after efforts of all kinds, presumably, in some cases legal expenses and so on, the money hasn't come in and it is obvious, as the Leader of the Opposition was saying, that what the Auditor says is don't rely on something you are never going to get back.

HON J BOSSANO:

The logic of having to write off bad debts is inescapable because it applies whether you are in Government or in a business or wherever, if you cannot collect the money you cannot collect the money but what I cannot understand is the concern for the good name of the person who doesn't pay you, that is what I cannot understand, Mr Speaker, because surely if the Hon Member had to prosecute it wouldn't be commercial in confidence, surely if he prosecutes somebody who doesn't pay it becomes public knowledge. If he takes him to Court to get him to pay the debt there is no problem with everybody knowing about it and, in fact, the threat of being taken to Court produces results quite often and people pay before they go to Court. What is wrong with saying to the people who don't pay if they are still around, if they are not around it doesn't make any difference, but if they are still around what is wrong with saying to them: 'Maybe we cannot get the money out of you but everybody in Gibraltar will know that you haven't paid your electricity bills for the last five years'. What is wrong with that?

MR SPEAKER:

Anyway, I don't think we are going to get much further on this one and I think the views of Members have been expressed and we will take a vote on it.

Mr Speaker then put the question and on a vote being taken on Head 28 - Contributions to Funded Services, the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon J 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 28 - Contributions to Funded Services was passed.

Supplementary Estimates Consolidated Fund No 3 of 1984/85 was agreed to.

Supplementary Estimates Improvement and Development Fund No 3 of 1984/85

Head 110 - Electricity Service was agreed to.

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

Clauses 2, 3 and 4 were agreed to and stood part of the Bill.

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

MR SPEAKER:

We now have to come back to the Income Tax (Amendment) Bill, 1985.

THE INCOME TAX (AMENDMENT) BILL, 1985

Clause 1

MR SPEAKER:

We are now on Clause 1 so you will have to move any amendments you require to Clause 1 now.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that Clause 1 be amended by omitting subclause (2) and substituting the following: "(2) Section 2(1) of this Ordinance shall be deemed to have come into operation on the 1st day of July, 1983. (3) Section 2(2) of this Ordinance shall be deemed to have come into operation on the 1st day of March, 1984".

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

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

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

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

The amendment was accordingly passed and Clause 1, as amended, stood part of the Bill.

Clause 2

HON ATTORNEY-GENERAL:

I beg to move that the present Clause 2 be omitted and the following new Clause 2 substituted therefor: 'Section 7(1) of the Income Tax Ordinance is amended:- (1) by inserting

after paragraph (q) the following new paragraph:", and here set out as paragraph (r); and "(2) by inserting after the new paragraph (r) the following paragraph: (s), as it stands in the Bill.

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

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

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

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

The amendment was accordingly passed and Clause 2, as amended 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 Public Health (Amendment) Bill, 1985; the Control of Employment (Amendment) Bill, 1985; the Landlord and Tenant (Amendment) Bill, 1985, with amendments; the Imports and Exports (Amendment) Bill, 1985; the Income Tax (Amendment) Bill, 1985, with amendments, the Supplementary Appropriation (1980/81) Bill, 1985; the Supplementary Appropriation (1982/83) Bill, 1985, and the Supplementary Appropriation (1984/85) (No 2) Bill, 1985, have been considered in Committee and agreed to and I now move that

they be read a third time and passed.

MR SPEAKER:

I would like to find out from the Opposition whether they intend to vote against the Third Reading of any of the Bills so that we can take separate votes.

HON J E PILCHER:

We will abstain on the Landlord and Tenant (Amendment) Bill, 1985. We will not vote against because we have made an amendment to this Ordinance and therefore we cannot vote against our own amendment so we will abstain on the Bill as explained by the Hon Leader of the Opposition. We will vote against the Income Tax (Amendment) Bill, 1985, again as explained and if I can just go through the others. We are voting against the Supplementary Appropriation (1982/83) Bill, 1985, because of its inclusion of the Hawker Siddeley and again in the Supplementary Appropriation (1984/85) (No 2) Bill, 1985, and abstaining on the Supplementary Appropriation (1980/81) Bill, 1985, and on the Supplementary Appropriation (1981/82) Bill, 1985.

On a vote being taken on the Public Health (Amendment) Bill, 1985; the Control of Employment (Amendment) Bill, 1985, and the Imports and Exports (Amendment) Bill, 1985, the question was resolved in the affirmative.

On a vote being taken on the Landlord and Tenant (Amendment) Bill, 1985; the Supplementary Appropriation (1980/81) Bill, 1985, and the Supplementary Appropriation (1981/82) Bill, 1985, 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 R Mor
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon J E Pilcher

On a vote being taken on the Income Tax (Amendment) Bill, 1985; the Supplementary Appropriation (1982/83) Bill, 1985, and the Supplementary Appropriation (1984/85) (No 2) Bill, 1985, the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon J 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 Bills were read a third time and passed.

PRIVATE MEMBERS' MOTIONS

MR SPEAKER:

May I ask, are you happy in moving it now and then continuing after lunch?

THE HON MISS M I MONTEGRIFFO:

I would be happy to move it now. Mr Speaker, I have the honour to move the motion standing in my name which reads as follows: "This House is seriously concerned at the critical state of the medical services and considers that urgent action is required to increase the resources available to enable the Department and its highly dedicated employees to cope with the demands for an adequate standard of patient care". Mr Speaker, for many months now the GSLP has been viewing with

great concern certain developments within our health services and we believe that we have reached the stage when this matter should be debated in the House of Assembly. As far as the Opposition is concerned, medicine and health care figure very prominently in our list of priorities and this Government is failing to provide an adequate service to its people. In fact, already in a number of previous House of Assembly meetings we have been questioning the Government as to the complement of doctors engaged under the GPMS. Even as far back as in last year's budget, we were determining the cause of cuts in essential services to be the way Government was distributing its overall expenditure. We also said then that unless we moved to more realistic accounting systems which allocate costs accurately, it would be difficult for us to determine whether the resources being devoted to medical and health services compared favourably with other areas in Government's yearly estimates of expenditure. More recently, in January of this year, when speaking on the Bill to make provision for the application of community rights in relation to the Kingdom of Spain, I reiterated once again referring to medical services that it was clear we were already under strain and that consequently the Government was totally unprepared for an open frontier situation. Regarding the Health Centre, it will be recalled that on the 10th October of last year after the local Branch of the BMA had made several unsuccessful representations to the Government, they took independent action and issued a press release calling upon the Government as a matter of urgency to make an appropriate increase in the number of doctors to meet the needs of the community. They advised their members that due to a critical shortage of doctors they should see a maximum of fifty patients per day. They stated that these measures were being introduced to ensure that standards of medical care did not fall to a level which endangered the health and safety of patients. They regretted that these limits would result in patients being asked to return for consultation at a later date, or else they should make alternative arrangements. Previous to their independent action, Mr Speaker, the doctors had been seeing an average of seventy to eighty patients per day which clearly indicated that an average of about thirty patients would not be seen in a day. The situation was still the same before the full border opening, the doctors had been saying for a long time that they were not able to afford adequate time to all their patients and it was either a question of rushing through all the numbers by simply issuing prescription upon prescription or seeing a reduced and definite number daily with proper care and examination. They decided, therefore, Mr Speaker, on the latter option because in their analysis there was a serious danger of patients receiving inadequate care. The Government's reaction to the doctor's press release in October, 1984, was quite in-

explicable, they seemed to be unperturbed even though they were dealing here with quite a serious situation, in fact, an official reply from them never materialised, we only read the comments by the Minister for Health made to a local daily newspaper that he thought the doctors had been correct in reducing the figures to be able to give patients more attention, that our health services were, in any case, being abused. He added that there were no plans to increase the number of doctors, that it would be necessary to cut our suit according to our cloth so apparently, the Minister seemed to be satisfied. The Director of Medical Services, however, also commenting to this newspaper, expressed support for the Health Centre doctors. He said the problems were exactly those which had been described by them publicly. The Director agreed that it was no longer possible to pretend to give a comprehensive service and he expressed particular concern that the doctors should only give a maximum number of treatment that could be done efficiently. He said he supported the idea of working towards an increase in the number of doctors. We, the GSLP, at the time said that we were very concerned for those patients who would be turned away and who would need to wait for days before they could see a doctor. Because of the sizeable daily reduction in appointments, it was to us very logical to expect that the numbers unattended would come to a considerable amount and amongst these numbers there were bound to be urgent cases that were going to suffer the consequences. Therefore we were convinced that the situation under the new arrangement and without an increase in the number of doctors would inevitably worsen simply because the demand would be so much greater than the resources being provided. We have been proved right, Mr Speaker, the situation has now worsened out of all proportion because of inadequate medical staffing. It is interesting to note, Mr Speaker, that the figures provided to us by the local BMA as to the average consultation in Gibraltar per doctor per annum is 3.95. The UK average per doctor per annum is 3. The figure in Gibraltar is higher, I admit, but I think that this is the key to why the Minister believes there is abuse locally and I think that he should be able to explain to the House why he thinks that people in Gibraltar go more frequently to the Health Centre in his contribution later on. Turning to a survey carried out by the doctors last year, Mr Speaker, the number that they quoted that is required to give an adequate service to the community is eleven. Today there are seven doctors to cope with a variety of other duties; sick and annual leave entitlement and other places they have to go to like the Prison, the Handicapped Centre and the doctors have based their comparability with the UK and European standards. If we accept their figures as accurate it means that in order to be able to bring the Health Centre to UK standards a 50% increase in staffing levels of doctors is required and

that shows, Mr Speaker, the degree to which we are understaffed in Gibraltar. The average number of yearly patients per doctor in Gibraltar is 3,780. In UK and other European countries the average is 2,300 and the doctors in UK are now, in fact, fighting for a yearly registered average of 1,700. There are also figures in this survey, Mr Speaker, which proves that there has been a constant increase in attendances at the Health Centre. Based on Government figures, attendances from 1974 to 1983 show an increase of approximately 32,000 in 1974 to 78,945. The increase in manpower during this period has gone from five to seven doctors. The doctors in the survey also give various reasons for the increase in attendances, things like implementation of compulsory registration in 1975, escalating prices of drugs and the improved continuity of care by the GPMS doctors. I think, Mr Speaker, that their claim is a logical one. Manning levels must be based on the number of patients eligible to treatment which in the survey totals 26,500. The Opposition, therefore, is quite satisfied with the doctors estimates that eleven are required to run the GPMS in terms of local demand. Incidentally, Mr Speaker, when the BMA issued their first press release in October, 1984, there were only six doctors running the Centre for quite a number of months. A doctor who had left the service the preceding June has still not been replaced by October. I asked the Government to explain the delay in the House of Assembly meeting of the 30th October. The Minister said that these things usually take time and the Government had to search round for someone who was suitable, details of contract had to be agreed and then the doctor is bound to give notice to his employer. But, Mr Speaker, according to our information the Government knew that this doctor was leaving in April, 1984. The BMA have told us that this doctor gave them notice three months prior to his departure in June and yet he was replaced soon after the BMA issued its press release and we questioned the Government in the House of Assembly meeting of October, 1984, seven months later. Also at the meeting of 30th October I asked the Minister for Health when he considered to be a sufficient number of doctors to run the GPMS efficiently on the bases of local demand and whether he agreed with the figure put out by the doctors that eleven were actually required. His answer then was non-committal, he replied that the negotiations with the doctors were in hand and he wouldn't like to say anything which might afterwards seem prejudiced to what they were discussing. He also said, and I will quote him: "We are discussing the situation with the doctors at the moment and when we come to what we consider to be a reasonable optimum number then I will make an announcement in the House" - this was in October of last year, Mr Speaker. In the meeting of the House on the 15th January this year, I again reminded the Minister of the serious situation still prevailing at the

Health Centre and whether he was now in a position to make an announcement as to what he considered to be the optimum number to run the GPMS. The Minister again said that the discussions were rather complicated, the doctors had one view which might be considered in some quarters to be exaggerated and the Government had another view and until the two were reconciled he couldn't say exactly when this would be but he was hoping it could be within the next six weeks. In view of so much delay, Mr Speaker, and in view of the number of patients who were contacting us complaining that they couldn't get to see a doctor for sometimes more than a week, the Opposition contacted the local BMA. They informed us that about two weeks ago their one and only official contact was with the Director of Medical and Health Services. The Minister himself met the doctors round about the 8th March, I believe, and his only commitment even then was to say that the matter was being referred to Council of Ministers. How long then, Mr Speaker, is it going to take the Minister to announce a reasonable number of doctors? Clearly, therefore, the Opposition, Mr Speaker, has only seen a couldn't care less attitude on the part of the Government towards the whole affair. They have absolutely no excuse for the delay and they alone are answerable for the decline that the medical services have been subjected to for a very long time. Mr Speaker, I would like to expand on the latest situation that has developed at the Health Centre. The local BMA came out again with another press release last Friday with the headline 'There are not enough doctors employed in the Health Centre'. They accuse the Government that despite repeated requests from them they have so far refused to increase medical staffing. Again they reiterate their claim that at least eleven doctors would be looking after a similar registered number of patients in the UK and they mention other duties which they are bound to cover and again they go into the fact that they have to make house visits, they have to go to the Prison, the Police Department, Mount Alvernia, attending ENT clinics, St Bernadette's vaccinations, and so on. They also coincide with our analysis, Mr Speaker, that more patients eligible under the EEC Rules may be expected to seek medical treatment as a result of an open frontier situation. They go on to say that after taking advice from the medical authorities in the UK - in their second press release they had chosen to take safety precautions to limit the number of consultations to fifty per day, a limit which they say is well in excess to the average number seen by the doctors in the UK. This allows them five minutes per patient, the absolute minimum time for patients, according to the doctors. They end their press release saying, Mr Speaker, and I quote: "Unless the Government employs more doctors there is no way in which the situation can improve. Therefore if you cannot see a doctor please don't take it out on the clerical, nursing or medical staff,

take your legitimate complaints to the Government. The Government have undertaken to provide a comprehensive Health Service but this will only be possible if more doctors are employed at the Health Centre". The latest development is due to the fact that some people have been denied medical attention for themselves or their children and being turned away are demanding to be seen showering threats at the nursing staff at the Health Centre. The Nursing Section Committee within ACTSS upon receiving complaints of incidents of threats and violence against their members, gave the Government one week's notice two Fridays ago that unless they provided protection for the nurses they would be walking out. The Director of Medical and Health Services then requested that the deadline be extended to Wednesday. However, yesterday a reply came from the Government that they had no proposals for dealing with the situation or any suggestions for providing protection requested by the nurses. It seems, Mr Speaker, that the Government feels that the Police were so fully occupied on duties of a higher priority that they could not even spare one policeman to be put on duty at the Health Centre so as to pre-empt any possible threats of violence. Mr Speaker, the nurses as from 2 o'clock this afternoon will be going to the Hospital and they won't be returning to the Health Centre until their claim is met. We cannot understand, Mr Speaker, how the Government have allowed the situation to get to this stage and we hope that a solution will soon be found. This motion, Mr Speaker, is about increasing the resources available to medical services as a whole so now I wish to talk about a few of the problems related to the Hospital services. In the last budget, for example, we asked the Government to inform us how much maintenance money was being devoted to the Hospital. The information we had was that insufficient manning levels were being provided to cope with the needs of a reasonable standard of maintenance. Since then we have also had reports coming back to us of specific shortages of medical supplies in different areas. Therefore, Mr Speaker, we have reason to believe that the Hospital Department is also stretched. Finally, Mr Speaker, the incidents that I have highlighted speaks of a very, very dangerous situation at the moment that exists in our medical services as a whole. What is actually occurring which is quite inadmissible to the Opposition is that those patients who can afford it and perhaps even those who cannot, are being forced to use their financial resources to turn to private practice. There are simply too many people who are having to wait for days and days before they can get to see a doctor, Mr Speaker, and they are going backwards and forwards from the Health Centre to St Bernard's Hospital seeking urgent medical attention. This Opposition strongly believes that it is the Government's ultimate responsibility to ensure proper standards of medical care. They must comply with their obligations to provide an

adequate medical service to the people who are in actual fact the contributors to our whole social health system. At the moment and for quite a number of months now they have been failing in this and what they are doing, in fact, is reversing the progress that has been made through the years within our medical services. More than that, they will end up completely destroying it if they persist with their present policy. We are dealing here, Mr Speaker, with a situation that is leading to the detriment to the health of the individual. The only solution lies with the Government whose responsibility it is to provide sufficient medical resources as to be able to reverse today's situation. What they are doing at the moment, Mr Speaker, is, I believe, stalling for time and trying to fruitlessly convince everyone that people abuse, patients are fussy or that the doctors exaggerate. I don't think that they can keep on defending this attitude for a very long time. They need to realistically increase the resources available and take immediate action now if they are in a position to provide an adequate service to the community. I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon Miss M I Montegriffo's motion.

The House recessed at 1.00 pm.

The House resumed at 3.35 pm.

HON M K FEATHERSTONE:

Mr Speaker, I am not quite sure how this motion is worded because it says 'is seriously concerned at the critical state of the medical services'. I cannot see that the Hon Mover has made any considerable reference to the state of the medical services at all. I think she has concentrated mainly on the Health Centre so if the motion had been worded to say 'the critical state of the medical services at the Health Centre', perhaps it might have had a little bit more accuracy rather than to say 'the medical services' because as far as I can see the medical services are in a very good state, generally, and are giving a very good service to Gibraltar. Let us take the Hospital, for example, which is the mainstay of the medical services. The Hospital is working on a daily basis very well indeed and a few statistics over the year I think will go to show how well the Hospital is actually giving a good service to Gibraltar. In 1983 we had 1,966 operations. For a population of some 28,000, I think that is pretty good, that is almost one for every fifteen persons in Gibraltar. In 1984 the figure was almost the same at 1,940 and the situation is that for most operations the waiting time is not more than one month whereas

in Great Britain the waiting time for most operations is anything from six months upwards. Of course, if the operation is an emergency, the person is dealt with almost within hours, at least within days, and I think this is a service which is second to none anywhere in the world. The consultancy clinics are running at a very good figure. In 1984, 29,000 patients were seen in the consultancy clinics. Some consultancy clinics, I agree, are more overloaded than others and there is a considerable waiting time especially in the orthopaedic clinic but again if it is an emergency the patient is seen within hours and definitely within a day. The Casualty Department dealt with 11,000 casualties last year so I do not think that there is anything to say against the medical services as far as the Hospital is concerned. As far as the Health Centre is concerned, one thing that we have to consider very carefully with regard to the Health Centre is the cost, and the cost of the Health Centre is running at almost £1m a year. I agree we get a certain amount of revenue from the contributions but the revenue only runs at about half that figure so the Health Centre is subsidised from the general exchequer to a tune of about £500,000 a year and I would comment that every doctor is costing us somewhere round the figure of £30,000 to £35,000 when you take their emoluments, their allowance for a house, their gratuity and their allowance so it is not so easy just to say like that 'let us have another doctor or another two doctors' or as the doctors would wish another 4.4 doctors. How you can have 0.4 of a doctor I am not quite sure so they would obviously say it should be five doctors. The Health Centre started some years ago with only three doctors and after a period of time this was increased to four and to five and eventually got up to seven but I think, if my information is correct, there was a time when there was a discussion between the then Health Minister and the doctors and they made the suggestion: "We will deal with the number of patients but you give us an increase in salary to compensate for it", and this I think was done. Since then, of course, some of those doctors may have gone away and the other doctors have come in gaining the benefit of the higher salary but now not wishing to stick to the commitment that they would deal with the number of patients although it is interesting to note that last year, from April to April, some 86,710 patients were seen and this split amongst seven doctors is 12,300 per doctor and that works out, assuming that they work only on 250 days a year and that is leaving out the Saturday clinic, to just about 50 patients a day. So it seems that they have not been doing so much as perhaps they are claiming that they are forced to do at the moment. One wonders why there is all the hassle, it may be that they want to flex their medical muscles a little bit and put pressure on Government to get to the number of twelve doctors that they would like to see. I have told the doctors in a meeting less than a fortnight ago that

I was preparing a paper for Council of Ministers under which I would recommend that there should be one extra doctor and I was willing to look at a five to ten-year plan under which the number of doctors might be increased to a higher figure but they seem to be very impatient, they don't seem to understand that a paper for Council of Ministers takes a little time to go through the various Departments and they have come out with a statement which they produced the other day saying that despite repeated requests nothing is being done. That is a blatant lie and they know it. The situation at the moment, of course, is that we are threatened with a walkout by the nurses.....

HON J B PEREZ:

Not threatened, they have.

HON M K FEATHERSTONE:

Well, I didn't know whether it had taken place or not.

HON A J CANEPA:

At one o'clock.

HON M K FEATHERSTONE:

At one o'clock.

HON A J CANEPA:

They are available for work at St Bernard's Hospital.

HON M K FEATHERSTONE:

Well, I must say that this is a brilliant piece of orchestration, I think it is worthy of a Beethoven or a Brahms rather than of a Bossano, but we have had this little piece of orchestrated effort to try and put pressure perhaps just at the time this motion was before the House. I do not see, really, what the nurses are complaining about, there are one and a half porters at the Health Centre, they could be called upon if any member of the public, and the public I accept can be demanding in Gibraltar, if any member of the public gets specifically obstreperous. Of course, it might be up to the doctor himself to turn round to the public and say: "I am going to do so many patients and that is all so don't take it out on the nurses", but the doctors seem to be willing to hide behind the nurses and ask the nurses to take over the rather unpleasant task of telling the patients that they

cannot be seen by a doctor on that day. We did hear some little time ago when the border was due to open, that we were going to get a tremendous influx of patients from Spain. Well, this has not materialised in spite of the fears of the doctors and in spite of their stirring up as far as they could the situation in support of their own claims that there should be more doctors. So far the number of patients that we have had from Spain has been completely negligible. The doctors say that in the United Kingdom a panel for a doctor is around 1,750. This is the optimum panel but there are many doctors who are doing a panel of 2,500 and even doctors dealing with 3,000 or 3,500 so that the strike rate in England of three compared to the strike rate here of 3.95 doesn't mean that doctors in England are doing so much less work than the doctors here in the Health Centre. As I have said, Council is going to be asked shortly to look into the situation of approving an extra doctor. It is a pity that the paper had not got through the Establishment quicker but the Establishment is looking into the actual pay scales of the doctors and it may be that the doctors at the moment on the strike rate of 50 patients are being overpaid. This is something that they will have to look into when the time comes, this is a fact of life.

HON J BOSSANO:

Mr Speaker, will the Hon Member give way? Didn't the Hon Member welcome this? Is the report in the press in October quoting the Hon Member incorrect where he welcomed the fact that they were limiting themselves to fifty patients and he is now criticising it?

HON M K FEATHERSTONE:

I don't know what the report said in October, I did not welcome that they should be fifty, I said that I agreed that at times in Gibraltar people were rather demanding and they rushed to see a doctor rather than, perhaps, take an aspirin. If you wake up with a headache it is often just as simple to take an aspirin and go to bed for half a day and find that by the time midday comes up you have woken up again without the headache rather than to get yourself up, go down to see a doctor and be told by the doctor: "There is nothing wrong with you, take an aspirin, go home and sleep it off". One of the things that has been put to me about the demands of the public is that when they go to see a private doctor they are much more willing to wait than they are when they go to see somebody in the Health Centre. They feel that in the Health Centre because they are paying 85p a week they must be dealt with immediately and as a matter of urgency and that is, perhaps, understandable but I would put it to the general

public that they should have a modicum of responsibility and understand that in the Health Centre they have to be reasonably patient and reasonably tolerant of the situation as they find it. As I was saying, the position in the Health Centre is perhaps not as bad as some people might like to think. The doctors start work at 9 o'clock and pack up at 11 o'clock, well, that is a two-hour stint. I understand that most people do a morning stint of four hours. Then, of course, the doctors go out on house calls and they do perhaps two house calls in the morning. Two house calls in the morning will take them perhaps, forty, fifty, maybe sixty minutes. Even so, they are still only putting in a three-hour stint. In the afternoon they go at 2.30 and they finish at 4.30. I don't think that there is such a severe tax upon them that to see, perhaps, three or four extra patients which might take them from 11 o'clock to 11.20 or from 4.30 pm to 4.50 is going to put them under such a severe strain. The Health Centre, as I have said, has increased from three doctors now to seven and there is a possibility if I can get my paper through Council of Ministers, that there will be eight. This is a good expansion over the period that the Health Centre has been in operation. You cannot have everything that you want and at this present juncture in the finances of Gibraltar it is not fully possible to have everything in the medical services that the doctors and the patients would feel would be the optimum. We have to, as I have said before and as has been quoted at me, cut our suit according to our cloth. If you wish to have a comprehensive Health Service, if you wish to have a Health Service with a strike rate of almost four, then you should be, perhaps, willing to pay four times the cost of a visit to a private doctor as the annual contributions plus the share of the medicines on top and I think that the contributions actually paid come to a considerably lower figure than that when you consider that the medicines prescribed come to £630,000 per year. I know you have to pay £1 towards the cost of medicines but if you take the total cost of medicines against the total number of patients they are still being subsidised to a fairly good amount. As I have said, Mr Speaker, I cannot agree that the medical services in Gibraltar are in a critical state, the medical services in Gibraltar are in a healthy state. The situation in the Health Centre itself may not be as happy as we would like to see it but part of this is brought about by what one might call the intransigence of the doctors in not being willing to give a little more sense of vocation and a little less sense of pecuniary benefit. The Hospital itself, as I have said, and I haven't mentioned the KGV Hospital which is also doing excellent work, is in very fine fettle and I cannot agree under any circumstances that the medical services are in a critical state and I cannot support the motion, Sir.

HON J E PILCHER:

Mr Speaker, I have sat here patiently hearing the speech by the Hon Member opposite waiting to see when he was going to mention the appalling state that the patients who visit the Health Centre have to go through in order to get seen by a doctor. If I may take the Hospital to start off with before I go into the Health Centre as such, the Hon Member said that as far as the Hospital is concerned everything seems to be working well because we are doing 1,966 operations. We are not criticising that areas of the Hospital do work, what we are criticising is that there are areas where it is critically necessary to employ people to care in areas where there is certainly more than can be done. He spoke of the number of casualties that the Hospital receives, well our information is that, in fact, the Hospital is under-manned by one Casualty Officer, that at times.....

HON M K FEATHERSTONE:

If the Hon Member will give way. Council of Ministers agreed three weeks ago that a Casualty Officer should be employed.

HON J E PILCHER:

I don't doubt it, what I am saying is that there is not a Casualty Officer there at the moment and this is creating an impression to people who go there on casualty. You cannot say to a person who comes in ill: "We have already agreed to employ a Casualty Officer", because the person is ill at the moment and he has suffered an accident at the moment. There is also a need for an extension of geriatric care in the Hospital which in some instances is sadly lacking. As regards operations, I take it that emergency operations are done immediately but there are cases where other operations have to wait months and months, for example, operations on sinus patients where you could virtually wait a year or a year and a half for an operation whilst if you did it privately you could get it done within a couple of days. That is the kind of criticism that is levelled at Government. If I can come back now to the Health Centre. Perhaps it might be a good idea for the Hon Member to actually visit the Health Centre as a patient which is something that I do quite regularly. Irrespective of whether the onus lies on the fact that the doctors are taking an intransigent position or whether they are seeing too many patients, whether they go home at 11 o'clock or whether they start at 2.30 pm, the problem is that this is a Government problem. You cannot tell the patient that is going to the Health Centre that the problem lies in that the doctor is not doing enough work. He will say: "Well, I

contribute to the Health Service and it is up to Government to make sure that the service provided is one that tackles all the patients". I think the Hon Member opposite misses the point completely. It is not a question that people don't have the patience to wait to be seen by the doctor, it is a case that people going to the Health Centre today are having to wait five or six days to be given an appointment, that is the problem, and I have got personal experience of that because I went to make an appointment for my mother on a Thursday and the appointment was given to me for the following Wednesday so it is not something that I am talking about now or something that is rumoured, this has happened to me personally. If you say to my mother: "You must be patient and wait six days for the doctor to see you", then I will turn round to you and say that is not a logical position to be adopted by the Government and if you say to my mother: "You have to cut your suit according to your cloth", that again is not a logical or a fair assumption on the part of the Government. The fact that the Health Centre is abused might be true but the fact is that not all the patients who are staying without seeing a doctor are those who are abusing the system. The fact that a parent goes there with a child two or three years old who may be screaming, because we all know that a child might have nothing but an ear ache but a child with an ear ache might be a problem because the parent is not a doctor and all he sees is his child has got 103° or 104° temperature and he is screaming his head off. That parent goes to the Health Centre and is told at the office: "I am sorry there are no appointments, you go downstairs and you make an appointment for your child whenever the doctor can see you". Of late even the emergency doctor has been fully booked because the emergency doctor he is also now only seeing fifty patients and part of his house calls takes up that allotment of fifty. Irrespective of what the problem is, irrespective of whether it is intransigence on the part of doctors - medical muscle was mentioned by the Minister - irrespective of what it is, the state of affairs in the Health Centre can only be termed one of utter chaos for the patients. These people are paying a contribution, alright, it might only be 85p but on top of that contribution they are having to go to a private clinic to get their children seen to by a private doctor. A follow-up to what the Minister was saying is perhaps that they should pay four times the amount, perhaps it should be the other way round, perhaps they should not pay any amount at all and make the contribution not compulsory but on a voluntary basis. If there is no option for the person to see the doctor at least he cannot say: "I am paying for that service". We don't agree with that but it is a natural follow-up to what the Minister was saying. We think that to give people, anyone in the world, a good health service is a basic social system and if it costs the Gibraltar Government £2m then I am convinced that we have

to find the finances needed to be able to create a good system. I would not want at this stage to delve into whether it should be fifty patients or forty patients or forty-five patients. The Government is the one that employs the doctors and it is the Government's responsibility to make sure that one way or another the thing is solved. What we are saying from this side of the House is that the people suffering today are the people of Gibraltar, the patients, those who go to the Health Centre and I don't agree with the Minister that they all abuse the service, and if we have a ratio of two to one of the population that are ill during the day, well I don't think people go down to the Health Centre because they feel like going to the Health Centre. I don't think that it is right to say that because when the Hon Member gets up in the morning and he has a headache, he takes an aspro and then goes to bed and he is fine by 12 o'clock that might apply to everybody throughout Gibraltar. We have seen people who have got up with a muscle that was hurting, have walked down to the Health Centre, were turned away because they said: 'That is just a muscle spasm, come this afternoon', and have dropped down dead in Line Wall Road. This is not a criticism of the service. A mere headache might not necessarily be just a headache. We cannot get into a situation where we are allowing patients to have to come back three or four or five days later to be seen. We have to supply a health service that can cater for the number of patients that we have in Gibraltar. I am not saying that you have to see them within half an hour but I don't think it is a logical thing to make an assumption that because there is only £1m that people have to wait five or six days to be seen by a doctor. That state of affairs has to be remedied by Government one way or the other. I am not suggesting which way it should be, I am just saying that the problem lies with the Government. They run the Health Centre, they run the Government, they employ the doctors and whether he feels that during the past they gave the doctors more money to do this and now the doctors have made other arrangements, this is a purely administrative problem of the Gibraltar Government who are the employers of the doctors and the people who run the Health Service and it is no consequence at all for the patient that there is no money. The only thing uppermost in the person's mind is that he is feeling sick and I think the problems arise not when it is a person who goes to the Health Centre for his own account, I think the problems arise when it is children, when the parents take children to the Health Centre and they are turned away. There is no doubt about that because I can vouch personally for that. If there are no appointments the clerk or the person working at the offices has no option but to turn you away. The problem then is the fact that the person concerned will then try to barge into the doctor's office and this is when the next problem occurs which is the problem that has been highlighted today. I won't tackle that because I know

that the Leader of the Opposition wants to tackle that personally because of the unwarranted attack by the Member opposite on the action that has been taken. I don't think that we can sit here and discuss the rights and wrongs and the merits and demerits of the doctors' claims without realising that the claim whether merited or otherwise is causing hardship to the people, that is the thing that we should be getting to grips with. I have heard the Minister and I am appalled to say that all that he has said is that people should be patient and that the general public must understand that it is not a question of going down to the Health Centre and being seen. At no stage has he admitted that there is a problem at the Centre rather than to say that the problem is one of people not wanting to wait there and they are accustomed to wait at the private clinics. That, surely, is not what should come out of a Minister for Health, he should be worried about the patients, let alone the administration. There is also another area which I am sure the Minister has not thought of and that is how the situation now at the Centre is affecting work in Gibraltar. We have a system in Gibraltar unlike the system in UK where you get self-certification, where if you fall ill on a Thursday and you have a simple flu, you need Thursday and Friday off. You need to be able to get a certificate early on the Thursday, or, at the latest, Friday morning to be able to hand in this at work. If you go to the Health Centre on the Thursday morning and they give you an appointment for the following Wednesday by the time you see the doctor you will probably be fit, the doctor could turn round to you and say: "I am sorry, I cannot give you a certificate for last week". And, anyhow, you would probably have to ask for time off from work to go to the doctor because the following Wednesday you will no longer be ill. How do you cope with a situation like that? These are situations that are occurring every day and the Government seem to sit back and just say: 'If this is going to blow up let it blow up'. We are not talking of power cuts, if we have power cuts people will always find a way round it but if you are ill the only way you can go round it is to go to a private doctor. If that Health Centre is closed today I am sure the private doctors won't be able to cope with the situation. I think this is the kind of situation that the Government should be facing now. What is wrong? Why is it wrong? Are the doctors right or are the doctors wrong? But whatever it is it is not medical muscle it should be Government muscle, let Government decide what is right and what is wrong and let them implement it because what we cannot have is a situation where it is the patients, the people who are really ill who are suffering. And then you say to us ACTSS are being intransigent because they have walked out? The situation at the Health Centre is chaotic, I went there myself last week to take my child and there were queues

there of sixty or seventy people who didn't have an appointment and were all shouting at the clerks at the window that they wanted to see the doctor. Forty of those people might have just been there for the fun of it because they didn't have anything else to do and they just walked down Main Street and got into the Health Centre.

HON A J CANEPA:

But why does that happen? I have also taken my children there and we haven't had this problem over the years, why is it happening now? Let the Hon Member analyse that.

HON J E PILCHER:

First of all, I haven't given way, Mr Speaker, but I am quite prepared to give way to the Hon Member if he wishes me to.

HON A J CANEPA:

Could he please explain why, in his view, it is happening? Why is there a situation in which sixty or seventy patients want to see the doctor and they cannot get a doctor because I have got three children and I have never had a problem in all the years. Why, what is the difference.

HON J E PILCHER:

The explanation was given by the Hon Member.....

HON A J CANEPA:

Yes, the doctors only want to see fifty patients. Does he agree that that is right? Does the Hon Member agree that that is right?

MR SPEAKER:

Order, will you give way?

HON J E PILCHER:

I have already given way but then I sat down and I stood up again to speak.

MR SPEAKER:

You have got the floor.

HON J E PILCHER:

I don't have information up my sleeve to say whether that is right or wrong but it should be the Minister who should be able to monitor the situation at his own Health Centre. If the Hon Member who surely does not agree because taking into account his outburst, then his outburst should not be directed to the Opposition who are pointing out the faults of the system, it should be directed to the people who are running the system. This is what I am saying.

HON A J CANEPA:

Or the people who are creating the problem.

HON J E PILCHER:

Or the people who are creating the problem. I am not going to tell you how to govern, what I am telling you is that it is your responsibility in Government. Whether you accept that that is true or not, it is nevertheless a fact. You run the health service, you are the employing department and therefore the problem is yours and the patient expects the Government of Gibraltar to cater for a situation where they can see a doctor when they so require, not at five minutes notice but at least at 24 hours notice, not at five or six days, and I would ask the Hon Member to check with me because I am right. Appointments have been given five and six days later and that I can vouch for and he can get to his department and ask and I think this is not a situation that can be tolerated by a population which is paying for the health service and which expects to get some kind of return for their money. I realise that that only covers half and we agree and we would be quite prepared to vote more money to create a good health service. I am not saying that you should employ four or five doctors, it is up to you to be able to administer the health service properly so that the patient when he goes to see a doctor will have a reasonable period of time to wait for that doctor to see him and the situation as it is at the moment is one where this is not happening and the situation is chaotic to the point that I think not only are the ACTSS members walking out because it is getting to be a chaotic situation where people are hurling insults at one another near to the point of assault because this is a very touchy subject. This is what we are saying from the Opposition side, it is a Government problem and it is not a question of sitting back and relaxing and saying: 'Well, the thing will blow up'.....

HON CHIEF MINISTER:

If the Hon Member will give way. I don't think it is fair to say that that is all that the Minister has said. I came a little late but I heard him say that he had already made enquiries, that he was seeking early approval for an additional doctor and maybe that will not satisfy, they may need twenty doctors, if the doctors say they will only see 25 people you will need double the doctors. The criteria must be stopped somewhere, there is an element of responsibility, too, under the terms of the contracts of the people who are employed there in the medical profession.

HON J E PILCHER:

I accept that the Hon Minister for Health did say that, he did say that he is looking into the situation but the overall reaction to the motion is one of: "This is what we have, the doctors are seeing so many patients, patients seeing the doctors cannot do so as a matter of urgency, the general public will have to learn to be patient".

HON CHIEF MINISTER:

They are patient.

HON J E PILCHER:

They are patient, yes, it is a 'punny' word. What I am saying is that the patients can no longer be patient and it is about time that the Government did something about a situation which is not controlled. I think it was a good idea the idea that the Hon Member mentioned the fact that you could probably put a policeman there that would at least minimise the fact that the nurses would feel protected and come back to work. Even if that were to happen the basic problem is still one that there are not enough doctors in the Health Centre to cater for the patients or that the doctors are not seeing enough patients in the Centre. But I am not saying which it is, what I am saying is that the person who certainly is not the culprit is the patient and he is the one suffering. This is what I am saying and it is a Government problem and one that the Government have to face up to. If the Council of Ministers approve another doctor this is again going to take a certain amount of time. I suppose the job has to go out and it will take a certain amount of time for interviews. We have to be able to form some kind of system by which we have cover from one side to the other so that this thing does not happen again, cover perhaps from RNH lending us doctors when one goes away to cover until we employ another doctor. Certainly, it seems to take a long time to employ a doctor from one

situation to another. Anyhow, that is all that I intend to say at this stage, thank you.

HON J B PEREZ:

Mr Speaker, there is one fundamental point which has been made, I think, by all speakers on that side of the House which I cannot but agree with them 100% and that is, quite clearly, yes, that it is Government's responsibility to sort out any problems that there may be at the Health Centre, there is no doubt about that, that I agree with them entirely, it is not for the Opposition it is for the Government. But I think the Opposition must also understand that Government has also a responsibility, a strong responsibility as an employer because there can be no doubt in anybody's mind that the whole problem which has recently - and I highlight the word 'recently', I emphasise that, - that the problems that are occurring at the Health Centre arise from the action and I would say a ploy of the BMA in which they want the Government to employ more doctors. I think quite clearly that the BMA has come forward and said: 'We think seven doctors are insufficient, we require' - at the beginning I think it was five, I heard that they were after three and I have been Minister for Health for a number of years prior to my Hon Colleague and I faced that similar situation on one occasion in which the BMA were saying: 'We need more doctors'. What we mustn't lose sight of is really that this is a ploy by the BMA as a union, as I am sure the Hon Leader of the Opposition would understand as a trade unionist, if you are putting in a claim and the way to try and get the claim through is to bring pressure to bear, this is exactly what the BMA are doing and they are doing it in two ways. One is misusing the appointments system which I introduced for the benefit of the patients, primarily, and for the benefit also of the doctors at the Health Centre and also by canvassing support from members of the public and support from the Hon Miss Montegriffo because I could see quite clearly from her contribution in moving the motion that she has got all her information from the BMA, quite clearly, that is where her information comes from. So here you have a clearcut case of the BMA.....

HON MISS M I MONTEGRIFFO:

Will the Hon Member give way? From the BMA the figures that have been provided for me they have actually got from Government figures so, really, the figures that we are getting are produced by Government.

HON J B PEREZ:

I am not quibbling that, the point I am trying to make is that you have the BMA - this is when the problem started - the BMA presenting a claim to Government for an increase in the number of doctors, that is one thing. The next plan of action is in order to get sympathetic support from the Government in employing more doctors and we are talking about, I think my Hon Colleague mentioned the figure of £33,000 per annum, I think the salary of a doctor is around £23,000 per annum plus those who are not on a permanent basis, they get, I think, 75% gratuity tax free. We are talking about.....

HON J BOSSANO:

We were against, we voted against.

HON J B PEREZ:

What I am saying is that Government as an employer, we, accepting the responsibility as put forward by Members opposite which we accept, that is why we are here, to govern, we have the responsibility but we have the responsibility also as an employer. The BMA come along and put in a claim for more doctors. We are, I wouldn't say we are trying to resist the claim but one is looking at the claim, you just cannot get a union coming along and saying: 'We want an extra three doctors employed', and you say yes the next day, that cannot happen, you have to analyse the situation and see if any increase in staff is warranted or not. We have the responsibility because we hold the purse strings, it is taxpayers money. What the BMA are doing at the same time and this is what I find extremely regrettable and this is why I censure the BMA for their action, is that following their claim instead of waiting for the Government to consider the claim for employment of extra doctors, they go along and do two things; (1) they use the appointments system which I would reiterate was set up for the patients benefit and for their benefit because when we introduced the appointments system I am sure Members opposite will recall, we stopped the Saturday clinic and why did we stop that? Because the doctors said: "With seven doctors we have got plenty of time to care for the patients", because that is what we are all concerned with because my Hon Colleague said he has three children and I only have one but my wife goes quite often to the Health Centre with my daughter. I am involved with the Health Centre just as much as my Hon Colleague Mr Pilcher and I go there, I wouldn't say once a week but I go regularly so I know, to some extent, what I am talking about from the patient's point of view but they stopped the Saturday clinic and we said: "Okay, fair enough". They

said: "Yes, we are willing to look at all the patients", the Saturday clinic is only supposed to be for emergency cases. Perhaps, when the BMA come now and say: "We want extra doctors", perhaps the first thing they ought to do is to say: "We cannot cope, we have got the same wage packet on the basis of a Saturday clinic, let us have a Saturday clinic, we cannot cope with the number of patients". That is, Mr Speaker, what I would expect from a doctor because that was the agreement reached a number of years ago. That is what I would expect them to come back to Government and say initially.

HON J E PILCHER:

Why doesn't the Government say it then?

HON J B PEREZ:

What I am trying to explain to you is that this is a deliberate ploy by the BMA and you have all fallen into the trap. Mr Speaker, that is the reality of the situation. What does the Opposition expect the Government to do if the BMA comes along and says: "We want another five doctors" and we say the next day 'Yes', and we employ another five. Government cannot run like that, Government cannot work on that basis. The next thing that they are doing is the question of hiding behind the nurses and with the nurses I don't know if I may go against my Hon Colleague, Mr Featherstone. I agree that the nurses are going through a very bad time at the Health Centre and I would be in favour of employing a porter or some other person to look after the nurses, of course I would agree, but that is a matter which we must realise has arisen because of the action by the BMA. There is no question here of any Member of the Government being totally insensitive either to the patients or the nurses there at all. Mr Speaker, it is not insensitive to the doctors. The doctors who are professionals should act like professionals. They earn a very handsome salary because apart from the £22,000 or £23,000 they get paid per annum, don't forget they also collect their fees when they make house calls, 50p or £1. They are paid quite well. The Government therefore has to consider things carefully but, as I say, the BMA have, I wouldn't use the Spanish phrase 'comerle el coco' at the Opposition but I can see that the way the motion is phrased is totally in favour of the BMA and saying to Government: 'BMA are absolutely right and it is your problem, your responsibility so you now go and employ an extra three doctors'. Perhaps the Government is more concerned than the Opposition, than the doctors and anybody else about the patients because we are in Government, we get the complaints before they do.

HON J E PILCHER:

They haven't showed it for the past three months.

HON J B PEREZ:

We get the compliants from the doctors, we get the complaints from the nurses, we get the complaints from everybody so of course we know what is happening but what we cannot do, Mr Speaker, is if you have a claim being put forward we just cannot give in because of some pressure or a clever ploy put forward by professional people and, as I say, doctors who are wealthy. Why are the doctors putting their claim? I am in no position to say in connection with patient care whether a doctor should see thirty, forty, fifty or one hundred people, I don't know, but I am sure that with one particular patient you may need five minutes and with another one you may need ten, it is a question of ratio but I have been told that this has happened in the last few months and it happens regularly and I brought it to the attention of the Director of Medical Services. I know of cases in which people like the Hon Mr Pilcher said that he went with his son or his daughter, he asked for an appointment and he was told: "You have to come in three days time", and I know that when that person was there they called out a number of people for their appointments, the people were not there for whatever reason, but that person said: "You have five people who have cancelled their appointments, who haven't turned up, I want to see the doctor", and the answer from the doctor, Mr Speaker, and I would say that it is shameful, was: "I am very sorry, I will not see the patient".

HON A J CANEPA:

Though he has fewer than fifty.

HON J B PEREZ:

Even so but five people had just not turned up for their appointment. I am sorry but that is a reality of what is happening at the Health Centre and it is a ploy by the BMA in support of their claim for more doctors. That is a fact and I urge Members opposite to realise that because you cannot get away from that. What advantage have the doctors had in asking for more? Quite clearly, less work. If you compare a doctor who is working at the Health Centre and a doctor in the private sector, the private sector doctor the more patients he sees the more money he makes to cover his costs and for his own profit. The Health Centre doctor has his fixed wage at the end of the week so what does he care.

The more doctors that are employed the less patients he sees, the less problems for him and the sooner he gets off from work, that is human and it is a reality. That, Mr Speaker, is the position that we are facing and I would say very recently in the last few months. All this business about EEC and people coming in, I am sorry I would describe that as bunkum because it hasn't materialised, it hasn't. I would be the first one to say if I knew that there were people coming from Spain or people coming from the Costa and using our Health Centre, I would be the first one to tell my Hon Colleague - and I know because I have got members of my family who work at the Health Centre so I have inside information - I would be the first one to tell my Hon Colleague: "You had better start employing more doctors because we are having these additional people". We are not, that is a reality. The motion says: "This House is seriously concerned at the critical state of the medical services". I wouldn't accept, Mr Speaker, that you could say 'critical'. Like my Hon Colleague said the problem is in the Health Centre but it arises directly from actions of the BMA. They are refusing to see more people than a certain amount which they set themselves and perhaps I would like to inform the House of things that occurred eight or nine months ago. With the appointment system what was happening was that there were some doctors who were more popular than others, there were some doctors who are still today with us, who people just don't want to see, they have a bad reputation for whatever reason and what was happening was and probably is still happening today is that if I went to make an appointment I would say: "I want an appointment with Dr so and so", and then of course Dr so and so who was one of the most popular doctors there, his appointment list was full and I know as a fact that even within the doctors there were problems because those who are completely overbooked, perhaps overbooked is the wrong word, but some doctors who were seeing sixty or seventy patients a day, they were saying: "Here I am, seeing sixty or seventy patients a day, I am earning £23,000 at the end of the year and here is my colleague, Dr so and so, who is seeing fifteen because he is not so much in demand and he is earning the same". That is another reality of what is still going on today in the Health Centre. Perhaps in the last few months due to the BMA action in trying to press the Government to employ more, they are now trying to balance the cake of no more than fifty patients a day. I don't know, I am not a doctor but I would say for any professional to say: "I will not see more than fifty a day", that doesn't convince me, Mr Speaker. What I can see quite clearly and I say it is regrettable because my view of doctors has always been fairly good but for the BMA to try and pressure the Government into employing more people in trying to convince the Members opposite to bring a motion to the House - that is I think a fair comment from what I hear the

Hon Mover of the motion say - to try and bring pressure and even hide behind the nurses at the Health Centre because they know that we are all in favour of the work the nurses are doing and in order to do all that I think that I would describe, Mr Speaker, I am sorry to use the word, shameful. I am sorry to see that the Hon Miss Montegriffo has fallen into the trap. I am sorry to say that you have been manipulated by the BMA. That is my comment on the motion that has been put in this House. The contribution by the Minister for Health, I think it is quite good. He said to them: "We have received the claim, we are looking at the claim". He has even gone to the extent of saying that he hopes to get support for an extra doctor, he is really sticking his neck out because it may well be that we may not be prepared to do that, I don't know, but he said that and the doctors know that. The doctors know that Government is considering employing extra staff so why they should go ahead and try and carry on this plan of action to me, I think, is wrong. I think the doctors would be better off in accepting, and this has been done before, give the Government some time to consider the matter in detail. It may well be as my Hon Colleague said, they may have to take a cut in salary, perhaps they don't realise that, and the point I am making, which perhaps is a new one and I'll make sure they are reminded of it, we are going to have to have the Saturday clinic because they were employed for the Saturday morning clinic and if they now feel that they cannot cope with the work, well, let them work on a Saturday morning. This is what I am saying, that this is a matter that unfortunately you cannot solve within 24 hours but I am putting the BMA on notice that there are two factors that they will have to look at, the question of pay and the question of working the Saturday clinic. Before I end I will now give way to my Hon Colleague, he did ask me to give way before.

MR SPEAKER:

There is no need.

HON J E PILCHER:

I wanted him to give way, Mr Speaker, to make a relevant comment on something he had said at the time. If he is going to give way half an hour later there is no point in giving way but we will bear that point in mind.

HON J B PEREZ:

I hope he bears in mind that in the end I gave way. Anyway, that is all I have to say.

HON J L BALDACHINO:

I will repeat what has been said previously by this side of the House that I think that the Hon Member, the last speaker, said that the Opposition had been manipulated by the BMA. Mr Speaker, if one reads the paper and we have got the Director of Medical Services who agrees with the doctors in the Health Centre and prior to that, Mr Speaker, the Minister for Health said that what the doctors were asking was a reasonable thing, how can we be manipulated? Are the doctors right and the Director of Medical Services agrees with them and the Minister also up to a certain extent because it was published, it might be incorrect what was published but it was published, said that what the doctors were asking was a reasonable thing. How do they expect the Opposition to react? Are they right or are they wrong? Is the Minister right and the Director of Medical Services right when they say that the doctors were correct in what they were asking for, or that it is was reasonable what they were asking for? But that is not the problem, Mr Speaker, The Hon Member went to great length explaining the employer/employee relationship. I understand that, we are also well involved in that but that is a problem that the Government has as an employer with their employees and that is the direct problem which we are having at the Health Centre but what the Opposition is concerned is that the patients are the ones who are being affected by that and therefore the pressure must come from this side to that side of the House to find a solution to that problem. That is the Opposition's role, Mr Speaker. Whether the doctors are right or whether the doctors are wrong is something that you have to sort out with the doctors. If the doctors get too much pay it is because you have agreed with them beforehand that they should get that pay, Mr Speaker.

HON CHIEF MINISTER:

If the Hon Member will give way. What was explained before was that the extended services expected from them was on the basis of an increase in pay and now they seem to forget about it.

HON J L BALDACHINO:

Mr Speaker, it is up to the Government. I will give way to whoever wants the floor, Mr Speaker.

MR SPEAKER:

No, you have got the floor so you can go on.

HON J L BALDACHINO:

I am saying that I am prepared to give way to anybody. What happens is, Mr Speaker, that that is something for the Government to do with its employees. If they get allowances or if they increase their salaries then it should be made clear to them that there were certain conditions attached to that or wasn't there a signed agreement saying what they should have or what they shouldn't have because if it was something on a personal basis of "I give you this and you give me that", that doesn't work, Mr Speaker. If it is signed and agreed as it should have been done then, Mr Speaker, the Government is in a strong position to demand of the doctors what they should be doing now. The problem is that we are not defending the doctors as was implied by the Hon Member, Mr Speaker, we are not defending the doctors, we are saying that you must find a solution to the problem because by solving that problem then you have solved the other problem which is affecting the people who are calling at the Health Centre and may I say, seeing that everybody now goes to the Health Centre in this House, Mr Speaker, I don't go to the Health Centre nor to any other doctor for that matter. Maybe it is because I am in good health so therefore I do not abuse the system.

HON A J CANEPA:

Sir Joshua doesn't either.

HON J L BALDACHINO:

Most probably we are the only two in good health and therefore we do not abuse the system, Mr Speaker.

HON J BOSSANO:

I want to deal and then dismiss, Mr Speaker, the comments made by the Hon Member about the timing of the industrial action. What he said was orchestration, I think, worthy of Brahms rather than Bossano. The point I want to make in answer to that is that it is a remark that I would have thought was unworthy of Mr Featherstone, Mr Speaker, and I will tell him why, because the so-called orchestration can only be put directly at his door. He is the Minister responsible for the service, the Minister was given notice of the industrial action on Friday of the week before last. At 12 o'clock on Friday the week before last the IRO was informed that a solution had to be found during last week to the problem and that come Friday if it wasn't found, on Monday morning the nursing staff would not go into work. That is on record and it is the Minister's business to know these things, it is not my business to bring it to his attention in this House, that

was put officially and minuted. On Friday of last week the Government came back saying that they were sorry they had had no time to deal with the problem during the week and could they be given 48 hours more after Monday and they were given the 48 hours more after Monday otherwise they could have solved the problem before the House met and yesterday they came back, they sent the IRO here to give me the answer so that I could transmit it to the nurses and this morning I had four messages to try and find different solutions and I am now telling the Government, Mr Speaker, that whilst I am in this House I am not available to the Industrial Relations Officer or to any member of the Government because if on top of the fact that I am putting myself out to try and help them out of a problem they are going to have the audacity to accuse me of orchestrating it I am just not having it, I am not wearing that. I think the Hon Member, quite frankly, owes me an apology on that point because there is absolutely no justification for him taking that attitude. I am not prepared to have a situation where people put on one good face to me behind that door over a cup of coffee saying: "Joe, will you please help me out?" and then they stand here in public and they say the absolute opposite. If that is what the Hon Member believes that I have been up to.....

HON M K FEATHERSTONE:

I have never said behind the door or over a cup of coffee: "Joe, will you please help me out?"

HON J BOSSANO:

Presumably, Mr Speaker, when other Members of the Government do and I can tell the Hon Member that he has said that to me when he was in Public Works and when he had a particular problem and he said it to me in his office and he was saying it to me on the basis that he was talking 'Maurice Featherstone/Joe Bossano' and asking me because we have known each other for many years, to try and use my influence to help out in an area where there was a problem and whenever that happened I have always tried to do it if I thought there was any mileage. What I am not prepared to do is to have that available when it suits Government Ministers and then when it suits them to do the opposite, they stand up and they say the thing is being orchestrated by me. Well, if that is what they believe they must believe it consistently not when it suits them to say it and I am now telling him that as far as I am concerned the Government must know that anything they want done as regards the Union, the place to do it is the IRO's office, officially, in minutes, during working hours and after that I am not available.

HON CHIEF MINISTER:

I am sure that the Hon Member will give way and reconsider that decision which is not conducive to either his job or our job, as being final. If there has been some misunderstanding or if there has been some accusation which the Leader of the Opposition resents it is regrettable but I am quite sure that the same as he has said that people have approached him to say: "Give me help", it has happened the other way on occasions, too, but we don't mention these things here so I hope he will forget his temporary annoyance and go back to normal.

HON J BOSSANO:

Mr Speaker, I accept what the Hon and Learned Chief Minister has said. It is a situation which I have sometimes gone to Ministers and asked for their assistance, I have gone to the Hon and Learned Chief Minister sometimes because there has been deadlock and I have thought that if the matter was brought directly to his attention and he used his influence it would be conducive to an early resolution of the problem but I cannot do that and then five minutes later accuse him of acting in bad faith, the two things don't go together and that is what I am saying, either the Minister must recognise that what he has said is complete nonsense and certainly I have been hurt to hear it coming from him or else, if he really believes that, then that must be reflected in the kind of relationship that we have.

HON M K FEATHERSTONE:

If the Hon Member will give way. If it will assuage him I will apologise for stating that it was orchestrated, it appeared to me that it was orchestrated. If I only receive the overtones of what was going to happen on Monday, well, that is the way it seemed to me but if he wishes to accept my apology for stating that it was orchestrated today I am willing to give it.

HON J BOSSANO:

I accept that, of course, without any reservation, I am very grateful to the Hon Member for making it, Mr Speaker, but I do assure him that it happens to be something that has been building up and all I can say, Mr Speaker, is that if we take the situation with the nursing staff and I accept that the nursing staff regrettably have been, to some extent, propelled to the front of the situation when really they are not claiming more staff, they are not claiming that they are

seeing too many patients, they are not claiming more money, they are not asking for anything, but they have been put in the front line over a problem that isn't theirs and that is how the matter was brought to the attention of the Union and the way the Union put it to the Government was: "If you have got employees working in a particular area you have got a responsibility as an employer to protect them because they are working for you and they are on your payroll and you must ensure that the environment in which they work is a satisfactory environment". It happened with the Housing Manager a couple of weeks ago and the staff walked out and the thing had to be resolved. Of course, people are much more reluctant to walk out of a situation where they are leaving patients behind and because of that the Union gave the Government a week to try and come up with an answer on the basis simply of, there should be a body there, preferably a male, because all the nursing staff is female at the Centre and that makes it even more difficult, it seems that there are some people who are quite brave about abusing a young girl who is a nurse down there and would think twice if he is talking to a six foot policeman. They have been exposed to a lot of insults and it is not their job.

HON A J CANEPA:

If the Hon Member will give way. I get the minutes of all the meetings that he holds with the IRO and I am aware of the fact that the matter was raised by the union the week before last. I also have here in front of me copies of the minutes of the latest meeting that was held last Friday where the Hon Member again warned that this was likely to happen, that time had been given for the official side to look into the problem and that it wasn't the responsibility of the staff because they were not creating a problem, they were not claiming anything. That is perfectly acceptable and one can see that but, surely, the Hon Member must also see, and he has got a very difficult role to play in Gibraltar. I remember the days when Mr Albert Risso used to get a lot of stick because he was Minister for Labour and he was also the President of the TGWU and there was a lot of criticism about the AACR and I am sure the Hon Mr Feetham will bear me out, about the AACR manipulating the whole conduct of industrial relations and dominating the TGWU. The accusation is going to be there no matter to what extent you bend over backwards to be fair and I can vouch for the fairness of the Hon Member because he and I, I think, have a good workable relationship on these matters but the Hon Mover of the motion has had meetings with the BMA. A press release is issued by the BMA earlier this week or at the end of last week, the motion comes before the House just before lunch and during the lunch hour there is a walk-out. Perhaps, I shouldn't call it a walk-out, the situation had

become so intolerable for the nurses at the Health Centre who have been put into the front line by the doctors, the nurses go to the Hospital and say: "We are prepared to work here. Could you please re-deploy us, could you please give us work to do here?" But the news gives that out, that there has been a walk-out at one o'clock and to the uninitiated, even people like the Minister who is up to a point closely involved but not that closely involved, how does it appear? It appears in the manner in which it has been said and out of pique, out of whatever it is, the unfortunate statement is going to be made. This is what is unfortunate that the nurses self-compelled, after all due warnings, felt compelled to take the action that they have had to take this afternoon when the matter is being discussed in the House.

HON J BOSSANO:

I have accepted fully the retraction that has been made by the Minister, anyway, and all I can tell the Hon Member is that I can vouch for the fact that a lot of work was put in this morning trying to avoid it. They were supposed to be coming out this morning at eight o'clock and I went down there before I came to the House and I had a meeting with them and I said to them: "It is going to be very disruptive if you walk out in the middle of it so having not gone out this morning, although the deadline is now over, it was over on Friday, it is now over the second 48 hours, let us do the morning session and see if we come up with an answer at lunch time". In fact, an answer was provided at lunch time and the basis that I made my last contact with them was that if that answer had been verified which was that the people employed as messengers would be responsible for handling the patients, then they would have gone into work at two o'clock and there would have been no more frustration but, in fact, it didn't materialise because the people who were being offered to do the job apparently, subsequently said they were not prepared to do it because it wasn't their job and, clearly, you cannot have a situation, Mr Speaker, where I have got a responsibility in this House and no matter how much I try and help I cannot be negotiating over the telephone at the same time. I think what took place this morning, quite frankly, was on the basis of a genuine attempt being made by both sides to get the heat out of the situation as we saw the problem as far as the nurses are concerned and I think the motion that we are debating is not really about the nurses, that is just that they have been propelled, as the Hon Member says and the result of the action. We are looking at it from the point of view of the sequence of events leading up to this motion and for us it started last October, there had been questions in the House by my colleague, the Hon Miss Montegriffo, the Minister has been saying he has been having meetings with the doctors and the matter is under discussion

and we have been simply keeping it at the level of questions because as far as we understand progress is being made. But the feedback we get from the doctors is that this is not true. Whether the doctors are being impatient or not being impatient in giving the Government more time, that is a moot point. All I can tell the Hon Member who said that, Mr Speaker, Mr Perez said that they were, if you like, jumping the gun because the Minister had said that he was prepared to press for one more doctor with the Council of Ministers and so forth. Quite often the Government does create these situations for itself. I think the Government must understand, it may be that they have got too many things on their plate and because there are different pressures from different groups with different grievances and different things that need to be looked at or cleared or whatever, the person that makes the most noise or the person that is putting the most pressure is the one that gets the most attention but it certainly does happen that one gets the constant impression that it is the most patient people in terms of giving time to the Government or not complaining, who get shifted always to the end of the queue. I can tell the Hon Member that my experience as a negotiator with the Government is precisely that the people who are most unreasonable sometimes are the ones who get most attention because they insist on being heard, they won't go to the queue, they won't wait, they want to see the Chief Minister, they must see the Chief Minister and they won't be put off with seeing anybody else and, if necessary, they park themselves on his front door and eventually they see him, so they get their way.

HON CHIEF MINISTER:

They may see me at 8.30 but they are there.

HON J BOSSANO:

I think that tends to create a situation sometimes where people feel, just like the Hon Mr Canepa has been saying that perhaps one makes a wrong assessment of the situation might well appear to be a coincidence of events. I think he must also understand that it happens in the opposite direction, that people sometimes make the assessment, there are people who say the only way to get a house in Gibraltar is to go in and thump the Housing Manager on the nose and then you get a house, the pointage doesn't count, the waiting time doesn't count, the only thing that counts is that. That is a scenario which militates against reasonable discussion of problems and enhances unreasonable behaviour and I think what the nurses have suffered precisely is the syndrome of some people who feel that if they threaten the nurse then they will get put at the top of the queue whereas the person who is

waiting patiently for his number to be called will die there and never get called. As far as the actual level of services being provided, going back to October, our analysis of the situation, and I think if the Hon Member was being quoted wrongly he should have corrected it at the time because we have assumed that all this time has gone by, he has never denied it and therefore what he is saying today contradicts what he said then and contradicts what was being said by Mr Perez. We have had, first of all, the Hon Mr Canepa interrupting my colleague, Mr Pilcher, to say what do we think on this side of the House is the right number. We then get Mr Perez who has been a Minister for Medical Services himself saying he cannot decide what is the right number. We have had the Minister saying in October that he endorses that it is reasonable to see only fifty patients a day and then he comes here today and he says that the doctors have got time to spare, that they are not doing their full working hours. Which is it?

MR SPEAKER:

With respect, the Minister did not say that, I don't think so. I think that the Hon Mr Perez was saying that some of the doctors are doing more than the others because they are more popular.

HON J BOSSANO:

I think he mentioned the actual working hours, that they didn't do an eight-hour day. He did say that. I am certainly not in a position to say that I have sufficient knowledge of this field to be able to consider an average of fifty patients a day per doctor a reasonable average but we do have a doctor in the House who can, in fact, enlighten us on this aspect whether it is reasonable or unreasonable simply as background information, I would have thought, because at the end of the day the political decision that the Government has to have is that it has an obligation to provide a service to the community who are compulsorily insured. I supported the Government when they made membership of the scheme compulsory because I accepted, and I still do, that it makes a nonsense of a comprehensive medical service in which people can opt in or out because by the nature of things people who feel that they are never going to need a doctor, well, why should they contribute so the only contributors would be the people who are chronically ill and it is the same with any other sort of insurance scheme where there is a cost subsidisation, people who never use the medical services are paying for people who use them constantly, that is the basic principle, so you need to have the thing broadly based and therefore I believe everybody ought to belong to it and I support the Government view

on that and I supported it at the time and we collectively, as the GSLP, believe in that ourselves. But, clearly, if you are saying to people: "You are required by law to become insured under the Group Practice Medical Scheme", they must be able to obtain a service otherwise it is just another tax. You cannot then say to them: "You are required to do it but you go down there, you cannot get an appointment and then you either wait or go and see a doctor privately". Therefore, Government has got to accept which Government have done and have not done because I think whereas the Hon Mr Featherstone was almost saying to the House that there isn't a problem, which again slightly contradicts his previous analysis that we must cut our suit according to our cloth which implies that there is a problem but the problem arises out of the fact that within our limited resources the kind of health service we can provide doesn't give for more. That is one answer, it may be an answer that isn't acceptable to us, it may be an answer that is not acceptable to the contributor but it is an answer. It is an answer to say: "I have only got so much money for medical services and with that kind of money this is the kind of service that I can provide and although I am not saying that the service cannot be improved on or that it is perfect, the shortcomings are there but to put them right costs more money than we have got", period. And it seemed to me that that was the answer he was giving last October where the paper quoted him as saying that he hadn't accepted that there was going to be an increase in the number of doctors and that within the limitations we had to cut our suit according to our cloth meaning 'this is the kind of service we have to learn to live with' and that may be a good or a bad or an inferior service either compared to what there is elsewhere or by our own criteria. That is where the political responsibility comes in on the part of the Government. We have had not only a feedback of information from the doctors and the BMA who clearly are lobbying us in support of their case which they are perfectly entitled to do like any other union or any other interest group is entitled to approach Members of the House to try and get support for their particular hobbyhorse. But we have also had representations from dissatisfied patients and a feedback of information from people who are in the Health Centre, ie the nursing staff, who are not saying to us that they want more nurses but who are saying to us: "The situation is serious down there, the situation is serious to the extent that we are getting worried that sooner or later somebody is going to get hit by an irate parent" - because most of the people who have got very upset down there have been the people with young children who have been sent away. Generally speaking, the old people have sort of shouted and grumbled but put up with it and went away. The ones who have taken it particularly violently, according to the information we have got, are the ones with young kids, Mr Speaker, and I can understand that because

parental feelings are very strong in Gibraltar and I suppose people tend to be to some extent over-protective and if a child appears to be off colour or anything else they think he is going to die and they won't listen to reason and that is a characteristic of our people that we have to learn to live with whether we like it or not, they are like that. You can see the difference here from other communities where here a child goes along Main Street and trips and everybody rushes round and anybody would think that there was a major emergency and the kid has only just scratched himself and gets up and carries on walking and because people are like that we have got a real problem there in providing a service which until now has worked reasonably well. There are always complaints about all public services and I accept what the Hon Member has said about people's reactions to waiting in the waiting room of a private doctor and waiting in the Health Centre. It is the same in everything else, we find that with housing, Government tenants are far less satisfied than private sector tenants and yet they have got a considerably better deal than most private sector tenants but they feel that since it is Government, Government is there and because it is there it is there to provide and it is a very pronounced thing in Gibraltar and it is probably true to some degree in other places. One finds that in UK in things like public buses and public train services they seem to get a level of vandalism that doesn't happen when things are privately owned because people seem to think that since it is publicly owned it means that nobody is the real owner and you can do with it what you like, you are a part owner and you can simply help yourself to it. I think those arguments are valid arguments but they are arguments that are there all the time and arguments that have to be taken on board as part of the burden of having the responsibility of having to provide public services where however hard you try you will still not come up with a situation where people will say: "What a wonderful service the Public Works is providing or the health service is providing" and we are not seeking to obtain that Utopian situation. All that we are saying is that we have got information that the situation is critical, we are then bringing this to the attention of the House and we are asking the Government politically to respond to that situation and to give us an indication that they are aware of the difficulties that the system is experiencing which are in excess of anything that we have known in the last couple of years and that they are going to tackle the problem and come up with an answer which we cannot say to them the answer is necessarily "Employ four more doctors", we can say to them: "The doctors are claiming that that is the answer". We are not saying that that is necessarily the answer, we are saying that that is their claim. Whether it is or it isn't, what is absolutely clear is that the situation cannot be perpetuated as it is at

present, that must be clearly understood, but like any other analysis of any other problem, Mr Speaker, before you can start searching for solutions it requires an admission that the problem exists. If you do not admit that original premise the problem is there. If you say: "No, there is no problem" then, clearly, there is no need to look for a solution because the problem is being either invented by us or invented by malingerers or invented by the BMA. For as long as the Government is living under that misconception they won't find an answer and it seems to me, Mr Speaker, that that was the initial response of the Minister for Medical Services although subsequent contributions have changed that slightly and give us hope that whether the Government support the motion or not they certainly accept the reality of the situation and intend to do something about it.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I hope that you will give me the opportunity, the first opportunity I have had, to reply to the remarks made by the Hon Member, Mr J C Perez, in my contribution yesterday with regard to the income tax allowances to the members of the Gibraltar Shiprepair Limited. Let me say quite clearly to everyone that I am a very disciplined and a loyal member of my party. The only thing where I might differ from other Members is that I have a different approach. I will give you an example. When we were discussing MOD land, Mr Speaker, and I spoke about the excess land that the Admiral has. These are the kind of outbursts that I have and my colleagues approach it in a quieter way. Let me assure Members opposite, I don't need to assure my own Members, of the loyalty that I have as I am sure you have your own loyalty. I think the Hon Leader of the Opposition mentioned problems that exist which are peculiar to Gibraltar, to the character of Gibraltar, to the way we treat our children. I remember reading some time ago that there seemed to be a peculiar problem with a particular illness, I think it was gall bladder. There were a lot of gall bladder operations in Gibraltar and I don't know whether a study was carried out to confirm this but there could be reason to make a study why there are so many people ill in Gibraltar going to the Health Centre and from what sectors. I have worked in both sectors, I have worked everywhere, I am one of those few people who can claim to be working class and I know that in the private sector very few people go ill. In the Government departments, industrials go ill more often than non-industrials. Within the non-industrials there are uniformed bodies who report sick more than others. Maybe a study should be made as to what in-built immunisation or resistance to illness different type of people have. That is my contribution, Mr Speaker.

HON J E PILCHER:

Let us have a Select Committee chaired by Dr Valarino.

HON J C PEREZ:

Mr Speaker, I will not be making a contribution on the motion itself because I think we have covered most of the points. I would just like to tell the Hon Member that when I stated yesterday that he was known as the Member of the Opposition that voted with the Government I wasn't trying to cast any aspersion on his loyalty if not I would have said the Member of the Government who is about to cross the floor and I didn't say that.

HON MAJOR F J DELLIPIANI:

I accept that, of course.

HON M A FEETHAM:

Mr Speaker, I just want to discuss one aspect of the problem because the motion as it is phrased is not a motion aimed at the problems specifically or what is happening at the Health Centre though, naturally, the events which have occurred now have obviously highlighted and have covered a lot of the debate which has been going on in the House for the last half a day or so. The thing is that there is a specific problem where we are constantly told, and this is not a question of whether we should have more doctors or not, there is a specific problem which is continuously coming up which is quite adequately covered in the context of the motion when we talk about critical situations, we are having for example, people going to see consultants for appointments of a specialist nature and they are told that they cannot be seen for four, five or even more weeks but that if they were to go privately they could be seen within twenty-four hours, as has indeed, happened. I am not saying for one moment that that is correct or not correct but what I am saying is that if that situation exists, is the Government happy that that should be happening? Does Government accept that that is reasonable or whether Government ought to ensure that guidelines are drawn up so that if a consultant has a certain amount of time allocated for that particular practice privately, that it is not being abused because that is a source of constant complaint and perhaps that is an area which ought to be looked at and which perhaps the Government ought to answer once and for all. Is it that the public who are contributing are wrong once again, that in fact there is no abuse on that side or is it that what we need to do is to look at that closely and ensure that there is a regulated and, if I may use the word, an

ethical approach to that particular problem. Perhaps the Minister will comment on that.

HON M K FEATHERSTONE:

If the Hon Member will give way. I have just looked at one clinic in which 1,338 people were actually seen in two sessions fifty-two times a year, that gives about twelve persons per session. If you have forty people suffering from that illness then, perhaps, they may have to wait one month before their turn comes up whereas if that person has another day in which he has a private session and there are only three people applying then, of course, you are seen immediately.

HON M A FEETHAM:

Yes, but the point that I am making is (a) is Government accepting that as far as they are concerned the service is adequate, and (b) whether people ought to be put in a position of waiting four or five weeks and then being told they can be seen privately the next day? What amount of time is allocated to a consultant to do private practice and have the run of the mill in the Hospital to do that?

HON M K FEATHERSTONE:

He is allowed to do 10% of his time as private sessions.

HON M A FEETHAM:

What the Minister is saying is that that is being adhered to. That is all I want to know, as a matter of information. Is this being adhered to?

HON CHIEF MINISTER:

I would just like to say two things. First of all, that I don't think that there can be any doubt that we are concerned, as the Hon Leader of the Opposition has rightly said, irrespective of whether we vote for the motion or not, of course we are concerned about the medical services. I am glad that the last speaker mentioned this question of consultants which has come up because I think we ought to say that insofar as the running of the Hospitals are concerned, I think we should be proud of the Hospitals, proud of the people who work in them and proud to see almost every day in the personal column of the daily paper 'thanks to the staff' and so on. That is an indication, that is not just an occasional thing and, in fact, perhaps the thing is more highlighted when you get people from abroad who come here and stay and when they compare with what they find elsewhere. That point raised, which has been answered, is one

which has been the subject of comment in the past. A former colleague of the Leader of the Opposition used to raise it every time in the last House. The other one is, of course, sensitive, and that is the Health Centre. That is very sensitive and it is liable to have the kind of explosion that it has had now. I would only say that it is unfortunate that the doctors have sought to pursue this one in such a way that not only are the patients the victims but also the nurses.

MR SPEAKER:

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

HON MISS M I MONTEGRIFFO:

Mr Speaker, I would start by saying to the Hon and Learned Chief Minister that it is very unfortunate that the Government have not come up with any solutions to the problems. The problems, Mr Speaker, have existed for something like ten months so as far as we are concerned the Government has had ample time to do something about it. Surely, the least they could have done was to have engaged a locum whilst they contemplated engaging another doctor. We have been told that there is absolutely no difficulty in bringing over somebody from La Costa who is a British retired GP there. Again, Mr Speaker, if the reason for the delay is Government's scepticism as to the validity of the doctors' claim of eleven doctors to run the GPMS then, surely, they should have taken the advice of what the doctors have been suggesting for a long time and that is to bring over an independent assessor from the UK. We don't think it is really necessary but since the Government have engaged so many consultants and experts for so many less important matters, it would be better for them to do something concrete than to allow the situation to go from bad to worse. Finally, Mr Speaker, I would like to say that we, as a political party, are only concerned for the wellbeing of the patients and we cannot accept a situation where the Government are shifting the responsibility to the doctors. They are politically responsible to provide an adequate service and we would hope that the Government will vote in favour of our motion so that at least they acknowledge that the situation is serious.

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 K 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 following Hon Members abstained:

The Hon E Thistlethwaite
The Hon B Traynor

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House -

1. Notes that a policy document was prepared in 1977 setting out the options open to Gibraltar in the light of the Spanish claim to sovereignty.
2. Is disturbed at the allegation that the Government of Gibraltar supported one option which provided, inter alia, for the joint holding of nominal sovereignty by the Monarchies of the United Kingdom and the Kingdom of Spain.
3. Declares that the people of Gibraltar have a right to know the options that have been considered as regards their future.
4. Therefore calls on the Government of Gibraltar to publish without further delay the documents in question".

Mr Speaker, the motion, as you well know, was brought to the House at the time that certain statements were made in public revealing an extraordinary state of affairs going back to 1977, in the context of a House of Assembly where the Government of Gibraltar a year after the election of 1976 found itself with a situation where a number of Members of the House had been elected on a platform under the Gibraltar Democratic Movement which sought a reversal of the Hattersley statement and was pressing for further constitutional change. There was a situation where some Members of the House, now in fact on the Government benches, having got elected in 1976 on the slogan 'We must know our future now', apparently started discovering what their future might be in 1977 but were quite happy to

keep it to themselves and not spread the good news around. Having waited patiently, as we are constantly recommended to do, from 1977 to 1985, it is our fervent hope that these proposals will now see the light of day, Mr Speaker, and that we shall be given a full and complete explanation of what went on. Surely, we cannot be accused of following the BMA in being over-demanding if we have waited since 1977. Clearly, Mr Speaker, the revelation was quite an extraordinary one at the time that it was made. It was made against the background of a great deal of uncertainty in Gibraltar as to the exact implications of the Brussels Agreement, uncertainty which has quietened down since but, of course, there is still a lot of mileage to be travelled before we see the full effects of what the Brussels Agreement implies and there is no doubt at all that what it implies in Spain does not appear to be what it implies to the Hon and Learned Chief Minister and I was glad to see his immediate reaction to the point of view expressed by the Liberals, although I must say that the point of view expressed by the Liberals to any outsider, to any non-Gibraltarian, must appear a very reasonable deduction from the Brussels Agreement which is, in fact, the establishment of a process aimed at wooing the Gibraltarians, and the Liberals were expressing the hope that the Gibraltarians would change their minds on the question of sovereignty and that it would be possible to introduce, in fact, that the wooing would succeed. Certainly we don't think that the wooing will succeed and we object to being wooed anyway on the basis that even to suggest it, Mr Speaker, is in fact a weakening of our position because I think it puts us in the light of saying: "Well, it is up to the highest bidder". If somebody comes with a large enough dowry we will fall over backwards. We don't think the Gibraltarians are like that, I think the Gibraltarians are rock solid in their clear sense of what they are and who they are and this is why, however many times we have come up with harsh criticisms of the Government in their handling of affairs which we are perfectly entitled to do, the one thing we have never done, Mr Speaker, is accuse them of being bad Gibraltarians or of wanting to betray Gibraltar's interests but we think it is perfectly legitimate to say either that we differ as to what we perceive Gibraltar's interests to be or that we differ as to what we perceive is the best road to follow to achieve those interests and I think that can be done without having to fall into the trap of putting in doubt the integrity or the loyalty or the goodwill of the person with whom one might have fundamental ideological differences or fundamental differences on questions of judgement. This is why the motion, in fact, says it 'Is disturbed'. The GSLP is disturbed that it was alleged that the Government of Gibraltar supported the option which provided for the holding of joint nominal sovereignty. It would certainly seem odd for the Hon and Learned Chief Minister to write to Mr McQuarrie so speedily saying that what the

Liberals were suggesting was contrary to the wishes of the people of Gibraltar and to have supported it in 1977 unless he thinks that the people of Gibraltar were in favour in 1977 and are against it now which is a high unlikely thing.

HON CHIEF MINISTER:

It is an allegation.

HON J BOSSANO:

It is an allegation.

HON CHIEF MINISTER:

I have said before that the allegation is not true.

HON J BOSSANO:

This is why I am saying, Mr Speaker, that the allegation disturbs us and therefore the Hon and Learned Member has got an opportunity, in fact, to make clear in the House that the allegation is not true and that he repudiates it but the point is it was made in public and we feel that having been true it would have been a position that is inconsistent with the statements the Government has made in the House and the statements the Government has made in public and therefore I think the House is perfectly entitled to seek an explanation on this matter and to express its concern at such an allegation being made. I am sure that Members on that side of the House would feel disturbed if it was alleged that the GSLP was toying with the idea of joint sovereignty. The final points of the motion, Mr Speaker, are consistent with a long held view of the GSLP on involving the community in matters which affect them. We say that the people have a right to know. That doesn't mean that the people of Gibraltar are concerned today to make choices between different options. I am making this clear because I do not wish to be misread in anything that we are saying in this motion and we do not want to give the impression to Spain or anybody else that we are falling over backwards to see what options they have got to offer because we are so keen to accept any of them. I would say that without having looked at any of them, one can be on fairly safe ground in assuming that there are 99 to 1 chances that they will be unacceptable simply on the basis of what the Spanish Government has revealed currently and what it has been saying for a very long time, that is, the Spanish position has not changed one iota and it is like I was saying earlier on, there might be fundamental differences between ourselves and the Government as to what we consider to be in Gibraltar's

best long-term interest. I don't think that there is, when it comes to the question of Spain, because I do not believe that the AACR can possibly have as an aim of policy the eventual intergration of Gibraltar with Spain and I sincerely hope that that view is reciprocated in this age of reciprocity, Mr Speaker, and that they hold the same concept of us because we have made it abundantly clear that we consider such a possible eventual solution to be anathema and therefore when I am talking about having the right to know what the options are, I am not doing it on the basis that any one of them might be acceptable to the people of Gibraltar but that simply it is a fundamental right and I think it is incorrect in terms of the kind of participatory democracy that one can develop in a community as small as ours to withhold information from people when there is absolutely no reason for withholding it. It seems to me that the whole saga of discussions and negotiations with Spain have been bedevilled by a hang-up on secrecy on the British part that does not seem to be shared by Spain. We have been faced with the embarrassing situation time after time where everything is leaked in the Spanish press and in the Spanish media, strenuously denied by Foreign Office sources only to be confirmed eventually as being very, very close to the mark and we are getting it now with all this business of the proposals before Sir Geoffrey Howe where Senor Fernando Moran and the informed serious Spanish press clearly have got their ear very close to the ground and are getting fairly accurate clues as to what is in those proposals and the proposals are talking about a condominium for a period of time or a lease back for a period of time and that is nothing new. Senor Fernando Moran has not discovered the moon by any means, those two options have been floating around as kites for as long as I can remember. The only difference that one can discern is an acceptance by Spain that a hostile Gibraltarian population is not a desirable state of affairs and that there are no indications that they would get anything other than a hostile Gibraltar population assuming anybody wanted to stay behind if the place is taken over. That is a minute movement in the Spanish perception of the Gibraltar situation because, in fact, one would have thought that anybody with their experience of the matter would realise just how much a thorn in the side a hostile population can be. To the extent that that colours their analysis of Gibraltar, all that we see is perhaps a recognition that the time-scale to which they would like to work and the time-scale to which they will have to work are two totally different things but we are not simply concerned about time-scales, we are concerned about the position today taken by the respective parties in the House of Assembly and the kind of leadership that we give the Gibraltarian community and if we are succeeded by people who feel differently from us about Gibraltar and about its future, well, that is something that whoever succeeds us will have to defend then politically but as far as we are concerned, the road that

we want to point in and the road that we want to encourage others to follow is one which leaves the Spanish option out. That is for us absolutely clearcut, we do not want to see Gibraltar being integrated into Spain, we consider any question of joint sovereignty is a halfway house towards assuming that purpose, we are disturbed it should even have been looked at in 1977 and I certainly think, Mr Speaker, whatever excuses people try to make for it now, it was very wrong that I should have been a Member of this House since 1972 and that I should have to have discovered in 1985 that there was this option considered in 1977 where the other fourteen Members, including three who stood for election with me, felt I couldn't be trusted and it had to be kept behind my back and when we were passing motions in this House at the same time in 1977, Mr Speaker, was when we carried a motion saying that sovereignty was not a matter for discussion with Spain, when the Hon Member said that the Strasbourg process which was then being initiated had been an idea that had suddenly come to him, I think, during a cup of tea he was having with Dr Owen in London. I hope we don't live to regret that cup of tea.

HON CHIEF MINISTER:

That is true, and it was tea.

HON J BOSSANO:

The Hon Member should stick to whisky like I do and he wouldn't get ideas like these then. I think, Mr Speaker, that it is in the context that although a lot of time has gone by and a lot of water has passed under the bridge, the thing was brought to the public attention very recently and we left it to this House because of the stand that we took on the Brussels Agreement and the position we adopted then, the fact that the matter is still in the air as evidenced by the leaks of what Senor Moran has proposed to Sir Geoffrey Howe, suggest to us that it is quite opportune to debate the motion and it is quite opportune to give this opportunity to the Hon and Learned Chief Minister to clear up this matter once and for all and to reassert, as we hope he will, that the only option that is open to Gibraltar is that it is the homeland of the Gibraltarians and the Gibraltarians don't want to be put under sovereignty of a foreign power however benevolent or well meaning that foreign power might be.

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

HON CHIEF MINISTER:

Mr Speaker, first of all, I am grateful to the Hon Leader of the Opposition for the statement about integrity and

attitude that he has prefaced his remarks with, they are not misplaced, I can assure him. If anybody said the opposite anywhere about me on that I would think they had gone mad. The other thing which he has said which is of particular interest is the question of whatever people do in the future is a matter for them and that very much fits in to my philosophy, that the rights of self-determination which we have chosen for ourselves is not a once and for all exercise or concept, it is an on-going living concept because otherwise we would be exercising the right one or the wrong one for people who come after us but I have no doubt what the rights are of the people of Gibraltar on this and it is my assessment of the situation in Gibraltar today that the great majority of people are relaxed on the question of sovereignty because of the numerous reassurances we have had from the British Government on this issue. In particular, the position of the British Government and our own position were made clear at the talks in Geneva on the 5th February when the Foreign and Commonwealth Secretary and I made statements on this issue which were duly reported in the media. On that same day, it will be recalled, the Prime Minister herself made a statement on the same issue in the House of Commons in reply to a question. As the Leader of the Opposition has rightly said, the motion which is now being moved was first given notice of in December last year. The motion was not discussed because the Opposition walked out before the Committee Stage of the European Communities (Amendment) Bill which gave effect to the Brussels Agreement. An Agreement which events and public opinion have shown to be, in our judgement, the best policy for Gibraltar. I would have thought that it would have been wiser for the Leader of the Opposition to have forgotten this motion. He does not need me to tell him that he is a highly intelligent person but because he is I would have thought that he would recognise a dead duck when he saw one. The subject of the motion, therefore, before the House is a very dead duck indeed. I have said on previous occasions that the approach of the Hon Leader of the Opposition to foreign affairs is simplistic and I am afraid that this tendency becomes more and more apparent and is evident in the motion that we are discussing today. I would go a little further in saying that the Hon Leader of the Opposition is - and saying this is not easy but I believe it and I am saying it - he is completely out of touch with public opinion on this issue. I said earlier that the people of Gibraltar are satisfied and reassured about the issue of sovereignty. The latest example of our position on this issue arose only last week when, as the Hon Leader of the Opposition himself said, the Liberals who solve the problems of everybody except their own, came here for twenty-four hours, we told them what the realities of Gibraltar were and they chose not to take any notice and suggested that the

future of Gibraltar laid in joint sovereignty between Britain and Spain. As the Hon Leader of the Opposition said, I lost no time in informing not only the Leader of the British Gibraltar Group but also the leader of the Gibraltar in Europe Group, Lord Bethell, and made very clear the position of the people of Gibraltar and I was very glad to see in the press the following day that the GSLP agreed with the action I had taken. It seems to me to be inconsistent for them to say this and at the same time to revive this motion. To revert to the simplistic approach of the Opposition, it seems to me incredible that it should be argued that a confidential policy document on the Spanish claim for sovereignty over Gibraltar drawn up following a suggestion by the then Secretary of State should be made public and in this connection I would like to quote from the letter which I wrote to the Chronicle in reply, about the hullabaloo, that it was an examination of the request made to us by Dr Owen in Strasbourg and the analysis described the sort of safeguards that would have to be insisted upon if that particular policy choice were to be adopted in Britain. "I have said on many occasions and I will say it again, the status of Gibraltar cannot be changed without the people having a say in the matter, that is to say, by a referendum. Only and when suggestions are made which are considered by the Government of the day to be sufficiently important or likely to be acceptable will this happen". I can tell Hon Members what they already know, that the easiest election I ever fought was the referendum. We knew what the results would be, we knew what we felt and there was the opportunity of the choices that were given to the people and I am quite sure the Hon Member and others in the Opposition know that policy analyses are a routine function of all Governments all over the world in relation to both domestic and international problems facing each country. This particular case was, amongst others, an analysis made at the suggestion of the Secretary of State of a proposal and we would have been failing in our duty and we would be failing in our duty now, and I am not referring to analysis of a similar nature, if from time to time when there is time and no pressure, we make analyses of possible alternatives in different matters not connected with sovereignty, I should make clear. I was prompt to say this afternoon earlier on that in response to what the Leader of the Opposition was saying in connection with the fact that those who shout more get more, that without casting any aspersions on anybody it seems to me sometimes that the machinery of Government, and I have said so to my colleagues, the machinery of Government and from that I am not disclaiming any responsibility for what the machinery does, we are responsible, but in actual terms if you are responsible for driving a motorcar you must have the right responses when you move the various things to see that the machine works. It seems to me that sometimes the machinery of Government is

only activated when there is a crisis, unfortunately, and if there are quite a number then the other things are left behind and then the others become part of a crisis later on and that is the difficulty. I don't know, I have no experience of other places but I am quite sure that apart from the fact that it is deplorable and must be improved, it has to be more or less the case in bigger organisation, perhaps even worse than us in respect to these matters. It is often not in the public interest that the details of analyses of which I have referred should be made public any more than one would expect a study made by the GSLP's executive on any particular matter that should be expected to be seen by everybody else and it is the function of Government to do that and they say: "But that is affecting everybody", but so would any resolution taken by the GSLP that would then go into their manifesto and might change the pattern or might attempt to change the pattern of life. As I say, in a letter that I published in the Gibraltar Chronicle on the 9th January I dealt fully with the situation. I made the point then, in particular, that the so-called revelations made by Mr Maurice Xiberras whose name the Hon Leader of the Opposition has very cautiously left out of his remarks today and in the motion - were motivated by political ambition and were an attempt to discredit my colleagues and myself - a flash in the pan, a visit for Christmas, left - I am inclined to say something that would not be nice in Spanish - and left it there to be collected by the Public Health Department. The allegations by Mr Xiberras turned out to be a damp squib even at the time before the frontier opened, today they are even more irrelevant. I have no hesitation, of course, in rejecting the motion and I will go further and say that in the new situation which we have seen since the 5th February, on the one hand people are rightly concerned about the economic development of Gibraltar and getting on with establishing their future, on the other hand I don't think that the people are interested in theoretical and opportunistic attempts to make political capital and I am not saying that in respect of the motion but I am saying that in respect of the so-called revelation. The people, I am sure, are confident that their political leaders in the Gibraltar Government and the firm resolve of the British Nation, the British press, the British Government and the British Parliament will protect our position on sovereignty, I think this is a reality. The Government rejects the motion and invites the Leader of the Opposition and his party to cooperate in the development of Gibraltar's economic future which will redound to the benefit of all concerned, whatever Senor Moran may think, whatever his attitude may be and if I may mix my metaphors, it is time to stop flogging a dead duck.

The House recessed at 5.35 pm.

The House resumed at 6.15 pm.

MR SPEAKER:

Before we continue the debate I am sure that the House will wish to join me in congratulating our Chief Minister for just having been told that he has been made a grandfather for the second time, our heartiest congratulations.

HON CHIEF MINISTER:

Thank you.

HON R MOR:

Mr Speaker, I am going to base my contribution on a letter to which the Hon and Learned Chief Minister referred in his contribution which appeared on the 10th January, 1985, in the Gibraltar Chronicle and I just happen to have a copy here by chance. The letter, Mr Speaker, is in answer to the revelations made by a former Leader of the Opposition about a two-flag solution for Gibraltar. I think, Mr Speaker, the letter sent in by the Hon and Learned Chief Minister must be a very carefully written letter, no doubt prepared in the quiet of his home in order to cover everything and these words sound familiar, Mr Speaker, these are precisely the same words that the Hon and Learned Member used when he referred to a contribution I made when we discussed the reduction of pensionable age and as a point of interest, Mr Speaker, there is a similarity between my contribution and some of those made by the Government in that in both cases these are prepared by civil servants, the only difference is, of course, that in my case I am a civil servant. In paragraph 3 of the Chief Minister's letter, Mr Speaker, the Hon and Learned Member says: "What actually happened was that immediately after the meeting with the Spanish delegation in Strasbourg on 24 November, 1977, Dr Owen, whilst having a soft drink in the British Mission, asked Mr Xiberras and myself to give some thought to a possible settlement based on co-sovereignty between the Crown of Britain and the Crown of Spain". I would draw your attention, Mr Speaker, to the way the Hon and Learned Member qualifies the word 'drink' by using the adjective 'soft'. Dr David Owen, according to the letter, was having a 'soft drink'.

HON CHIEF MINISTER:

Yes, he wasn't under the influence.

HON R MOR:

That is precisely my point, Mr Speaker, because in paragraph 7 of his letter the Hon and Learned Member says: "In fact, the matter was not raised by Dr Owen when we met again in Paris on 15 March, 1978, for the further meeting with Senor Oreja nor at any time since". So it may well be that Dr Owen was not having a soft drink after all. It seems to me inconceivable, Mr Speaker, how a Secretary of State for Foreign Affairs, a representative of the British Government, a man who was at the time directly responsible for the foreign affairs of Gibraltar, should forget about something which is of such fundamental importance to the people of Gibraltar. I think, Mr Speaker, that possibly the explanation could be that the Chief Minister may have been in touch with Dr David Owen and told him that there was strong opposition in Gibraltar about the idea of a two-flag solution and that was why Dr Owen never raised the matter again. I think, Mr Speaker, that what happened was that the Chief Minister agreed with the idea of co-sovereignty but then changed his mind.....

HON CHIEF MINISTER:

Mr Speaker, I must object and I must ask the Hon Member to withdraw that because he is implying something about me which is not true, he has no reason to know anything different because he wasn't there and it is most unfair and it is contrary to the spirit in which this motion was presented by his Leader.

HON R MOR:

With all due respect, Mr Speaker, I am basing my contribution on the facts revealed by Mr Xiberras and on the reply and I don't see, really, why I should withdraw what I am saying at all.

MR SPEAKER:

You are entitled to your opinion, I think opinions should be expressed on some basis. I cannot ask you to withdraw for the simple reason that as you have said, you are entitled to your opinion but opinions should be based on some knowledge.

HON R MOR:

With due respect, Mr Speaker, if at the time the idea of having a two-flag solution for Gibraltar was completely unacceptable, then at the time the Chief Minister should have refused altogether to even consider the idea.

MR SPEAKER:

I don't think the Chief Minister has said that he did or he didn't consider the idea.

HON CHIEF MINISTER:

It was a view I didn't accept, he just said: "You have to give some thought to it", and I took it away in the mind and so did my colleague, anyhow, there may be more information on that by people who know.

HON J BOSSANO:

If it had been made public we would all know, Mr Speaker.

HON R MOR:

Mr Speaker, I think we are all familiar with the Hon Member's tactics in adapting to any situation depending the way the wind blows and in a moment of crisis, Mr Speaker, the Hon Member will invariably remind us all of his many years of leadership.

HON CHIEF MINISTER:

I haven't said a word today.

HON R MOR:

You will, no doubt, recall, Mr Speaker, how recently, during the Brussels crisis, he gave us all a third-rate Ronald Reagan performance on television by reminding us of his many years of devotion to Gibraltar. In paragraph 10 of his letter, Mr Speaker, Sir Joshua says, when talking about himself that he is one 'who has done the most to preserve and protect the wishes and interests of the people of Gibraltar for well over twenty years'. Well, Mr Speaker, this is something which the Hon Member repeats with monotonous regularity. It may well be, Mr Speaker, that if the Hon Member continues this practice he may well end up feeling that when he eventually departs this life he will end up seated at the right hand of God to continue offering wise and consistent advice. In the last paragraph of his letter, Mr Speaker, Sir Joshua says: "The 1978 analysis is dead and done with and, secondly, that the chances of any Spanish Government accepting a three-flag proposal under the conditions stated above, are nil". Well, Mr Speaker, given Senor Moran's statements recently I would feel this matter is far from being dead, given that it may well be part of the latest Spanish proposals as to the future of Gibraltar. In conclusion, Mr Speaker, I note that a

policy document setting out the options open to Gibraltar was prepared in 1977. I am moreover disturbed at the allegations that the Government at the time supported the idea of co-sovereignty and I wholeheartedly endorse that the people of Gibraltar have a right to know what options were considered as regards their future. I therefore call on the Government of Gibraltar to publish this document without further delay.

HON A J CANEPA:

Mr Speaker, I think the intervention of the Hon Mr Mor is a matter for some regret. He has said something this afternoon which his Leader has not done on any occasion that the future of Gibraltar has been discussed in this House over the last thirteen years or so and he has done something which one has been led to believe was not the view of the GSLP and that is he has cast serious doubt and aspersions on the integrity of the Chief Minister, on the integrity of the Chief Minister in the stand that he has been consistently taking about the issue of Gibraltar for over a quarter of a century. The Chief Minister has never supported the so-called two-flag proposal. The Chief Minister has never forcefully put it across or defended the proposal as was alleged by Mr Xiberras, the ex-Hon Mr Xiberras, the former Leader of the Opposition. I can give a most solemn assurance to Hon Members of the House on that particular point and I am not a sycophant, I make no apologies for my attitude towards anybody, if anything, at times I fight whoever I have to fight including the Chief Minister if we happen to disagree, so I am not saying that in order to patronise or in order to be sycophantic about it, I say it because it is the truth of the matter. Mr Xiberras at the time I thought that he was doing a great disservice to Gibraltar during the Christmas holidays when he made the revelations that he did make. Subsequently, having regard to what happened, I don't think it has mattered enormously. He thought he was going to make a splash, he came here, he wanted it to be known that he had come here, he made certain declarations, got some publicity over the matter and then events, the opening of the frontier and what has happened since then, the talks at Geneva, have all brought the matter down to a proper perspective. Mr Xiberras descended upon us like Moses from Mount Sinai last Christmas and I have no doubt that he made these revelations in what he considered to be the cause of his own political comeback. It seems that for as long as he was flying to Strasbourg and Paris in 1977 and 1978, for as long as he was Leader of the Opposition, he was content to keep secret the fact that Dr Owen had asked Sir Joshua and himself to put their thinking caps on about sovereignty. But I know a little bit about what went on at the time which has not been made public and which I am going to reveal this afternoon. Personal reasons occasioned Mr

Xiberras' sudden departure in 1979 and during the intervening period, which included the signing of the Lisbon Agreement, Mr Xiberras did not see fit to make any disclosures. During the election campaign of 1984 Mr Xiberras actively supported the DPBG and the leadership of Mr Isola but last Christmas Mr Xiberras came to Gibraltar, tried to cast aspersions on the Chief Minister on the basis of the two-flag proposal, criticised the leadership of Mr Bossano and said that the DPBG had lost the general election in 1984 because they had moved too far to the right. They had moved too far to the right during a period when he was Leader of the Opposition, during a period when he was the Leader of the DPBG and he was moving to the right with his party and we who were Members here saw that happening. But now, of course, as I say, the reasons that led to Mr Xiberras suddenly leaving Gibraltar, reasons which we all regretted because one considered him to be a heavyweight in the political arena of Gibraltar and the kind of person that Gibraltar, in my view, as part of the democratic process, the kind of person that Gibraltar, at the time, seemed to need. Today, I am not so sure. But now that these personal reasons no longer hold good, in order to discredit Sir Joshua in particular and the AACR, and I have known Maurice Xiberras for very many years, for over two decades, and I know that his sole raison d'etre and his sole political philosophy has been the destruction of the AACR and one of the reasons why I stood for election in 1972 was because I knew very well what his views were and I knew about the extent that he wished to see the destruction of the AACR and I felt that I had to do something to try and put a stop to that and I had to make my own contribution and that was the immediate cause of my coming into politics fully in 1972. I don't agree with the Chief Minister that we have been discussing a dead duck, I disagree with him. I disagree with him because a duck cannot die unless it has been born and the proposal was aborted, it was never born, it never saw the light of day and I am going to explain how it was aborted. When Dr Owen asked Mr Xiberras and the Chief Minister to put their thinking caps on about sovereignty, the Chief Minister felt that that was a legitimate request that was being made by the Secretary of State and that we should consider what the options were. The discussion paper that included that and other options open to Gibraltar, that discussion paper was prepared in the office of the Chief Minister, it wasn't prepared in the office of the then Leader of the Opposition, and where else could it be prepared if not in the Chief Minister's office. The Chief Minister could hardly ask the head messenger of Secretariat to prepare the paper, it had to be in his office and a proper document was drafted and Hon Members opposite know that there are civil servants in the Secretariat who have been involved on the Gibraltar issue dare I say as long as the Chief Minister, very nearly so, who are

able to draft papers which are neutral, which try to be as balanced as possible and that is the kind of paper that was drawn up. At no stage did the Government support the matter any more than the DPBG did. The Government never took a view on the matter as Government. The proposals were initially considered informally and that is why there is no record of that first meeting because there was no civil servant present when informally the draft proposals were considered by Mr Xiberras, by Mr Peter Isola, by the Chief Minister, by Mr Aurelio Montegriffo and myself. Notice the five Members of the House of Assembly who had been involved in the Constitution Committee that met and produced constitutional proposals between 1974 and 1976. They were considered informally and I have checked my facts, amongst other people, with Mr Aurelio Montegriffo, what his recollection of the matter is. At that meeting Mr Xiberras expressed concern that all the Members of the then Opposition should know about these proposals. I said that the Government never took a view but what we in the Government did not have to do at the time was what the then Opposition had to do, namely, to exclude two of the Members of the House of Assembly who were sitting on the Opposition benches, notice I don't say 'Members of the Opposition', I say who were sitting on the Opposition benches. We don't have to exclude Members of the Government in the discussion of the matter as they had to do and Mr Xiberras was concerned, first of all, that Mr Bossano who was then an independent GSLP Member of the Opposition, should not be involved in those discussions and what is even more interesting, secondly, that Major Peliza should not know anything about that, and why? Because Mr Xiberras knew perfectly well that the moment that Major Peliza got a whiff of it he would blow his top, he would blow his top and Mr Xiberras as Leader of the Opposition and Leader of the DPBG who still maintain that they are more British than anybody else, could not afford to let it be known publicly that he was sitting in any Committee that was looking at any paper that had any suggestion of a two-flag proposal. That is the truth of the matter. What happened then, therefore? The thirteen Members of the House of Assembly then met to consider this paper. Not everybody spoke, not everybody had to kiss the flag, and this is where I think Mr Xiberras attributes to the Chief Minister that he forcefully put the matter across. There were five of us who are sitting on this side of the House present at that meeting together with the Chief Minister. I don't think it is the recollection of any of us that the Chief Minister forcefully proposed that we should accept this proposal. In no way, the Chief Minister chaired the meeting in as fair a fashion as possible, in as neutral a fashion as possible, he knew perfectly well what the mind was of members of the Government and I checked the minutes of that meeting and two members of the Government actually spoke other than the Chief Minister during that meeting, Major Dellipiani and

myself. I am not going to say what Major Dellipiani said but I am going to tell you what I said. As I say, I knew the proposal was abortive, it had no support, it couldn't have any support and I remember that I said very facetiously and the minutes so confirm it, that this was a proposal that I could not consider unless it carried the support of every Member of the House of Assembly and I knew perfectly well, of course, that it didn't carry the support of any Member of the House of Assembly let alone of every Member of the House of Assembly. That is what happened and therefore after that meeting of the thirteen Members of the House of Assembly the matter was never heard of again. Dr Owen didn't pursue the matter and nothing was ever heard of again until the descent from Mount Sinai and therefore having given Hon Members opposite that background I think that they will view the disclosure of Mr Xiberras with the contempt and the cynicism that it deserves and I hope that the Hon Mr Mor will now reconsider what he had to say during his intervention. The manner in which since the last general election Members on both sides of the House, and I was talking to Mr Feetham about it during the recess for tea, the relationship that we have managed to build up as human beings with each other, I hope that he will realise that he has done a disservice to the development of that relationship by having cast aspersions on the integrity of the Chief Minister in the manner in which he has done and in the same way as Mr Featherstone was able to apologise to Mr Bossano, in the same way I would hope that Mr Mor would see his way to withdraw those unfortunate remarks.

HON MAJOR F. J. DELLIPIANI:

Mr Speaker, I am just going to make very few remarks as I usually do. Quite frankly, what my Hon Friend, Mr Canepa, has just said about Mr Mor I was remarking to my colleague, Mr Mascarenhas. As I was listening to him I felt it was out of character with what normally I expect from the Hon Mr Mor. I really felt hurt and it wasn't directed to me, it was directed at the Chief Minister, to somebody I have known all my life, somebody who on foreign affairs I trust implicitly, on local affairs I quarrel with him many times because I might not agree with his views, it hurt me even though it wasn't directed at me and I sincerely hope because we have really developed a rapport, because we really have people from working class backgrounds on the opposite side which is something that I have always wanted, you don't have to be a lawyer, you don't have to be a big businessman to be sitting there, we have developed a rapport between us.

HON A J CANEPA:

Or to be sitting here.

HON MAJOR F J DELLIPIANI:

Or to be sitting here. I do hope that the Hon R Nor will withdraw the remarks he made. Thank you, Mr Speaker.

HON R NOR:

Mr Speaker, having listened to two Members asking that I should apologise to the Hon and Learned Chief Minister, I am, of course, prepared to withdraw anything which could be taken as meaning that I was casting aspersions on the integrity of the Chief Minister. However, I haven't yet had any satisfaction from the opposite side as to the reason why Dr Owen didn't take up the matter again.

HON J C PEREZ:

Mr Speaker, I think it was the Hon and Learned Chief Minister who said that he had noticed that there was no reference made by this side either by the Leader of the Opposition or in the motion itself to Mr Xiberras. Well, undoubtedly, and especially after the Hon Mr Canepa's contribution, we blame Mr Xiberras as much as the Government for not having made this public. We still maintain that we feel this should have been made public and it is not that we are taking the side of Mr Xiberras on this issue, we are very critical of the fact that Mr Xiberras came, like the Hon Mr Canepa said, from Mount Sinai with his declarations. The allegation that he made has been valuable, it has been valuable because we now know more about it than we did before he made any declaration and I think that if the Hon Mr Canepa was critical of Mr Xiberras for his attitude and I agree with him completely that he didn't want to inform neither my colleague, Mr Bossano, or Major Peliza, then I think part of that responsibility should also be carried by those Members who were there, who concurred with him at the time. The Hon and Learned the Chief Minister said in his contribution that he found us to be simplistic on foreign affairs. I think that I wouldn't call him simplistic because I think that that word is not adequate to describe the differences between us on our approach to the situation of Gibraltar which is referred to as foreign affairs. The Hon and Learned Member has said that every country makes analyses of situations and looks at situations but it seems to me that the mistake that he made with Dr Owen was in fact to carry out the study at all because it might have given him the wrong message and what one doesn't know is whether if those messages had not been sent then we wouldn't have ended up with the Brussels Agreement which is not under discussion but has been mentioned, Mr Speaker, where we see all sorts of implications. Time will tell what happens but there are proposals that need to be discussed which concurred with what Dr Owen.....

HON A J CANEPA:

If the Hon Member will give way. What messages had been sent? Nothing went back to the Foreign Office, perhaps we took Dr Owen too seriously and nothing went back, perhaps the matter should not have been considered at all, maybe it was a frivolous remark on his part but nothing went back from Gibraltar to the Foreign Office on that we never heard anything further about it.

HON J C PEREZ:

I am glad for that point of clarification.

HON CHIEF MINISTER:

I think that that was obvious from my intervention and my letter.

HON J C PEREZ:

I am glad for that point of clarification. Then I take it that unless Mr Xiberras had not come put publicly the British Government and the Foreign and Commonwealth Office wouldn't have known at all that the elected Members at the time were looking at that situation?

HON CHIEF MINISTER:

It is not that we were looking, looked at.

HON J C PEREZ:

Just to add, Mr Speaker, that I think that there is a difference between a political party studying something which could later be put to the electorate and that although I agree completely that if the Government as Government were to consider at any stage something on those lines it would also put it to the electorate, the implications that the Government of the day together with the elected Opposition of the day, should have been doing it is not the same as if a political party does it outside Government. This is in answer to the suggestion of the Chief Minister that political parties do have analyses and political parties do study things and he was not expecting us to reveal what our analyses of different situations were. I would certainly disagree completely with the Chief Minister that it is something that should not even now be made public. I think that the fact that Mr Xiberras revealed it, the fact that you have revealed that at Mr Xiberras' suggestion two Members of the then House of Assembly were not informed and the fact that this creates

a bad feeling all round, is in fact looking at it from the Opposition, I would say reason enough to make the proposals public and the position public and then, of course, even if the Hon and Learned Chief Minister doesn't want to make it public, I would think and I would hope that my colleague, the Leader of the Opposition takes this up, that it could be given to the present Opposition on a confidential basis so that we are satisfied about what was being looked at. But then where does the question of confidentiality start and end because after all you are revealing the same as Mr Xiberras did, things which presumably were confidential at the time.

HON CHIEF MINISTER:

Of course, when it becomes relevant.

HON J C PEREZ:

I still maintain paragraph 3 of the motion more so now, that the people of Gibraltar have a right to know and I would hope that seeing that I am one of the contributors who is more forceful especially on matters of foreign affairs, that since I have been lenient enough the Government might reconsider and perhaps support the motion.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, if nothing else has come out of this motion other than the clear statements and the revelation made by the Hon Mr Canepa, I think that was reason enough to justify having brought the motion to the House. Quite frankly, I am astonished to learn that it was at Mr Xiberras' initiative that the proposals were kept away from me in 1977 considering that when he came back in December he made the point of telling me before it was revealed in the paper that he was proposing to do it the next day but he omitted to tell me the relevant details that I didn't know before because he had been against it and I am sure that Major Bob Pellza is not aware of that either. I must say that I have not had the same perception of the motivating factors that impelled Maurice Xiberras to come into politics as the major thrust being the elimination of the AACR. I think sometimes, with all due respect to the Hon Mr Canepa, I think sometimes they do tend to get a bit paranoid about other people being out to eliminate them because after all it isn't so long ago that I was being accused of simply leading the Opposition to the implementation of the Brussels Agreement because I was

out to bring about the downfall of the AACR which is absolute nonsense and I think it is like the remark that Members on the other side then had.....

HON A J CANEPA:

If the Hon Member will give way. Mr Featherstone used to come up to the Grammar School twice a week up until the late 1960's twice a week only, he used to join us in the staffroom but I daily joined Mr Xiberras in the staffroom between 1963 and 1969 and he was paranoid about the AACR. I said it was his *raison d'etre* but perhaps he was motivated to take the plunge when he did by, perhaps I am doing him a disservice to that extent, he may have been motivated by the same concern that motivated many people in 1965 and 1966 to launch the pro-Integration with Britain Movement and the Integration with Britain Party, though I accept that there was also an element of the second one but the former is very much so. I don't know to what extent Mr Bossano remembers because they may have been some of the years that he was away from Gibraltar, but Mr Xiberras was wont to ally himself and to support in active campaigning whoever at successive general elections took the strongest anti-AACR line. On one occasion it was Mr Seruya, on another occasion it was Mr Chamberland and others. I think those of us who were observers of the political scene in Gibraltar during those years, I am sure, will agree with that observation.

HON J BOSSANO:

Perhaps the Hon Member, Mr Speaker, has known Mr Xiberras longer than I have and, in any case, certainly I am not particularly endeared to Mr Xiberras after what he has just told me today so let us make that absolutely clear. I certainly think and I take the point made by the Hon and Gallant Major Dellipiani in saying that we have come closer to each other without in any way giving any of the fundamental ideological principles which we respectively hold. On many occasions I think the House has been able to debate fundamental issues and to have clearcut and mutually exclusive positions and not harm the personal relationship that I think can and should be maintained as far as it is possible and I think we have managed to restore some of that since I think we came very close to, I think I described it at the time, as the lowest ebb in our relationship with the Government over what we honestly felt was a serious and retrograde step and we don't believe today that the Hon and Learned Chief Minister is correct in saying that it is simply that we have got public opinion wrong because it isn't simply a matter of public opinion. As far as we are concerned, political leadership goes beyond simply responding to public opinion

at any one time on the assumption that we are making that people in the House, particularly people who have been for some time in the House, ought to be in a better position to assess issues than the average man in the street and therefore public opinion may feel that all that has happened with the Brussels Agreement is that we are getting thirty coaches a day and that that is the beginning and the end of the matter and nothing else is going to happen and to that extent then that is the average naive analysis, people are saying: "Well, what is there to worry about? What is wrong with having thirty coaches every day, nothing else is going to happen". But, of course, we believe that that analysis is wrong and we don't believe that that is the analysis of the Government although that may be the analysis of the average man in the street and, therefore, as far as we are concerned, we are not gauging public opinion wrong, we are absolutely convinced that public opinion, generally speaking, cannot see six months ahead, public opinion at any point in time moves from one important issue to another and particularly here in Gibraltar where public opinion seems to consist of people with incredibly short memories, a matter which the Government has been able to use very effectively in budget after budget. When they discovered just how short the memories were they introduced the changes in the budget and then they string them out throughout the year. You have one increase in July, when everybody has forgotten what went up in April, another increase in October when they have forgotten what went up in July, and they have been able to do it very effectively and they make a million quid and because they pass it on in dribs and drabs they get away with it, people forget it. The Hon and Learned Member has got the advantage over the rest of us because he has been studying the peculiar responses of the Gibraltar personality longer than any other Member of the House and I think he has it down to the last fullstop and comma, no question about that, and his success is undisputed but that doesn't necessarily mean that his assessment of how the Government should handle a particular situation is right and ours is necessarily wrong although we accept that for as long as they have got the responsibility of Government it is their judgement that must prevail and if their judgement is wrong they will have to answer for it at the polls because we believe in parliamentary democracy, Mr Speaker, We also believe that part of our function in this House must be to try and restrain them if we think they are doing anything that is particularly dangerous or foolhardy, to try and persuade them to change their minds if we think that this is necessary or if nothing else, simply to try and show up their mistakes in order to persuade the electorate that they would be better advised to have a GSLP Government than an AACR Government. We certainly are not out to destroy the

AACR as an entity as if it was a cancer destroying Gibraltar. This is why I draw a distinction between fundamental differences in approaches or in attitudes or in analyses or in anything which I think are perfectly legitimate and actually pointing the finger at somebody and saying that that person is a fifth column in our midst. I don't think that one can say that of Members opposite, certainly nobody that knows many of the Members opposite at a personal level can believe that that is so and I think that that is reflected and we have seen it reflected many times in the House when, particularly Members like the Hon and Gallant Major Dellipiani, respond from the heart and respond with exactly the same words and phrases as they would do whether they were on this side or on that side or talking inside or talking downstairs and I think we have seen that and I think it is a useful and a good thing for the House of Assembly to have this freedom within our ranks. I am sure that when my colleague made the remark that he made about Major Dellipiani there was no intention to embarrass him, nothing like that at all. Mr Speaker, we don't think that there is a need to do things like that. If we have to criticise each other we shall criticise each other for much more fundamental things than that. I suppose that the Government's position on the question of not making it public is consistent with the stand that they have taken on keeping documents secret in other areas although I must say that having revealed as much of it as the Hon Member did in his letter, I am not quite sure what it is that remains to be revealed anymore because it seems to me that in his letter, presumably, he went out to summarise the position and I think the response, particularly, and the clarification produced by the Hon Mr Canepa, perhaps have helped to clear up the issue once and for all because I certainly think that the question of joint sovereignty is not a dead duck in the sense that it is apparently under consideration in London now and apparently is still going to be around for some time to come and apparently we are going to have to make absolutely clear its unacceptability but the fact that we are making it clear that both sides of the House find that notion abhorrent and that the Members who were consulted on it in 1977 found it abhorrent and the fact that we are saying so publicly and for the record must, I think, help in the current consideration of the proposal, that is, help to get it dismissed, I would have thought. I also think that clearly the exposition of both the Chief Minister and the Hon Mr Canepa is such that it seems that what they are talking about at what took place in 1977 and what the Hon Mr Xiberras, as he was then, claimed had taken place at the time and what he revealed in the Chronicle in December are two different things. Certainly, the impression that I had was that the Opposition had been called in by the Government and the Government had said: "We have got some proposals here that we want to put to Dr Owen, will you go along with it with

us or not?" And the Opposition said: 'No way', and then the Government dropped it. I think, quite frankly, that is how the thing came out in public.

HON CHIEF MINISTER:

That is how he put it in public.

HON J BOSSANO:

I don't think that there is anything wrong in doing at any time an analysis for one's own use of possible alternatives or possible consequences or possible results. I cannot think that there is anything wrong with that, that is a fundamental criteria of GSLP thinking because the GSLP believes in planning for the future. If you are going to plan for the future you must say to yourselves: 'If I do A I get B, and if I do C I get B', and you look at a series of options. I have been urging the Government and so have other Members of this House that in looking at the way the accounts are structured we should be thinking in terms of the allocation of economic resources. I have used before the concept of opportunity cost, opportunity cost involves options, involves following one road and sacrificing another road. To have a policy document for one's own consumption and an analysis is a perfectly legitimate thing and there is, again, no need, I suppose, to make such documents public although I think it is more relevant to talk about making them public when they are being made by a Government as a Government than when they are being made by a party in Opposition who then has the role of carrying out its policies, then certainly there is an obligation but I don't think Opposition parties go around bandying all the ideas that they would put into practice if they were in Government otherwise they will never get into Government.

HON CHIEF MINISTER:

If the Hon Member will give way for just one moment. It was done in the office of the Government but it was as a result of the bilateral approach to foreign affairs.

HON J BOSSANO:

Yes, I can see that, it was done presumably for both, it was done by the Government machine for both Government and Opposition. I think we have had, at least, I imagine, one similar document that I can think of which is the document that was prepared for the EEC Committee on the question of representation to the European Parliament. I certainly took that initially to be the Government view and then I was told that it wasn't the Government view, that this was a series of

arguments on the things for and against and that the Government had not made up its mind on it any more than we had made up our mind on it and after that explanation was given to me I understood the difference. I take it that the Hon and Learned Chief Minister is saying that the same as that happened that is what happened the previous time. That makes it even less comprehensible why any Member of the House should have been kept out. I would have thought the very least that should have happened then, although I accept what Mr Canepa was saying that the initiative didn't come from the Government, but I would have thought that the very least that should have happened was that if I was going to be kept out of it, at least I should have been made aware of its existence and be given the choice of either wanting to see it on a confidential basis or saying I wouldn't have anything to do with it. We certainly think it would be a useful thing for us to have sight of that document and I hope the Government will not consider that there is anything preventing them from making it available to us on the same basis that it was made available to the previous Opposition like many other things have been made available to us since the last election, Mr Speaker. The Housing Report, for example, was recently provided to my Hon Friend, Mr Baldachino, and it had been promised in 1983 to the previous Opposition. We honestly believe that it would help to dispel a lot of misconceptions if we were less paranoid about the need for confidentiality, quite frankly, but I suppose we will have to wait until we have a GSLP Government for that when no doubt the AACR Opposition may be asking us.....

MR SPEAKER:

Will you be insisting on a vote?

HON J BOSSANO:

On the motion, Mr Speaker, or whether we are going to form the next Government?

MR SPEAKER:

On that one I am sure you will insist on a vote. I am referring to the motion. May I suggest that if you do, of course, then the Government would take a decision now and if they do vote against the motion then you burn your boats to the extent of disclosure. What I am asking is do you want a vote on the motion?

HON J BOSSANO:

What is the alternative to a vote, Mr Speaker?

MR SPEAKER:

There is no need to take a vote if the House does not wish to take a vote.

HON CHIEF MINISTER:

I said we would oppose the motion. Whatever they are saying now I will think about it but it has nothing to do with the motion. I have seen before, on occasions when confidential documents have been allowed to be seen by Members and then paragraphs quoted in toto. I don't know whether they have photographic eyes or whatever. There was a case, I remember, not the Member opposite but somebody who probably had access to it, quoting the Casey Report to me at the Ince's Hall - "Doesn't paragraph 26 of the Casey Report say bla, bla, bla?" and that was the leader of the now defunct party who threw it at me in actual terms and he was only supposed to have had the knowledge of somebody who was supposed to look at the paper only.

HON J BOSSANO:

I accept that, Mr Speaker. I don't think that the person that did it was actually a Member of the House or had obtained information on that basis and I think that, in fact, if I remember rightly, Mr Speaker, the Michael Casey Report was available to be seen by every member of every Committee of every Union in the Trades Council on a confidential basis and then the Hon Member says that he is surprised that it was quoted in public, I would have thought by the time every member of every Committee or every Union had seen it in Gibraltar that covers a fair proportion of the population.

HON CHIEF MINISTER:

The point was not that, the point is that it was quoted verbatim.

HON J BOSSANO:

I suppose if so many people saw it and they all just memorised one word of the Report by the time they all got together they were able to reproduce the entire Report. If the Hon Member doesn't want to make it available to us there is no way we can force him to but it seems to me, Mr Speaker, that part of the problem, I think, in the Hon and Learned Member's interpretation is that I have heard statements in this House from the Government benches as to the degree of involvement in seeing confidential matters which I agree with and I am prepared to defend but which seems to conflict with what I am told confidentiality means when it comes to our side of the

table and I think, for example, if the Hon Member says: 'This is all confidential but I feel that it might help to put things in perspective', and then he reveals it then, presumably he is breaking confidentiality.

HON CHIEF MINISTER:

The difference is that we are talking about a document and we don't know what is in it. It is the circumstances that led to the document that were revealed.

HON J BOSSANO:

I know that we are talking about a document and although it is obviously helpful if the Hon Member quotes part of the document to help us put things into perspective then, clearly, we will be able to put it into better perspective if we see the whole thing, logically. The Hon Member has made absolutely clear that he has nothing to hide, he has said that this was just a neutral report looking at all the possible consequences. Well, then, what is wrong with that policy document which was never actually made use of but which is still in existence and which was made by the Government machinery for the use of the then Government and the then Opposition, being accessible to the current Opposition?

HON CHIEF MINISTER:

There is one very fundamental difference, if I may say so, with respect. Apart from whether we have an afternoon off one day and we look at it, that is a different thing. There is every difference, in fact, it is a difference that is prevalent today and that is that the then Opposition were agreed to receive information on foreign affairs on a confidential basis which the Hon Member, which I respect, has never agreed and that is a completely different situation. I don't want to interrupt you any more and, in fact, we have another motion which I hope we can finish today, the same as the papers of one Government are not available to another Government in the Secretariat. I have never seen any documents or papers of the time of the IWBP administration. They are taken away, you never see them. Unless they are relevant decisions which have been implemented, you never look at papers of another Government.

HON J BOSSANO:

Mr Speaker, I think I need to clear one thing. This is precisely what I am talking about. When it comes to confidentiality I can tell the Hon and Learned Member that I am now and have been for some time in correspondence with His

Excellency the Governor on the question of confidentiality because what I have never been able to accept seems to me is not acceptable to the Government, that is, that if the Government were required to accept the version of confidentiality that was put to me initially, the Hon and Learned Member would not have been able to say any of this and would not be able to say half the things they say in the House because it seems to me that they are within limits allowed a measure of discretion as to who is consulted or who is not consulted or who is informed or what is revealed whereas I was told that it was a question that the only person who could see anything was me and that I couldn't even confide in the person sitting next to me and I don't think anybody on that side accepts that or has ever been asked to do it.

HON CHIEF MINISTER:

We are not judging that here.

HON J BOSSANO:

But I think it needs to be put in that context and another thing, I think, that I need to put in context, Mr Speaker. I noticed that he was very quick to note it down when I talked about future Members of this House being free to give a different leadership if they chose to and I think he equated that with a statement he has made on occasions about future generations deciding for themselves and that we couldn't decide for them and that the principle of self-determination has to be a thing that is kept alive and not closed. Well, first of all, it is impossible to close this anyway so it is not an issue. There is no way that somebody in the House of Assembly today, for example, or somebody in Gibraltar today can take a decision that is binding on future generations. It is not possible to do even if one wanted to do it but I think if one draws attention to the question of 'future generations might think differently', one seems to be kindling a tiny flame of hope. That is certainly the reading that has been made of it and a reading that I have made of it for many years when I have opposed the use of this phrase. I have opposed it not because I am saying that the Chief Minister or the AACR want to see a Spanish Gibraltar, I am not saying that, what I am saying is that if you say: "Well, you never know, nobody in Gibraltar wants it, it might take two generations, it might take three generations for people to change their minds". I think that if it is put in that light, then it seems to me to be saying to the other side: "Don't lose hope because in time things might be different" and I think we have got to say to them: "Lose hope, not one generation, not two generations, not two hundred generations, not for as long as any of us are here or people who think like us are here". Therefore we are saying the leadership

we give is that. Tomorrow if there is a different kind of Gibraltar in Gibraltar and if there are different kinds of political leaders in Gibraltar and if there is a different kind of House of Assembly, then the direction might be different but for as long as we are around and people like us are around then it won't be and I think we have got to be absolutely clearcut that we are closing that door and that it will take somebody else to come and open it and that they will have to do it by crossing swords with us, I think that is the role that we have to play. That is a reality, it isn't something that we have to say: "Oh, we must keep that option open because it would be undemocratic to close it". It is not within our province to close it. After all, Mr Speaker, we have spent the last two days changing legislation going back to 1981, so if we can go back to 1981 just imagine what we can do in the future.

HON CHIEF MINISTER:

I just wanted to say that I did take a note but I didn't follow it up because I thought following it up would precisely give the wrong impression and that is that I have certainly never done anything anywhere to show that wooing us would help. I have never done it, I have expressly kept away from that because I think that that is bad thinking, it is corrupt thinking now in a way.

HON J BOSSANO:

I was actually giving way to the Hon and Learned Member.

MR SPEAKER:

I was completely and utterly convinced that you had exhausted every argument.

HON J BOSSANO:

Mr Speaker, all I want to say is that in the light of the obvious enthusiasm on the Government benches perhaps the Hon and Learned Chief Minister finds himself in splendid isolation on this one when he said that there was no need to bring this motion to the House because obviously it is a very popular one with the Government, they are all applauding it.

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 Zammit

The following Hon Members abstained:

The Hon E Thistlethwaite
The Hon B Traynor

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House -

1. Notes that the Government was unable to explain in answer to Question No. 86 of 1984 the basis for its calculation of rates for dwellings.
2. Notes that the matter was raised with the Government in a subsequent letter of 14th December, 1984
3. Notes that the Government did not reply until 1st March, 1985, the day on which the right of appeal against the Valuation List for 1985/86 expired
4. Considers that it has acted in a totally undemocratic and cavalier fashion in handling this matter, made no attempt to answer the points raised in December, 1984, or to explain the justification for its method of compiling the Valuation List and censures the Government therefor".

Mr Speaker, the House will note that the motion is censuring the Government not for the way it establishes the net annual value of domestic properties or for the level of rates but for the way that it has responded to the view of the Opposi-

tion which have been put in a context where we have been following the philosophy that we said we would follow shortly after the election of dealing with things in direct correspondence where it was possible to do so to obtain clarification or information or detailed explanations without taking up unnecessarily the time of the House and following, in fact, the matter having been raised in the House. In Question No.86 of 1984, Mr Speaker, on the 30th October, 1984, the explanation given by the Hon Mr Canepa was that the basis for the establishment of the net annual value of domestic properties under Section 310(3) of the Public Health Ordinance was five-sixths of the rent charged for Government property and that there was a notional deduction of one-sixth set aside for repairs. That notional deduction of one-sixth for repairs has no apparent explanation, that is, I said in reply to that point when Mr Canepa mentioned the figure of one-sixth, that it was possible by looking at the Housing Fund to establish how much of the rent went on repairs and therefore, by implication, how much of a rent would be payable notionally if the tenant paid for the repairs himself. The Hon Mr Canepa said: "I think whilst the Hon Member" - referring to me - "may legitimately argue along the lines that he is actually doing, ultimately it is a matter for interpretation by the Valuation Officer" I followed that through and the Hon Member then said that if one didn't agree it was a matter that had to be challenged in the Court and I asked him: "How does one pursue the question of contesting the formula, contesting whether the formula of five-sixths is, in fact, accurate or correct or the right interpretation of the provisions of the Ordinance", and the Hon Member said: "I do not know. I know what steps an individual can take in order to contest the rateable value of his property if he feels aggrieved. If he is successful, if that is a test case and he is successful then that is generally applied but how the whole basis of the formula can be generally challenged I wouldn't be sure and I think if the Hon Member cares to pursue the matter outside the House, if he cares to write to me, I will pass it on to the Valuation Officer and perhaps we can get to the bottom of it". This is what I was told in October. In November the draft Valuation List is published using the formula. The draft Valuation List says that the person I have to write to under the provisions of the Public Health Ordinance is not the Minister for Economic Development, it is the Financial and Development Secretary. So since I had been told in October in the House that if I wanted to get to the bottom of it other than using one property as a test case I should write to the Hon Member who would then pass my letter to the Valuation Officer and I see in public in the Gazette a notice that says that if I want to raise anything at all in the Valuation List, I will read what the Public Health Ordinance says on the subject, Mr Speaker. When I read in the Gazette, Mr Speaker: "Any person who is aggrieved by the

inclusion of any hereditament in the draft List" - which presumably refers to the individual properties - "by any value ascribed in the draft List to a hereditament or by any other statement made or omitted to be made" - I thought, well, I don't know what a statement means in terms of a List but it is conceivable that a statement may be the whole value of the whole List and therefore since it tells me that the person that I must write to, it says here in the law that within thirty days I must write to the Financial and Development Secretary giving him notice of my objection and that every notice of objection under this Section shall be in writing and state the grounds on which the objection is made and the amendments desired to remove the objection and I did that. I wrote to the Hon Financial and Development Secretary on the 14th December, I did it dutifully as provided for in the law, I said: "I am serving you with notice of my objection. I am aggrieved by the statement in the List which produces a value based on five-sixths of Government rates, I consider this to be wrong by reference to the 1982/83 Estimates of Expenditure", where I got the rent roll, I deducted from the rent roll the amount for rates to be left with the net rent, I then calculated the amount of maintenance provided for under the Public Works vote and the amount of maintenance under the Housing vote, I then got the net figure, I referred the Hon Financial and Development Secretary to Section 310 in the Ordinance that says: "The calculation shall be in the case of a dwellinghouse by comparison with the rent at which dwellinghouses owned by the Government are let to members of the general public and the amount of rent at which the hereditament would be let if the tenant undertook to pay all the usual tenants rates and taxes and to bear the cost of repairs, insurance and other expenses to maintain the property". I said since the Government is spending, say, 80% of the rent on maintaining the property and on repairing it, it follows from my reading of the law, that since that information is available instead of making a notional deduction of one-sixth which appears to be a completely arbitrary figure, the rates should be based on 20% or 26% of the rent, I think it was, the formula produced by reference to actual figures for 1982/83 and I didn't get an answer. I wrote to him in December and nothing happened. So I waited, Mr Speaker, and then at the end of January I find that a notice in the Gazette says that the draft List has now been confirmed. I then wrote back to the Hon Financial and Development Secretary and I said to him: "My understanding of the law is that if there has been an appeal against the Draft Valuation List, whether you have carried out any amendments or you haven't carried out any amendments to the Draft List as a result of the appeal, you are required by law to write to me serving on me notice of the fact that the objections have been considered and rejected and that the List has been confirmed". You haven't done that so

you haven't complied with the Ordinance. The Hon Member didn't write back to me and then the matter was referred to the Hon and Learned Attorney-General who wrote to me and said that he had had the matter referred to him and would I please address future correspondence on this subject to him. I then wrote to him and said: "I hope you will give me an answer before the 28th February", because as one last resort I could go back to the suggestion made by Mr Canepa in answer to Question No.86 which was that if I was not able to challenge the formula as a whole, I would be able to make a test case of one individual property. That was the other choice and I had known that since October, I was told that in the House in October. And what do I find, Mr Speaker? That on the 1st March the Hon and Learned Attorney-General writes to me saying that he had ruled that the basis of my objection is not valid because it should be done on the basis of one individual property which was something I had already been told in October and then the Hon Financial and Development Secretary writes back to me and says the same thing. No mention at all about the nature of the argument put in the letter, the argument I put in the House of Assembly in October and the argument I put to him in December about my reservations as to whether they were complying with the law in using a formula with a one-sixth arbitrary deduction, all those arguments, no answer at all. I think that is, quite frankly, totally unacceptable. If it is suggested to me that I should write, if I write according to what the law provides, if I don't get any answers and then I get an answer on the day that my right to appeal using one specific property as a test case expires, I think that it has been a deliberate attempt on the part of Government to delay giving me an answer because, after all, the Hon Member could have written back to me on the 14th December and said: "I am sorry, I am returning your objection because your objection is inadmissible. You are objecting on the grounds that the formula is incorrect and the provisions of the Public Health Ordinance allow you to write to me for one specific hereditament and I am sorry, your letter is inadmissible, you can have it back". He could have said that to me on the 14th December and then I would have known where I stood. He didn't do that. Is the Government telling me that the Financial and Development Secretary who is the officer under the Public Health Ordinance responsible for dealing with objections didn't know until March that I couldn't do what I did in December and that it took him until March to find out? I don't see how that can be the case when it was said in October in this House of Assembly. In the supplementaries the Hon Mr Canepa said: "I do not know", in answer to my question: "I am asking about how one can contest whether the formula that is being used conforms with the requirements of the Ordinance". "I do not know" said Mr Canepa, "I know what steps an individual can take in order to contest the rateable value of his

property if he feels aggrieved. If he is successful, if that is a test case and he is successful then that is generally applied but how the whole formula can be generally challenged I wouldn't be sure". Well, then all the Financial Secretary had to tell me in December was: "I am sorry you cannot do it this way. I cannot accept your objection because your objection cannot be done that way", and I have no reason to suppose it couldn't be done that way because I was told that the Government wasn't sure and I tested it and as far as I knew the thing was accepted and admitted. Even if the Government had been right in saying that my objection was inadmissible on the grounds that I was making it on behalf of all dwelling houses in Gibraltar because, after all, I am making a political point, Mr Speaker, it isn't that I am objecting to my own rates, I am making a political point having raised it first in the House of Assembly. If it is, in fact, the case that the Government says that I cannot use the machinery of the Ordinance to make that point on behalf of all dwelling houses in Gibraltar, they could still have answered the point, they could still have said: "We cannot pursue your objection under Section 313 of the Public Health Ordinance but in fact we don't agree with you because we don't agree that the formula requires that one should try and establish what the rents would be if the tenants paid for the repairs. We think that the one-sixth is OK", although I would have thought myself that the law doesn't provide a figure, the law doesn't say: "You shall deduct one-sixth in respect of repairs and maintenance". Therefore, the one-sixth seems to be an arbitrary thing and some enquiries that I have made from people who were there in the old City Council days tell me that when the one-sixth was done, in fact, the one-sixth did represent what was spent on Council properties in repairs. Clearly, a lot of things seem to have functioned better under the City Council than they have ever done since because I think if the Government was able to maintain Government property with one-sixth of the rental income then they wouldn't have three-quarters of the problems that they have in balancing the Housing Special Fund. I think in bringing the matter to the House I am saying that there is a sequence of events here which, quite frankly, is totally unacceptable from the point of view of us trying to do our job conscientiously. We are not doing these things just to be awkward or to create work for the Hon Financial and Development Secretary or the Hon and Learned Attorney-General. It may create work for them but it gives us work and it gives us work because we feel that if there are things which we raise which we consider are not right then we consider that we are being employed by the people of Gibraltar to look after their interests, particularly in seeking satisfaction on points where we consider that the Government is making a mistake, we are prepared to pursue that point to the end and at the end of the day if the Government comes back and proves that we are mistaken, well, fine. The Hon and

Learned Chief Minister has said in the course of this House, Mr Speaker, in changing the date on the Income Tax (Amendment) Ordinance that there is nothing wrong with coming along and admitting a mistake and accepting a correction when somebody in the Opposition notices something and that is the essence of parliamentary democracy and I believe that that is true and I have always advocated in this House ever since I arrived that one should be concerned in the House of Assembly to exploit its smallness by being less inhibited about changing our mind as a result of debate in the Chamber than they can be in the House of Commons or in big Parliaments. I think if we all come here with our minds made up then all the arguments we put are sterile arguments because we come out the way we came in and we are just talking for the sake of listening to our own voices. I think the essence of Parliament is precisely that by listening to arguments we should be able to influence events or influence each others attitudes or ideas and I think that does happen in the Gibraltar House of Assembly and I think it is a very good thing that it does and I believe that it has happened on a number of occasions in the last twelve months. We are glad that on a number of occasions, beginning with the budget and the Government's reconsideration, for example, of the question of reducing the pension increase. The Government took into account the arguments we had put and they came back the next day and they said they were going to do something different. If we were then to say: "The Government is wrong, we have beaten the Government", then what we are saying to them is: "Never listen to our arguments again". I don't think it is a question of who comes out on top but a question of reasoned arguments either having to be accepted or having to be defeated by counter-arguments, by somebody saying to us: "You are wrong because of a, b and c" but not simply not answering any letter and then telling me in March what I had already been told in October when it is too late to do anything about it and that is completely unacceptable, Mr Speaker, and I really think the attitude of the Government is completely reprehensible in this matter and I have no hope of getting them to vote in favour on a motion of censure, obviously.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I thank the Hon Leader of the Opposition for several things which he said during his speech and I think the most important point, as I see it, is his admission that he has been making a political point and the second one is that he knew in October that the testing of an individual case was likely to lead to the result which, in fact, it did lead to but if I can just elaborate on that. I think the difficulty

which we have had, the Government and I might say the officialdom have had with the particular route which he chose is that by choosing that route he has made both himself and me as the Financial and Development Secretary the prisoners of the law and of the procedure which is laid down by law which, obviously, I am obliged to follow and to the best of my ability I did follow. The Draft Valuation List was, of course, published on the 15th November and the Hon Member wrote to me formally on the 14th December. I think it is common ground that we both understand the legislation and the force of the notice which is that any person who is aggrieved by the inclusion of any hereditament or by any value ascribed in the Draft List to a hereditament or anything appertaining to a hereditament a building, a portion of a building and so on, I am abbreviating slightly, may serve notice of objection within thirty days so far as it relates to that hereditament.

HON J BOSSANO:

If the Hon Member will give way, because he has quoted the part that I didn't quote which is the part that deals with individuals and it says: "Or by any other statement made or omitted to be made in the Draft List with respect to a hereditament, or". I wrote to him saying: "I am making it in respect of all hereditaments".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps I could go on to say, Mr Speaker, that that is the source of the difficulty with the procedure which the Hon Gentleman has followed. He said it in his letter, he made it quite clear: "that I am raising this in respect of all hereditaments". The law, as it stands and, indeed, the draft notice which was issued under the provisions of the Public Health Ordinance, states quite specifically that the alleged grievance is in respect of a hereditament, a particular, it is quite specific so the objection must refer to that hereditament. If the Hon Member had objected to the value ascribed to a hereditament or to one occupied by himself or by an Hon Friend, then the responsibilities of the Financial Secretary are quite clear. They are dictated by the law and the procedure laid down by law. Either I would have made an alteration to the Draft List or I would not have made an alteration to the Draft List as part of the process of revision, a process which is also described in the Ordinance, the process between the formulation of a Draft List and then a revised List in the light of any objections which may be raised and which are entertained and withheld and incorporated by the Financial Secretary and the Valuation Officer in the approved List. There is a further subsection, subsection (3) of Section 314 which says: "Where notice of objection has been served under

Section 313, then, whether or not on the revision any alteration is made in the list for the purpose of meeting the objection, the Financial and Development Secretary shall, on completion of the revision, forthwith serve on the person who made the objection a notice stating whether he has made any and if so what alteration in the list with respect to the hereditament to which the objection relates". The Hon Member, as I have said, did not raise any objection to any particular valuation, he raised an objection in general terms. He wrote to me in general terms about the whole basis of assessment of the annual value and about the allowance for repairs and maintenance that was generally made in arriving at the value of all premises. In other words, by choosing that route he made us both the prisoners of a procedure which was designed for a totally different set of circumstances where an individual considers himself aggrieved by a particular value ascribed to a house in which presumably he is living or in which he has some sort of benefit or is interested in one thing or another. It is not for me to say why the Hon Member chose this particular route rather than another route which he might have taken because he did of course raise this in discussions with the Hon Mr Canepa during the debate in the House and when the Hon Mr Canepa could not provide him with all the information which the Hon Member wanted at that particular time, the Hon Mr Canepa said, with his customary modesty, how the whole basis of the formula can be generally challenged: "I wouldn't be sure" and then with courtesy he said: "I think if the Hon Member cares to pursue the matter outside the House, if he cares to write to me, I will pass it on to the Valuation Officer and perhaps we can get to the bottom of it". It was open to the Hon Member, Mr Speaker, at any time to come and have a discussion about this with any Member of the Government or, indeed, with the Financial Secretary if he so chose. There is no secret about this, it is well understood what the basis of valuation is, it is well understood that there is a 16½ notional deduction in respect of maintenance to arrive at the net annual value and I believe that this practice goes back to 1865, I think, under the old Sanitary Commissioners so it is a long established practice. If the Hon Member had felt that the basis of this was insubstantial he could very well have come and discussed it with me. There is no reason at all why this procedure should not have been followed but instead he chose, and he is entitled to choose, Mr Speaker, I would not like the Hon Member to think that I am trying in any way to interfere with his democratic right, he may write to whoever he chooses, but I am merely saying that in this particular circumstance he chose a method which made me as well as himself the prisoners of the procedure which is quite a specific procedure, laid down in the Public Health Ordinance and which I was bound to observe. I appreciate there is an

element of arbitrariness about this and if the Hon Member had come along and said: "I understand that the Government has to raise a certain sum of revenue from rates and that if one were to lower the net annual value one would have to raise the poundage to achieve the same effect in terms of revenue raised" - if he had said something like that - "but there ought to be some basis for this, that we ought to look at the basis for this" then I think, speaking for my colleagues in the Government, I think we would have been prepared to consider this but he chose this particular route and as far as the accusation of discourtesy, well, I did, of course, write to the Hon Member on the 1st March and I will quote from my letter. I started 'Dear Joe', I seem to recall.

HON J BOSSANO:

That is about the only thing in it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I said: "You wrote to me on the 14th December giving notice of an objection to the Draft List. I am advised that your objections to the Draft List is not valid under the provisions of Section 310(3) of the Public Health Ordinance. To be a valid objection it would be necessary for you to be personally and adversely affected or aggrieved by a value ascribed to a particular hereditament in the Draft Valuation List. It is clear, however, from the terms of your letter that your objection was in general terms and does not relate to any particular hereditament in which your interest might be considered to have been adversely affected. Yours ever, Brian". That was a very courteous way of writing, I am sure you would agree, Mr Speaker. I do not think that the Government can be accused of any discourtesy in its response to the Hon Member but I do believe that in choosing the particular route which he chose, perhaps for political reasons, I don't know, sometimes he likes writing to me, he certainly asks a lot of questions about arithmetic and GSL shares and such matters, but in choosing that particular route I think he made it difficult for both himself and ourselves to provide him with the sort of information or the sort of discussion which, I think, in political terms, he probably wanted.

HON J E PILCHER:

Mr Speaker, I would just like to make a few points and try to logically follow what the Hon Member opposite has said. I think he has pre-empted and I think the only, as he likes to be known, the only non-politician with the Hon and Learned Member beside him, in the House of Assembly, he has

taken a decision that the letter sent by the Hon Leader of the Opposition has political undertones. He decided that the GSLP had written in this way in order to score a political point and therefore from the 14th December he withheld the letter till the 1st March in which time he wrote to us saying that this was not the way that this should have been followed through. Did it not occur to the Financial and Development Secretary to write to us or phone us on the 15th December and say: "This is not the way it can be done", and then perhaps if we had not taken that into account, perhaps today it would be a valid point to say: "I told you so, you did not want to do it, therefore there is no other option but to suspect that you were trying to score a political point".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Is what the Hon Member saying, Mr Speaker, an admission that in fact writing to the Financial Secretary in this way was a political manoeuvre rather than a valid objection?

HON J E PILCHER:

I think, Mr Speaker, nobody else in the House and I take it in the public gallery has understood that.

MR SPEAKER:

I think the Hon Financial and Development Secretary said that the Hon Leader of the Opposition might have chosen to proceed in this particular way for political reasons, in other words, to object on a general basis and in respect of a particular hereditament.

HON J E PILCHER:

Of course, when the Leader of the Opposition writes in he writes on a political basis that is why he is the Leader of the Opposition. If the Hon Member thought that that was not the way that it should have been handled politically then he had two options, he should have written back to us as the Financial and Development Secretary or he should have got in touch with his boss, the Hon and Learned Chief Minister, who is the political head of the Government to have got in touch with the GSLP on the political side and then we would have been able to agree to something which would have solved this problem long before it got to this stage because he wrote to us, Mr Speaker, on the 1st March, 1985, the date that we could no longer appeal against the List because it had expired so we could no longer even do it on a personal basis. The Hon Leader of the Opposition could not say: "We will

use the Hon Mr Baldachino's house as an example", we could no longer do that because he didn't give us the option because he wrote to us on the 1st March. I cannot accept that it took four months for somebody to advise the Hon Financial and Development Secretary that this was not the way that we could do it and if he thought it was a political point he should have been logical enough to assume that if he thought it was political capital that we were trying to gain on this one, he should have passed the point on to the politicians. As he rightfully says he himself is not a politician although he likes to play at politics many a time, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I think it is necessary for me to make one or two statements of personal clarification about my lack of involvement in this matter. I answered Question No. 86 of 1984 in October, 1984, and there my involvement started and finished. It is clear from what has been said in the House this evening that that question should not have been put down for me to answer, I think it should have been answered by the Financial and Development Secretary but it was put down to me, I answered it and that is now a matter of history and so much water under the bridge. The Hon the Leader of the Opposition then perceived that I wasn't the person, nor the Valuation Officer the official, that he should be pursuing the matter with and therefore by looking in the law he did the right thing, namely, he followed the matter up by writing in December to the Financial and Development Secretary. Perhaps I was owed the courtesy of a copy of that letter having regard to the fact that, unfortunately, I answered the question in October and then I might at least have been kept in the picture but I want to make it abundantly clear that between October, 1984, and the end of February, 1985, I had no sight of any letters, of any exchange of correspondence, and no knowledge whatsoever of what was going on. Yet you now have the paradox that there is a motion of censure against the Government and a motion of censure against the Government under the Constitution, I am sure you will rule, Mr Speaker, is a political matter and it is for the politicians, for the Ministers in this House to vote on this motion of censure on a matter on which the involvement of politicians began and terminated with my intervention in the House in answer to Question No. 86 in October, 1984. It is a strange state of affairs, Mr Speaker, to say the least.

HON ATTORNEY-GENERAL:

Mr Speaker, I wonder if I could just clarify one or two matters. The notice of the publication of the Draft Valuation

List was given on the 15th November, 1984, and that invited objections of anybody who wished to make an objection in respect of a particular hereditament. Mr Speaker, when the objections are received the Financial and Development Secretary can either take note of the objections and revise the List or he can reject the objections but another thing which the Financial and Development Secretary has to do is then publish the Valuation List either as amended by him or as not amended by him and that was done on the 31st January in Government Notice No. 65, so the notice was given on the 31st January that the Valuation List had been published and paragraph 2 of the Government Notice says, and this is in accordance with the provisions of the Public Health Ordinance: "Any person who is aggrieved by the inclusion of any hereditament in the Valuation List or by any value ascribed in the Valuation List to a hereditament or by any statement made or omitted to be made in the Valuation List with respect to a hereditament, or in the case of a building or portion of a building occupied in part by the Valuation in the List of that building or portion of a building as a single hereditament, may at any time before the expiration of thirty days from the date of the publication of this notice in the Gibraltar Gazette, appeal to the Court of First Instance against the Valuation List so far as it relates to that hereditament". The Hon Leader of the Opposition, Mr Speaker, had an opportunity, if he had inspected the Valuation List after seeing the Government notice on the 31st January, he would have seen that the Financial and Development Secretary hadn't paid any attention to his objection.

HON J BOSSANO:

Mr Speaker, I really must ask the Hon Attorney-General to give way.

MR SPEAKER:

Order, you have got the right of reply.

HON ATTORNEY-GENERAL:

If I could just finish, I won't be very much longer.

HON J BOSSANO:

If I had seen that, Mr Speaker.....

MR SPEAKER:

Are you giving way?

HON ATTORNEY-GENERAL:

No.

MR SPEAKER:

I am afraid there is nothing I can do.

HON J BOSSANO:

Then he doesn't want to give way because he knows I am right.

MR SPEAKER:

Order.

HON ATTORNEY-GENERAL:

He must have realised when he had inspected the Valuation List that the Financial and Development Secretary hadn't taken any notice of his objections and he had one month from the 31st January to go to the Court of First Instance.

HON J BOSSANO:

Will the Hon Member answer me one question?

HON ATTORNEY-GENERAL:

There wasn't a question of deliberately holding back to the 1st March.

HON J BOSSANO:

The Hon and Learned Attorney-General is misleading the House of Assembly, Mr Speaker.

MR SPEAKER:

Order, will you please sit down. Why do you say he is misleading the House of Assembly?

HON J BOSSANO:

He is misleading the House of Assembly because he is saying that when the Valuation List was published I had a month in which to exercise my right of appeal and I wrote to him asking him would he give me an answer before the 28th February to enable me to exercise that right and he didn't do it. Why doesn't he say that?

HON ATTORNEY-GENERAL

When I wrote to the Hon Member it was to deal with the original objection and we stated in that letter; "You have no grounds of objection, you had no legal grounds and therefore the point raised in your two letters has no relevance".

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. The right of appeal in respect of the confirmed Valuation List published in the second notice was something that clearly I could exercise once I knew what was the answer to my first letter and therefore I wrote to the Attorney-General and I said to him: "I hope you will answer me before the 28th February", which would give me time to exercise my right of appeal and he didn't do it. Of course I had the right of appeal but if I had written to the Hon Member on the 14th December and I still don't know in January whether the thing has been rejected because the basis of the argument was being rejected or had been rejected on a technicality that I cannot do it in respect of all the hereditaments, I hadn't been told that, and I asked him to give me an answer in time to use the other road and he gives me the answer after the other road is closed, then he cannot say I had that opportunity and I didn't exercise it. I brought it to his notice, I gave him the chance to give me an answer in time for me to do it the other way, Mr Speaker. The Hon Financial and Development Secretary refused to give way when I was trying to point out to him that the motion has nothing to do and I said that in my opening remarks, it has nothing to do with whether the rates are too high or too low, it has to do with the way we have been treated by the Government. I can well understand the Hon Mr Canepa being upset if he now finds himself having to assume a matter of responsibility for something he was totally ignorant of but as far as I am concerned, I have told the Government many times, they bear the political responsibility for things that their civil servants do and those civil servants include the Hon Financial and Development Secretary, I am afraid.

HON ATTORNEY-GENERAL:

With great respect, Mr Speaker, on the 31st January it was perfectly obvious to the Hon Leader of the Opposition that the Financial and Development Secretary hadn't paid any attention whatsoever to his objections.

HON J BOSSANO:

He never answered me.

HON ATTORNEY-GENERAL:

You didn't get an answer so it was perfectly obvious that the Financial and Development Secretary had paid no attention whatsoever to the objection so the route was then to go to the Court of First Instance and the Hon Leader of the Opposition could have done that with effect from the 31st January: "The Financial and Development Secretary has ignored me, he hasn't even paid any attention to me, I am now going to the Court", and that right was given to the Hon Leader of the Opposition to go to the Court on the 31st January and therefore to say, as it does say, in paragraph (3) of the motion that it was almost a conspiracy by the Financial and Development Secretary and the Attorney-General to deprive him of his right of going to the Court, Mr Speaker, I would say, with respect, is nonsense.

MR SPEAKER:

I don't think it has been suggested that he was deprived of his right of going to the Court, with respect. What has been said by the Opposition is that they were deprived from following the correct route because they were not informed that their first objection was wrong, that is what has been said.

HON ATTORNEY-GENERAL:

They followed the legal route, of course, the route laid down in the Public Health Ordinance which, as my colleague, the Hon Financial and Development Secretary said, ties everybody's hands. It is the implication in paragraph (3) of the motion, Mr Speaker: "Notes that the Government did not reply until the 1st March, the day on which the right of appeal against the Valuation List for 1985/86 expired". That doesn't seem to me a fair matter when you consider that on the 31st January he had a right to go straight to the Court and say: "I am not taking any further notice of the Financial and Development Secretary, I don't even care about the Financial and Development Secretary, I can go to law".

HON M A FEETHAM:

Will the Hon Member give way to one question? We are talking about the reply from the Financial Secretary on the 1st March. On what date did you reply to the Hon Leader of the Opposition's letter to you?

HON ATTORNEY-GENERAL:

On the 1st March. I had written on the 22nd February to the

Financial and Development Secretary and I wrote to the Hon Leader of the Opposition on the 1st March.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, the Government clearly is totally incapable of defending the way they have handled this matter. I followed the advice I obtained from the Minister for Economic Development who clearly simply had the question put in front of him and the answer put in front of him from what he has said here today and I only challenged my letter to the Financial Secretary because I looked in the Ordinance as I have explained. The Financial Secretary rather than ignore me as he apparently decided to do, could quite easily have written back to me acknowledging my letter on the 14th December and say: "I cannot admit this as a formal objection because it has to be for one specific hereditament". I had no way of deducing that on the 31st January because I didn't know whether the non-amendment of the Valuation List was on the grounds that my objection had not been admitted because I had not been told that or on the grounds that my argument had not been accepted. Either of those two possibilities would have produced the situation that the Hon and Learned Attorney-General is saying and I would have looked very stupid if I had gone along to the Court of First Instance to appeal using an argument that had already been considered and rejected so before I took a decision I need to know whether my argument had been considered and rejected in which case there would have been no point in using the appeal machinery or else whether my argument had not been admitted at all which is what I was told after the date of appeal was over and what the Financial Secretary was told by the Attorney-General after he had refused to consider my letter. The Hon and Learned Attorney-General has revealed today in the House of Assembly by his own exposition and so has the Financial and Development Secretary. The Financial Secretary has read a letter addressed to me in March saying: "I am advised that your letter of the 14th December is not a valid objection". If he was advised in March how did he ignore it in December before he had the advice? He ignored it first, Mr Speaker, and was advised subsequently, yes, by his own admission. The Hon and Learned Attorney-General wrote to me saying: "The matter was referred to my Chambers on the 31st January". On the 31st January the final List was published so the final List was published and my letter ignored before it was referred to the Attorney-General's

Chambers. I have had a letter from him saying that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not quite sure what the Hon Member means by 'ignored before it was referred?

HON J BOSSANO:

If the Hon Financial Secretary did not admit my letter to him as a valid objection under the provisions of the Public Health Ordinance, then what was it he referred to the Attorney-General's Chambers on the 31st January? If he had already decided in December that it wasn't admissible what was it that he was referring to the Attorney-General's Chambers on the 31st January because if he had had the advice on the 31st January from the Attorney-General saying it was an admissible objection, there was nothing he could do about it, he had already ignored it the previous December. He decided first himself: "I don't have to pay any attention to this letter from the Leader of the Opposition because this is not a valid objection because it is not in respect of one hereditament", he doesn't tell me anything, he doesn't acknowledge receipt of my letter, I hear nothing from him and I wait and I wait until the 31st January and on the 31st January he seeks the advice of the Hon and Learned Attorney-General, on what did he seek the advice? It must have been on whether my objection of the 14th December was permissible or not permissible which means that he had decided first not to take notice of it and subsequently sought advise about whether he was right so he couldn't have been so sure about it himself if he needed to refer it to the Attorney-General. And the Attorney-General who is the expert to whom I addressed now to look in the Ordinance where I am supposed to see that it is perfectly clear, he takes from the 31st January to the 1st March to make up his mind whether my letter of the 14th December is an admissible objection or not because he doesn't tell me the answer until the 1st March. How can we have experts on the Government benches who are supposed to know all these things and I am a layman, Mr Speaker, I am not a lawyer, obviously a versatile layman but a layman nonetheless, and my reading of the law was that I could do it and I thought, well, if I cannot I will be told and I have got the time to do something else about it and I can only come to the conclusion, Mr Speaker, that, quite frankly, the Government's handling of this matter through their officials, obviously, who have been dealing with it is totally inadmissible, it makes a nonsense of the conscientious manner in which we tackle our responsibilities in the House and I really think it is quite shameful that they have not been able to come up with one single

reasonable argument and they still haven't answered why no attempt was made to produce an argument to the letter. Even if the letter didn't meet the requirements of the Public Health Ordinance there was nothing to stop the Hon Financial and Development Secretary saying: "I cannot consider it to be a proper objection but, in any case, I have looked at your argument and we don't think that your arguments would make sense even if they were in respect of one hereditament". That point still has not been answered. If, in fact, the point is valid in respect of one hereditament then I think the case for the delay until the 1st March is overwhelmingly clear and I stand by the motion, Mr Speaker.

Mr Speaker then put the question and ruled that the motion was a motion of no confidence in the Government and consequently the ex-officio Members of the House were precluded from voting in accordance with the proviso to Section 44(1) of the Gibraltar Constitution Order, 1969.

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

The Hon 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 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 following Hon Member was absent from the Chamber:

The Hon A J Canepa

There being an equality of votes the motion was lost.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move that this House do adjourn to the 23rd April when we will be taking the Estimates.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday 23rd April, 1985, at 10.30 am.

The adjournment of the House to Tuesday the 23rd April, 1985, at 10.30 am was taken at 8.15 pm on Wednesday the 27th March, 1985.