

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

27TH NOVEMBER, 1985

## REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Wednesday the 27th November, 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 OBE - Minister for Health and Housing  
The Hon H J Zammitt - Minister for Tourism  
The Hon Major F J Dellipiani ED - Minister for Public Works  
The Hon Dr R G Valarino - Minister for Labour and Social Security  
The Hon J B Perez - Minister for Municipal Services  
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services  
The Hon E Thistlethwaite QC - Attorney-General  
The Hon B Traynor - Financial and Development Secretary

### OPPOSITION:

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

### IN ATTENDANCE:

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

### PRAYER

Mr Speaker recited the prayer.

### CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 26th June, 1985, having been previously circulated, were taken as read and confirmed.

## DOCUMENTS LAID

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

The Charity Commissioners Report for 1984.

Ordered to lie.

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

The Gibraltar Registrar of Building Societies Annual Report, 1984.

Ordered to lie.

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

- (1) The Employment Survey Report - April, 1985.
- (2) The Principal Auditor's Report on the Accounts of the John Mackintosh Homes for the year ended 31st December, 1983.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 9 of 1984/85).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1985/86).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1985/86).
- (4) Supplementary Estimates Consolidated Fund (Excess Expenditure 1985/84).
- (5) Supplementary Estimates Consolidated Fund (No.1 of 1985/86).

- (6) Supplementary Estimates Improvement and Development Fund (No.1 of 1985/86).
- (7) The Principal Auditor's Report on the Accounts of Gibraltar Shiprepair Limited for the period ended 31st December, 1984.
- (8) The Accounts of the Gibraltar Museum for the period ending on the 31st March, 1985, together with the Chairman's Report thereon.
- (9) The Annual Report and Accounts of the Gibraltar Broadcasting Corporation - 1984-85.

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

#### THE ORDER OF THE DAY

#### MOTIONS

HON M K FEATHERSTONE:

Sir, I beg to move the following motion: 'This House resolves that the Financial and Development Secretary be authorised under the provisions of Section 9 of the Public Finance (Control and Audit) Ordinance, 1977 (No.9 of 1977) to give in writing in the name and on behalf of the Government a guarantee to Barclays Bank PLC of 84/90 Main Street, Gibraltar, for an amount not exceeding £175,000 to secure any overdraft facilities given by the said Barclays Bank PLC to the Gibraltar Quarry Company Limited'. Sir, the Quarry Company has been broadening the base of its operations over the last eight or nine months and so to do has needed to purchase new equipment, new machinery. The position at the moment is that the Company although it is still making a loss, is moving towards production viability and in fact in the last four months has increased its output by over 100% but at the time we are at the moment they still need extended financial facilities and this is the reason why it is requested that the overdraft facilities be increased to £175,000. I am hopeful, Sir, that the Company will move into profit within the next eighteen months especially with the increased amount of development which we are seeing in

Gibraltar and of which we are securing a fair measure of the materials required such as aggregate which is the new item into which we have gone, and sand. I therefore commend the motion to the House, Sir.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon the Minister for Health and Housing.

HON J C PEREZ:

Mr Speaker, it is not often that one takes the advice of Members opposite but after reading the Hansard of what happened the last time the Hon Member came with a similar motion for the Quarry Company, he suggested that we might have done better to abstain rather than to vote against and after discussing it with my colleagues we have decided to take his advice, we will abstain on it rather than vote against because in principle we support the Quarry Company, we think it can be made viable, we think it has got a future but we don't think that the Hon Member is tackling the situation as he should. For example, when he last came to the House with a similar motion he said - I won't quote because I cannot find it - but I will certainly tell the Hon Member what he said and that is that the Government was already buying sand for all its projects from the Quarry Company. My understanding of the matter is that that is not the case. My understanding of the matter is that Government not always buys its own sand from its own company and this itself is something which we on this side of the House don't think should happen. The Government should be buying all the materials that it needs in this respect from its own company. Another issue which we raised at the time and which is still relevant is that we think that the motion should be accompanied by a commitment on the part of the Government to allow the Company to expand in other areas. We have gone through this issue a couple of times in the House and the position of the Government is quite clear but I am afraid we cannot give full-hearted support to the motion of the Hon Member unless he can give us a commitment that if the Company finds it necessary to enter into other areas in the private sector to be able to develop it doesn't do so because unless the Company is not given this freedom, Mr Speaker, it cannot be held accountable for covering the deficits that it holds and it is no use voting more money for the Company unless it is not accompanied by a policy which will give the Company freedom to operate as any other company in the private sector. I would also like clarification as to whether it is the bank that is asking a guarantee of the Government or is it the policy of the Government to bring every such issue to the House of Assembly when it concerns a publicly-owned company.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Sir, as far as the Government purchasing from the Gibraltar Quarry Company, the main purchaser is the Public Works Department and they have been a good customer of the Quarry Company and are still a good customer. The only time when they have purchased, to my knowledge, from outside the Quarry Company was an order that was placed some considerable time ago, over two years ago, which was only supplied recently and at that time the Quarry Company when the order was originally placed was not in a position to fulfil the order but since the last nine months at least, all the requirements of aggregate and sand by the Public Works Department have been purchased from the Gibraltar Quarry Company.

HON J C PEREZ:

Will the Hon Member give way? I am sorry that the Hon the Minister for Public Works is not here but I have been led to believe that that is not the case. I would like the Hon Member to commit himself to look at the matter if I can verify that my information is right and that his is wrong because I have been led to believe by the Public Works Department that that is not the case, that not all the sand and not all the gravel is being bought from the Gibraltar Quarry Company and not because the Gibraltar Quarry Company is not able to supply it.

HON M K FEATHERSTONE:

I shall be very happy to look into the matter as the Hon Member requires and wishes and I hope we can come to an amicable solution. The second point that the Hon Member mentioned is the widening of the sphere of operation of the Quarry Company. The Quarry Company at the moment is adequately taken up with the production of aggregate and sand. If in the future it should widen its capabilities this will be something which Government will look at very carefully. The third point that the Hon Member mentioned was, was it the bank that was requiring the overdraft facility to be guaranteed by Government, that is so.

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 motion was accordingly passed.

HON DR R G VALARINO:

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

MR SPEAKER:

Yes, I think Members will authorise the non-reading as the motion has been circulated. You can proceed with the motion.

HON DR R G VALARINO:

Mr Speaker, I am required by the Social Insurance Ordinance to review annually the rates of benefits and contributions under the Ordinance, having regard to the general level of earnings and prices. In determining the standard rate of Old Age Pension for a married couple, this must be fixed at not less than 50% of the average weekly earnings of weekly paid full-time employees in Gibraltar, or 33½% for a single person. At the time of carrying out this review, the latest available Employment Survey was that for October 1984, which gave the average weekly earnings as £125.58. On this basis it is proposed that the standard rate of Old Age Pension for 1986 be £62.80 (instead of £60.90) for a married couple and £41.90 (instead of £40.60) for a single person. These new rates represent increases at approximately 3%. All other benefits under the Ordinance will be increased by the same percentage

approximately, except once again for Maternity and Death Grants which remain unchanged. The proposed increases in benefits are estimated to bring the total expenditure on the Social Insurance Fund for 1986 to £6.86m. This figure includes the cost of Spanish pensions at the frozen rates. I must make it perfectly clear that this review does not take account of the Spanish pensioners entitlement to the higher rates of benefits as from the date of Spanish accession to the European Community. This is a matter which is still under discussion with the UK Government. The value of the Social Insurance Fund stood at £12.4 million in June 1985. This still represents under two years expenditure at the proposed 1986 rates of benefit and it is proposed to continue the policy of increasing contributions to an extent which will provide a surplus of income over expenditure. It is therefore proposed that in 1986 contributions should be raised by £1.23 a week for an adult (£0.62 from the employer and £0.61 from the employee). These increases will produce an estimated surplus of income over expenditure of £263,460. In percentage terms the increases represent 10% for all adults as against 15% for men and 25% for women respectively in 1985. As I mentioned last year, it would have been desirable to produce a higher surplus in 1985 in order to build towards an adequate contingency reserve for the future, but the increases were then kept as low as possible in order to cushion the effect of having to bring women's contributions in line with men's contributions from 1 January, 1985. There are other measures which are being taken on social security which are not relevant to this motion but which I would nevertheless like to bring to the notice of the House. Under the Social Insurance (Insurability and Special Classes) Regulations, persons working for less than 4 hours a week, or 8 hours in the case of domestics, are not liable for the payment of social insurance contributions. A large percentage of persons in part-time employment in Gibraltar are females, and as a result of the increases in female contributions which I mentioned previously, part-time work has become unattractive. In the UK, where social insurance contributions are earnings-related, such contributions are not payable if earnings from employment are less than £34 per week. It has accordingly been decided to amend the Regulations so that all persons working for less than 15 hours per week should be exempted from the payment of social insurance contributions. They will, however, still be liable for contributions under the Employment Injuries Insurance Ordinance and the Group Practice Medical Scheme. The pension rights of those persons in part-time employment of less than 15 hours who are contributors at present, eg part-time teachers, would be safeguarded as under existing legislation they may opt to become voluntary contributors at the same rate of contribution as at present. Legislation provides for the granting of credits to insured persons in full-time education, unpaid

apprenticeships, full-time training and initial training with the Gibraltar Regiment. This provision has always been interpreted as applying only to persons who receive no earnings from their employment while they are studying or training. In the case of a recent appeal to the Social Insurance Appeals Board, this interpretation was not accepted and the Board ruled that a Government employee who had obtained a scholarship for further studies and was released on full pay by the Government to pursue those studies, was entitled to credits. The relevant regulations are accordingly being amended to make it clear that such credits will not be allowed to persons who are in receipt of earnings from their employment during their studies or training. At the same time, the Regulations are being amended to exclude the provision for granting credits for initial training with the Gibraltar Regiment, which was originally introduced to cover compulsory military service. I trust that what I have said will enable the House to support my motion. I will subsequently be presenting two other motions under the Employment Injuries Ordinance and the Non-Contributory Social Insurance Benefit and Unemployment Ordinance which are also part of the annual review of the Social Security Scheme. Sir, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon the Minister for Labour and Social Security.

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

HON DR R G VALARINO:

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

MR SPEAKER:

Yes, permission is granted.

HON DR R G VALARINO:

Sir, following on the previous motion, I am now moving this one which is intended to increase benefits under the Employment Injuries Insurance Ordinance by about 3% in January, 1986, in line with the increase in benefits under the Social Insurance Ordinance. Injury Benefit for a man with a dependent wife goes up from £45.85 to £47.46 per week, with additions for children; gratuity on death due to an industrial accident from £10,400 to £10,710 and likewise for a 100% disability (or a weekly pension of £38.15 instead of £36.75.) The weekly contributions under this Ordinance currently stand at 20p



(10p each from employer and employee). Expenditure on benefits continues to increase and it is accordingly proposed to increase contributions for 1986 by 10%, ie 1p increase for each employer and employee. Sir, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon the Minister for Labour and Social Security.

HON J BOSSANO:

Mr Speaker, I would like to make a point that is relevant to the question of insurance contributions and rates. I think we would like to have provided to us up-to-date statistics of the state of this fund. I think it is some time since there was a Report from the Department which used to come out I think once every two years and before that once every year showing the state of the Funds. We are obviously in favour of the principle of up-dating the benefits every year and they have to be financed but just to be told, as it were, in the course of the Member's contribution that there are £12m in the Funds in June this year and that the surplus is £263,000 is not conducive to a proper assessment of the money that is required or the money that is being spent and what we would like is to be provided, not necessarily during the course of the meeting, but when the Hon Member can do it, to be given an up-date on the state of the different Funds in the social insurance.

HON DR R G VALARINO:

Mr Speaker, I will do so as far as I am able. General reviews are every five years so the next general review will be due now but in the meantime I will provide the Hon Member with as much information as I have.

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

HON DR R G VALARINO:

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

MR SPEAKER:

It is not as long as the others but I think you should still be given consent, most certainly.

HON DR R G VALARINO:

Mr Speaker, this is the third and last motion in the annual series and deals with Unemployment Benefit. As the House is aware, Retirement Pensions as well as Elderly Persons Pensions are now dealt with under the Supplementary Benefits Scheme and all benefits payable under the scheme will be increased by an average of 3% as from 1 January 1986. The motion therefore is only concerned with Unemployment Benefits which in line with other increases will also be increased by about 3%. The basic weekly rate of this benefit will go up from £30 to £30.90 a week with increases of £15.60 for wife and £6.30 per child. Sir, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion moved by the Hon the Minister for Labour and Social Security.

HON J BOSSANO:

I think, Mr Speaker, here we are at odds with the Government because the annual re-rating of benefits, which is what we are doing, as regards the Social Insurance Pensions and as regards Industrial Injury is fair enough but I think when we are talking about Unemployment Benefits we have in the past questioned the adequacy of the system that we have in Gibraltar and I think we have in the past questioned the adequacy of the level that it provides. The situation appears to us to be one where the Government is not taking into account that the basic change that Gibraltar has gone through recently and is going through now is that continuity of employment for life is no longer the normal thing it used to be and I think the adequacy of our social insurance system when it is related to unemployment benefits in the past was that in fact it was not unreasonable to say to somebody irrespective of how much you contribute or how long you contribute for, rather, that is to say, you can be a contributor for twenty years or for thirty weeks and you still get thirteen weeks unemployment benefit. I have always believed myself that the reason why that system operated in Gibraltar where it was at odds with what is normal in other Community Members was because it was very unusual for anybody to be more than three months out of work in the past in Gibraltar and if they went without work for three months, generally, they fell into a category of people whom one could say would find very great difficulty in getting jobs anyway, it wasn't a question that they didn't get it for three months but they got it after four months. I think we have seen a circular change in the economy taking place as a result of the rundown of MOD employment where with private sector employment it is more of a fluctuating employment and people may have longer periods of

unemployment and may be changing jobs more than once in their lives. I think the days when somebody went into a job as a fifteen year old apprentice and came out as a sixty-five year old retired employee with a gold watch, those days are fast disappearing if they haven't disappeared already and it is in that context that we feel that the Government needs to do something more than simply re-rate benefits and re-rate contributions when it comes to unemployment benefits. I think the unemployment benefit situation and the conditions qualifying for unemployment benefit and the length for which it is paid needs to be looked at in the light of a changing economic environment and a changing labour environment which is different in 1985 from what it was up to 1980 and which every indication that we have shows that it is going to be continuing to be different and is going to be more volatile in the future than it has been in the past and therefore we are using this opportunity to point out that certainly we are not happy with either the level of unemployment benefits or the way the system operates and we feel the Government needs to do more than simply come here once a year and re-rate it because whereas with the Old Age Pension one can say that they do compare favourably with what is available elsewhere, there is no question about that, I do not think the same is true of unemployment.

HON DR R G VALARINO:

Mr Speaker, I thank the Hon Member for his intervention, I take his meaning. In fact, he has broken it up into two, basically in one sentence he talks about the increase is not enough and in another way he talks about the length is not enough. Personally I feel the length is enough because after this they go on to supplementary funds which very often are higher than the unemployment benefit but I will certainly look at the level of which unemployment benefits could be raised to provide a more satisfactory element for this type of people. I will look into it and, if I may, once I do look at it I will let the Hon Member know. Thank you.

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 move that: 'This House takes note of the Accounts of Gibraltar Shiprepair Limited for the period ended 31st December, 1984'. It might be helpful if I identify first some of the main features of the accounts as presented and then go on to speak briefly about the Company's financial prospects. The accounts relate to a period when the Company was incurring

start-up costs prior to commencement of trading operations on the 1st January this year. All initial expenditure properly chargeable to revenue accounts have been shown in the profit and loss account as an exceptional item amounting to £1.9m. As there was no trading income for this period this is shown as a loss. I should point out that both the original ATA proposals and the consultant's report assumed that start-up expenditures were to be charged to the Gibraltar Government and not the GSL Account. On that basis the £1.9m would not have featured as a retained loss for the year. However, to comply with the requirements of Section 6 of the Gibraltar Shiprepair Limited Ordinance, 1983, it was necessary for this to be shown in the Company accounts and financed by the issue of shares. The figure of £1.9m represents only a proportion of the total funds advanced to the Company during this period. Hon Members will note from the statement on page 8 of the accounts that £5.3m was advanced from the Government, the difference between the two figures mainly representing expenditure on those assets which were proper to be charged to the balance sheet of the Company, that is excluding those fixed assets which remain in Government ownership and that amounts to just under £3.4m. While the figure of £5.3m is the amount of funding from the Gibraltar Government at the balance sheet date, this in turn represents only a proportion although a major proportion of the total ODA funds on the project which were committed during this period. A summary of ODA's funded expenditure up to 31st December, 1984, is also provided with the accounts as a supplementary statement and the House will note that this amounted to approximately £6.5m. I now turn to the share issue. There was an initial issue of shares of £1,000 when the Company was incorporated. Subsequently the Government advanced funds to the Company under Section 10(1)(e) of the Public Finance Ordinance with a view to the recovery to this advance in return for the issue of further shares and this was done prior to the end of the Government's financial year in compliance with the said Section 10(1)(e) and thus after the balance sheet date for the GSL accounts, reference is made to this in note No.1 on page 9 of the accounts. The issue was of 11,999,000 shares making a total issue of 12,000,000 but it was only partly paid to the value of £9,906,000 and the latter figure will be shown in the balance sheet of the Government accounts for 1984/85 when these are presented to the House in due course. However, subsequent to the 31st March this year, the Government had subscribed for a further £5m of shares to finance on-going operations during this financial year and this is also referred to in the note on page 9 where there is a reference to a total subscription of £16,999,000, that is to say, a total of 17,000,000 less the initial share issue of £1,000. I dealt briefly during questions with the rate of draw down of the £28m, the funds allocated by ODA to the

commercialisation project. At the end of September the total amount spent or committed was approximately £21m. This figure, of course, includes all items of expenditure including those which will be charged to the Company's balance sheet in due course and those which will not be charged to the Company's balance sheet because they represent expenditure on fixed assets which will remain in the ownership of the Gibraltar Government. As far as the future rate at which ODA funds are committed, as I mentioned, it is expected that by the end of this year the total amount of ODA funds committed should rise to some £24m. Thereafter the rate of spend of course depends on the Company's current and, indeed, future trading prospects and since the beginning of this financial year the company has received income from the repair of ships and yachts and other trading activities so that the date at which the source of capital provided by the ODA for running expenses and for expenditure on fixed assets is exhausted really depends on several factors, namely, income from sales as I have just mentioned; cost overruns on fixed assets. No. 1 dock in particular; and other expenditure variances both favourable and unfavourable compared with budget. I will now say something more on these three points. As regards the current year, which is the first year of trading, the company was broadly on target at the end of September for its anticipated performance for the year as a whole, that is to say, the expected loss of about £3m for the first year of operation compares closely with that in the original forecast. I mentioned the value of RFA work this year, which is some £3m and that will be less than forecast but this will be compensated by higher than expected commercial sales this year which should almost double the original target of £1.5m. Overall, taking account of work on smaller MOD vessels and other craft, sales income for the year will be over £1m higher than planned for. Against this one must consider higher overhead costs as well as the larger element of sub-contract work, notably on RFA's. As I have said on previous occasions, Mr Speaker, the deployment of RFA work is subject to fluctuations in MOD requirements on a month-to-month and, indeed, year-to-year basis but that does not imply any threat to the assurance received from HMG that RFA work to the value of £14m at 1983 prices will be given to the Company. Notwithstanding that, I have to say that the reduced volume of RFA work during 1985 has had a fairly significant effect on the level of losses. Fortunately the company expects this imbalance to be redressed in 1986 and 1987. As I said, the overall results in terms of the number of vessels repaired exceeded expectations with work on a total of over 200 ships and the number of dockings should be on target for the first year of operations despite the delay experienced in commissioning No.1 dock. On the expenditure side, the major variance is in capital expenditure on major civil works, mainly No.1 dock. The exact amount is difficult to quantify at this stage as it is

dependent on claims and counter-claims with contractors but the net result could be significant. This variance will not affect the Company's balance sheet nor its trading account but, other things being equal, would have implications for the rate of draw-down of ODA funds. However, as I have already pointed out, that in turn will depend on the Company's trading prospects and performance in 1986. Other major variances in expenditure favourable and adverse, taking 1984 and 1985 together, have been firstly, capital equipment costs which have exceeded budget by some £300,000; general relocation and refurbishment costs which are up by some £800,000. On the other hand not all contingency provisions were fully taken up and this as well as a 'freeze' on certain minor works should produce an offsetting saving of around £600,000. Finally, operating costs have generally been higher than expected. Given the obsolescent state of the yard, a much higher level of expenditure on maintenance has had to be sustained throughout the year which also reduced revenue earning capacity. Shortages of labour have led to the use of daily rated sub-contractors and not infrequent high levels of overtime. Utility costs, notably water as well as general office expenses, were underbudgeted. The Company were able to obtain rating relief but, as a private company, were not excused the extra cost of payment of stamp duty. Overall, the net increase in operating expenditures will account this year for around £0.75m. I have already spoken briefly, Mr Speaker, in fact we discussed questions of employment and productivity levels and I gave figures for employment to date. On that general question I would only add that there is clearly a critical relationship, an inter-relationship between numbers employed, productivity and projected sales levels in determining the progress towards viability for the Company. Obviously the availability and programming of RFA work will also have an important bearing on operations next year. Likewise, overhead costs including electricity and water. Nevertheless, Mr Speaker, I think it is fair to conclude on a note of cautious optimism and say that the company confidently expects to reduce its losses next year in line with the original forecast subject to the assumptions I have already mentioned affecting the sensitive areas of sales, employment, productivity and overhead costs.

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 think it is a good thing, Mr Speaker, that the Hon Financial and Development Secretary has asked us to take note of it otherwise we might have missed it. The accounts which we are being asked to take note of gave us an immediate source for



concern when they were made available because of the indication that even less information was likely to be forthcoming in future, that is to say, that because this year that we are looking at, that is, 1985, there were no commercial operations involved, there was a supplementary statement giving additional information which will not appear in future years and therefore I must say that we are grateful to the Financial and Development Secretary for giving us more information, quite frankly, then we were expecting on the basis of what has been circulated and I think the House must have that information if we are going to have informed debate. Clearly, the Government itself will want to make sure that it is keeping a close watch on the progress of the company but the future of the company is important for all of us in the House and outside the House and therefore we have all got an interest. It isn't just like any other business in Gibraltar primarily because of the level of employment that it provides which the Financial and Development Secretary has mentioned. We have a situation where the competition provided by the yard has had an impact on the Ship-repair Yard that existed previously and we know that that business will not be continuing and clearly in that situation it was something that was foreseen by the consultants initially, that it would be difficult for two competing yards to be successful. But the prospects for the yard are important in the kind of impact it would make on the total employment situation in Gibraltar because whereas the other yard that we are talking about is going to produce a job loss in the region of twenty-five which may not be too difficult to absorb, clearly if it was a question of trying to absorb seven hundred people anywhere else it would create a major economic and social problem in Gibraltar and therefore the most important thing about the accounts, as far as we are concerned, is the prospects for continuity of employment in the company. I think, therefore, Mr Speaker, that talking to the accounts we are supposed to be noting, is much less interesting than talking to the contribution of the Financial and Development Secretary which is much more up-to-date because as the Hon Member has mentioned, no doubt through experience, he has made sure this time round that he is complying with the Shiprepair Ordinance and undoubtedly the provisions of the Ordinance, as it was passed in the House of Assembly didn't leave much leeway or flexibility, there were basically only two things that could be done with the £28m, either buy shares or provide assets which would be Government-owned assets and not GSL-owned assets and even that modification came about as a result of a suggestion from me at the time, the original proposal was that the only thing they could do was buy shares. As the Financial and Development Secretary knows, we have disputed his interpretation of Clause 10(1)(e) of the Finance (Control and Audit) Ordinance and no doubt we shall have an opportunity to debate

the matter when the audited accounts for the year 1984/85 are presented to the House and we shall have to see what the Auditor has to say about the interpretation of the advance of funds because, in fact, what we are seeing now is the belated explanation of the Hon Member when after a long series of questions in the House eventually we brought a motion here and at the very last minute, almost as if by magic, he produced this Clause to explain what he had been doing. I think he had only just discovered himself then what he had been doing and what we have got is, in fact, that the Company has been financed in 1985 by loans from the Government of Gibraltar and those loans have been repaid within the Government's 1984/85 financial year by the issue of shares. It may be a technical point but I think even technical departures from laws are not a good thing, that is what we feel on this side of the House, Mr Speaker. The Government has got a majority, on a thing like this in any case it is not a question of having a majority because if the law requires change then the thing to do is to change the law not simply to ignore it on the grounds that you are only technically breaking the law. But, as I say, I think, having waited this long, we can wait till we see the audited accounts for 1984/85 on that point. I think on the more important and interesting point which is on the performance of the company, the accounts that we are being asked to note would in fact have given us no indication at all of the performance because the accounts deal with the preparatory work up to December, 1984 and it is difficult to do an exact comparison between this and this because as the Hon Member says here, the preparatory work was supposed to be financed directly by the Government of Gibraltar and is shown as such and it is not shown as part of the expenditure of the first year of operation. But it is possible to make some sort of analysis of how close are we and I think that is the only thing that one can do because, in fact, essentially, what the Government did by accepting these proposals and by going to an election on the basis that if they got elected they would accept these proposals, is to take the word of those who prepared it that it would work. I think it would be unfair to expect anybody to be able to predict down to the last penny or down to the last ship or down to the last man hour the performance into the future, there is nobody in the world who could produce that situation. We had that kind of situation under a Naval Dockyard because naval work was pre-programmed years ahead of time and you could actually predict the day of the month in two years and the name of the ship that was going to arrive and we understand that in any commercial operation there are parameters within which you have to work but the credibility of those parameters are necessarily determined by two factors. One is how close you come to the prediction and how realistic does the prediction sound when

you are looking at it before it happens and not with the benefit of hindsight. We were sceptical of the predictions here and clearly we are interested to see how close to those predictions the company has performed and is performing. We certainly think from our knowledge of the feelings of many people in the yard that the Controller, to which they have made reference, is very necessary. There are clearly in a situation like this possibilities for imaginative spending of money, Mr Speaker, if one could put it in an elegant fashion, and it is not very difficult. I am not sure whether the Financial and Development Secretary would be in a position to tell us, for example, what do the consultancy fees of £161,000 consist of or who were they being paid for because as far as we can tell at this stage, in December 1984, we were not employing consultants anymore and as far as we can recall, up to December 1984, we were asking questions in the House and were being told that the cost of A & P Appledore's engagement was still being met directly by ODA and not from the £28m. The computer system, Mr Speaker, which has proved to be, I think, slightly more expensive than anticipated, in the region of 25%, I understand is not computing very well. I think we would like to know, given that we are now referring to expenditure in 1984 and the Hon Member has been kind enough to tell us what the state of play was in September, 1985, can he tell us whether the computer that was bought for £4m in 1984 is computing in 1985 or is that still something that one needs to see how sound expenditure that was? Actually, I believe the promotional and public relations has turned out to be less than originally anticipated. I think that in looking at the situation we would like to have an opportunity to be able to question things that appear to us to be slightly, shall we say, at odds. We wouldn't expect the Hon Financial and Development Secretary to be able to tell us down to the last pound. We can take it that if we are talking about wages and salaries, well, that is obvious, the wages and salaries are based on the hourly rate, the number of hours that people work and the numbers employed, there is nothing to question there. The training, again, seems to be much higher a figure than was originally envisaged whereas the numbers of trainees is much lower. In fact, the company has taken in less trainees than they predicted, the average for the first year of operation was that out of a total workforce of some 755 for the year's average, I think something like 90 were supposed to be trainees and apprentices and the figure is two-thirds of that, we are talking about a situation where we have got a total of 60. From my knowledge of the yard I don't remember all that many trainees in 1984 and the sum of money here is much greater than was originally being put down for trainees and clearly we believe that training is important. We believe that given the reason for the £28m, given the reason for setting up the commercial dockyard, it may not be the most commercially sound

thing to train people, it may be the most commercially sound thing to recruit people already trained from outside Gibraltar but from the point of view of the value of the operation to Gibraltar it is a more valuable operation if it is providing training opportunities for our youngsters and giving them a future in the yard rather than a situation where if one looked at it exclusively from a profit point of view, the most profitable thing to do might be to import skilled labour rather than to provide training opportunities for our own people. As I remember, one of the reasons that was given in the presentation when the selection was announced by the consultants appointed by the Government of Gibraltar at the time, in the evaluation of the different elements of the different tenders, the Lisnave tender, the Bland tender and the Appledore tender, in that evaluation one of the reasons why Appledore scored much better than the others was because they included much greater emphasis on trainees and a much greater amount of money allocated for taking in apprentices and trainees. There was a series of criteria provided by the consultants at the time and on the criteria of training Appledore's proposals were above everybody else's. So, clearly, if they got the tender on the basis that they were providing more trainees than other people then we want to know whether they are doing it and if they are not doing it we want to know why they are not doing it because, obviously, it would be an unfair situation, like in any other tender situation, if somebody builds a rosy picture and wins on the basis of the positive points and then does not deliver the things that have won him the contract. I also think that it is important in the context of the figure the Hon Member has given us about £24m being spent by the end of the year that he should clarify whether he is actually talking about £24m being spent as such or £24m being allocated out of the £28m meaning that the Government might have used, say, £2m to buy shares in the company but those £2m are in liquid assets that the company has got which has not actually been spent. Are we saying we expect to have spent £24m of the £28m by the end of the year or are we saying that there may be £4m or £5m which haven't been spent but which as far as the Government of Gibraltar is concerned they have now passed over to GSL by buying GSL shares? I think we would also like to know of the remaining £4m how much of it still needs to be used by the Government of Gibraltar on the investment in assets which remain their responsibility. That is, we need to know whether the whole of the £4m is available to GSL or only part of it is available to GSL? And within the £24m by the end of the year, are we saying that the share capital continues to be £17m, in which case we are talking about £7m being spent by the Government of Gibraltar out of the £24m, or are we saying that in fact more than £17m has been made available to GSL? I believe the original projection was that the Government of Gibraltar would

spend £9.1m in here and this would be spent as to £4.5m in the pre-opening year which would now be 1984 and previously was 1983, and £4.4m in the first year of operation. As far as the original projections were concerned, forgetting that we are a year behind time and reading 1984/85 for 1983/84, we would now be in a situation where £8.9m would have been spent directly by the Government of Gibraltar. Since we know from the statement of the Financial and Development Secretary and the accounts themselves that there are £2m of start-up costs which would have fallen to be paid by the Government of Gibraltar if it had not been done as required by the Ordinance, then we could say that the £2m in question would need to be deducted from the £9.1m, that is to say, if the original situation was that the Government of Gibraltar was meeting £9m and buying £19m of shares and the situation now is that we have got £2m shown in the profit and loss account because those were start-up costs which have now had to be put through the accounts to comply with the Ordinance, then that adjustment would require that instead of having £9m by the Government of Gibraltar and £19m of shares to make the £28m, we should have £7m by the Government of Gibraltar and £21m for shares. In order to arrive at that equation one would then need to have confirmation of the points that I have made a few minutes ago, namely, that the £17m shares in issue plus the £4m that remains to be unspent would come to the £21m and therefore that is the only way, as we see it, that one could square the accounts and the explanation of the Financial and Development Secretary with the answer we were already given previously about £24m having been spent and £4m still being available. Again, that would show that the share issue would be as planned except for the adjustment of the £2m required by the accounts for 1984 now being presented. However, in the company's own accounts independent of the start-up costs which we have been told by the Financial and Development Secretary should have been part of the Government of Gibraltar £4½m expenditure, the company itself was spending £3.7m and therefore we are talking about a situation where the projection was that prior to the commencement of ship-repairing as such there was envisaged total expenditure of £8.2m at 1983 prices made up of £3.7m by GSL and £4.2m by the Government of Gibraltar and the Government of Gibraltar was responsible for the start-up costs. We now have a situation where instead of £8.2m the expenditure in the calendar year 1984 has been £6½m which is a shortfall of £1.7m notwithstanding the fact that they are overruns. I think that requires an explanation because if we have spent £1.7m less and we have paid more for a number of things, including the civil engineering work and other items of expenditure, but on the whole I think the Hon Member talked about an overrun of the order of £¾m, did I get it correctly?

#### HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, if the Hon Member will give way, I did mention that there had been an overrun of approximately £¾m on operating expenditure, I identified some items and if he wishes me to repeat them I will, if I can find my place, but that was the figure for operating expenditure.

#### HON J BOSSANO:

I think, if I remember rightly, he was saying that this was the net figure taking into account that although some items had finished up costing more there had been under-expenditure in other areas and this was the net figure. I think he said that, Mr Speaker. Looking at that situation I am rather puzzled to understand what is it that should have happened prior to the yard opening its doors, according to the original projections, which hasn't happened because if we have spent £1.7m less and yet we have overrun on costs and we have nevertheless managed to do a total of 200 vessels instead of 36, I think something somewhere doesn't make sense and I wish the Financial and Development Secretary would explain it to us so that we can see how closely the developing situation in the pre-opening phase, because one would have thought, Mr Speaker, logically, that if in the preparatory phase up to December, 1984, less money was spent because things fell behind, then that would have reduced the amount of work done in 1985 by the yard and, if anything, it would have been an explanation if less vessels had been handled but if more vessels have been handled then it suggests that there wasn't such a delay in the December/January handing-over period and therefore there appears to be a situation where we need to know are we talking about having saved £1.7m which is available for other things or are we talking about having underspent £1.7m up to December but which might have got spent in January or February? It makes a big difference whether we are talking about one thing or we are talking about the other because clearly if we are talking about underspending by December something because there was slippage but would have been spent anyway then we can say: 'Right, the preparatory work for the yard still came to £8.2m'. If we are talking about a situation where the preparatory work for the yard came to £6.5m, then the yard started off in January with £1.7m more in the kitty than they had anticipated. Just like, for example, when the Hon Member mentioned in passing the question of the rates not having to be paid because of the decision of the Government to grant development aid status to the company and exempt it from payment of rates in the first year. Of course, the significance of that is that if you are talking about is the company on target for its projected £3m deficit, you then have to ask yourself: Is the deficit of £3m comparable if in the original

deficit they had to pay £½m of rates and in the actual deficit they haven't had to pay £½m of rates? To test the performance one would have to equate like with like and the reality is that if they had paid the rates as they had projected, then on the figures of the Financial and Development Secretary, the loss would have been £3½m not £2.9m. The original projection was a loss of £2.9m inclusive of £½m of rates, exclusive of the £½m of rates the loss was £2.4m. If we are talking now about losing £3m instead of £2.4m then we are talking about a level of loss which is 25% higher than predicted notwithstanding the fact that, generally speaking, the productivity levels are on target, notwithstanding the fact that the number of ships handled are considerably higher than anticipated to the extent that the commercial work has offset a shortage of RFA work and notwithstanding the fact that less people have been employed and that therefore on the basis of the original projections for salary costs, that is, the projections were made, Mr Speaker, here on the same hourly rates that are being paid today which is the importance of the question that we have been putting to the Hon Member. Because if we were doing a fair job of assessing what is taking place then, clearly, if there was a labour cost of £6m for wages and salaries and there had been a 5% increase last January as was claimed by the workforce, then you would have to say: 'Well, yes, the figure that has come out is 5% higher than the £6.1m because the wages have gone up by 5%'. But if the wages have not gone up by 5%, they have not gone up at all, the company's response to the 5% claim was that wages were already too high and they offered to reduce them because they have got this nice way of going about negotiating, the first thing they offer you is a pay cut to get you in the right frame of mind, it is called commercial management, Mr Speaker, and then they improve the offer to a wage freeze, you have got to do things in stages. And then, eventually, I suppose in a bout of magnanimity on the part of Mr Brian Abbott, he came up with 1.7% with the proviso that people had to agree to be paid once every two weeks. When people pointed out that in Gibraltar we buy our groceries on tick and pay every Friday, he then said that in that case if he had to pay every Friday he was reducing his offer by a penny an hour and that is the state of play at the moment and has been since July this year and for the information of the House, I can tell the House that the latest position is that the workforce have asked that the matter be referred to ACAS who seems to have a particular knack about these things, in the hope that something more reasonable will transpire. But the point is, of course, that we have asked in the House on a number of occasions what are the hourly rates to demonstrate that if we were comparing, for example, wage costs, overtime, we would need to do an adjustment for increases in basic wages. There has been a situation of some movement in the company because people have been promoted and one thing clearly has nothing to do with the other, that is to say, the

fact that some people, for example, went in as trainee welders on a rate of pay and came out as welders, means that they are getting paid more as welders than they were getting as trainee welders and since there were in January more people in training than there were in July then, clearly, in July the wage costs are higher because in July it includes a higher proportion of skilled people and in January it included a higher proportion of unskilled people who were undergoing conversion courses coming out of the MOD, for example, as shipwrights and having to go through a transformation course of three months to be trained for something else. During that three month period they were paid the labourers' rate, when they came out of it they were paid a craft rate. The point is that the craft rate and the labourers' rate has been the same throughout the period, it is just that the proportions of people have changed as a result of that training process. We feel, therefore, that in the context of the information that the Hon Financial and Development Secretary has given us, rather than in the information that is in the accounts because the reality is, Mr Speaker, that it is very difficult, really, to confine oneself to talking about these accounts because these accounts show no income, they just show expenditure and apart from some odd things, that I have mentioned about the computer or the training, that strikes one from the knowledge that one has of the operation, apart from that there is really nothing that one can do with this except 'well, let us wait and see what happens in the first year of operation'. The indications from the Hon Financial and Development Secretary are that the first year of operation show or are likely to show more or less the predicted level of loss on the profit and loss account and that this gives us cause for a certain amount of hopeful optimism, shall we say, I think I caught his mood rightly.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Cautious optimism.

HON J BOSSANO:

Cautious optimism, I am not sure whether that is higher than hopeful or lower than hopeful. I am being then by reference to the Hon Financial and Development Secretary, Mr Speaker, either more cautious or less hopeful whichever way one wants to look at it because what I am saying is that the £3m looks less attractive if one remembers that it included £½m payment in rates which is now excluded and if one remembers that there is an outstanding pay review claimed on the 2nd January, 1985, and still not settled the impact of which is not possible to assess without having some idea of the total labour cost which is, I think, one of the items the Financial and Development Secretary did not

mention in the figures that he gave us but without knowing that we don't know the order of cost that we would be talking about if we added to that something in the region of 5%. But if he knows the figure then he can work out what the turnout would be if that 5% actually was conceded and was implemented retrospectively as people expect it to be who work there and therefore he would then be able to say to himself how much of the £4m he would still have in 1986 to meet any deficits arising in 1986 if he had to use part of that £4m in order to finance a deficit in 1985. I am assuming all the time, Mr Speaker, that the £24m that he has talked about takes care of the £3m loss that he talks about, obviously. I have to assume that, if I didn't assume that there would be nothing left, we would be on £27m already, so I am assuming that the £3m is already included and taken into account in the £24m and therefore what I am trying to establish, for his benefit and mine, is, are we covered and can we say to ourselves: 'Well, we have got £4m for next year', or are we possibly in an area of uncertainty in that until we know what the final result of the 1985 pay review is, we don't know whether we are going to have £4m left for next year or whether we are going to need to make use of part of that £4m to satisfy additional labour costs for 1985. I think if he could address himself to that point and give us some indication of what he thinks the state of play is we would be grateful, Mr Speaker. I have to say that we also want to acknowledge the fact that he has given us the answers to the questions that we put in the earlier part of the House and that, clearly, as far as we are concerned, we only get upset when we don't get answers, not because the answers may not be what we expected them to be, and I think if he will keep up the excellent example that he has given today of answering all the questions on GSL then the GSL questions in the House will be much more harmonious than they have been in the past, Mr Speaker.

#### HON CHIEF MINISTER:

Mr Speaker, I would like to address myself on a few points of general consideration. I am sure that the Financial and Development Secretary will do his best to deal with the points raised by the Hon Member at some stage of which I didn't quite follow his mathematics but I will leave that to the Financial Secretary. On the 12th December, 1984, I made a statement as a result of the complaints about not answering questions and I stated: 'as sole shareholder, the Government will answer in the House major questions affecting the following:- (i) the issue and disposal of shares in the Company; (ii) the capital structure of the Company and of any subsidiaries; (iii) sources of long term finance for the Company and any subsidiaries; (iv) in general terms, the progress of the Company towards financial and commercial viability; (v) in general terms, payments out of the GSL Fund established under Section 6 of

the Ordinance'. I think the Financial Secretary has followed that very closely and that is why, perhaps, his statement has been so helpful. And then I went on to say: 'The Company's accounts will be audited and laid before the House of Assembly. There will be an opportunity to discuss Company affairs and the Government will introduce a motion on the accounts'. So, really, we have done what we committed to do and I think the difficulty this year is that we are dealing with a state of accounts which is non-working accounts in a way but the setting-up from the beginning, from the take-over of the yard to the end of the year when there was no activity other than perhaps they started with a slop barge early in January but even that was not operational. There are three or four points I want to make. In the first place, we attach of course, considerable importance as was shown by the stand that we took on this matter, to the viability of the yard and I know that certain efforts have been made, we hope that the Trade Unions and others interested will continue to see as I heard the foremen in very forceful manner: saying: 'We realise that we are no longer in a naval yard, we have realised we have to work hard but we want to work in conditions that are acceptable', and so on. I was very encouraged by some of the rather forceful statements made by honest and hardworking people whose reputation one knows about and not just malingerers. Of course we had to act on advice as to whether we thought the yard would be viable or not and that was, of course, a matter of judgement, time only will show whether the judgement was right or wrong but when the Hon Member was speaking I recalled that we haven't been satisfied just to take the advice of consultants and we had our own consultants who advised us and who advised us very well and that is Mr Michael Casey who came and advised and, in fact, helped us in the negotiations towards the package that we eventually got. I say that purely because we were not just satisfied with consultants of the highest repute but appointed by the ODA and we ourselves felt that we should take advice as well and I think that to that extent they were very helpful and made quite a number of suggestions which helped us considerably in the negotiations. Two other points, one is the question of the imaginative saving of money. There are some savings that could be made without much imagination one would have thought and therefore let me say to the House that I have impressed, which is all I can do as the representative of the shareholders, I have impressed on the Chairman of the Company the need to avoid unnecessary expenditure. The sort of things that annoys people to see we all know and the lack in some cases, and I make no particular allegation, the lack of sensitivity about certain things and how they are done. At every opportunity that I have had I have used my influence or my ability to express concern in those areas without any doubt so at least Hon Members must be aware that we are also conscious of these



matters which must be carefully looked at. The question of the Controller is one which I would want to consider having heard the matter now and having addressed the attention to it by the question asked by the Hon Mr Pilcher. I think, perhaps, in fairness to the Financial and Development Secretary I should like to state why the questions were not answered this morning and that was that he felt, as when statements are made, that he could deal with them in the course of the motion and the Speaker rightly ruled that it would not be possible to ask supplementaries in that way and that is why they were left for answer, it was not that they were not being answered it was just that they were not ready because he felt he could deal with that and the Speaker only saw the proposed replies five minutes before we came to the House. I think, in fairness to him, it was no attempt at avoiding to answer the questions, and in fact they were answered after lunch adjournment. The other point to which the Government attaches very great importance is the question of apprenticeships and this is another matter which, of course, once we have a full year of operation we will address ourselves to that as well. I entirely agree that, first of all, that that was one of the criteria and, secondly, that the more apprentices we have the more satisfied we can be of employing other people because otherwise there will be nobody ever to take over as the local people who have been employed there leave, their time expires, they have reached the age or whatever. We are very conscious of that and I have again on that matter followed some of the proposals and I will look into the matter very carefully again because I think it is very necessary, particularly if there is going to be a much bigger workforce because of the nature of the work, that the proportion of apprentices to the number of workers should be higher in order that people can go from an apprentice job to a skilled craft. I hope that this exercise which has been, as I say, only the first, will continue. To the extent that I made in my statement, we will still continue to follow the parameters for answering questions, there may come a time when there may be a difference as to whether the question should be answered or not but what I did say I hope will be honoured.

The House recessed at 5.35 pm.

The House resumed at 6.05 pm.

HON J E PILCHER:

Mr Speaker, I will address myself to the motion in front of us about the Gibraltar Shiprepair Limited. In doing so I won't actually go into the accounts as those have been more than amply dealt with by the Hon Leader of this side of the House.

There are, however, a couple of points, particularly in answer to the Hon and Learned Chief Minister, that he made in general terms. It is true that on the 12th December, 1984, the Hon and Learned Chief Minister made a statement to this House about the parameters that would be accepted by the Government on the questioning about the Gibraltar Shiprepair Limited. Indeed, as the major shareholder we thought it fit that they should accept questions on GSL and we particularly touched on the longterm financial viability of the company. In doing so we looked at the areas which we thought had a bearing on the longterm financial viability and we questioned accordingly. Unfortunately, during the past year our questions from this side of the House, particularly by me, on the Gibraltar Shiprepair Limited, have met with very little success. We have throughout 1985 been at loggerheads in trying to find out what we thought were minor logical points, not on the day-to-day running but on the major aspect of longterm viability. Questions like the ones that we have had answered today in the House were shelved by the Government over the past year with all sorts of excuses and all sorts of problems. We, honestly, on this side of the House believed that it was not a case of the Government benches not wanting to answer the question, it was a question that the Government benches did not know their answers themselves and we were particularly worried about how the company was being kept in check from both angles, the angle of the Controller which I have mentioned in the past and mentioned again today, and on the political responsibility which we thought was not, in fact, working. It has been this mistrust between one and the other side of the benches in the House of Assembly that has led to a lot of discussion and a lot of aggravation in this House when we have referred to the Gibraltar Shiprepair Limited. It is the questions that we have put today, Mr Speaker, that were the questions that we were trying to get answers, in fact, to do what we have been trying to do and what we started to do today. We started to gauge the performance of the company and to compare that with their performance which they said they would do in their proposals in the A & P Appledore Report of 1983. We are glad, and I think the Hon Leader of the Opposition has already stated that we are glad that for the first time today, in fact, we have had all the questions answered, we have had a good debate on the Gibraltar Shiprepair Limited and I agree with the Hon and Learned Chief Minister, he said that we would have this when the accounts were brought in front of the House, the only thing we disagree with him is that we didn't think that this should be done on a yearly basis but should be an on-going thing in question time so that we could gauge the viability throughout the year. But be that as it may we have, at least, today started on a good footing in order to be able to discuss things about the Gibraltar Shiprepair Limited. Mr Speaker, I think we have already mentioned this and the Leader of our party has

said this on many occasions, we also put our hopes in the future of GSL as the future of Gibraltar and it is not our intention or it is not our hope that GSL will fail so that we can say: 'It has failed and we predicted that it would fail'. But we have to be convinced, Mr Speaker, that the thing is being run properly and it has long term viability and, as such, up to today and, in fact, including today, we still do not accept that this is the case and this is why in the past, particularly when the Hon and Learned Chief Minister got up, I think, in his farewell speech to Sir David Williams, the last Governor, and certainly in the inaugural speech when the new Governor arrived, Sir Peter Terry, although I wasn't present, he was speaking on the fact that GSL looked to be a success 'accepted the advice and events have shown that it was sound'. Well, we don't have evidence even today that it is sound. We have evidence to prove that it is running and that it is running at a loss and the reasons why it is running at a loss have been made evident today. We would still want to continue our way of doing things and, in fact, I think the Hon Leader of the Opposition has put various questions in front of the Hon Financial and Development Secretary which if unanswered because of the short time, we would be coming back in future question times to try and clear them up. At this stage I would like to state that certainly if the proceedings when we refer to GSL, go as they have gone today we can look forward to be able to gauge on both sides of the House as to the viability or otherwise of the company. There is another point I would like to make and I think we have made this point before, certainly not directly but perhaps on our comments at question time and I think it is about time that the Government benches, that the Hon and Learned Chief Minister decided to give a political responsibility to one of his Ministers or maybe to himself to answer on behalf of GSL and not to pass the buck to the Financial and Development Secretary who has ever since its conception taken it upon himself in the former time because he was Chairman of the Board and of late because he is the Financial and Development Secretary but, certainly, all the questions answered in this House and all the statements made in this House except for the one on the 12th December and a couple of times that the Hon and Learned Chief Minister has answered, have been answered by the Financial and Development Secretary. I think the Government, in fact, went to an election and fought the election on the Gibraltar Shiprepair Limited and of their acceptance of A & P Appledore's proposals and I think it is only fair that they take the political responsibility for it and that certainly on matters of policy, certainly on matters of judgement, it should be one of the Ministers who should answer and make it a political responsibility and not a responsibility of the Financial and Development Secretary not because I think the Financial and Development Secretary, now that I see him walking in, is over-

worked but because he will be leaving us shortly and there is always the excuse, if something does happen, that the fault lies squarely on his shoulders and he is not here any more to answer for that fault. It should also be a political responsibility because, as I said, the Government fought an election on this and one of the things that did come out at the time was phrases like 'a fair day's wage for a fair day's work'. The Government fought an election on that and must ensure that that is the case and as 100% owners they, like any other 100% owners, they have managers to do their work for them but nevertheless the responsibility always lies on the shoulders of the owners whether it is a profit-making organisation or whether it is an organisation that runs purely to create full employment for Gibraltar, nevertheless it is the owner's responsibility to make sure that their managers are doing their job properly and I think that is a political responsibility seeing that the owners of the company are the Gibraltar Government and the people of Gibraltar and therefore that is why we consider this is answerable here in the House of Assembly. The point about the Controller, I think we have already tackled that and, in fact, the Hon and Learned Chief Minister has in fact said that he is going to give it his own personal time and look into this. The last point I would like to make is the point about the apprenticeships. Before I go on I am still due an answer on whether or not the apprenticeships given by GSL qualify or the qualifications are valid outside Gibraltar. I have already spoken to the Hon Dr Valarino, in fact, it is both our fault that we have not looked into this earlier but he is going to give me an answer shortly and I will follow this in the House if I think the answer is not to our satisfaction. The apprenticeship side has two sides to it. On the one hand training our young people to be able to take on jobs with the Gibraltar Shiprepair Limited. Also training of our youth in order that they might use these qualifications if ever they want to go out of Gibraltar and these qualifications should be acceptable, certainly in the United Kingdom and hopefully anywhere else in the world where there is any shiprepair work. But one area where we must make sure and when I say we I mean the House of Assembly globally, is the fact that the company should also be training people to take over the jobs at the moment taken over by the expatriate managers. I think this is one area where the Gibraltar Government should keep in check because it is all very good to teach our youth to take on the jobs as welders and as craftsmen but we must also make sure that we are working towards a period where if the Gibraltar Shiprepair Limited is a success all the jobs will be taken over by Gibraltarians because it is in this area that there is a loss of a substantial amount of money to our economy and I think this is one of the main points that has to be looked at by the Government as the 100% owners of the company. I think

I don't have anything else to say, Mr Speaker, I will listen now to the Hon Financial and Development Secretary and see whether any of the points that were made by the Hon Leader of Opposition are, in fact, answered.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. I will try and confine myself to the points raised during the debate by Hon Members opposite. I hope they don't expect me to talk about political matters and which Minister should carry the responsibility which is not really my place. The Hon Leader of the Opposition opened his remarks by making mention of the information included in the accounts this year and also made a comment about the reference in the accounts to the fact that certain items had been included because the company was still a company funded with public monies and sounded a note of caution, I think it is fair to say, about the concluding comment in the Principal Auditor's Report, in fact, that this would not be the case when the accounts incorporate the results of the company's trading operations. I think clearly there is here a balance to be preserved, one must not include anything in the accounts of the company which is operating in a commercial environment, in a competitive environment, which might be of use to a competitor. It really is a question of drawing the line between what can reasonably be regarded as of value to a competitor and therefore damaging to the company's trading prospects and what it is reasonable to expect the company to include because it is still being funded by Government money and because it does as Hon Members opposite have said, represent a large part of the Gibraltar economy and provides for a substantial employment of the Gibraltar working population. I think this is something, clearly we have to watch closely in the future. I certainly take note of the comments which the Hon Leader of the Opposition has made and I think I could say that there was, in fact, some difference of view between the company and the Government on this very issue, the company taking the view that they were a private company and therefore only obliged to provide what a private company is obliged to provide by law and the view of the Government which was, I think, closer to that of the Hon Leader of the Opposition on this matter. However, it is a question of drawing a balance and this is something which, as I said, we will certainly have to consider again next year. On the other comments by the Hon Leader of the Opposition, I think he raised some question about what one might call the pluses and minuses of the various variations

between budget and expectations. My difficulty here is really twofold. One, I was trying to provide the House with information about the main variances and I did list them: capital equipment costs have exceeded budget by some £300,000; the general re-allocation refurbishment costs are by £800,000. In addition to that, for various reasons, operating costs have exceeded budget by £4m. Those are the adverse variances and on the plus side, as I said, not all contingency provisions were taken up and there had been a freeze on certain minor works and that produced an offsetting saving of around £600,000. I can understand the Hon Leader of the Opposition and, indeed, Hon Members opposite, in wanting a close comparison with the original forecasts which were made by A & P Appledore. I have difficulty in really following that concept because we are moving away from a situation which, I mean we have an estimate as we have with Government Departments and then an appropriation account at the end of the year. It is very difficult to monitor and, indeed, it is not the way in which a commercial company would normally proceed in that sort of way. The other reason is that we are not yet fully through this trading year for the company and therefore I cannot give what I might call figures which have been audited as, of course, I can with 1984 because they are in the accounts and they have been audited. So there are two reasons there. I take the point made by the Hon Leader of Opposition, it is certainly true that ODA who, of course are responsible for their part in the UK for monitoring the outflow of the funds in the original grant of £28m, do keep a watch on variances because they might find themselves accountable elsewhere for the £28m. There is also, of course, a Government official as a director of the company and he is there as a watchdog not necessarily representing the Government as such but there as a director of the company along with his fellow members of the Board who are naturally concerned to see that expenditure by the company is incurred in a way which gives value for money or if there is a reason for expenditure being more than budget then that particular reason is fully explored before authority is given. I think that is the way in which the company ought to be left to operate but I do recognise that there is a difference between my view on that and the Government's view and that of Hon Members. I will consider that and it may be possible, at the end of the day, to give a more precise account of how the £28m has been spent and it may be possible, in those circumstances, to identify the major variances between the eventual outcome and the original forecast. The Hon Member did, however, ask specifically about the figure of £24m which I mentioned earlier in the debate would have been spent by the end of December. I think it is fair to describe that figure, again one is talking in commercial terms, in terms of accruals rather than cash accounting, and so the figure is one of commitments. It doesn't necessarily mean that cash has been

expended to the value of £24m, there are inevitably some accruals included in that figure. But what it does mean is that £4m is available for 1986 and almost all of this would represent working capital, that is to say, most of the capital expenditure will have been committed by the end of this year. Again, as Hon Members will recall, I did mention an area of doubt over one particular project and of course it is the largest of all the projects, namely, No.1 dock. I don't want to mention a figure there for obvious reasons. If I were to mention a figure then the company concerned would say: 'Oh, so that is what they are budgeting for'. I think I would rather not do that because it is still subject to the possibility of claims and counter-claims and, again, this is one of the difficulties, I think, in operating in a commercial context rather than in a Government accounting context. The Hon Member mentioned the computer system.

HON J BOSSANO:

If the Hon Member will allow me to interrupt because it seems to me he is moving on to something else and I don't think he has given me an answer which he should be able to give me at this stage. I accept what he says that the figures that he has given us about the 1985 situation of which we are grateful, are not the final audited figures, they have given us an indication but I was questioning the accounts as well, that is, in the context of the total amount of money which is £6½m of ODA funds having been provided by December, 1984. There is nothing in relation to that figure that we have to wait to find out because these are the final accounts for 1984 and therefore my question was, in relation to 1984 and it is an important question as far as I am concerned, is how is it that in these proposals prior to the start of commercial operation, the figure was £8.2m and in this the figure is £6.5m. Is the £1.7m difference due to underspending and the fact that it might have been spent after the 1st January and consequently was expenditure that might have been preparatory work but which in fact overspilt the end of the calendar year, or are we saying that the preparatory work cost £1.7m less and that therefore there is now £1.7m more available for operating expenses rather than for preparatory expenses? In the context of the breakdown provided initially the company was supposed to spend in preparatory expenditure £3.7m and we have a situation where in actual fact the company has spent something near that figure, from page 7 of the accounts, however it includes £2m of setting up costs which are now being shown through the profit and loss account because of the requirement of the Gibraltair Ordinance and the fact that it has to be done by the issue of shares whereas in the original projection as the Financial and Development Secretary himself

mentioned in his opening remarks, in the original projections that £2m would have been part of the Gibraltar Government expenditure which was programmed to be £4½m. My question is, if there is a £1.7m difference I cannot tell where the difference is from the figures that I have got and from the explanations that I have been given and I think now is the right time to get an explanation to that because I am talking about expenditure up to December, 1984, and comparing it with December, 1983, here because December, 1983, here is the run-up to the Dockyard closure before the year's deferment. The basic difference between this and this is the year's deferment. I could understand if we had a situation where the Financial Secretary came up in the House and said: 'The original proposal was that the preparatory expenditure at 1983 prices was intended to be £1½m but in fact because of the year's deferment it came to £1¼m'. Although I need to point out that in the May, 1983, proposals which were a revision of the original tender proposals approved by the consultants, the provision for contingencies and the provision for cost overruns were fairly substantial. We had figures of 5% and 10% included in a number of areas, for example, in the projection for GSL investment, the total figure of investment by GSL was £7.8m in two years and that figure showed a breakdown which included a 5% for cost increases over the 1983 situation. The breakdown between the first and the second year was that the £7.8 was supposed to have been spent £3.7m in the first year and £4.1m in the second year. My question is, if we spent less than £3.7m in the first year which we clearly have, is it because they were able to do it cheaper and consequently they have got the money left for something else or is it because in the second year instead of being £4.1m it is going to be, say, £5m but the total is still going to be £7.8m? I think that question should be answerable now because it is related to these accounts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, Mr Speaker, but I can only go back to what I said that inevitably there have been variances in expenditure and there have been variances in the phasing of expenditure. I think it is impossible and, indeed, I am not going to attempt to reconcile precisely what was in something published in 1983 on an item by item or, indeed, year by year basis.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I am not asking for that, Mr Speaker. The Hon Member has said he is not going to give me item by item precisely, I don't want that. I am talking of a difference of the order of £1.7m in an

expenditure of £3.7m. Surely, the Hon Member cannot tell me that he has missed that £1.7m has gone astray in the first year? I am not asking him to tell me how much did they buy each car for or what did the notepaper cost or how many biros have they got, I am not saying that, I am talking about £1.7m. My question is very simple. These accounts show that £1.7m less was spent than was expected to be spent. Is it because the money was spent later and there was slippage, I explained all that before, in which case I would expect in 1985 that there will be £1.7m more which is what is less here or is it that there was a saving and that money is available for something else?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mainly, Mr Speaker, it is because of slippage and I think it is fair to say that the total for year one and two together will be higher. What happens in year three remains to be seen. I mentioned the computer system and insofar as I am aware although there have been teething problems with the computer system it is working and the amount which was spent was, in fact, close to budget. There is one other point I should perhaps mention and that is consultancy fees. This is a rather complex situation.....

HON J BOSSANO:

Before the Hon Member leaves the computer, I also asked whether it was working?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, it is working, my latest information is it is working although there have been teething trouble. There is also the question which the Hon Member raised about consultancy fees which, as I said, is rather a complex matter. It is true that ODA did pay for the consultancy fees in respect of certain individuals up until the end of 1984, that is to say, up to the 31st December, in fact, they paid for Mr Abbott's salary which is one of the items which was highlighted, and a number of others. They did not, however, pay for those consultancy fees which came within the scope of the Management Agreement and they were a charge on GSL account and came out from the GSL budget. The level of consultancy fees is naturally something which the Board, certainly in my time and I am sure under my successor, Mr Simonis, the same applied, have been subject to a fair amount of scrutiny because obviously consultancy is an expensive way of getting staff compared with direct recruitment. I think that covers all the points I can offer in reply to those made by Hon Members, Mr Speaker. I commend the motion to the House.

MR SPEAKER:

I would like to say that when a motion, like this one, comes for noting a particular document or situation, it is to give Members an opportunity of expressing their views on the matter without having to come to a definitive decision and in accordance with the Rules and Erskine May, there is no need to put it to the vote because there is nothing to decide. In other words, the House is taking note and has had an opportunity to discuss the matter so we will leave the matter as it stands.

## BILLS

### FIRST AND SECOND READINGS

#### THE TRAFFIC (AMENDMENT) ORDINANCE, 1985

HON M K FEATHERSTONE:

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

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

### SECOND READING

HON M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this Bill has two parts to it. The first part seeks to transfer responsibility for traffic matters from the present Transport Commission which presents the difficulty that it was not required to follow Government policy, to a Traffic Commission which will be more closely tied to Government policy. The Transport Commission, I must accept, has done very good work in the past but there have been times when they have gone out a little bit on a limb, in fact, I believe at one time they wanted to do something completely contrary to Government policy and there was almost a legal case, in fact, they went to Court to sue the Government to see that their way of thinking was the right one and not the Government's way of thinking. This will not occur with the Traffic Commission which will be required to follow Government directives in the main. The new Traffic Commission will be chaired by the Minister and will have three ex-officio members, the Commissioner of Police, the Director of Public Works and the Director of Tourism and two other members, one of whom it is hoped will be a legal practitioner at the Gibraltar Bar. The other feature of the new Traffic Commission is that they will be able to require witnesses to appear before.



them which is something which the Transport Commission doesn't have as a facility at the moment. The second part of the Bill, Sir, refers to the question of parking tickets. At the moment a parking ticket is £2 and it seems to be current practice by certain people that it is far easier to pay a £2 fine and park their car where they shouldn't park it rather than to seek a parking place further away, in fact, they almost look at it as a parking fee. The intention is to increase the fine for a parking ticket to £5 and to increase the fine for interfering with a parking ticket to £25. Another major change in the question of parking tickets will be that the onus for the liability of having the car parked there will devolve on the owner of the car so that no longer will it be a defence to say: 'I didn't park the car there, it was my son or my chauffeur or my friend or somebody else'. The owner of the car will be the person liable to the prosecution and to pay the fine. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, the first thing that I would like to draw attention to is a technical one in that Clause 54 is identical to Clause 55 so, in fact, there is no amendment there perhaps only the substitution of the number but as I see it from the old Bill, Clause 55 and Clause 54 are identical. Let me say, Mr Speaker, that we object on various grounds to this Bill and we will be voting against. First of all, I will remind the Hon Member that at question time in the meeting of the 26th June when I raised several issues on transport and traffic he said: 'There will be more than a week to make any representations that are necessary, there will be ample time', and he committed himself to give ample time to those affected by any legislation to make their representations so that if the Government saw that those representations were acceptable to them they could amend or they could change the amendment before coming to this House. This has not been done and, generally, I am sure my colleague, the Leader of the Opposition, will have something to say about all the Bills in the context of the short time that we have had to look at them. But specifically on this one, there is a commitment in Hansard by the Member to give ample time to consider the situation and he has not done so. On that basis we are certainly objecting to the Bill. Secondly, Mr Speaker, it seems to me that the only thing that this Bill is doing is transferring all the power from the Transport Commission to the Minister and calling it the Traffic Commission. We have the

ridiculous situation where we have been told on this side of the House that when a Bill refers to the Governor in a defined domestic matter it is actually referring to the Council of Ministers. We are being told that this Bill is going to work on Government policy so we have the ridiculous situation where the Minister gives directions in Council of Ministers to himself as Chairman of the Traffic Commission so that he advises himself again at Council of Ministers, a three-in-one. This legislation, Mr Speaker, is only legislation to rubber stamp the thinking of the Government and then we are led to believe that there is going to be a Committee and a difference of opinion between members of the Committee. I cannot see civil servants opposing the Government's view, Mr Speaker. I cannot see how it is that the Hon Member wishes to draw up a Committee on traffic matters without anybody in the Committee representative of the people affected by it. A representative, perhaps, of the Taxi Association, a representative of the transporters, they are the ones who know what the situation is like. Mr Speaker, I asked in June on issues related to transport and traffic and I was told by the Hon Member on the question of taxi licences to wait for the new legislation. I asked the Member what was the policy on the issuing of up to seventy-five road service licences and I was told that the whole thing would be looked at in connection with the new Bill. Well, what has the new Bill got to do with all these things which I raised? Whether it was Government policy or not had nothing to do with this Bill. This Bill is only going to allow the Minister to implement Government policy and he has, in fact, not said what Government policy is yet. We have a situation where the Hon Member stripped the Transport Commission of matters of traffic and left it solely the responsibility of licensing and matters of transport. That, in my view, made the Transport Commission lose its effectiveness and now because it loses its effectiveness and perhaps because the Chairman of the Commission and the Minister have had a clash over matters, we not only transfer all the powers from the Chairman of the Commission to the Minister, but we extend those powers. It is ridiculous, Mr Speaker, that in Section 55A(2), as I understand it, it says: 'The Commission may receive such evidence as it thinks fit, and neither the provisions of the Evidence Ordinance nor any other rule of law shall apply to proceedings before the Commission'. That strikes me as implying that the new Traffic Commission is not going to be as quasi judicial as the Transport Commission was. And then we go to Clause 55A(3) and (5) and we say that whoever doesn't appear when summoned is 'liable to an offence on summary conviction to a fine of £100 and to imprisonment for one month'. I am not very well versed with what the constitutional position is but, surely, the offence of not appearing when being summoned to the Traffic Commission should not warrant the punishment of £100 and one month's imprisonment.

Section 55A(5) states: 'Any person who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the Commission shall be guilty of an offence and liable on summary conviction to a fine of £100 and to imprisonment for one month'. Mr Speaker, these powers that are being given to the Traffic Commission would be described in any other circumstances as reverting to a Police State. Surely, if the Transport Commission has been able for all these years to operate without these Clauses in it, I cannot see the reason for the Minister wanting to have this included in the law. Mr Speaker, as far as I see, there are a lot of issues outstanding on traffic where perhaps the Minister has been at loggerheads with the Chairman of the Transport Commission and they have been dragging their feet on it and the situation has worsened and we are now trying to use that as an excuse to transfer all the powers to the Minister. Well, if you are going to transfer all the powers to the Minister why have a Traffic Commission; let the Minister take the decisions but let us not believe that there is going to be a quasi judicial Commission there deciding matters because if the Commission is going to work by Government policy and the Minister is going to be the Chairman of the Commission and the Governor in the law is the Council of Ministers again, why change the Ordinance in the first place or why have a Transport Commission. Why not transfer all the powers to the Minister and that's it because this is a rubber stamp Commission, all this Commission is going to do is rubber stamp the Minister's thinking and the Minister's policy or the Government's policy and I think it has not been looked at on the basis of what is good for traffic or transport, it has not been looked at on the basis of taking opinions of people in the know in the areas, of looking at the representative sectors in the area and having a consultative committee to advise the Government where they might not be aware of the circumstances, it has not been looked at like that. They have said: 'Alright, the situation is not working as we like it, we don't agree with what the Transport Commission is doing, we have stripped it of part of their powers already so now we are going to eliminate it completely and transfer all that power to the Minister'. I am afraid, Mr Speaker, that under these circumstances we cannot support this Bill. We will be voting against and certainly the point that I made at the beginning that the Minister had committed himself that there would be ample time to make representations when the Bill was published, has not happened. It has not happened on this one and it has not happened on any of the other Bills in the Agenda but, certainly on this one, there was a commitment on the part of the Minister to do so and he has not done so. Thank you Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I think the Hon Member is ignorant of the working of Committees where there is a mixture of political representation and management representation. Of course, the final decision on any matter on which the Minister were to be against what was advised to him in the Transport Commission or the Traffic Commission would go to Council of Ministers to consider but that is not the way the thing works. The way the Committees work are that the people who are concerned in the matter and there they are, the Commissioner of Police, the Director of Public Works, the Director of Tourism and two other members, they will be advising the Minister, they will be looking at all the problems, in fact, there is now a Traffic Committee since the opening of the frontier which has done very good work and which has run administratively and has been chaired by the Minister. The fact that they are officials does not mean that they don't express a view, of course they express a view and, in fact, they express their technical knowledge. The Commissioner of Police on traffic, he knows his problems, he brings them to the notice of the other members. The Director of Public Works has to deal with carrying out the decisions or say to what extent he can carry out decisions about traffic island's and things like that, he has got to see to it that the work is done. And the Director of Tourism, of course, is a very important input in that he can express the view of what is good for the tourist trade. Committees don't run on the basis that the Minister has made up his mind, goes to a place and takes the precious time of four or five Heads of Department to tell them what he wants. He discusses matters very much the same as the Minister discusses a matter with his advisers and if there is a conflict of view then it is ironed out. If there is one of substance then of course the Minister would refer the matter to Council of Ministers. It is true to say, of course, that the Government is taking responsibility and in that respect it would be much more useful for Members opposite because then the Minister will be answering to the House on the policies that he carries out on traffic. The Chairman of the Transport Commission was not answerable to anyone to the extent that when they thought that a directive properly given by the Government was wrong, they took the Government to Court for a declaration that we were wrong. The Court upheld the Government's decision and disallowed it and we even had problems over the cost of the application. In the end we finished up by paying their costs for having taken the Government for a judicial review of what the Government had decided should be done. That kind of work doesn't lend itself to smooth administration, to have a hostile Commission or to have a Commission that thinks it has more powers than it has whereas if you are a Minister and you are responsible he will be answering questions here. How many

times have questions been put in this House and the reply has been: 'Well, this is a matter for the Transport Commission' and we have been criticised for that. I think Members opposite, especially the Hon Mr Perez, is entitled to oppose the Bill but he has missed the point and what is happening now is that the policy decisions will be taken by the Government and will be answerable in this House.

HON J E PILCHER:

If the Hon Member will give way. Mr Speaker, to a point he is answering points made by my Hon Colleague but missing the point entirely. I think he is asking what is the purpose of this legislation here in front of us that gives the Minister specific powers under the legislation? The Hon and Learned Chief Minister is saying that it is purely to give the Minister advice. Well you don't have to legislate for the Minister in charge of transport to call up the Commissioner of Police, the Director of Public Works, the Director of Tourism and order them to come to his office where he is going to discuss the matters with him. What is the purpose of the legislation? The purpose of this legislation is to give him powers and protection because it gives him the powers to do it and it protects him against abuse and a lot of other things but the question is, what is the purpose? What can he do under this Traffic Commission that he couldn't do without this piece of legislation?

HON CHIEF MINISTER:

Apart from the fact that it is acquiring some powers which the Transport Commission has got now, that is quite clear, the thing doesn't work that way. The whole thing must be institutionalised, you must have a proper body that will look at all matters and will see the information that will help the Minister to make up his mind and help the others and if you don't have some regular body to do this then the Minister is not being properly advised, there is no institutionalised approach to traffic. If he has to get everybody together every time he wants to make up his mind, well, you have a Commission, you have a body. There are other Committees that were presided over by Ministers. The Education Council is presided over by the Minister for Education. Sporting Committees, these are advisory bodies which are presided over by the Minister and where he gets the feed-in of what is thought. Whether you like the Ordinance or not, I think the concept that the Minister tells the Commissioner of Police and the other Heads of Department who are not Heads of Department of his own Department what he wants to do is not right because, in fact, those people are responsible, in the case of the Director of

Tourism and in the case of the Director of Public Works they are responsible to their respective Ministers and they are the people who report to the Ministers. I think the Hon Member has got it wrong completely. What is being done now is making the question of traffic more answerable to the House than it was before.

HON M A FEETHAM:

Mr Speaker, I am going to restrict myself to speaking about the experience that I have had and why there has been an urgency in trying to get things moving but I want to explain to the House that this conflict that there has been for the last three years between the Government on one hand and the Transport Commission on the other is, I believe, as a result of on one hand a Traffic Ordinance which is perhaps one of the most antiquated Ordinance which is at present in the statute book and on the other hand because when changes come about they come about because of urgencies which arise and there hasn't been any policy which has brought the necessity to look at the Traffic Ordinance because there hasn't been a policy for transport and there hasn't been a policy for traffic for a very long time precisely because we have had a closed frontier situation and there have been other matters which required attention and consequently we have had a situation where we cannot put the blame on the Transport Commission in that situation because I have to agree with the Hon Minister for Traffic when he says that the Transport Commission have put in a lot of work and effort because at the end of the day the independent members, at least in that Committee, were doing it without any remuneration, were doing it as so many other people do, make a contribution for the betterment of Gibraltar. But they were doing it, let us be clear about that, they were doing it with the powers that were available to them in the Traffic Ordinance. I don't think any of the Hon Members opposite are disputing that the Transport Commission were quite right in saying: 'These are the powers that we have and these are the powers that we intend to exercise, I don't think anybody is disputing that. How do you face that sort of situation? I don't think we can do it and that is why when my Hon Colleague, the Hon Mr Perez, was saying when he was talking about the new situation, we cannot do it by putting the cart before the horse because if this Bill goes through, as it no doubt will because the Government have got the majority, we are leaving behind a sour taste and we are leaving behind a situation which could and still can be remedied and that is because we have to recognise that if a law is antiquated and if we recognise, as we must recognise because it is a fact for a variety of reasons, that there hasn't been a policy in the area of traffic and in particular transport, then we have to decide what that policy is and that is the

policy which the Government independently of the Transport Commission because I have to remind Members opposite that the Chairman of the Traffic Commission which is the proper title used in UK, is an independent person. The Chairman is an independent person and the members of the eight Traffic Commissions in UK for very obvious reasons are in fact full-time members of the Commission and the qualifications that they have are qualifications in line with the principle of licensing and public transport in general. Let me say that if Government have felt that the powers of the Transport Commission have hampered them in trying to get things moving, I can tell you that other third parties involved, and I am sure that Ministers opposite know who I am referring to, have not had any of their proposals for the last three years which have been put there, which has been an initiative on our side to get things moving and get improvements done in public transport and nothing of that has been done. The policy that should have been decided in this conflict is two things. First of all, we now create a policy where we decide what is going to be on one hand the semi judicial policy on licensing which must be carried out by an independent Chairman and on the other we decide what is going to be the traffic policy and that the traffic policy should continue to be in the hands of a Committee of this nature because those are the people who will need to ensure that the traffic requirements are met and so on and the record is there that since that Traffic Commission was set up a number of changes which have taken place in Gibraltar would have taken months if it had been done through the Transport Commission, mainly because members were independent and other members who are Government civil servants have got to adhere to a meeting where they have all got to be present, they haven't got to be away from Gibraltar and so on and so forth and there is an awful lot of malfunction in that, so that Traffic Committee was doing and has done a number of good jobs. But what we are dead against as my colleague has said is that we should widen the powers and thereby not have a situation where we see that justice is not only done but is seen to be done. With due respect to the Hon Minister for Traffic I don't think that having him as Chairman of this new Commission with all these wide powers we are going to find ourselves in a situation where we can say, quite frankly, that justice is not only being done but must be seen to be done because we are getting in an area where there are going to be a lot of vested interests and consequently those vested interests and I have to give an example and it was an example which went very much against my own personal gain because I have never been a person to point a finger at anybody and try to say: 'You are not being seen to be honest' and I unfortunately had to do it in my other capacity I had to go to the Supreme Court where the present Chairman of the Transport Commission for whom I have

the highest regard and I feel it is most unfortunate that it should end in the way it has ended by this Bill unless it is amended, I found myself in a situation where I had because of his other interests had to make the point in a number of points which were made by our legal representative that there could be a case of conflict of interests. What my colleague was trying to suggest was that perhaps we should not rush into this but that we should begin to agree on divorcing one thing, setting up the policy and having a Traffic Commission which deals with one particular aspect and an authority which deals with another. That, I think, is the best way forward and that is why I thought I should make these points because there is recognition of what has been happening and an awful lot of people have lost out and I wouldn't like to be a party to a Bill that is going to leave a disagreeable situation.....

HON CHIEF MINISTER:

Before the Hon Member sits down I ask him to give way because I want to reply to something if he doesn't mind. I did not in any way question the fact that the Transport Commission had powers and were using them. Of course, they were acting under the Constitution. Unfortunately, the matters that the Hon Member has mentioned are the matters that have given cause for concern and most of it, if I may say so, not what was done but what wasn't done, that was the problem. The problem is getting things done. Perhaps arising out of that contribution and the implementation of the Ordinance, will give a lead to the Traffic Commission of developing some other aspects of it in another way in respect of matters where a judicial approach should be made but it has to start from somewhere and if we attempt to wait until we get everything clear we never do anything and these are matters, mainly on traffic, which have got to be dealt with because we have a problem with us. I think we have been lucky so far that we haven't got stuck with all the traffic we have in Gibraltar.

HON M A FEETHAM:

The other point I wanted to mention is that it is not the best way, having said what I said about vesting all the powers on a Minister instead of looking at it on a broader basis and looking at the problems and trying to divorce one from the other, I don't think that that is the only thing. I think the Bill is going far too far with regard to offences and matters of imprisonment and matters of fines because that is not going to gain the goodwill of anybody. What right will the Commission have to summon a witness, whoever they want, and if he doesn't want to go he is subject to legal proceedings. It may well be as one of my colleagues is saying, it may be unconstitutional.

It seems to me that whoever has advised the Minister on the drafting of this Bill needs to have a rethink quite honestly.

HON A J CANEPA:

I think the question of penalties can be looked at in detail in Committee. The advice which the Minister has received, obviously has come from the Chambers of the Hon the Attorney General. The drafting of the Bill will either have been in the hands of the Attorney-General himself or perhaps a legal draftsman, I don't know whether it has been Sir John Spry.

HON ATTORNEY-GENERAL:

He looked at it.

HON A J CANEPA:

He looked at it, well, there you are, Sir John looked at it, Sir John is a former Chief Justice of Gibraltar, I wouldn't be surprised if he was Chief Justice at the time when the Supreme Court ruled that a piece of legislation that I brought to the House under price control was unconstitutional and we had to subsequently repeal it. I was making the point, Mr Speaker, that if an analysis were to be made of the many Government Committees that there are and if an examination is made of the nature of their scope and their composition I think it will be found that Government Committees, generally speaking, can be divided into two categories, either they are statutory, in other words, they are established under some piece of legislation or other such as, for instance, the one which is the subject of debate now, such as the Development and Planning Commission which is established under the Town Planning Ordinance or the Manpower Planning Committee which is established under the Control of Employment Ordinance or the Trade Licensing Authority under the Trade Licensing Ordinance or they are administrative and have been set up by the Government, some Committees of long standing to meet a particular need. The composition very often is of a mixed nature and the Chairmanship of Committees can vary. Administrative Committees, in particular, are very often made up of Ministers and officials, sometimes, not very often, independent persons. Statutory Committees of Ministers, officials and independent persons and sometimes a Minister is the Chairman, sometimes it is an independent person. In the Transport Commission an independent person is the Chairman, the Trade Licensing Authority it used to be an independent person, I think it is now the Consumer Protection Officer and the Committee consists of representatives of the unions, representative of the Board of the Chamber and independent persons. In the case of the Development and

Planning Commission, the Chairman by law is the Minister for Economic Development, the Minister in charge with responsibility for economic development. The Chief Minister then has power to appoint two persons. From 1973 to 1980 the two persons that he appointed were two Ministers, from 1980 up until the present he appointed a Minister and another person, namely, Mr A W Serfaty, in a personal capacity, and there are officials such as the Director of Crown Lands, the Chief Planning Officer, the Financial and Development Secretary and Services representatives. And invariably it is always ensured that if there are Ministers in such a Committee they should not be in a majority, they should be in a minority. In the Development and Planning Commission three Ministers in the past but they were definitely in a minority. I have been a member of the Development and Planning Commission and its Chairman since 1980 and a member since 1973 and I can never recall on any occasion either my predecessor and certainly I myself ever exercising a casting vote to achieve a particular result. The point that I am making is this, that I can assure the Hon Mr Perez, though he may find it difficult to believe this, that Members of the Government try to be scrupulously fair in the exercise of their powers in Committees and that officials, civil servants, are not there to rubber stamp anything. They are there to express a view, to take part in the discussions and, if necessary, to vote, if necessary because a good Chairman should try to find a consensus.

HON J C PEREZ:

Will the Hon Member give way? The Hon Member has opened the argument to all Committees. I was referring specifically to this new Committee because it is going to work by Government policy and that is precisely why the rubber stamping comes into play because the Government decides their policy, then the Government advises the Chairman who is the Minister and then the Minister advises the Governor who is the Government in this case.

HON A J CANEPA:

But the Development and Planning Commission, by and large, has got to take into account Government policy on planning matters and, if necessary, Council of Ministers may have to discuss any particular planning aspect but it is the Development and Planning Commission that has got the full powers and I can tell the Hon Member that, for instance, if the Government enters into, in fact I think there is a case which I asked the Attorney-General to advise on. A certain civil servant, an official, entered into an agreement in respect of advertising, giving a concession, and Council of Ministers may have agreed to that concession. If that agreement in any way infringes the powers of the Development and Planning Commission in



respect of the Control of Advertisements Regulations, it is the Development and Planning Commission that has the final say. The powers of the Commission cannot in any way be undermined by any decision which the Government might take. And it isn't different, the position is not different to what it is in this Committee. The case of this Traffic Commission is highlighted because of conflicts that there have been in the last few years and because it is manifestly clear that the question of traffic is not working, it is not working properly. I remember during the last House of Assembly near the end and I am sure the Hon Mr Bossano will bear me out, I am sure he remembers that certain allegations were made by the then Opposition against members of the Trade Licensing Authority. If allegations are made and an investigation is carried out and it is found that certain allegations are justified, then if the Trade Licensing Authority is not functioning as it ought to be, if it is not functioning properly, if it were to pursue a policy that is totally contrary to the interests of Gibraltar or the interest of the Government as perceived by the Government of the day, and after all it is the Government that is answering to the people, for instance, in the matter of trade licensing, if the Trade Licensing Authority were to be pursuing a policy that is contrary to the interests of Gibraltar in these matters, I have no doubt that the Government would have to send the Trade Licensing Authority packing, of course, we would have to do that because there would be a very serious conflict. But, by and large, Committees work properly and you don't hear anything about them because they are functioning properly and because officials, of course officials are able to have a full say in what is going on there and very often they have a vote and the vote of the Minister doesn't count for two or for three, it counts for one just as the vote of any official. This morning I said to my Hon Friend, Mr Featherstone, that I had received representations from a member of the public whether the Government would consider having ramps in Flat Bastion Road because of the fears that cars are going through very fast and a youngster might be killed. So I asked him: 'Would you consider this?' And his answer was: 'The Traffic Committee don't like this, the Traffic Committee don't want traffic ramps in what is a thoroughfare'. He didn't say: 'I don't like this' or 'I agree with you and I will see if I can do it', 'the Traffic Committee don't like it'. And very often I get that answer from him and I don't particularly like to be told 'the Traffic Committee don't like this' and I say: 'What about you, what are your views on the matter? Why don't you try and convince them?' It doesn't work like that, you have got to have regard for the views of people who, as the Chief Minister said, from a technical point of view perhaps know more about these matters than the Minister himself does and the Minister should be guided by advisers and any good Minister would be guided. The other issue I want to touch

upon, Mr Speaker, which hasn't been mentioned at all other than by Mr Featherstone in introducing the Second Reading of the Bill, is the question of the parking tickets which this Bill proposes should be increased from £2 to £5. I have no doubt in my own mind that an increase is long overdue. I think parking tickets were introduced in the mid-seventies and obviously a fine of £2 is today hardly a disincentive to park in a no-parking, in a no-waiting or what have you area but I do want to underline one aspect and that is that since the opening of the frontier the Police have had difficulties in exercising their duties in respect of parking tickets and it became evident that some Police Officers, or the generality of them, were reluctant to put a parking ticket on the windscreen of a foreign registered car the thesis being that it was pointless. What is the point if you find a foreign car parked on the pavement at the Cathedral of the Holy Trinity where there are two yellow lines, what is the point of putting a parking ticket when they may leave Gibraltar that day and you will never see them back in Gibraltar again? And yet on one occasion I saw a row of cars and the locally registered vehicles had a parking ticket on them and the foreign registered vehicle did not. We in Council of Ministers have taken the view that that is wrong and we have communicated this to the Police. That is wrong because enforcement is another function altogether, I think the Police have a duty to exercise their powers, a certain amount of discretion is given to the individual Police Officer and if an offence is being committed I don't think you can have regard to the nationality or to the registration of a vehicle and parking tickets should be placed, if they are going to be placed, on all of them. Whether the individual driver or owner or hirer of car gets away with it because he doesn't come back to Gibraltar is quite another matter altogether and I don't think we can be discriminating against locally registered vehicles. And, of course, the point that has got to be borne in mind is that there are already a number of Spanish workers working in Gibraltar, some of them no longer bring bicycles over. I am glad to see that there has been economic progress across the way and it is good to see that they are able to afford to come over in a car. Those people are coming over regularly, they are parking their vehicles all over Gibraltar and in some instances, no doubt, in prohibited areas. I think the fact that that is a foreign registered vehicle should not debar the Police from reporting them. In such an instance where a car will be coming regularly to Gibraltar it should not be beyond the realms of possibility, if a record is kept, to chase up the fact that parking tickets have been placed on them if they neglect to pay the fine. As I say, Council of Ministers have already made that clear, this is an area where the Police work to us because traffic is a defined domestic matter and I hope that due note will be taken of the need to do this because otherwise to increase the fine from

£2 to £5 will be adding insult to injury. With that, Mr Speaker, I support the Bill.

HON J BOSSANO:

Perhaps I ought to dispense with the only thing I agree that has been said so far on the Government side, Mr Speaker, which is that we shouldn't put parking tickets on Gibraltarians if we are not putting them on people who come across from the other side. But as far as the rest of the Bill is concerned, it seems to me that either we have misread the whole thing or the Government is trying to create the impression that this is a very innocent tidying-up exercise which really is not breaking new ground. I think the cat was let out of the bag really by the Minister for Economic Development who said that if the Trade Licensing Authority was acting against Gibraltar's interest in their decision making then the Government would send them packing and if that was the case then I think there would be little dispute about the necessity to send them packing. But I don't think anybody has said here that the Transport Commission was acting against Gibraltar's interests, in fact, the Minister in introducing the Bill was saying that he was grateful for the work that they had done in the past although there had been moments of conflict and differences of opinion. Clearly, the main purpose of the Bill is to bury finally the emasculated Transport Commission. The Traffic Committee was set up by the Minister as an ad hoc administrative machinery to deal with traffic situations and I don't see, if that is working well, why it is that we are likely to run into a traffic congestion, as the Hon and Learned Chief Minister said at one point, if we don't do this change because presumably the traffic congestion would only be because of the incapacity of the people who are now on the Traffic Commission who are the people who are going to be incorporated in the new Traffic Commission. I think I won't labour the point made by my colleague about the inconsistency that we see in the law in a Committee that is required to work to directives from the Government, chaired by a Member of the Government, composed primarily of civil servants who may express personal views in giving advice but once a policy decision is taken then they carry out the policy decision whether they agree with it or not and at the end of the day who are supposed to be there to give advice to the Government under whose directives, to whose policy and under whose chairmanship they work. The whole thing to us is totally inconsistent and incongruous and it isn't enough to say: 'This is what is happening with all the other Committees'. It is not what is happening with all the other Committees, it isn't happening with any other Committee. I happen to sit, as the Government knows, on the Manpower Planning Committee representing the Gibraltar Trades Council and there we don't work to Government policy. We have had a situation in

the past where the Manpower Planning Committee gave advice on the quota a number of years ago when there was opposition to an increase in the quota for the construction industry and, in fact, that advice was disregarded by the Government who decided to increase the quota notwithstanding the advice of the Manpower Planning Committee because the Manpower Planning Committee, as an advisory committee, didn't have to work to the policy. Had we had to work to the policy we would have been told: 'The policy is increase the quota'. Then what is the point of giving advice or increase the quota if the policy is to increase the quota? Where there is an advisory function you are not working to a Government policy. Where there is an administrative function you are working to a Government policy. This Committee seems to be a hybrid expected to do both things and with, really, draconian powers. I think the Government ought to think twice about giving the Commission, as it is going to be called, the powers that they have because somebody who behaves in an insulting manner or who uses threatening or insulting expressions not just to the Commission but in the presence of the Commission, can be put in jail for a month.

HON CHIEF MINISTER:

If the Hon Member will give way. I think there may be a wrong conception of what it is. This is an offence which has to be investigated and has to be prosecuted, they haven't got the power to do that. Just one more small point, nor is it necessary because it says a fine and imprisonment, nor is it necessary to have imprisonment.

HON J BOSSANO:

I think my looking at other legislation, Mr Speaker, in other places, in the legislation where I have seen offences of this nature or penalties of this nature, it is usually either /or. Here, on conviction, the person found guilty of using threatening expressions in the presence of the Commission is liable, if he is found to be guilty, and let us not forget that the Commission sits in public or can sit in public on occasions and let us take a hypothetical case. They have got the right to summon any person to appear before them. Suppose they are hearing a case and they feel that the advice of the Hon Minister for Tourism or the views of the Hon Minister for Tourism might be valuable and he is sitting there giving his advice in public and he suddenly notices a journalist in the audience and we know the catastrophic effect seeing a journalist has on the Minister for Tourism, he then behaves in a threatening manner in the presence of the Commission and finds himself with a month in jail. Clearly, there are wider

repercussions to this legislation than the Government has given thought to. We are, as my Hon Colleague has said, voting against the Bill and we feel that there may well be very sound reasons for the Traffic Ordinance to be amended and perhaps there are very valid reasons for the composition of the Transport Commission to be altered on the basis that the Government wants an Ordinance and wants a Committee that is producing useful work and I think that it isn't just if a Committee is doing something the Government doesn't like that you send them packing, I think it is also a valid argument that if the Committee that you have got or if the law that you have got or the machinery that you have got is not producing results, then you have got to get a move on and get it replaced and do something else in its place but I don't think the defence of the Ordinance which is what we are voting for, there has been a defence made of a requirement to do something to change the existing machinery. There has been a case made for saying: 'This is nothing new, all that we are doing here is what already exists with other Committees'. If in fact the Government feels that the most expeditious way of dealing with situations is for the Government to run the show directly then it is better to do away with the farce of pretending that there is a Commission there that is independent of Government because if you have got a situation, for example, Mr Speaker, which is one hot potato implicit in this law which has not surfaced so far which is the question of licences. We have asked in the past in relation to taxi licences, what the policy of the Government was and we were told by the Government at question time that it was something that they were considering in the context of the whole question of transport policy. Is this the result of the revision of the whole question of transport policy that you just get rid of the people who don't do what you like them to do and you replace them by people who have got no choice. The only logical connection in this Bill is that by having the Commissioner of Police there, if somebody loses his cool and starts acting in an insulting manner he can be arrested on the spot but apart from that, Mr Speaker, we don't see how this is going to expedite any matter. Is it, in fact, that the Government has got a policy on what is going to be a sensitive area in relation to the taxi trade and they want to be able to do it in a way where they don't carry the entire responsibility for doing it because they can say there is this Traffic Commission who is deciding that but the Traffic Commission consists of the Minister, of three civil servants, of two other persons one of whom should be a barrister and a solicitor who don't have to be independent, it doesn't say anything about being independent, who don't have to be representative of anybody. In the situation of the numbers of Committees that the Minister for Economic Development has mentioned like the Trade Licensing Authority and the Manpower

Planning Committee where there are people who are there, they are not there in their own right. It is very difficult in Gibraltar to find people who are independent and even if you find people who act with a degree of objectivity they can never be seen as totally independent because when they take a decision which doesn't please somebody there is usually an accusation of bias and that is something we have to live with because we are a small community. But the people who are there in a representative capacity both in the Manpower Planning Committee and in the Trade Licensing Authority are there on behalf of those nominated and they are not the sole arbiters, they work to policies but of course they don't work to Government policies, the people who represent the Trades Council work to Trades Council policy, the people who represent the Chamber of Commerce work to Chamber of Commerce policy and if there is anybody that works to Government policy it is the Minister that chairs the Committee and possibly the civil servants and the independents are there to balance that situation and possibly hold the middle ground and be swayed by the arguments of one or the other. If we replace the Transport Commission by something that is fairer, something that is more impartial, something that is more likely to come up with decisions in difficult areas with a measurement of success, then the Opposition will support the move that will improve the situation but we don't think this will improve the situation, this is an attempt to solve an unsatisfactory situation by replacing it with something that we consider to be even less satisfactory. I think the point about giving people the opportunity to put forward proposals, not us, Mr Speaker, but people affected in the trade, people who are going to be bound by the decisions of this Commission, giving them an opportunity, I would say to the Hon and Learned the Chief Minister that he has mentioned on two recent occasions the new attempts that are to be made to arrive at a basis for mutual understanding and a basis for looking at problems with the Trade Union Movement. I would say that there are organisations representing interested parties in

this area and that the same approach, the same philosophy of conciliation rather than imposition leading to confrontation is one that we support and one that we recommend to the Hon and Learned Member in this area as we have supported and said so in the area of industrial relations.

MR SPEAKER:

If there are no other contributors I will ask the Minister to reply.

HON M K FEATHERSTONE:

I don't have very much to say. One minor point for the Hon Mr Perez, Clause 54 is not exactly the same as Clause 55 as at the moment because it brings back subsection (a) which is 'advise the Governor on all matters affecting traffic on the roads' which was abolished recently in Clause 55.

HON J C PEREZ:

I apologise but I was looking at the Ordinance that had it included. If I might just say that another good reason for opposing the Bill is that on page 3 it is called the Landlord and Tenant (Amendment) (No.3) rather than the Traffic (Amendment) Ordinance notwithstanding that Sir John Spry had a look at it.

HON M K FEATHERSTONE:

We will amend that at Committee Stage, Sir. The Committee itself will work to general Government policy not to specific directives and I think as has been said by the Hon the Chief Minister and by my colleague, Mr Canepa, you can trust Government Committees to work with a modicum of fairness and intelligence. As far as having witnesses, I don't think the intention is to stand with a machine gun ready for every witness that comes along and say: 'Either you tell us what we want or you are going to be fined and imprisoned straight-away'. I think we can easily make a small alteration 'and/or imprisonment for one month' but this is a maximum in which the Court would adjudicate, not the Committee itself. The point that the Hon Mr Canepa has made regarding no discrimination against foreign cars is a very good point and perhaps we will see a Policeman in due course standing at the frontier with a big mass of tickets saying: 'We are waiting for you, here is a fine for such and such a day' as used to occur in La Linea many years ago when one went through. Apart from that, Sir, I commend the Bill to the House.

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

The Hon A J Canepa  
The Hon Major F J Dellipiani  
The Hon M K Featherstone  
The Hon Sir Joshur 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 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 M K FEATHERSTONE:

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

This was agreed to.

#### THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

Mr Speaker, I don't wish to move this Bill at this meeting of the House. It was put in the Agenda rather hastily before the Bill had been approved. It will be moved at a subsequent meeting of the House.

MR SPEAKER:

So you are not proceeding with it?

HON ATTORNEY-GENERAL:

I am not proceeding with it at this meeting.

THE ADMINISTRATION OF ESTATES (AMENDMENT) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Administration of Estates Ordinance (Chapter 1) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this is the long awaited Bill to amend the Administration of Estates Ordinance in order to enable an employee aged 16 or over to nominate a person entitled on his death to receive any wages, gratuities, arrears of pay or other monies due to him from his employer. The maximum sum which may be disposed of in this way is £1,500. Mr Speaker, all the employee has to do is to complete a form in the manner indicated in the Third Schedule, sign it in the presence of a witness and deliver it to his employer. On receipt of the form the employer must make a record of the nomination, endorse the form with a note that he has made such a record and return the form to the employee for safe keeping. On receipt of proof of the death of the employee, Mr Speaker, the employer must pay out the monies due to the employee (to a maximum sum of £1,500) to the person named in the form. Any nomination made in this way is automatically revoked by the subsequent marriage of the nominator, by the death of the nominee in the lifetime of the nominator or by any subsequent nomination. An employee, Mr Speaker, cannot make a nomination in favour of his employer or the employer's servants or agents unless they are close relatives of the employee. The person who witnesses the employee's signature on the nomination form cannot take a benefit under the nomination. If the person nominated in the form, Mr Speaker, is an infant under 16 years of age or is of unsound mind, the employer may pay out to any person who satisfies him that he will apply the monies for the benefit of the infant or the person who is of unsound mind. Mr Speaker, the Government of Gibraltar is bound by the terms of the Bill. I commend the Bill to the House.

MR. SPEAKER:

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

HON J. BOSSANO:

Mr Speaker, we welcome this Bill. I think this almost dates back as long as the pensions for part-timers. The only difficulty that we see in the Bill is the question of the money, that is, the ceiling on the money because unless there is going to be fairly regular up-dating of the figure, we are talking now about a sum of money, £1,500, Mr Speaker, in respect of a gratuity, which is very little money nowadays and if somebody dies and they are owed annual leave and they are owed a week in hand or if they are monthly paid they are owed a month's wages and they are owed a number of months for a gratuity then, presumably if it is £1,501 that's it, because as we read it it cannot exceed £1,500. I would have thought that one thing worth looking at is to see the kind of sums that people have been paid recently in these circumstances because we might be legislating after all this time and find that when we finally get it on the statute book nobody can take advantage of it because there is nobody who gets less than £1,500 and that would seem to me to be a very sterile end to what has been a very long battle over something which we all agreed from the beginning was a good thing and there was never any controversy about the desirability of doing it and now that we are finally doing it it would be, I would have thought, a retrograde step if we did something, people expect that now they won't have to go through the process of getting legal assistance to get letters of administration and then they find that in fact nobody ever comes under £1,500 because the reality of it is that the vast majority of cases, certainly in my experience, are in the public sector. In the private sector there isn't the entitlement to this thing and therefore, generally speaking, the cases that have been brought to the Government's notice and where in fact individual Members of the Government have often acted for those involved without charging them in a professional capacity because they recognise the problem that it meant for a widow or for a family with heavy commitments to have to meet this expense. We welcome it, we have waited for it a long time but before we finally do it could the Government not take a look to see how realistic is the £1,500?

MR. SPEAKER:

Are there any other contributors? The Hon Attorney-General may reply.

HON ATTORNEY-GENERAL:

The £1,500, I think the Government is fairly easy about the amount, but that £1,500 was fixed because under the UK Principal Civil Service Pension Scheme amounts due in respect



of wages, salaries and other emoluments from a Government Department up to a limit of £1,500 may be paid immediately to the nominee and that £1,500 was fixed and put in the Bill because of that particular Scheme.

HON CHIEF MINISTER:

I think that so long as it doesn't pass the barrier of where estate duty would have to be payable it could be higher.

HON J L BALDACHINO:

I think that you will find that in the Pension Scheme of the MOD it is related to UK but it doesn't necessarily mean that we have to follow that.

HON ATTORNEY-GENERAL:

That is a Scheme which operates in the Dockyard, I think.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

#### THE MISUSE OF DRUGS (AMENDMENT) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Misuse of Drugs Ordinance, 1973 (Ordinance No.6 of 1973) be read a first time.

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

#### SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Section 6(1)(b) of the Misuse of Drugs Ordinance, 1973 makes it unlawful to supply or offer to supply a controlled drug to another person. In Criminal Appeal No.3 of 1984, the Court of Appeal of Gibraltar said this:

'In Treacy v DPP Lord Reid said there is a strong presumption that when Parliament, in an Act applying to England, creates an offence by making certain acts punishable, it does not intend this to apply to any act done by anyone in any country other than England. "here there is an intention to make an English Act apply to acts done outside England that intention is and must be made clear in the Act". There is nothing in the Misuse of Drugs Ordinance to suggest that the intention of the Legislature was that the word 'another' in Section 6(1)(b) should be read as including all persons in any part of the world and, in our view, the word should be interpreted as meaning 'another in Gibraltar'. Mr Speaker, this decision has caused the Crown a problem in dealing not so much with charges of supplying a controlled drug to another person but with charges of being in possession of a controlled drug with intent to supply it to another. Consequently, if a defendant was found in possession of a large quantity of drugs in Gibraltar and that person has the intention of supplying those drugs to a person in England or in Spain, he could not be found guilty of the serious offence of being in possession of a controlled drug with intent to supply it to another, he could only be charged and found guilty of a much less grave offence of simply being in possession of a controlled drug. And the object of this Bill, Mr Speaker, is to remedy that situation and make it clear that any person who supplies or offers to supply or intends to supply drugs to any person outside Gibraltar commits a criminal offence in Gibraltar. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

I think, Mr Speaker, we clearly support any moves in the direction of making it easier for the authorities to control any drug trafficking but looking at it from the point of view of understanding exactly what it is that we are doing, one thing that puzzled us was are we saying that if a particular drug is not an offence somewhere else outside Gibraltar it is still an offence in Gibraltar?

MR SPEAKER:

No, if someone is in possession of drugs in Gibraltar to supply some other person outside Gibraltar then he cannot be charged with the offence, he can only be charged with the lesser offence of being in possession, not with the intent to supply.

HON CHIEF MINISTER:

Mr Speaker, if you take the case of somebody being found with a number of packets of hashish in his pocket with names of people in La Linea, he would only be guilty of possession and not of possession with intent to supply.

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

HON ATTORNEY-GENERAL:

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 GAMING TAX (AMENDMENT) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gaming Tax Ordinance, 1975 (No.2 of 1975) 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. Mr Speaker, this Bill comes from the same stable as the other measures which were taken earlier this year immediately prior to the 5th February, that is to say, its parentage is by 'open frontier' out of a mare called 'reduced taxation' and I hope that after a year has elapsed this healthy yearling will be named as 'increased Government revenue'. Reducing the betting tax from its present level is therefore mainly as a means of stimulating betting. I should perhaps declare an interest here as a keen follower of the turf although I hasten to add that I have not had a bet since I arrived in Gibraltar, I was tempted a short while ago on the occasion of the Champion Stakes at Newmarket which happened to be the last time I had a bet in the UK and I am happy to say that I backed a horse at 33 to 1 and it won.

HON J. BOSSANO:

Appledore?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But, seriously, this measure is being done in the expectation of increased betting from gambling expatriates on the Costa del Sol. The point being that many of the betting managers of Rock Turf Accountants and the owners have done their own market research into this. The existing tax at 12½% compares unfavourably with the UK tax and what, in fact, many people do is phone the UK with their bet. If you pay 10% or 12½% on a bet of £50 obviously this makes quite a bit of difference. I hope the measure will not be seen as in any way contributing towards the erosion of the moral fibre of those in Gibraltar and I would only say to those who might think that, I will end as I often do with a quotation from Shakespeare 'because thou art virtuous shall there be no more cakes and ale'. I commend the Bill to the House, Mr Speaker.

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?

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 House recessed at 8.00 pm.

THURSDAY THE 28TH NOVEMBER, 1985

The House resumed at 10.45 am.

THE ELECTIONS (AMENDMENT) ORDINANCE, 1985

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Elections Ordinance (Chapter 48) 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 CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. In July, 1983, a Bill was brought to this House in order to allow for the provision of postal voting and the opportunity was then taken to delete from the provisions of the Elections Ordinance the persons with what was called the 'non-residential vote' which was the vote of British Subjects living in the district of the British Consulate in La Linea and Algeciras and that, of course, meant that people not living within the jurisdiction were not entitled to vote. When the Bill for that Ordinance was brought before the House it was supported by Mr Bossano and whilst at the beginning there were certain objections on the part of the then Opposition, in the end everybody voted in favour and, in fact, I think in fairness to the now Leader of the Opposition, I would like to read what Mr Isola, then Leader of the Opposition, said at the time and this is relevant because of what their Party is saying now. He said, and I am reading from Hansard of the 6th July at page 122: 'Mr Speaker, as you know I queried the advisability of repealing Section 2(ii) of the principal Ordinance by virtue of the fact that I queried the position that could arise as a result of Gibraltarians genuinely having to seek accommodation in Spain because of lack of accommodation in Gibraltar and coming to work to Gibraltar and it seems to me that we ought to reflect on the possibility of keeping that in because of that sort of case. I must say, Mr Speaker, that having heard the argument especially from my Hon Friend, Mr Bossano, on the question of the dangers of in fact not repealing that Section because of the number of people who could be caught by it and I have looked at the matter and possibly it would be impossible, I suppose, to just allow Gibraltarians resident in the Campo Area to vote and not allow at the same time other British Subjects because the right to vote derives from being a British Subject and not from being a Gibraltarian. In those circumstances, Mr Speaker, I thought I would get up and say that certainly I, I know my colleagues do, but certainly I agree now to the repeal of that Section 2(ii). I think that in the circumstances I am convinced. We agree with that Clause as well'. Now they are saying that this Bill is in order to deprive Major Peliza from standing for election. And indeed even Major Peliza himself said: 'I think there are lots of points that have to be looked into, I do not think my Hon Friend said: 'Yes, we have got to include them', all he said was 'let's give it some thought', so that in no way do we deprive the Gibraltarians from exercising

their democratic right'. Well, I don't know that he gave it thought from the time he spoke because there are no timings in the Hansard of the time his Leader spoke but certainly by that time everybody voted in favour. We have given some thought to that and we have not hurriedly come to this House to do that and, in fact, at the Ceremonial Opening of the Fifth House of Assembly held on the 22nd February, 1984, in my speech on that occasion, amongst many other things, I said: 'I might add, in connection with the Elections Ordinance, that it is the Government's intention to amend the law so as to ensure that only those persons who are actually resident in Gibraltar will be able to stand for election in future'. We have taken our time and what this Ordinance does is, as stated in the explanatory memorandum, the Bill intends to amend the provisions of Section 2 of the Elections Ordinance so that the qualification is limited for the franchise and in consequence membership of the House of Assembly to those who live in Gibraltar either permanently or indefinitely. Clause 2 of the Bill will require a potential voter to live in Gibraltar during the whole of the qualifying period of six months as at present prescribed by Section 2 of the Ordinance, and also require him to intend to live either permanently or indefinitely in Gibraltar. Clause 2(c) of the Bill contains certain presumptions intended to clarify the provisions of the new qualifications for the franchise by indicating where a person has his home in Gibraltar, he is presumed to intend to live in Gibraltar permanently or indefinitely; where a person has more than one home, then he is to qualify for the franchise, Gibraltar must be his principal home; and where a person is in Gibraltar for the principal purpose of carrying on a business etc, and his wife and children are not in Gibraltar, his home shall be deemed to be with his wife and children. Let me add, for the benefit of the feminists that when the law says 'wife and children' it also means husband and children. Mr Speaker, we have taken a long time to produce this Bill because it has been difficult from the drafting point of view, it has been difficult to ensure that we get it right. I know that the Hon Leader of the Opposition with whom I have consulted this matter being one of electoral law and it is not a matter really for partisanship and he agrees with the principles and he may or may not have some points on the detail. This is a Bill which has taken a lot of time to emerge and we are quite happy to leave the Committee Stage and Third Reading of the Bill to the next House to give us a little more time to think about the special way of describing it but I hope that there will be general agreement on the principles of the Bill and we can go ahead and then there will be time for other people to make representations. I don't want to be particularly personal but the DPBG's communique says that this is intended to deprive Major Peliza from standing for election, that is the last thing that one

would want to do, that is, prevent him from standing for election, let him stand and let him come here and amuse us all and he can start qualifying now if he wants to live in Gibraltar, nobody will stop him but nothing is further from the truth, in fact, whilst he was in the House a lot of comments were made about it but so long as he remained a Member of the House I thought it would have been most improper for us to bring legislation. I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, I think the principles and the general merits of the Bill are not a source of problem. It may be that the criticisms that have been made of it so far have been made of it, I think, from some people through a lack of understanding. Certainly I feel that the reaction, for example, saying that we are now going to take away the right of Gibraltarians who find themselves having to go and live in Spain, we are taking that right away from them now, that is not the case because it isn't a right that they currently enjoy. If we took that right away from them at all, we took it away on the 6th July, 1983, with a previous amendment and it was an amendment carried unanimously by the House and it was an amendment which, in fact, I think resulted from my drawing the attention of the Government as far back as 1980 when the Lisbon Agreement was signed and there was talk of the frontier reopening and I was drawing attention to a number of laws in Gibraltar which I felt could put us in a difficult position once normality was restored and there were a whole range of questions that I put at the time in 1980 and amongst them was the question of voting rights. And the basis of the argument is that, of course, the principle that we must defend as a parliamentary democracy, Mr Speaker, is that the people have the right to vote and that we want the widest franchise possible so that this House of Assembly reflects the community and this House of Assembly passes laws for the community and which affect the community and is voted by that community that it is legislating for, that is the essence of it. The reality is that if somebody lives in the neighbouring territory albeit because of the difficult housing situation in Gibraltar, for a great deal of the time he is under the jurisdiction of laws which we don't pass in the House of Assembly, which are passed in the Cortes in Madrid and it is true that if you have got British Subjects who commute to Gibraltar to work and don't vote in Gibraltar, they may be totally disenfranchised in the sense that they don't vote here and they don't vote there.

But we must not ignore either that the number of Gibraltarians in existence is very limited and that we have a situation where when we gave the right to vote to British Subjects living in the Consular District of La Linea and Algeciras the number of those British Subjects was also very limited and probably a good proportion of them were Gibraltarians whereas today we have got a situation where we have got the European Community encouraging free movement of labour throughout the Community and you have got a situation where the neighbouring territory is part of the European Community on the 1st January, 1986, and if there are already many thousands of British Subjects living within daily travelling distance of Gibraltar that, if anything, is likely to increase rather than diminish and the danger which I pointed to several years ago and which I think eventually persuaded other Members on this side of the House in 1983 was the danger that we would be swamped, that we could theoretically however ridiculous it may sound, find ourselves with a House of Assembly composed of expatriates from the Costa del Sol and no Gibraltarians. I know that that is an exaggeration but the point is that it is no good trying to shut the door after the horse has bolted and therefore what I was saying then and what the GSLP says today in Opposition, Mr Speaker, is that we think that on balance because legislation is not about producing the ideal for a perfect world but of having to make decisions and choices, on balance if we have to guard against that risk and in order to guard against that risk we deprive some Gibraltarians of their right to vote in Gibraltar, well, we feel that we are doing the best thing for the community by pursuing that course of action and clearly the answer is not to say: 'We will enfranchise all the British Subjects who live in Spain'. The answer is to say: 'We must urge the Government to try and come up with an answer to the housing problem so that the people who live in Spain are the people who want to live in Spain and not the people who find themselves forced', because if we think of the basic moral objection to the Bill, well, not really the Bill that we are looking at, but to the existing situation, to the situation that we created in 1983, the basic moral objection is that if you are depriving somebody of the right to live in his own home town where he was born and where his family and predecessors have lived, by economic pressures, then you shouldn't add insult to injury by on top of that disenfranchising him. But, of course, the same is true of medical services, the same is true of education for their children and I don't think it is that the Government wants to punish Gibraltarians for going to live on the other side. I think the reality is that the Government and we on this side don't see any way of resolving the problem either, the Government is caught between two stools, if it gives it to the Gibraltarians it may find itself having to give it to everybody else, I think we all know that that is the problem and we cannot forget that although at this stage we are talking about the right to vote of British Subjects, there is

already a strong view within the European Community being put across very strongly that in the encouragement of the free movement of labour, community citizens should be enfranchised in the places where they go to live and work. The Irish Republic has already done this, the Irish Republic has already granted Community Nationals the right to vote in the Irish elections. Other Community Members, Holland and a number of others, already do this for local authority elections although they don't do it for Parliamentary elections but the trend is there, it is clear, and it would certainly be very difficult, just like the Government cannot say and has already been demonstrated, we have family allowances for British Subjects who commute and we don't have family allowances for other EEC Nationals who commute. We have income tax allowances for British Subjects who commute and we don't have income tax allowances for other nationalities who commute who are Members of the Community. I think that if it doesn't happen it could happen in five years time or in ten years time we would find ourselves in a situation where it would not just be a question of allowing commuting British workers, it would be commuting European workers having the right to vote and I don't need to spell out the dangers to anybody about that and I would have thought, least of all, would we need to spell out the dangers of that to the DPBG, quite frankly, I would have thought. As far as the GSLP is concerned, certainly we have a great deal of affection and respect for Bob Peliza and we don't want to do anything to stop him standing for election but we do feel as a Party, it is a matter of Party philosophy, that Members of the House whether in Government or in Opposition should be available to their constituents all the time and although it is an imposition that none of us like to have, we feel that if you don't like being dragged out of bed because somebody has got a headache and cannot get any response from the Health Centre at two in the morning, then you don't get into politics in Gibraltar because that is what politics in Gibraltar is about. If you care enough about the Gibraltarian people then you love them warts and all, Mr Speaker, and that requires having to put up with them twenty-four hours a day seven days a week, otherwise we shouldn't be here and therefore it is that principle that we defend. However, I am grateful that the Hon and Learned Chief Minister is not taking the Committee Stage because we are unhappy, and the Hon and Learned Attorney-General knows that we are, we are unhappy about the actual drafting of the thing and we certainly would like to have an opportunity to give this more thought so that what we do is when we come up with legislation we feel that the role of the Opposition must be that either it is opposing the legislation that the Government is bringing forward or else it tries to do a conscientious job of supporting it by ensuring that if we have got reservations about things that require improvement. Well, I understand that a great deal of thought has gone into the drafting of this and I often preface what I have to say in a House where the legal profession is well represented, Mr Speaker,

it is not an area in which I claim any expertise and it is perhaps because I tend to see it through the eyes of a layman rather than through the eyes of the expert that I can sometimes see things that don't seem to make sense to me although they may make sense to the members of the legal profession. I think a great deal of the worries that we see in this is this business of home and permanent home and the definitions of what is home and permanent home and, in fact, if we look at the Bill that there is before us where it says: 'where a person is stationed in Gibraltar for the principal purpose of carrying on a business, profession or occupation, and his wife and children, if any, have their home outside Gibraltar, he shall be presumed to intend to live permanently or indefinitely in the latter place'. I know that in the original draft 'stationed' wasn't there. If that was the Clause that was going to stop Major Peliza from standing then it doesn't anymore because he is no longer a Major and therefore he is no longer stationed here. But it does create certain little quirks, if I can give an example. We have got a situation where we have an industrial relations manager in GSL who conceivably could be said to be stationed in Gibraltar. Presumably, this does not apply to Servicemen since Servicemen do not have the vote so it would apply to expatriates who are serving on a contract and cannot be considered to have made Gibraltar their home because they are here for a defined period of time. The personnel manager we had before who was a very nice man and would have voted GSLP, was stationed in Gibraltar and had his wife and children in Newcastle and therefore he cannot vote because he kept two homes, the principal home by this definition was in Newcastle. He has now been replaced by a new personnel manager who will vote AACR, who has brought his wife and children with him. He is stationed in Gibraltar but he can vote because he has got them here except that he is having difficulty in finding a flat here and he may have to move into La Linea and therefore the AACR will not get his vote either. It is the translation of the principle and the philosophy to the reality that concerns us and therefore it is in trying to say: 'We must not create ridiculous situations at the end of the day', in trying to achieve an objective we find ourselves creating more problems than we have resolved and it is in that context that we think we need to look at this more thoroughly to do a proper job of it.

HON A J CANEPA:

Mr Speaker, I would like to say from this side of the House that we welcome the line taken by the Leader of the Opposition on this piece of legislation. The Bill before the House, Mr Speaker, is clearly not intended to be ad hominem but nevertheless even though it has got very little or next to nothing to do with Major Peliza, it is absolutely necessary that we should

effectively dispose this morning of this Major Peliza canard. The timing of amendments to the Elections Ordinance in July, 1983, and now at the end of 1985, is a logical process and a consistent process which is having regard and taking account of events as they are unfolding. In July, 1983, it was necessary to amend the Elections Ordinance because of two reasons. First of all, a general election was imminent in 1984 and, secondly, there had been a partial opening of the frontier in December, 1982, which made it possible for people residing in the Consular District of Gibraltar in the Campo Area to commute to Gibraltar on a daily basis. It was the awareness of those two facts together with the possibility of trends developing in the wide political arena which had become evident in general elections in 1976 and 1980 and, indeed, during the years of the restrictions, that led to the need for the Ordinance to be amended along the lines in which it was in July, 1983. One can sympathise fully with the sad family reasons that led Major Peliza at the time when he was, in fact, Leader of the Opposition in the middle of 1972 to have had to leave Gibraltar and between 1972 and 1976 there was not a great deal of criticism about the fact that Major Peliza was commuting to Gibraltar to attend meetings of the House of Assembly. But the situation, as far as we were concerned, changed in 1976 and we criticised him at the time of the general election. In the event he stood as an independent and was elected and therefore he could contend, and he did, that he had made it clear that his home was in London, that he was going to be commuting to Gibraltar and that he was standing on that basis. In fact, in 1980 his grounds for asserting that were even stronger because when he stood with the DPBG he was handsomely re-elected and figured much higher up in the overall poll. But I would agree with the Hon Leader of the Opposition that what Major Peliza was doing, certainly subsequent to 1976, was to my mind an abuse of democracy, a negation of the fundamental and essential principles of elective and representative democracy whereby people vote for you and you then acquire a duty, a commitment to represent the interests of those people and to be available to your constituents, to receive representations from them and to take matters up and you are not able to do that, Mr Speaker, if you are living over one thousand miles away from Gibraltar. Major Peliza, undoubtedly, did very good work in London in a specific area though some have doubts but, all in all, he was sincere in his efforts to promote Gibraltar's cause in London in the international arena but we are not just elected to represent Gibraltar in the international arena. His representation of those people that voted for him was not a full representation and when he came to Gibraltar for meetings of the House of Assembly, and it took Horace Zammit to cotton on to that very effectively, what Major Peliza used to do was to intervene in this House at every opportunity. Not a Bill went by on which

Major Peliza did not speak, not a motion went by on which Major Peliza didn't have something to say and, of course, what happened was that anybody listening to a report of the proceedings of the House over radio or over television kept on hearing the name of Major Peliza being mentioned and the aura was created that, in fact, Major Peliza was making a greater contribution to political matters in Gibraltar and to the House of Assembly and to political affairs than what in fact he was doing and he got away with it until 1984. In 1984 he was squeezed out because politics polarised in a way that they had never done before over one specific issue. In spite of that, though I think that it was the closure of the Dockyard and commercialisation that was the cardinal issue at the election of 1984, I would maintain that amongst many people in the electorate there was an understanding of the mistaken approach to political matters by the DPBG and by the more prominent members of the DPBG over a number of years and that their approach to politics was also rejected by the electorate. And we have seen the inconsistency in their approach to political matters only this week when they have come out with a press release totally forgetting the stand that they took in July, 1983, here as a party and totally forgetting what Mr Isola had to say here in the House in July, 1983. You cannot do that, Mr Speaker, you will be caught out sooner or later and what happened in January, 1984, was that matters caught up with the DPBG once and for all and they still think that they can carry on in that same way. And then, Mr Speaker, to call upon the Governor to intervene. The Governor was here in this House a few days ago, subscribing to the principles of our Constitution, identifying himself with the community, thanking the House of Assembly for the part that we play in the democratic affairs of Gibraltar and here you have a group of people some of whom were Members of this House for nearly thirty years, now calling upon the Governor of Gibraltar, recently arrived in Gibraltar, to overrule and to overthrow what this House of Assembly wants to do. What sort of democracy is that and what a shame to be called the Democratic Party of British Gibraltar. What more anti-democratic action could you have than that the Governor should intervene and overthrow the decisions of this House on one of the most fundamental matters at stake in democracy and that is who can stand for election and who can vote at elections? Nothing is more sacred than that and the Democratic Party of British Gibraltar expected the newly arrived Governor, the representative of Her Majesty the Queen, to interfere with the affairs of this House, what a shame. But looking at the matter on its merits. What is essential to preserve and to ensure that it doesn't occur is that a community does not develop either in Gibraltar or partly in Gibraltar and partly in the neighbouring area in Spain which becomes a divided community. The bulk of the problems of



Northern Ireland have to do with the fact that there are two sizeable divisive communities. Fortunately that is not the case in Gibraltar. We are a united people on the essentials, on the fundamental principles which we are fighting to preserve and whilst it is said that some families may be having to look for accommodation in Spain, nevertheless the danger inherent in that must be clearly appreciated over a period of time and whilst some people will take up residence in Spain for reasons to do with housing, other people may have other reasons for going to live in Spain, they can be business reasons, professional interests and there is a danger - those people in particular, I think, are even subject to conflicts of interests and there is a danger that in years to come a sizeable community could develop across the way whose ultimate interest will not necessarily coincide with the interests of other people living in Gibraltar and sticking it out in Gibraltar over the years. That is what we are trying to avoid through the Bill which is now before the House and that is the manner in which it must be presented, that it is a tool, it is a means that we Members of this House are using in order to preserve the unity and the integrity of the community as it has been developing for the last twenty years. That is the essential danger and the dangers of falling into that pitfall can be seen - I mentioned Northern Ireland; there are communities in Fiji and elsewhere where different communities have developed. That is what we are trying to do and really it is a nonsense for anybody to pretend that this has got to do with Major Peliza cannot stand for election or Major Gache or any other Major or Colonel or what have you. Anybody who has an interest in making a contribution to politics in Gibraltar only has to throw in his lot with us here. If he throws in his lot with us here he can stand for election, he can vote at an election but to do what Major Peliza was doing for many years could result in other cases in divisions that we should try to avoid. That, I think, Mr Speaker, is the essential message that must come out of this House, a united voice rejecting the negative approach of the DPBG and voicing and putting across the positive and important principles behind this piece of legislation.

MR SPEAKER:

Are there any other contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I fully support the Bill but I would like to add one thing that what is furthest from my mind and my intention is to harm the youngsters and people who haven't got any housing

in Gibraltar and have therefore opted to live in Spain. Certainly it is not the intention of the Government to do that but in legislation sometimes some people have to suffer because we cannot please everybody all the time. I am in a position as a father who has a son who is married and on the 19 December last year he was given a notice of eviction from his house. My son did not go to Spain, my son is saving up as much money as possible by working day and night to try and buy a house in Gibraltar and his wife is now working to try and buy a house in Gibraltar. It would have been far easier and cheaper for him to have moved into a house in La Linea so I know what I am talking about, and I live in a Government flat, I don't have a private house neither there nor here nor will I ever have the money to have either a house in Spain or a house in Gibraltar. My son every time he is on shift duties has to sleep in my house because there are four people sleeping in the bedroom in his flat. I know what suffering is. I say so sincerely, all these emotive issues of the Gibraltar Chronicle, all the letters written, we are not hitting against them, we are trying to save their rights because one day if things don't happen the way we want them to happen they won't have the right to come back to Gibraltar and this is what they have to think. People have been suffering housing problems far worse for a longer period, now they are taking the easy way out but the border has only been opened a couple of years and there was less housing before. Certainly in 1969 when the border closed there was a bigger housing problem. Now we are aspiring to a better standard of living, more rooms etc, etc but the housing situation in 1969 was worse than it is now because we had the influx of the Gibraltarians living in Spain. Certainly the housing situation was worse in 1969 and I know that the housing situation is pretty bad now but it was worse then. I sympathise with them and I realise their problems but we must safeguard the integrity of the people of Gibraltar in Gibraltar and it is not hitting against them, I feel sorry for them but I think we are doing the right thing. I know it is an emotive issue, I know that we can be accused of not providing housing but I think we have been going through a traumatic experience in relation to money for all kinds of services and the ODA, certainly the present Government, is not sympathetic to anything to do with housing, education, social welfare, etc, and the monies that we have available we have to use for other things. But certainly as far as I am concerned I want to assure the people who have to put up with living in Spain because they have to, that it is not meant against them it is meant with the fact we want to protect our own rights in Gibraltar.

HON J L BALDACHINO:

Mr Speaker, the contribution of the Hon Major Dellipiani has

just brought a new light into the debate on the Elections (Amendment) Ordinance. I agree fully with the sentiments he has expressed with regard to young people who have to buy houses in Spain. The idea of my party and mine personally is that the Government should be legally bound to provide houses for everybody but seeing that I cannot change their way of thinking, for obvious reasons, or their policy, at least I think that once that this Elections Ordinance goes through and becomes law they will have the moral obligation to find a solution to the housing problem and especially for the young couples the Hon Member was referring to. I think in that context, Mr Speaker, that the Government should now start looking more carefully into how they can find a solution or alleviate the problem so that people who not by any fault of theirs but because they cannot find any accommodation here have to go and live in Spain and therefore lose their right to vote or to stand for election.

MR SPEAKER:

I will then call on the Hon the Chief Minister to reply.

HON CHIEF MINISTER:

Thank you, Mr Speaker. With regard to the contribution of Mr Baldachino I fully appreciate what he says and it would be less than sincere in his role as Shadow Minister for Housing if he didn't make that point because it is a valid one. But as his own Leader said earlier on, we have to take decisions and it has often been said that Government is the exercise of options and the options are clear and I think they have been very clearly emphasised both by the contribution of the Leader of the Opposition and of my colleague and therefore I don't think I need to say more about that. With regard to the details, of course, when we come to the Committee Stage we will go into the definitions as they appear but let me say straightaway that the suggestion contained about people entitled to vote because they are stationed here is not directed or not influenced by any fortress mentality or anything like that, it comes out of the proposals for reform which were made in connection with the definition of domicile for the purposes of private international law by the Private International Law Committee. Mr Speaker, I am reading from the Conflict of Laws by Dicey and Morris, page 126, it says: 'Proposals for Reform - the concept of domicile is basically a sound one but the rule for ascertaining domicile has become, in some respects, artificial and unrealistic', and that is a quotation from a case in the Chancery Court: 'These facts have led the Court and the Legislature to rely increasingly on other connecting and jurisdictional factors such as residence, habitual residence and ordinary residence. It has led to proposals for the reform of the law relating to domicile.'

Such proposals were made by the Private International Law Committee in its first Report published in 1954 and were as follows: 'The doctrine of revival of the domicile of origin should be abolished, proof of change of domicile should be made easier and adopt the following presumptions - where a person has his home in a country he shall be presumed to intend to live there permanently; where a person has more than one home he will be presumed to intend to live permanently in the country in which he has his principal home; and where a person is stationed in a country for the principal purpose of carrying on a business, profession or occupation and his wife and children, if any, have their home in another country, he shall be presumed to intend to live permanently in the latter country'. So that that is really what has been mainly the guidance that has been followed in the Bill in order to be able to establish and to follow a pattern, which may be followed in other ways and so therefore a theory of law, a doctrine of law will develop around which there will be decisions and it will be easier to follow them. I am sorry that the debate has had to concentrate so much on a particular person but I think those who have raised the matter are to blame for it and not ourselves and I fully subscribe to the points made by my colleague, Mr Canepa, that the suggestion at this stage of our constitutional development that the Governor should exercise his right of veto in what is a purely defined domestic matter and the business for the people who have been elected and not for the people who have been rejected by the electorate, is really going back to the days before we ever had a Legislature and that is more than thirty-five years ago.

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

HON CHIEF MINISTER:

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

THE EUROPEAN COMMUNITIES (SPANISH AND PORTUGUESE ACCESSION)  
ORDINANCE, 1985

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to make provision in connection with the inclusion of the Kingdom of Spain and the Portuguese Republic within the European Communities 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 CHIEF MINISTER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, in the middle of 1972, perhaps earlier, early in 1972, during the short period that my Party was in Opposition, the question of the accession to the European Economic Community and the part that Gibraltar would take was raised by the British Government with the then Government led by the Hon Major Peliza as he then was and, of course, the Opposition of which I was the Leader, was fully consulted on this matter and the result of the consultation was that the appropriate thing to do was for Gibraltar to form part of the European Economic Community under Section 224(7) of the Treaty of Rome which provides for territories in Europe who are dependent of a Member State to be members as well and there was the protocol which provided that VAT and the others did not apply to Gibraltar for special circumstances which were especially negotiated. I seem to recall that at that time, as far as we were concerned, we felt that if Britain entered Europe we had to enter as well for obvious reasons. It was already ten years from the time the restrictions had started and I think the options were clear. There was a referendum in England, my view was that whatever the results of the referendum in England really should be the result for us because it would be difficult in the future to have been left out and that decision was taken by this House with unanimity, in fact, at the time of the decision taken by the Community of accession, the then Chief Minister sent a telegram to Sir Alex Douglas Hume saying Gibraltar should be jubilant because Britain had joined Europe. Subsequently, in the late days of 1972 after the elections of June, 1972, which brought the Hon Leader of the Opposition to the House for the first time, I think it was, he found himself in meetings in which we were considering the European Communities Ordinance of which the Party to which he then belonged had subscribed to and before the end of that year as was natural and as is necessary now, the Communities Ordinance was passed in order to comply with the commitment that we had entered into of agreeing to join Europe on certain conditions. Earlier this year, in consequence of the implementation of the Brussels Agreement, we brought an amending Bill here for what has commonly been called advance implementation. That was a matter which was very controversial and Members opposite did not agree with the Brussels Agreement and naturally did not agree with the advance implementation. This is a different situation because this is a general commitment, in fact, there was no objection at the time to the Greek accession which we were then also incorporating into the law but this is a different situation altogether. Whether we had had advance

implementation or not come the 1st January, 1985, unless we had taken steps, if that were possible, to opt out of the Common Market, we would have to abide and amend our laws to comply with the commitment of membership and to incorporate the accession of Spain and Portugal to our laws in accordance with the Treaty. First of all, the advance implementation provision which was an amendment that will disappear and we will have a clean Bill incorporating Spain and Portugal and taking away the transitional law amending legislation which was necessary to implement the Brussels Agreement. The Clauses in the Bill are small, the bulk of the problems are in the Schedule. Clause 1 of the Bill brings the Ordinance into operation on the 1st January, 1986, on the assumption which I think is pretty certain now that by then all ten Members of the Community will have ratified the accession of Spain and Portugal. Some Legislatures have already done it, some are in the process of doing it. Clause 2 of the Bill expands the definition of the Treaties and the Community Treaties contained in the European Communities Ordinance, 1972, to include the treaty relating to the accession of Spain and Portugal to the European Economic Community and the European Atomic Energy Community and the decision of the Council relating to the accession of Spain and Portugal to the European Coal and Steel Community. This is the way in which the Spanish and Portuguese Treaty is given legal effect in Gibraltar. I don't think we need bother very much about the accession to the Atomic Energy or to the Steel Community which scarcely affect us. Clause 3 of the Bill and the Schedule to the Bill amends the provisions of the European Communities (Amendment) Ordinance of 1985 which was the one I was referring to before, by repealing Part II of the Ordinance, Part II of the Ordinance granted with the derogations, exceptions and modifications contained in the Second Schedule to the Ordinance, Community rights with Spain, its nationals and companies in advance of Spanish accession to the European Community. With the accession of Spain and Portugal to the European Community on the 1st January, 1986, the need for Part II of the 1985 (Amendment) Ordinance falls away and it is accordingly repealed, as I stated earlier on. By repealing the Second Schedule to the 1985 (Amendment) Ordinance the derogations, exceptions and modifications in relation to the advancement of Community rights to Spain and its nationals and companies contained in the Second Schedule are also no longer needed and the Second Schedule is accordingly repealed. The derogations, exceptions and modifications in relation to Spanish membership of the European Communities are contained in the Acts annexed to the accession of the Treaty, this little book here, the bulk of which has nothing to do with us, really. The details of the matter of some of the effects of this may well be dealt with when we deal with the Schedule in Committee

Stage. The other thing that the Bill does is to repeal the Third Schedule of the 1985 (Amendment) Ordinance because this Schedule made amendments to various Ordinances to make provision for Spain, a national of the Kingdom etc, etc, these amendments are not necessary on Spanish accession to the European Community, the Third Schedule is therefore proposed to be repealed. In addition, the wording of the Ordinances which were amended by the Third Schedule is restored to its original state. Really, what we have had has been a transitional provision or transitional amendments which are now absorbed by the Treaty and are no longer necessary to be in our statute book. Mr Speaker, I think we have had, what I would call a good dress rehearsal of the effects of Spanish and this time Portuguese accession when we discussed the matter of advance implementation and I think I have got the Hansard here, quite a number of points were raised, so we are really going along what I would call trodden ground and I do not want to go into that amount of detail that was gone into then, I hope that the fact that this is the actual accession amendment and not anything motivated by political decisions to which the Opposition were not a party will make it at least easier for the Opposition to look at the amendments as they have to be made in accordance with the treaty. Though I know that Hon Members opposite may have strong views in many respects, which I will try to answer, I think mainly insofar as details are concerned, it might be much more convenient if the Committee Stage which I hope Members opposite will agree should be taken later on in this meeting. I will not go into too much of the details because then there will be very little opportunity for, at least, clarification on points of which we can help Hon Members opposite. It is no easy matter, there are many matters which I know are the concern of everybody but I think we are much better off in dealing with the matter and assessing the situation by having had the advance implementation on Spanish accession the experience of which has proved largely positive, earlier fears that the Gibraltar economy might be swamped have not been brought out in practice, indeed, the economy has as we saw in yesterday's reply visibly benefitted. The transitional provisions which were specifically implemented for us are now in the body of the Act of accession itself, that is, the freedom of movement of the new members, the limitations are no longer in our Act and in our Schedule but are contained in the Treaty itself. There are two points, I think, that I ought to mention. One is on the question of the transitional provisions of the question of free access of workers taking up paid employment in the present Member States and that appears - I see that the Hon Member has got a copy - that appears at page 393 of the Final Act and it is interesting because it says: 'Under the transitional provisions on the exercise of the right of freedom of movement, the present Member States shall, when they

have recourse in order to satisfy their labour requirements to labour originating in a third country which does not form part of the regular labour market, grant Spanish and Portuguese nationals the same priority as that enjoyed by nationals of other Member States'. That means, according to our interpretation of the Rule, that we can still have recourse to Morocco as being regular labour market and I think the provision of that which helps us in that respect insofar as it gives us a little wider scope during the time of the transitional provisions, because it reproduces something that was done in the other Treaty to protect mainly the Turkish labour force working in neighbouring countries to Turkey. There is only one new thing that has arisen since we discussed this matter and I think that we discussed this because the final treaty had not been concluded was not made relevant but it was done subsequently or rather, we had news subsequently and we were consulted subsequently on the matter and that is at page 32 of the Treaty, Article 56, and that is that the Kingdom of Spain may make an application after five years to cut the period of seven years to five but in order to achieve that there must, of course, be unanimity on the part of all the Member States to agree to that, it was just an option that Spain was given to apply for a review of the transitional provisions to be cut back. That appears in Article 56 of the Treaty. At page 699 there is an exchange of letters between the British and Spanish Governments regarding the rights of family members to free access to employment if resident with a worker and in the case of Gibraltar this applies from the 5th February and in the case of Member States it applies from the 12th June, 1985, which was the date of the accession Treaty. These are the three points to which I think I ought to draw attention because they vary in that respect. Dealing with the main element of the Social Affairs Chapter in the Spanish accession treaty they follow the pattern of the Greek Treaty. Article 126 of Regulation 1612/68 related to the right of access to employment suspended for seven years and Member States may continue to demand work permits for Spaniards wanting to take up employment during this period. I have already drawn attention to the question of the accession, it is really not terribly important to have given rights to Spanish families, the difference between the 5th February and the 28th June is really very marginal because we know from our statistics that very few Spaniards were lawfully employed during that period so it really cannot affect very much the substance of the matter. If resident after the 12th June, 1985, family members will have free access only after three years residence. Prior residence requirements are reduced to eighteen months after the 1st January, 1989. After the transitional period there is the same provision as in the Greek exception that if the matter were

to pose serious problems to a territory it provides for any problems arising from that to be brought before the Community Institution for solution. On the Land(Titles) Order EC nationals and thus Spaniards are entitled to buy property in Gibraltar if established and resident in Gibraltar. EC nationals and thus Spaniards who are not resident also are entitled to purchase property if they wish to establish themselves in Gibraltar in order to be self-employed and we have heard earlier in another debate, in practice the reverse trend has followed in that since February a lot of people have taken the opportunity for business purposes, some for their own dwelling, have bought property in Spain. With regard to the Traffic Ordinance, the provision gives effect to the requirement of Directive 80/1263 that Member States should give equivalent licences in exchange for those of other Member States to EEC nationals applying within a year of becoming resident in Gibraltar. I am advised that this is likely to ease off difficulties that have arisen recently over the question of the movement of tourist traffic across the frontier. On the Trade Licensing Ordinance, of course, no discrimination is allowed between EEC nationals in considering applications for licences. And, finally, the most important part is will the accession of Spain affect the UK/Spain's position on Gibraltar. The answer, of course, to that is no. Her Majesty's Government and Spain exchanged notes on the 30th June, 1985, the day after the signature of the accession treaty, placing on record that Spanish accession would have no effect on their respective position in Gibraltar and I think since then we have had quite a number of repetitions and reassurances about the British Government honouring the preamble to the Constitution which is in itself already included in the Brussels Agreement and the British Government will continue, according to these reassurances, their commitment to honour the wishes of the people of Gibraltar as enshrined in the preamble to the Constitution. What happens if Spain were to reintroduce restrictions at the frontier, people would ask? Well, this was made clear between the Economic Community and Spain, not between Britain and Spain but between the Economic Community and Spain and I think that was part, if we got any benefit of the joint visit we made to Brussels, that was an assurance which was given to the Leader of the Opposition and myself and my colleague, that the Community itself had told Spaniards that once they entered Europe, the frontier had to remain open. It was done in the accession negotiations and it was made quite clear that obstacles to trade and to the free movement of persons subject to any transitional derogations between Spain and Gibraltar is incompatible with EC law and must be suppressed. If a Member State acts in a manner contrary to Economic Community law the Commission or another Member State can take them to the European Court. I do not think this is likely to happen but it is clear that it should be on the record that the right was given there and, in fact,

that we were told by Senor Natali who was in charge of the application of the Community by the addition of two Member States. Hon Members may have been surprised or not surprised but may be wandering, on the Schedule of the amendment to the Immigration Ordinance, the amendment to the existing law, Section 50(1) says: 'Subject to the provisions of Section 53 a Community National may enter Gibraltar on the production by such national of a valid identity card or a valid passport issued by the Member State of which he is a national proving his identity as a national of that State'. The present regime of requiring passports at the frontier is one which has been agreed between Britain and Spain and which it is agreed should continue. That does not mean that any other Community national with an identity card of that country may not come in on an identity card but Member States can agree on practices, if they are of interest to both, and the practice will be that the agreement between Spain and Britain for entry into Gibraltar will continue to be on the basis of production of a passport. It is our view that it should continue to be so, it is the view of Britain, in fact, because it is our view and it seems to be also accepted and agreed by Spain. I have here a cutting of the ABC of Seville dated the 6th November where the question of passports being required to enter Gibraltar was raised by the Chamber of Commerce of Ceuta who addressed the Spanish Interior Ministry and I have a cutting here which is headed - and I will just translate as I go along: 'The passport in Gibraltar will be obligatory despite the EEC. The entry of Spain in the EEC on the 1st January, 1986, will not modify the present requirement of passports to enter Gibraltar. According to a reply from the Interior Ministry, to the official Chamber of Commerce, Industry and Navigation of Ceuta'. The document from the Ministry replied to the consultation which was formulated to it by the President of the Ceuta Chamber of Commerce: 'Because of the great prejudice which for the economy of Ceuta which is based fundamentally in commerce would have on the suppression of the passports for accession to the Rock', I don't think that that is going to have much effect but, anyhow, just to clear the matter I would mention that that will continue to be the case until we decide otherwise. Mr Speaker, I would be quite happy to reply in the general debate on matters that I may not have raised. It will be appreciated that it is very difficult to cover all the points that arise out of what are very simple provisions in the European Communities Ordinance and if I can do that in reply to the Second Reading I will do that and if not, or I haven't got the answer available, I may do it in the Committee Stage. I commend the Bill to the House.



MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, under normal circumstances in relation to Spanish entry, today would have been the day when we would have been taking stock of the negotiations which have taken place in relation to Spanish entry into the Community considering, of course, the effect that Spanish entry would have on Gibraltar. Today would have been the day when we would have been submitting our views on Spanish entry but, of course, speaking to you on the general principles of the Bill, a lot of the arguments were put over by the Opposition when that piece of legislation which was brought to the House which we described as a shameful piece of legislation and which, of course, the Government have the right, as they did, to disagree with and today what we are doing is in fact repealing that shameful piece of legislation and bringing in line Spanish entry in accordance with the terms which have been agreed in the Treaty between Spain and the Community in line with the European Communities Ordinance which is on our statute book. And I am, of course, tempted but I am not going to go beyond temptation, to repeat what was said about the advancement of EEC rights to Spain. But I think I leave it (a) on what was said before and (b) for the benefit of those that may have forgotten, we defended the position on two major points: (a) that it was a reversal of everything that we had stood for for the last twenty years and (b) because Gibraltar turned out to be the only place in the whole of the European Community where another European nation who wasn't a Member of the European Community was given advance EEC rights. Two major principles which, as far as we are concerned, will go down in the history of Gibraltar as being totally unwarranted and, quite frankly, scandalous. Leaving that to one side, the next thing, of course, that one is tempted to do is to look at the Ordinance in its wider context, that is to say, as the Chief Minister said in the political context, and he came with the assurance that Spanish entry in the European Community and the passing of this Bill would not in any way undermine the stand of Britain on our behalf with Spain as regards the future of Gibraltar. I am tempted, for a variety of reasons, to take issue with that but again I am going to leave that to one side. I am going to, therefore, Mr Speaker, perhaps much to the disappointment of the Government, I am going to have to record because today would have been the day when we would have been discussing the Spanish entry, I am going to record our Party's case on the issues involved in the principles of the Bill in relation to how we see, in general terms, how it will affect

Gibraltar and no doubt during the course of further discussions Hon Members will go into detail on the principles. The Opposition has maintained, Mr Speaker, that Gibraltar because of its size, because of its economic potential, because of its requirement to survive economically to be able to be self sufficient, Gibraltar cannot by any means be compared to a major partner in the European Community and that the position of Gibraltar under the 1st January, 1973, terms of membership when we went in with Britain, were, I consider and I don't wish to put blame on anybody's doorstep because at that point in time I am not speaking today with the benefit of hindsight, I am speaking today with the benefit of experience of what has happened since then but the decision at the time, I put it to the House, was a political decision more than a decision which was based on economic consideration, and the facts are there, where we considered what the future could hold in economic terms. I put it to the House that it was more of a political decision which reflected the jubilation of certain quarters where they thought: 'Well, Spain being a Fascist regime, Spain being away from Europe, we are protected by being a Member of the European Community'. It was the logical thing to do at the time because the Spanish restrictions were at their height and it was the height of the Spanish campaign against Gibraltar. I think there was more weight given to the political implications than to the economic one but accepting that we went into the European Community with what we thought were economic relationships and other considerations, a fair membership, it has become clear from experience that there are inherent dangers in our membership. And, of course, regardless of what the implications are when any other member joins the Community, as there have been implications for the French, as there have been implications for the Italians as there have been implications for other Members on Spanish entry, regardless of that Gibraltar was already experiencing problems and the problems were that we were seeing how the responsibilities, the cumbersome responsibilities that there are in adhering to directives of the Community which would apply to all Member States which equally have to apply to Gibraltar on one hand, we were seeing how costly it can be to face up to regulations emanating from the Community which have got the full force of law in Gibraltar, we were seeing that there was an imbalance and I think everybody recognises that there is an imbalance and that experience was telling us, it was flashing a red light and saying: 'These are things which need to be looked at'. And, of course, the only time that one has an opportunity to look at these things in depth is when we have a new Member coming into the Community because when a new Member comes in he puts his case forward and, of course all the other Members look at the implications and they take stock and thus the negotiations come about within the general framework and the principles of the Community and at



the end of the day we have an acceptance of a new Member based on a Treaty and that Treaty becomes the conditions under which that European nation enters the Community. The Opposition have said since 1980 - (a) let us look at what is happening with our current terms of membership, and (b) let us see what the implications are of the Spanish entry which has brought a new experience that we were having not just an application from a European nation for membership but we were having an application from a next door neighbour which brought all sorts of implications for Gibraltar and that what was required was a broad study, a broad programme seeking a re-negotiation of our terms of membership which would lead to a new status for Gibraltar in the European Community and I think, like everybody else, we were entitled to take that line. But we were faced with one fundamental obstacle and the obstacle, I would put it to the House, Mr Speaker is that in considering Gibraltar's interests there is always the conflict of the national interests of Britain in relation to what our interests are with other Member States, in this case our interests with Spain and so on. We were faced with the obstacle of Foreign Office advice and the continuation of the Committee which was set up in the House when it came to the peak for negotiations and we could see that the Foreign Office were not in favour of taking our viewpoint beyond the representations that we were making to them. We, on this side were not in favour of accepting the advice of the Foreign Office because we take the line that arguments which are put forward which are reasoned arguments which can be proved to be in the interest of the people of Gibraltar, in a democracy and especially in our relationship with Britain have to be arguments that have to be recognised and accepted and, in our judgement we felt that that had to go further and, of course, we are not the Government and it is a question of judgement at the end of the day. We were not the Government and, of course, we were in the minority and we were not able to go any further. It can be argued, of course, that at the time of our accession on the present membership terms which remained unaltered, the Foreign Office may have been ignorant of the consequences for Gibraltar and that consequently now it is too late to change because unfortunately we are up against that barrier of appeasement with Spain. I am not saying that that was the reason because quite sincerely I am not aware and I doubt whether anybody in Gibraltar is aware of the deep rooted thinking that the Foreign Office may have in taking that stand.

HON CHIEF MINISTER:

If they have any.

HON M A FEETHAM:

If they have any, I agree. But they cannot plead ignorance when it comes to representations from a dependent territory in the Community or from a territory that has got special problems because in 1967 when Britain was in the process of applying for membership, they had to take account of their dependent territories and, of course, in the same way that towards 1970 and 1971 we had advisers coming to Gibraltar and saying: 'This is what is going to happen to Gibraltar in the context of the European Community' and so on and so forth, at the same time there were the Channel Islands who were making their case and they had prepared a well documented case, something which did not happen in Gibraltar. I am not saying now that it should have happened, what I am saying is it didn't happen but we have had another opportunity for it to have happened and that is the opportunity that we have lost and, of course, when Jersey prepared their case for entry they set up a Committee and I am going to go through, en passant, of course, some of the things that were.....

MR SPEAKER:

We must not get too involved in a matter which does not deal either with the Bill or which cannot be righted now.

HON M A FEETHAM:

I am talking about the arguments and the principles where this side of the House has argued that we could have sought a re-negotiation of our terms of membership based on special treatment for Gibraltar.

MR SPEAKER:

As a general comment I have not interrupted you until now. What I am saying is that the Bill itself does not deal with the matters you are raising. Do by all means quote what you wanted to quote but let us not get too involved with matters which are not dealt by the Bill and which cannot be righted by this House.

HON M A FEETHAM:

I am not going to get too involved. I have to because under normal circumstances this would have been the day that we would have taken stock and put each others arguments over and at the end of the day the vote would have been taken. We are going to vote against the Bill. The case is, Mr Speaker, that when they went about their membership negotiations they looked at the implications it would have for them and the relationship which

existed or were in the process of being renegotiated by other Member States in relation to their dependent territories and, of course, we have got France with a special relationship with their dependent territories in the European Community like Corsica, Andorra and Monaco. We have got Italy with San Marino, we have got Germany with Heligoland and so on and so forth. They established a case and that case was accepted by the British Government and at the end of the day when Britain went into the Community Sir Geoffrey Rippon said that the Channel Islands and the Isle of Man were Members of the European Community but, in fact, had the best of two worlds because they were in and they were not in. The political point that I am trying to establish here is that it was an opportunity that we had to renegotiate our terms of membership and we have missed that opportunity and that is why we are going to vote against this Bill. Let us be quite clear about this, not because we don't want Spain to be a Member of the European Community. Spain as a European nation has got as much right to be a Member of the European Community as any other European nation. Mr Speaker, we now come to other aspects of this Bill. How can - and it hasn't been mentioned - but how can we, for example, what answer have we got in the area of finance and in the area of company law if we maintain the principle that as some Members described in the debate on the advancement of EEC rights to Spaniards what answers have we got for adhering to directives which go against the philosophy that we have had shown to us by the Government over many, many years that Gibraltar is a tax haven, that Gibraltar can attract investors, that Gibraltar can attract people who because our tax laws are more beneficial are prepared to register companies in Gibraltar when we have to mention just a few, when we have directives which require that public and private companies must declare their accounts and which I am sure the Members of the legal profession in Government will realise the implications of these sort of directives and there are eight directives dealing with company law. It would seem to the Opposition that when we talk about trying to get a better deal for Gibraltar, if recognition is given to our case, which it hasn't, a special relationship because of our fundamental need not to have to depend on handouts, if we are told we have got to pay our own way in the world then these sort of things have to be recognised. How are we going to protect the confidentiality which has to be given in this area of company law if we are going to attract investors? We can get away with it as we have done for the last fourteen years and it is now beginning to surface. How long can we really get away with the position as it is without having actually been given the recognition to be able to have the flexibility to be able to survive in that area? Of course, we feel that that is not going to happen that easily. The Government's position is that this Bill permitting Spanish entry into the European

Community, as far as they are concerned, the terms and the implications are facts that we are protected in most areas. I recall that we were told in the House that trade was protected, we were told that the Imports and Exports Ordinance provided protection and we were told that the Finance Centre was booming and that, of course, portrays a confident Government position and that is the fundamental difference between us because we are not looking at this in the light of ten months of the frontier opening, we are looking at this on a long term basis and that is the way one has to look at it and that is why we are a cautious Opposition when it comes to this sort of implications, Mr Speaker. The implications for Gibraltar are very important because I doubt whether the process of harmonisation, as I have said on previous occasions, the process of harmonisation in the European context with Gibraltar being such a small territory is going to work in the long term to our benefit. I cannot see it unless we reshape our future. One of the points which was raised in the context of a previous Bill where we are seeing that Community membership is a continuing process of doing away with barriers, of doing away with restrictions, we are seeing how there is now a proposed directive on immigrant workers commuting across the frontier. And the implications of that directive for those of you who may not be aware of it are substantial, of a directive which is now being considered in its draft form on immigrant workers and frontier workers which seeks to give equality in all respects in this area, that is to say, whilst we now define in the present Community Regulations residents and non-residents where there are special cases to be made by people who commute in the area of frontier workers there is a complete revision taking place in that area which, I believe, will raise economic problems because at the end of the day what we are talking about is economic problems, we are not talking about anything else. The message that the Opposition have been saying all the way through is that we needed to look at these things and we needed to have flexibility and the extension to be able to develop our community and have the ability to survive. That is why we have consistently opposed Government thinking on this and I want to sum up by saying and repeating once again that it isn't a philosophy where we are anti any European Community Member, it is a matter that we have to look after our own interests and that because the Bill represents for us a lost opportunity that was within our grasp of having taking stock and having established once and for all Gibraltar's status, a new status in the European Community, because we believe that it was there and we haven't done that, that we are voting against the Bill, Mr Speaker.

HON A J CANEPA:

Mr Speaker, the legislation that we brought to the House giving advanced EEC rights to Spaniards was not and is not a shameful piece of legislation and what has resulted from it in the last nine months since the frontier opened clearly points to that. The Chief Minister made some reference to the beneficial economic effects of Spanish accession on Gibraltar or rather the lessons that have been learned from advance implementation since the 5th February. It has given us a chance to assess the implications of actual Spanish accession, the experience indeed I think is proving to be largely positive, the fears the Gibraltar economy, the Gibraltar social services were going to be swamped have not been borne out in practice. On the contrary the economy is benefitting. It is not benefitting to the extent that some people, particularly in London, are exaggerating, the extent to which they are exaggerating. For instance, Hon Members opposite must have heard from the MP's who visited Gibraltar over the weekend, that Baroness Young told them that there had been six million crossings of the frontier as if trying to impress them: 'My God, six million people going to Gibraltar, they must have left a hell of a lot of money'. Here you have the use of statistics which in any case are inaccurate, statistics being used with a particular objective in mind and being twisted in order to bring about a predisposition in people and the MP's were going to come to Gibraltar and find an economic boom. There hasn't been an economic boom, at least not yet. There is going to be further expansion in the economy over the next few years, particularly as there is investment in the private sector with a number of major development projects but the evidence so far is that earnings from tourism have doubled, activity and turnover in the retail trade have increased by about 15%, perhaps 20%, new job opportunities have already been created and what is a fact of life, whether Mr Feetham likes it or not, the Financial Centre is expanding.

HON M A FEETHAM:

Will the Hon Member give way?

HON A J CANEPA:

Yes, I am always prepared to give way at least once and Mr Feetham will not have another opportunity to speak.

HON M A FEETHAM:

I did not say I did not like it, what I am saying is that there are dangers in the directives.

HON A J CANEPA:

I was coming to that. There are directives such as the Fourth Directive which we must resist and, of course, what the Financial Centre are trying to do precisely is to protect their position. Happily, insofar as the Fourth Directive is concerned, the interest of the big boys may come to our assistance, Germany does not particularly like the Fourth Directive and they have a lot of clout in the Community so we may be alright as far as that is concerned. In any case the Financial Centre are shortly going to send a delegation to Brussels to make their case known, they have received indications that there is a disposition in Brussels to give them a sympathetic hearing but the bureaucrats are not as ill-disposed towards the activities of the Financial Centre and when they return and they report on their visit the Government have already said if need be, we would be prepared to support their representations by sending some sort of Government delegation. What has emerged from the full opening of the frontier, from these positive aspects, is also, I think, in very stark contrast to what might have happened if the frontier had not opened. The two years of partial opening constituted the biggest drain on our economic resources and the greatest outflow of capital that Gibraltar had seen. The dangers and the difficulties were much greater than in the early years of the restrictions and in the early years after the actual closure of the frontier in 1969 when the labour force was withdrawn overnight and we virtually had to start from scratch. That a number of businesses were on the verge of collapse at the end of 1984 is a fact of life, that hotels and one in particular owed the Government considerable sums of money was a fact of life, that the damage that their collapse would have done to the tourist industry and to the economy, generally, is also a fact of life and what has happened instead? Hotel occupancy is considerably up, the prospects for these businesses are vastly improved, they have been able to reach agreements with the Government to pay outstanding debts, they have been able to recycle their loans with banks because of the improved prospects and there is every sign of new dynamism in the economy and a new pace which, in fact, shows some dangers of overheating, perhaps, the economy and particularly in the field of planning where there is a danger of getting things wrong and we may have to halt the situation for a year or two, get what there is in the pipeline moving and off the ground and then reassess and find out exactly where it is that we are going after that. Of course, because of the size of Gibraltar there are serious problems for us and the impact of these problems on a community of our size cannot in any way be compared to the problems that would be posed for Member States by similar matters. Take, for instance, something which I think is being mentioned in this House for the first time in this meeting, take for instance the case of the

Spanish pensioners. For Gibraltar to meet the bill of £7m a year means taking out of the Government's budget 12% of that budget. No Member State would be prepared to countenance that for one single moment, the Germans, French or the British. Britain has been fighting tooth and nail all the way because she considered that her contribution to the budget was in excess, relatively speaking, to what other Member States were making and I don't think that that contribution that Britain was making to the budget was anywhere near the figure of 12% of her budget. But the problem is that we do have these difficulties and we don't exaggerate them, they are very real, the question of the Spanish pensioners is a very real problem but we seem to be finding and I am not sure exactly why, give some indications of why, we seem to be finding some difficulty in having our case accepted. Particularly the vulnerability of Gibraltar does not seem to be understood and does not seem to be appreciated and if you have difficulty in getting London to see that, to sympathise with you all the way and to translate that into action - only yesterday my colleagues were reading much of the correspondence that we have sent on the question of the Spanish pensioners going over the ground again and they were saying how impressed they had been by the points we had made - we feel we are making a good case but we seem to be putting matters on paper and we are not sure about the extent to which there is genuine understanding, and is that because there is a conflict of national interests? Is it Britain that has got certain national interests and if she has and therefore there isn't a disposition to fight in our corner then what hope have we with regard to Italy, to France and to Germany? Only this morning one heard in the news how they have supported the United Nations resolution on the Falkland Islands, the Argentinian resolution on the Falkland Islands. Why, because again there are 1,800 people, settlers they are called, and I imagine in most islands the population must have been settlers, they didn't drop by parachute or by helicopter, they must have gone to the Island somehow. People moved into Spain as a result of invasions by the Vandals, by the Visigoths 1,500 years ago and people went into Britain from the Vikings and the Saxons and what have you but in an island, in the Canary Islands they must have come from somewhere, well, they came from Spain but they are there now and the same with the Falklands and they are settlers and they are a nuisance, people have died over their cause, what a nuisance to have to fight a war in this day and age to defend 1,800 people and for the French and for the Germans and for the Italians an even bigger nuisance. The Italians sympathised with their cousins in Argentina and who sympathises with us even though we have got cousins in Genoa? That is the difficulty for a small place like Gibraltar, that is our vulnerability, to be only 30,000, it is a truism what I am saying, and to be caught on this situation. And that is why

I tell the Hon Mr Michael Feetham that it wasn't a case of a missed opportunity to have renegotiated our terms of membership, the opportunity wasn't there and the opportunity wasn't there because for some reason or other there was no will on the part of Her Majesty's Government to renegotiate the terms for Gibraltar. Whether that is because they perceived something that we don't, they think we are better off as we are or whether there would be some conflict with their own national interests, I don't know. One thing we haven't been told was that it was too late, that we made our representations too late, they never said that. But that there are real national interests and that Britain wants to see Spain and Portugal in I don't doubt. From an economic point of view, from a trading point of view it opens up a market to them of another 50 million people, so these are very real national interests and we are a nuisance, we are a boil on the neck or we are a mosquito that is a nuisance. Let it be said that we have never made a formal application to Her Majesty's Government that our terms of membership should be re-negotiated. What has happened is that over the years when various aspects of our membership in the EEC that has raised problems have been discussed with the Foreign Office and with officials, it has become clear when the matter has been brought up that there was no disposition to re-negotiate on that issue or generally. On one occasion, though, I remember that they asked us to look and then advised us subsequently, they asked us to look into the possibilities of our membership being extended, being widened by coming under the CAP, introducing VAT and the CCT which is now, I think, CET (the Common External Tariff). At the end of the day they themselves came back or somebody else, there was a new economic adviser and then he came back and he said: 'This is not on, this will cripple your economy even further and it will have a tremendous impact on the cost of living'. But we have found when the matter has been mooted and when the matter has been discussed, that there has been no disposition to pursue this line. That was clear during the two visits that Mr Hannay and his team made to Gibraltar in the middle of 1983 and at the end of 1983. On the question of the pensions we query the applicability of regulations to Gibraltar, we say: 'We weren't members in 1973, Britain wasn't a member, Spain wasn't a member when the EEC Social Security Regulations were enacted, why should they be made applicable now when the effect that it is going to have is the following'. And we are told: 'Yes, the Commission has no doubt as to their applicability, there cannot be any different treatment, the Commission have gone into this and the answer is no'. So what are the alternatives, and we have discussed this before. Incidentally, there is one point I don't want to leave out. On the Financial Centre a memorandum was submitted to Baroness Young when she came here by the Finance Centre Group

and, again, the answer was not particularly positive though not entirely black, there was some ray of hope here or there but this is what we have been coming up against and this is why in this House we have on more than one occasion since the last general election asked ourselves 'Where do we turn to, what are the alternatives?' One alternative, that of renegotiation, I think I have explained why we don't seem to have made any progress. The second alternative is to stay as we are and see to what extent we can shift for ourselves provided we are not squeezed too far and we certainly would be squeezed too far if we were expected to meet this commitment of this small sum a year of £7m. And the third alternative is to get out, to say: 'Sorry, you are driving us into an impossible position, Gibraltar cannot survive socially or economically, you are not taking account of very real problems. In the Treaty of Accession for Spain there is provision, because there is going to be a review after five years, and there is provision to make a case on the practical difficulties'. Perhaps we could hold till then and make such a case to the Commission and point out the difficulties and then if they don't take any notice say: 'Sorry, you are squeezing us out'. And no Member State would continue as Members of the Community if similar problems were to be created for them. But before we do that we have got to look at the balance sheet. If trade licensing is going to be inoperative in Gibraltar, if there is going to be this problem of the Spanish pensioners, if there are going to be all sorts of other problems, trade being undermined, the problem of labour and so on. Let us assume for a moment it is all negative, it is all a minus, that is the balance sheet on one side. If we get out of the Community we don't have to pay the Spanish pensioners at current rates, we can have not only trade licensing, we can go back to the Trade Restrictions Ordinance and we put the clock back. But putting the clock back can also mean putting the clock back on some other matters. And that is that it is clear from the negotiations leading to Spanish accession, that it is clear from the declaration annexed to the Treaty of Accession by Spain and it is clear in my own mind because of the reality of the situation that Spain had to open the frontier when she did because otherwise she could not become a Member of the Community and they cannot continue as Members of the Community for as long as we are Members and apply restrictions at the frontier and, effectively, close the frontier. They cannot do that, as Signor Natali said: 'If they do, come and tell me all about it and we will do something about it'. He was shocked that we hinted that Spain may not comply with Treaty obligations, he was very shocked when we hinted at that so we shall go and see Signor Natali about it. But what in weighing up the matters on the other side of the balance sheet is this risk, the danger that Spain will reintroduce restrictions and instead of cars going through at the rate of ten every minute,

I timed them last Sunday, cars were going through at that rate, instead of about ten a minute each car takes ten minutes to go through and then you have a new situation and restrictions continue to be applied and as we become difficult, as we fall out with Britain in this because we will, because they won't like it and we will fall out with them, then what is the alternative for Gibraltar? Closure of the frontier and we, perhaps, a small community which is an even bigger oddity as Sir Joshua has pointed out than what we are now. An even bigger oddity because we were in the Community and we have got out, we don't have the regime that the Isle of Man have or Jersey, in any case our constitutional relationship with Britain is different to theirs and the border is closed and what, we stew in our own juice here and can we shift for ourselves? That is the question. Can we survive with a closed border and with a deteriorating relationship with Britain? If our relationship with Britain does not deteriorate we can survive because we were doing reasonably well up until 1980 with a closed border, with parity, with a Naval Dockyard and with a policy of support and sustain which was worth £5m or £6m a year of development aid. That is what I think we have to ask ourselves. That is what we have to ask ourselves now, that is what we have to analyse over next week and the week after and for time to come. My analysis may not be an entirely correct one and obviously Hon Members opposite in particular will be able to pick holes in what I am saying but these are matters which are not susceptible to EEC solutions and where we, I think, as politicians must have regard to the fact that we mustn't bring politics into disrepute is that we have got to tell people that these are not easy matters and that they cannot be solved overnight and that is where I quarrel with a certain gentleman of the press when he writes about the need to bring back in Gibraltar a City Council state of affairs. What a nonsense. He has lost the international dimension of the problem, he no longer thinks that if we were City Councillors perhaps we might be going to Madrid next week as the Mayor of La Linea and the Mayor of San Roque, if they go, but I don't think that they have got the access to the Spanish Foreign Minister that Sir Joshua and I have, I don't think they have the opportunity that we have to put the case for Gibraltar. This is why it is necessary for people to keep their cool, to look at these matters seriously and carefully. Sir Joshua said: 'Government is the exercise of options'. I will qualify that further, it is the exercise of limited options, options which are limited by their reality and the reality at the end of it all is we are a community of 30,000 living beside a neighbour which today, perhaps up to a point is killing us with kindness but who does not for one moment withdraw her claim to Gibraltar and if Senor Fernandez Ordenez plays the Gibraltar issue on a low key his boss certainly doesn't. He travels all over the world and Gibraltar always figures very prominently in anything which Senor Felipe Gonzalez has to say and personally I am a great



admirer of Senor Felipe Gonzalez but I won't go into that, I certainly don't admire his attitude towards Gibraltar as far as that is concerned. That, Mr Speaker, is the underlying reality of this Bill before the House. I think for the moment really Gibraltar has no choice, for the moment, what may develop in time to come, if the developments are such that they totally work against us we may be in a situation, I hope not, in which we shall find ourselves shifting for ourselves.

HON J C PEREZ:

Mr Speaker, we find ourselves in one of those rare occasions where we agree with most of what the Hon Mr Canepa has said. Where we disagree is that whilst we were pointing out all these dangers at the time of the Brussels Agreement, he was saying that those dangers were actually not there. What we are doing today, Mr Speaker, is ratifying the agreement that has been reached in the Common Market on Spanish accession and Portuguese accession so as to give an opportunity to every national Parliament of Member States to express their views on whether they are satisfied that Spanish accession or Portuguese accession affect them detrimentally or not. We are being told, Mr Speaker, that there are loads of problems on our doorstep and at the same time we are being told that the Government is going to vote in favour of the Bill. If, Mr Speaker, the Government is ratifying Spanish and Portuguese accession they are in fact officially saying that they are satisfied with the conditions that Gibraltar has and that they are satisfied that Gibraltar's position is safeguarded because that is what all national states are doing when ratifying the accession Treaty. Mr Speaker, we are told that the experience of eleven months of an open frontier has been largely positive, by both the Hon the Chief Minister and the Hon the Minister for Economic Development. I remember at the time of the announcement of the Brussels Agreement that I said, and many of my colleagues said as well, that the Government had not quantified the economic effects of that Agreement and the economic effects were not for those eleven months only. The economic effects were those which we were going into as a result of having advanced EEC rights because that is when we gave up the case for renegotiating our terms of membership within the Common Market. The Hon Mr Canepa says that he thinks that that would have been impossible. We disagree on this side of the House that that might have been impossible but certainly if the question of the payment of pensions had not been tied up yet, if we were told yesterday that all cross frontier workers including Gibraltarians who live in Spain are to have health services in Spain available at the expense of the Gibraltar Government which is where they contribute their insurance, then that is another area which we haven't looked at. Then we were told that family allowances

will be paid to Spanish workers who are working in Gibraltar. The problem of Moroccan workers is something which should have been put in front of the Commission and the problem of Moroccan workers and the racial problem that might be encountered as a result of these measures is something which the Commission must have looked at. We are told that we should vote in favour of this Bill, accept Spanish accession, and at the same time we are being told that all these things haven't been tied up. It is very irresponsible of the Government to come and say: 'We have got problems with the pensions, we haven't tied up the situation, vote in favour, ratify Spanish accession and then let us see what we can do'. We are actually saying that we are going to meet all those obligations which are there in the Common Market for us to meet, that is what we are doing by passing this Bill and if the Government were really serious about the situation they would vote against this Bill and they would show that they are not happy with the situation. I agree with everything Mr Canepa has said but if I agree with everything Mr Canepa has said I expect him to vote against. I expect him to say by voting against that Gibraltar cannot afford to pay the pensions, that Gibraltar might not be able to afford to pay the family allowances, that it creates a hell of a problem with the Moroccan workers, that all these things are detrimental effects so how can they come here and say that the experience has been largely positive when they themselves admit that it could be a very serious economic situation if all those obligations which we are entitled to meet as Community nationals are placed on us? If that burden is placed on us and that hasn't been tied up then the experience is not largely positive, on the contrary. We should have tied up all these things before and if we haven't now is the opportunity to say: 'The House of Assembly in Gibraltar, for whatever it is worth, that small piece of Europe, that insignificant mosquito' - like the Hon Member said - 'we are not accepting accession of Spain and Portugal because we are not well protected and because things have not been tied up'. Mr Speaker, I am afraid that the whole situation has been managed in a very bad way. I am not completely blaming the Gibraltar Government for it but certainly the problems that they might be encountering with the Foreign and Commonwealth Office is something which we on this side of the House might think should be tackled differently. I am grateful to the Hon Member for having mentioned the question of the pensions because since they have been to and from London twice it is the first ever statement from the Gibraltar Government on the issue.

HON A J CANEPA:

If the Hon Member will give way? The Government of Gibraltar have been discussing and debating this matter of the Spanish



pensioners over the years. What the Chief Minister and I have not done has been to say publicly how the talks went with Sir Geoffrey Howe. We haven't said we said this and he said that and so on counteracted this and counteracted that but there have been some very detailed articles in the press on the matter and very accurate on the broad issues, undoubtedly. They don't reveal the extent of the talks and the negotiations but the issues have been clearly put before the people and that is all. I have done this morning. The issues and the facts are well known, what you don't know is the extent of these negotiations and obviously because they are ongoing we are not able to reveal them.

HON J C PEREZ:

Mr Speaker, I am glad that the Hon Member thinks that perhaps I have got some clairvoyant powers since being also a member of the press I myself have contributed to articles in the press but the issue is that we are fast approaching the 1st January and the Hon Member and his Government might have been discussing this for years but the crunch is now and he has held two meetings with Sir Geoffrey and I am not asking him to reveal the details of the discussions but clearly this morning he has said and the Government have said for the first time that things are not going well. This is the first clear statement on behalf of the Gibraltar Government about how the situation is today, five weeks before Spain joins, five weeks before we are burdened with that commitment and I am saying to the Hon Member and to this House of Assembly that that commitment is there, that the commitment of family allowances is there, on health service, the unknown of cross frontier services, all these commitments are there and that before ratifying Spanish and Portuguese accession we should have tied up those things. Whether it be with Brussels or with the Foreign Office is another matter but those things needed to be tidied up before this Bill came to the House because if we haven't done it then what we are doing by passing this Bill is accepting the responsibility that is being placed on us. Thank you, Mr Speaker.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

I will remind the House that we are on the Second Reading of the European Communities Bill and the last contributor was Mr Juan Carlos Perez.

HON R MOR:

Mr Speaker, I would like to deal briefly with the general principles of the Bill which is to make provision in connection with the inclusion of the Kingdom of Spain and the Portuguese Republic within the European Communities. I am pleased that the Hon and Learned the Chief Minister as well as the Hon Mr Michael Feetham drew attention to the history of our connection with the EEC and in fact, as the Hon and Learned the Chief Minister says, is following the elections in 1972 which was, perhaps, the best thing that ever happened in this House with the inclusion of the Hon Mr Bossano. In 1973 Gibraltar became a Member of the EEC. At that time, obviously, nobody could have foreseen the dangers arising out of the possible entry of Spain into the European Community but in 1977, Mr Speaker, it was common knowledge that the Kingdom of Spain had filed an application to join the EEC. In 1980 the alarm was given by the Hon Mr Bossano who exposed the dangers of Spain's entry into the European Community. And yet, Mr Speaker, despite having entered the EEC in 1973 and despite the fact that we knew that Spain would join the EEC in 1977 and despite the fact that in 1980 the alarm was given, we still find that today the Hon and Learned the Chief Minister accompanied by the Arsenal supporter of the Government, the Hon Mr Canepa, that they still.....

HON A J CANEPA:

We beat Southampton in the 'Milk' Cup 3-1.

HON R MOR:

But they won't win the league. They are still travelling to and from London to sort out just one of the problems, the payment of pensions to Spaniards, they are still trying to find a solution to that problem and that is only one of the problems that will arise out of Spain's entry, the other problems haven't come to light yet. Admittedly, it is quite a big problem and I have noticed that the bill has now gone up from £6m to £7m, I don't know why but the figure that was being kicked around was £6m.

HON A J CANEPA:

Does the Hon Member want to know why?

HON R MOR:

Please..

HON A J CANEPA:

The figure of £6m was originally an estimate. As a result of the opening of the frontier and the Spanish pensioners actually coming to Gibraltar and applying for entitlement to old age pension, we have got much more accurate figures. There are two aspects, first of all the figures are accurate and are well over 4,000 Spanish pensioners; secondly, the increases that we voted for yesterday apply as from the 1st January and they also contribute to the increase to £7m.

HON R MOR:

Mr Speaker, if the Government cannot at the present time obviously raise £7m to pay the pensions bill and that as I said before is just one of the problems arising out of Spain's entry into the Common Market, I think that the introduction of this Bill I wouldn't say is shameful but I would say it is naively stupid.

HON J L BALDACHINO:

Mr Speaker, I will go back, if you allow me, to why we opposed the Brussels Agreement in the first place because there are two phases to the Brussels Agreement. One of them was that in order that Spain could lift the restrictions that it had imposed on Gibraltar we were now prepared, something that we had never done before, to put the sovereignty issue on the negotiating table. Also part of the Brussels Agreement, Mr Speaker, was to advance the right to the nationals of the Kingdom of Spain to what we are doing today which in effect will be taking place on Spain's accession on the 1st January, 1986. At the time of the Brussels Agreement, Mr Speaker, and in relation to what is my responsibility for the Opposition and that is housing, the fears expressed on housing at the time still stand because when Spain joins and we haven't had yet a clear position from the Government on what I said on the 15th January in relation to housing and Article 9 of Regulation 1612/68, that our housing allocation scheme was contrary to the EEC, after that we haven't had a clear explanation from the Government whether the interpretation I gave then is the correct one or not. I am bringing this thing up because Mr Canepa said in his contribution, Mr Speaker, that of the options that we had, to get out of the EEC was one of them; to remain as we were and then in the future see what happens was another option and that we couldn't negotiate because the British Foreign Office was against it and they wouldn't most probably allow it but the fact is, Mr Speaker, that what the Government has been doing with Brussels Agreement and up to a certain extent in this debate, is saying 'this does not apply to us, we can get away with it'. Mr Speaker, one

thing mentioned by the Hon Mr Canepa was that there might be a possibility that we might not be able to renegotiate. We question that but they are on that side of the House and they know better than this side of the House what happens between them and the Foreign Office. On housing, Mr Speaker, like my half-brother, perhaps that is not the correct way to call it, the Hon Major Dellipiani but I say my half-brother because he says that he is half-socialist, the fears that he expressed and the sentiments that he expressed on the question of young couples having to go to Spain to find houses because we couldn't provide them, for whatever reason it is, one also can dispute that but those sentiments are generally shared, I think, not only by the Opposition but by the Government itself. When this comes into operation it will put us in an even more difficult position because we are also extending the right to Portuguese nationals who up to a certain point, together with the Moroccan workers, are also significant within our community. If the fears that I expressed in relation to the Regulation I mentioned before are correct, Mr Speaker, then not only are we in danger of having Spanish nationals or any EEC national, for that matter, it doesn't necessarily have to be a Spanish national and I think I mentioned it in my contribution then that maybe they might prefer to live in Gibraltar, without any doubt they could most probably buy property, that is another thing, the prices of houses in Gibraltar might go up because they may be prepared to pay higher prices than the local population and then we will have the local population living in Spain and commuting. What is true and clear from correspondence between the Attorney-General and the Leader of the Opposition, is that under Article 73, I think it is, self-employed persons have the right to go on the housing waiting scheme, they have the right to buy property, in other words, the incentive that the Government wanted to create with the Vineyard project to alleviate the housing problem that we have will now be accessible to other EEC nationals who are self-employed in Gibraltar because the question of whether an EEC national is entitled to the housing allocation scheme is one, Mr Speaker, of interpretation that they should have a permanent residence permit as well. I have been looking through all the EEC Regulations and I cannot find any mention of a permanent residence permit, I can find a residence permit which is what a self-employed person would get. If it applies to one category I doubt very much that the Government can maintain that it will not apply to the other. I would prefer not to give those rights to anybody Mr Speaker, the Government cannot after the explanation that the Hon Mr Canepa gave to the House of the complications that they have had with the Foreign Office and other things, not tell the people of Gibraltar the danger that presumably will come with the accession of Spain and Portugal on the 1st January, 1986. It did exist prior to that.

and today the dangers are greater because Spain is our next door neighbour and before no Germans could come to Gibraltar to acquire housing and I am speaking strictly on housing because it is my responsibility but in other areas of the economy the effects equally apply. I don't know what the position really is in Gibraltar in this respect because I don't think that it is to our advantage but the Government has no other option but to come here and present this to the House and vote in favour because if it isn't done it will be done in a couple of weeks when Britain will be accepting Spain's entry and Portugal's entry into the EEC and if Britain does that then by implication as we are an associated Member, we will have to follow suit. I think, personally, Mr Speaker, that one could describe housing today as a cancer of local society because the Government has not yet been able to find any cure for it. They have tried but they still have not found the formula how to at least alleviate it. The Government must try and find a solution to the housing problem and especially if outsiders are able to buy property here as this without any doubt puts more pressure on local people to go to Spain and buy their property there. One cannot therefore support this Bill.

HON J E PILCHER:

Mr Speaker, I will now give my short contribution seeing that Members opposite are not interested in contributing to this debate although I accept that the debate when the Brussels Agreement was discussed really put in perspective both sides of the House clearly but I think there are still many important points to be discussed and there is also the reality that we have now lived through ten months of an open frontier, nine or ten months of granting Spanish nationals certain things that they will have after accession in January, 1986, which we did in February. But before I briefly go on to that I would like to explain to the Hon Mr Canepa, I think he knows full well why we called it at the time a shameful piece of legislation but I would like to explain to the Hon Mr Canepa again why and set clearly our position at that time which is still the case. It was to us a shameful piece of legislation not because of what the legislation contained because we accepted entirely that the legislation would have to come in front of this House, in fact, now in November or in October or in December, 1985. What was shameful about it is on two counts, (1) because it negated everything that had gone before, it negated a Government stand and statements given in this House of Assembly by the Government previous to February, 1985, and we won't go through all that again. I think we brought out Hansards at the time explaining positions and statements made on the opposite side of the House but it was also shameful because it took our

feet from under us because whilst we heard in this House that we had sent a delegation to Brussels to discuss with Mr Natall about special derogations for Gibraltar, we had also found out that a few months before the Hon and Learned Chief Minister had already proposed this to Sir Geoffrey Howe over a cup of tea.

HON CHIEF MINISTER:

No, you have got it all wrong. It is not that cup of tea, the cup of tea was with Dr Owen, a Socialist, and I did not have a cup of tea, this was arranged by the Foreign Office, I had breakfast.

HON J E PILCHER:

This is why it was a shameful piece of legislation and not because of the cup of tea, it was a shameful piece of legislation because we thought from this side of the House that we were on the last length before the entry of Spain into the EEC and we had to use the time to provide safeguards for Gibraltar in many aspects. The reality of the matter has in fact been given to us coolly this morning by the Hon Mr Canepa. His statement to the House this morning put things in perspective. When, during the meeting of the House in December we put umpteen questions on how the advancement of EEC rights was going to work, the reaction that we got from Members and Ministers opposite was a reaction of a defence of the Brussels Agreement and a reaction of, to a point, happiness because I remember, although I haven't found it in Hansard, I am not as expert as my Hon Leader who just goes through the papers and finds it, I remember quite clearly the Hon Mr Featherstone defending this and saying this was certainly the start of an economic boom for Gibraltar.

HON M K FEATHERSTONE:

And hasn't this proved to be so?

HON J E PILCHER:

Well, not according to the Hon Member sitting on your right. The fact of what the Hon Mr Canepa has been saying this morning is that the pressures on the Government have been such that they have had to accept it because they don't think there is any other alternative. This is the reality and if this is the case this is what every Minister opposite should have been saying at the time or, at least, should have been saying today prior to Spain's accession into the EEC. What we were getting from Ministers opposite was a defence of an argument which, by the way, was also used in the House of Commons to defend the same line by the British Government and it has been this defence

that has really caused this side of the House to wonder at the logic of what was being done. It is clear to us now, after the intervention of the Hon Mr Canepa this morning, the reasons why we brought this thing forward eleven months and that we are here today only just adjusting a couple of things necessary for Spanish accession. The reality is that the pressure was such that the Government of Gibraltar did not think there was any other alternative, a similar situation to the commercialisation of the Dockyard, it is either commercialisation or nothing, it is either you accept EEC rights or nothing because obviously the Government do not have any room to manoeuvre if we are asking the United Kingdom for £30m on Overseas Development Aid. If this is the reality, this is the reality that should be told to the people of Gibraltar. We shouldn't sit opposite and defend something which we don't really feel like defending and although I don't accept that that is the only alternative, whether we were in or out, that is the judgement of the Government, the fact that in February in the House of Commons they were being questioned about the Brussels Agreement and again as in commercialisation the Government of the day were defending the Brussels Agreement by using the argument that the Government of Gibraltar had been supporting this. Perhaps it wasn't the only alternative whether it was in or out, perhaps if we would have kicked about it on both sides of the House, perhaps the alternative would have been different. This is something, obviously, that cannot be seen at this stage. The question, I think, is the vulnerability which the Hon Mr Canepa kept referring to this morning. Are we more vulnerable now because of the action taken by the Gibraltar Government than we were eleven months ago? I think we are. He also mentioned a fight in our corner, in whose corner is the Gibraltar Government? Are they fighting from the Gibraltar corner trying to obtain the best possible alternative for Gibraltar or are they fighting trying to balance both things out and trying to sit in the middle as per usual? The Gibraltar Government are not appointed by the British Government, they are elected by the people of Gibraltar and as such should come to this House and say what the Hon Mr Canepa said this morning; 'this is the type of pressure we are getting, this is the only thing that we are being given, this is the only room that we have to manoeuvre and because of this this is our only alternative', and not hide behind the Brussels Agreement and hide behind a defence of something which I don't think even Members opposite are happy with. I was to a point worried this morning about the fact that at this late stage there is still not an agreement ready over the pensions and I won't repeat what my Hon Colleague Mr Mor has said but surely even that is shameful, that at this late stage of the game we don't really know how much, if anything, and we will oppose any single penny being given to that from this side of the House, but we don't even know whether or not the £7m is going to be met

fully by the British Government, partly by us. The reality is that the £7m would come from us anyway because it would probably be adjusted from ODA or somewhere else and we would have to foot the bill at the end of the day. But the reality is that the Gibraltar Government are still not sure of the commitment entered under in either the Brussels Agreement or even today when we are acceding to Spanish entry into the EEC. As far as the economic boom is concerned, let us not forget that two weeks ago the Hon and Learned the Chief Minister was saying here: 'The net effect on the Government's finances themselves are far less significant'. Even after ten months of an open frontier, even after two million visitors have come to Gibraltar, even before we start adding together all the negative effects of the opening of the frontier because we haven't done that yet, we haven't started to do that yet, we haven't started to pay out family allowances, we haven't started to pay out pensions, we haven't started to see how much on medical services, we haven't started really yet to see how much it is going to cost Gibraltar. Even before we have done all that, after two million visitors who have come to Gibraltar and I don't think we can get a lot more than two million visitors, it is not a question that in 1985 it was two million, 1986 it is going to be three million, 1987 it is going to be four million, there will be a stage whether it is on two million or two and a half million that there will no longer be an increase. All that Gibraltar has got into its coffers is, I think, £3m was said, £1m on income tax, £2m on import duty and even that, there is an element of GSL into those accounts. Not only is there not an economic boom but it is not the panacea to all our problems that it was meant to be. This is worrying, and I honestly say this, I don't think the Government still knows what we have really got ourselves into. We are starting to find out what the benefits are going to be, we still really don't know what the negative financial elements are going to be and yet we are all here voicing from the Opposition benches our thoughts on the matter and the Government side are sitting there, I wouldn't say happily but certainly not as worried as we are on this side of the House. They don't appear to be, except for the Hon Mr Canepa.

HON A J CANEPA:

We have the advantage of worrying in Council of Ministers.

HON J E PILCHER:

The only other point that I would like to make and I said it was just a general comment is that one of the things that I was going to say on the general principles of the Bill and as yet

untouched by any of the Members on this side was the fact that there were going to be identity cards. We understood that identity cards were going to be valid. This was explained by the Hon and Learned the Chief Minister in his statement this morning that an agreement had been made by the Spanish and British authorities and passports will continue to be used. At that stage I was quite happy with the fact but then when I heard the Hon Mr Canepa's statement on how this thing has developed and the pressures put on the Gibraltar Government to cede on a lot of the points, then I can only be led to understand that we are only using passports because the Spanish authorities want us to use passports and they have managed to convince the British Government of their case. If not, Gibraltar would have to accept Spanish identity cards. The farce about this is that the Gibraltarian identity card, and if I am wrong I stand to be corrected, are still not valid as far as the EEC is concerned so we have now a situation where, alright, Spain is still out of the question, we have to make all EEC nationals identity cards valid for entry into Gibraltar but ours don't comply with EEC Regulations. Surely, this is something that the Gibraltar Government should already be taking into account and even on our driving licences. Again, if I am wrong I stand to be corrected but our licences are not valid outside Gibraltar, they are certainly not valid in the United Kingdom.

HON CHIEF MINISTER:

Driving licences? If the Hon Member will give way. Those have been valid for many years because they comply strictly with the 1925 Convention on Traffic.

HON J E PILCHER:

I am talking about heavy goods licences, I wasn't allowed to finish. I know that the car licences are valid, they are valid in Spain as well but our system of heavy goods licensing is completely different to that which is the norm now in EEC countries and it is about time we changed them as well because if not we will put Gibraltarians at a disadvantage, we have to accept everybody else's licences, everybody else's identity cards and yet ours because we have not moved in the system are as yet invalid outside Gibraltar and I think that is a point on the general principles particularly not on the Spanish accession as such but on this particular piece of legislation. Thank you, Mr Speaker.

HON J BOSSANO:

Mr Speaker, I have no intention of being as brief as other contributors. Let me say that I want to respond to the

contribution of the Minister for Economic Development the way that I think he deserves, that is to say, I don't want him to think that we are trying to take advantage of his honesty in expressing his fears because I think that the House and Gibraltar and the work of Government and Opposition can only benefit from putting the cards honestly on the table. But I would like him to understand that as well as honesty we need consistency because otherwise we don't know when the Government is being honest with us and when the Government is painting a particular picture because it suits them at a particular time and I therefore need to address myself first to the Hon and Learned Chief Minister who, I think, in introducing the Bill to the House did so in a very low key fashion and the explanations provided by the Minister for Economic Development suggest that the reality is something very different. I also want to say something about the presentation of this and other Bills to the House of Assembly in relation to what the Hon and Learned Member said immediately after the election at the Official Opening of the House when he referred to the work of this House with a GSLP Opposition. He has talked on more than one occasion of the fact that the present House of Assembly is probably more divided ideologically than any previous House of Assembly but that that did not necessarily mean and it was not a corollary of that that a division on matters of judgement, on matters of policy, had to deteriorate into an animosity at a personal level and he referred to the fact that I had said on the day after the election that there was no personal animosity between himself and me and that there was no reason why at a level where the good of Gibraltar was at stake we should not be able to work together consistent with the different policies of the two parties. Therefore, I need to remind him that his expectation of a responsible opposition taking its role in the House seriously requires that the Government itself should have a sense of responsibility to the House and I don't think it is responsible of the Government to go without a meeting of the House from June to November, and the Hon and Learned Member knows that I have made no attempt at all to put any kind of pressure for an earlier meeting of the House, I believe he is the Leader of the House and it is his prerogative to call a meeting of the House when he feels that one is required. But what I don't think is right, Mr Speaker, is that we have no meeting of the House from June to November and then in the week when we have the new Governor arriving, when we have a group of Members of Parliament led by Mr McQuarrie, when we have three MEP's visiting us and when we all have other things to do as well in many other spheres, we are presented with eleven Bills all to be taken through all the Stages in one House. I don't think we can be expected to do an honest job of work in this House of Assembly, we are not lawyers on this side of the House, we sometimes cannot understand the legisla-

tion and if we are going to vote in favour or against something we have to do it on the basis of is it compatible with our policies and therefore we need to be told by the Government exactly what it is the law is and it is essential therefore not just to be able to read the law before we come to the House but to be able to ask for explanations at the First and Second Readings of the Bill, at that stage, and then to be able to discuss the explanations that we get between us and come back at the Committee Stage and therefore taking the Committee Stage in the same meeting of the House, quite frankly; is asking the House to rubber stamp legislation and we are not prepared to do that. We are prepared to take our job seriously here and we are prepared to work for the money we get and that is what we want to do, we want to do a good job of being in the House of Assembly. I think I must make absolutely clear that we think there are a number of Bills in the House, the Hon and Learned Member has agreed to defer the Committee Stage of the amendment to the Elections Ordinance to the next meeting, he didn't agree to do the same with the Traffic Ordinance, I don't know whether he is prepared to do the same with this Ordinance or with any other Ordinance but we must emphasise as we have done before that as far as we are concerned the normal practice ought to be that not all the Stages are taken in the same House to give us the time to look at it. The Government has said before to us that their ability to support Opposition amendments is determined, to some extent, by the amount of notice we give them so that they can make up their minds on the merits of the case. I think they must apply the same criteria to us as they expect us to apply in putting any amendments to Government measures and certainly we cannot give them any time if we don't get any time ourselves. If we have only had a week, it hardly gives us any time to put any amendments. I think, going also from the position that the Hon and Learned Chief Minister took in the speech that he made at the Official Opening of the House in the issues that dominated the election campaign and in what he had said in London in November 1983, shortly before the 1984 election, we are talking about a Government defending a position where the prosperity of Gibraltar could be assured with a closed frontier. That is what they fought and won the election on. In 1984 they did not fight the election on the basis that the frontier was going to open before Spain joined the Common Market, on the basis that the Brussels Agreement was in the offing, on the basis that EEC rights were going to be advanced, no, they fought the election on the basis that if they got elected Gibraltar was going to be converted into a resort of international repute with a closed frontier, that was the basis they went to an election on. The two pillars of the economy were this international resort which would have prospered without two million visitors coming across the frontier, and a commercial dockyard which we know already is

on a trend of losing money higher than expected. That is what the election was fought on and won on and that is what we must hold them to. Things can happen subsequently which can change things for the better or the worse but so far the things that have changed are supposed to have changed for the better. If that was the situation then it cannot be true, as the Minister for Economic Development says, that they had to bring forward the opening of the frontier because the economy was on the verge of collapse in February this year. The Hon Member has told us that there was the Government beleaguered at the end of 1984, beleaguered in a situation where two years of the uncertainties of the Dockyard closure, two years of the pedestrian opening of the frontier had caught the largest outflow of capital we have ever had, the bigger drain on the economy, companies on the verge of collapse, hotels on the point of closure, people owing the Government money, in 1984. Well, he didn't say that in 1984, they fought an election and they won an election in 1984 on the basis that if they got elected they would set up a viable commercial dockyard and they would set up a resort of international repute with a closed frontier. I must say that the explanation of the Minister for Economic Development sounds familiar, it is one that I have heard many times within the GSLP and perhaps his admiration of Felipe Gonzalez will eventually extend to domestic socialism, not just cross frontier socialism. I would remind the Hon Member that at budget time this year when he went on television with me, he said on television that if we had got elected in 1984 we would not have had the £28m to spend another way because the only way you could spend the £28m was on the Appledore proposals. If that is the situation let us know what the choices are. He said that we had a responsibility to look at matters seriously and to be honest, I agree entirely with him but what he cannot expect us is to look at matters seriously and honestly if we are being told one thing one day and another thing a different day. As far as I am concerned, as far as the GSLP is concerned, the position taken by the Government was not that they took the only option available to them but that they took the option they thought was the best and that presupposes that there were alternatives. As far as we can see, the alternatives get scarcer every day. Obviously, if we were to talk about an election in 1988, whoever went to that election in 1988 would no longer have £28m, he is not going to have £28m in 1986 never mind in 1988, £24m of it is already gone, so clearly the options are getting narrower but we are being asked in this House of Assembly effectively to seal the deal, that is what this Bill is doing. The Brussels Agreement pre-empted any possibility of doing anything different on Community membership because we were advancing EEC rights and we had the ridiculous situation that I was in open mouthed admiration at seeing our Hon and Learned Chief Minister wading into Signor Natali and I



was sitting there quietly drinking my cup of tea - these things always seem to happen with cups of tea, Mr Speaker, I don't quite know why - quietly drinking my cup of tea, but what I didn't know was that at the same time as we were putting up that fight for a special way of dealing with the problems for Gibraltar of the free movement of labour, already Sir Geoffrey Howe had been given the green light to float with the Spanish Government the possibility of advancing that free movement of labour. And here we have a situation today, Mr Speaker, when in passing, the Chief Minister made a passing reference to something here at the end of Treaty as if it was the most innocent thing in the world. Does he know what it means? Can the Hon and Learned the Chief Minister explain to me what it means because I think he should have explained it when he mentioned it in his opening speech and he hasn't and I certainly will give way to let him explain it if I have misunderstood it.

HON CHIEF MINISTER:

What is it?

HON J BOSSANO:

It is the letter by a Mr Michael Butler written on the 22nd April, 1985, and I think it is very regrettable that the House of Assembly should discover in November, 1985, that in April, 1985, a Mr Butler whom I don't know who he is, certainly not an elected Member, gave rights to Spanish nationals in Gibraltar of which I know nothing and of which the people of Gibraltar know nothing. This is a serious matter. Shouldn't we have been told this on the 23rd April rather than in November? Do Members on the other side know what it means? It says here: 'On the instructions of Her Majesty's Principal Secretary of State, having considered the conclusion of the Conference between the European Communities and Spain concerning access to employment of members of families of Spanish workers' - a highly controversial matter - 'I have the honour to propose' - they are making a proposal about Spanish workers here not in Chatham or Devonport or Brighton, no, in Gibraltar. He proposes that in Gibraltar the date of the 5th February should be the applicable date and members of the family of a Spanish worker who on that date was lawfully and regularly employed in Gibraltar or was unemployed in Gibraltar or was temporarily incapacitated, that the members of his family should have the right to work here without a transitional period. That is what it says here, it says: 'Special arrangements on this question are envisaged in the provisions and that therefore those members of the family shall enjoy free access to employment in Gibraltar'. I am afraid what Mr Butler didn't know is that on the 5th February

the worker didn't have free access never mind the family of the worker. The worker already here is still being required to hold a work permit so he does not have free access so how have we given free access to the family of the worker who hasn't got free access himself? In fact, until February we were not giving free access to the families of any Community National, until February this year when we discovered that the Labour Department had been acting incorrectly, we were requiring the husbands of Gibraltarian women to hold work permits if they were not EEC Nationals and that was contrary to Community law and we have been doing it for twelve years. On the 22nd April Mr Butler grants this right to Spanish nationals and nobody in Gibraltar knows it, we discover it today. What does the law we passed here on the 5th February mean then because what Mr Butler says and what we have legislated is a different thing. Does the law of Gibraltar still stand or are we now talking that not only His Excellency the Governor has got the right to veto legislation but even Mr Butler? Because we voted against this law but the Government voted in favour and the Government passed a law here saying that the families of Spanish nationals would be required to have to wait for three years before they got free access and that once Spain joined the Common Market the three-year period would be reduced to eighteen months and that is what has been applied according to this Treaty under Article 57 to the families of workers of Portugal and Spain in all the Community, including the United Kingdom. It is very kind and generous of Mr Butler, the families of Spanish workers still have to wait three years before they can join.....

HON CHIEF MINISTER:

No.

HON J BOSSANO:

Well, that is what the Treaty says, I am prepared to give way if I have not understood it but I expect the Government to be able to explain what it is they are bringing to the House of Assembly if they are asking the Opposition to support it. Independent of the fact that we don't like any of it at least if it is something we have to do because we have to do it let us know at least what it is that we are doing, at least that much but if we don't even know that, Mr Speaker, we have a situation where on a superficial reading I would remind the House that this is something we have discovered this morning as a result of the Hon and Learned the Chief Minister mentioning in his speech, we have done a cross referencing exercise and we have come up with a situation where, apparently, if one takes into account the fact that in the letter by Mr Butler he talks about people who are working in Gibraltar without any reference to residence and in the law that we have got we mention residence,

it would appear that the situation is that if you were residing in Gibraltar on the 5th February you have to wait three years, if you came to work to Gibraltar after the 5th February you have to wait seven years and if you were a frontier worker on the 5th February you don't have to wait at all.

HON CHIEF MINISTER:

If the Hon Member will give way. My understanding of it, and I hope the Attorney-General will take note of this. Article 11 of Regulation 1612/68 regarding free access to employment for members of workers' families subject to the following conditions until the 31st December, 1990, which is: 'Family members have a right of access to employment from accession if resident with worker on 12th June, date of signature of Accession Treaty. Uniquely, effective date for Gibraltar will be 5th April, 1985'. That is to say, that that is not applicable until the 31st December, 1990.

HON J BOSSANO:

Mr Speaker, the letter to which I am referring, to which the Hon Member referred when he introduced the Bill, says that the 5th February, 1985, shall be the applicable date for free access to employment for the family of a Spanish worker. In our law the family of a Spanish worker is defined by reference to what a family of a Community National is under the Immigration Control Ordinance (Section 49) unless I am mistaken, and the Hon Attorney-General can correct me if I am mistaken, but if I am not mistaken a family means 'the children of a Community National who are under the age of 21' - in our law it says 'and dependent on him' - in the Community Regulation 1612 it says 'or dependent on him'. Mr Speaker, Article 11 of Regulation 1612 says: 'The spouse and children under the age of 21 or dependent on a national of a Member State', that is to say, if the child is over 21 and dependent on the father he is still treated as part of the family. Our legislation says that he has to be under 21 and dependent, of course, our legislation is superceded so in fact although this is probably a drafting error, it is a drafting error that suggests that if you are under 21 and employed you are not dependent whereas this clearly says something different and therefore it means that a Spanish national who has got unemployed children, not an uncommon occurrence on the other side, Mr Speaker, or unemployed spouses or unemployed parents or grandparents which is quite a large family, all that family, according to the generous Mr Butler, have acquired the right of free access to employment in Gibraltar from the 5th February. I think we should have been told that on the 23rd April. If that was given to Spain on the 22nd April I want to know why we are discovering this now on the 27th November. The only reason that I can give

is it seems to me almost as if the Government discovered it in November. If that is not what this commitment says, can the Government say whether they were consulted before this letter was sent and whether it was cleared?

HON CHIEF MINISTER:

If the Hon Member will give way? My understanding of the situation is that the only difference is that whereas the rights are acquired by everybody else on the 12th June, our rights were acquired on the 5th February. The conditions are exactly the same.

HON J BOSSANO:

Mr Speaker, I think the distinction that I am drawing the attention of the Government to and the reason why I am stressing this particular point is because I think it is a clear example of part of the argument that we are putting forward. We are saying we are against the general principles of the whole thing but in any case, if the basic argument of the Government is that however much we debate the issue the alternatives are so horrific, very much like my friend, the Hon Mr Pilcher said, the argument on the Dockyard, if it is either Appledore or a closed Dockyard then you may find all sorts of faults with Appledore but however many faults you find it is not as bad as a closed Dockyard. If that is the kind of situation then at least the Government should be able to say: 'This is the road we are following and these are the things that are going to happen because we have studied it and we know what we are doing'. The point that I am drawing the attention of the Government to is that the letter that was sent by Mr Butler talks about enjoying free access to employment in Gibraltar. It doesn't define what free access to employment in Gibraltar means but I can only assume that free access means access without the requirement for a work permit. Then the limitation of the three years is on the right to free access as a result of obtaining residence but we are talking about people who will want to take up employment without taking up residence. We are not talking about the people who are resident in Gibraltar. I will give way to the Attorney-General, if the Attorney-General says that frontier workers are not being given this right on the 5th February.

HON CHIEF MINISTER:

No.

HON J BOSSANO:

They are not? Well, then what did the Chief Minister mean when

he said that there were only 50 of them, the 50 that he is talking about are the frontier workers.

HON CHIEF MINISTER:

No, I said no and the Hon Member is wrong now and I can prove that he is wrong if you look up Hansard because I said that there were very few people who had been employed, very few people who had been properly registered and those who were registered the bulk of them were married to local people, I said that.

HON J BOSSANO:

Mr Speaker, the Hon Member mentioned the numbers and I think, if I am not mistaken, he mentioned the number of something like 50 as being the number who were employed on the 5th February. As far as I am aware the figure shown as the number of frontier workers in February is 50. If he is talking about people who are residing in Gibraltar and if this applies only to Spanish nationals who are residing in Gibraltar and not to frontier workers then we are talking, presumably, for all the Spanish women who are, in fact, working in Gibraltar and who may be married to Gibraltarians and who may have family members in Spain, that would apply to all of them, that would apply to any Spanish lady whose father or grandfather is dependent on her in Spain.

HON A J CANEPA:

No, because she is not Spanish, she is British by marriage.

HON J BOSSANO:

I think, Mr Speaker, that the basis of the point is that here we are, we are presented with this, we try and analyse the consequences and we find that something was done on the 22nd April and that we discover its existence in the context of amendments to the Immigration Control Ordinance in the application of Community rights and by reading that, one would not draw from that the explanation that the Government has just given us. I assume that as far as they are concerned that is the explanation and unless and until somebody challenges it and puts it different we have to assume that if a frontier worker who was working here on the 5th February tries to claim that he is free from the requirement for a work permit then that would not apply.

HON CHIEF MINISTER:

Resident on the 5th February.

HON J BOSSANO:

I know the Hon Member is saying that, what I am saying is that the actual text of the letter makes no reference to residence. The letter that was sent by Mr Butler to the head of the Spanish Mission in the European Community says quite clearly that the members of the family of a Spanish worker who was lawfully employed in Gibraltar shall have free access to employment. It doesn't say to a Spanish worker who was lawfully employed and resident in Gibraltar, it doesn't say that.

HON ATTORNEY-GENERAL:

I wonder if I can assist. If you look at Section 59 of the Immigration Control Ordinance, the right of families of a worker to join the worker. A Community worker can bring his family with him. When we amended the Immigration Control Ordinance earlier this year, we inserted subsection (6) saying: 'The provisions of subsections (1) to (3) shall only apply to a national of the Kingdom of Spain employed in Gibraltar if such national is in possession of a residence permit'. A Spanish national who had a residence permit in Gibraltar could bring his family with him, that is, the family as defined in Regulation 16. If you look at the Act of Accession, Article 57: 'Article 11 of Regulation EEC 1612, page 68, shall apply until the 31st December, 1990 in Spain with regard to nationals of other Member States and in the other Member States with regard to Spanish nationals under the conditions indicated hereafter - (a) the members of workers' families referred to in Article 10(1)(a) of the said Regulation installed in accordance with Regulations with the worker in the territory of a Member State at the date of signature of this Act shall have the right upon accession to take up paid employment throughout the territory of the Member State'. Instead of the date of signature of this Act which is, I think, the 28th June this year, that is being given to Spanish workers from the 5th February, the date of advance implementation. Normally, the provisions of Article 57 would apply but in Gibraltar's case because we gave Spanish Community rights with effect from the 5th February, the members of a worker's family who are installed in Gibraltar and were installed in Gibraltar on the 5th February this year can take up paid employment without the necessity for a work permit.

MR SPEAKER:

I think we are getting involved now in the interpretation of

the actual legislation and not the general principles.

HON J BOSSANO:

Mr Speaker, with all due respect, I understand entirely the explanation. What the Hon and Learned Attorney-General is saying is that the letter of the 22nd April says that in the case of Gibraltar instead of Article 57 coming into effect in June it shall come into effect on the 5th February, that is what the Hon Member is saying. And what I am saying to him is that the letter of the 22nd April doesn't actually mention anything about residence, that I have to assume that he is right on this one although he has not been right on a number of other occasions in his interpretation of Community law, that I shouldn't have to discover in November what was agreed with the British Government on the 22nd April. If the Hon Member came here in February and asked us to vote to provide transitional provisions for residence and that had been altered by a decision of the British Government, I think the House of Assembly is entitled to know and I think it is entitled to know when it happens not six months later. I certainly don't think we ought to be having to debate in the House of Assembly a Bill that goes through all the stages in one day and discover by accident that there is something which on the spot one is given an explanation for and that explanation may be perfectly correct but I would say to the Hon and Learned Attorney-General on this issue as on many other issues in this law because we have been through the law, we are voting against the Bill, we do not propose to move any amendments in the Committee Stage but I can promise the Hon and Learned Attorney-General a jolly time in 1986 because he is going to get a whole spate of questions about many of the things that he is legislating here where we can see a lot of contradictions so we are going to give him a nice suspenseful Christmas to look forward to January, Mr Speaker. But the point that I am making is that in the kind of response which I think the Minister for Economic Development was looking to us for, I think in that kind of response, in highlighting this particular single element and there are others, I think we are demonstrating that in a way the Government seems to want to have its cake and eat it when it comes to the Opposition.

HON CHIEF MINISTER:

What is wrong with that? You say sometimes what is wrong with that?

HON J BOSSANO:

Do I? I don't remember saying that, Mr Speaker, but I am sure

that if the Hon and Learned Member says I said it it must be true. It seems to me that the Government is wanting from the Opposition a response which takes into account their difficulties and yet by presenting the legislation as they have done, I think they have done less than justice to the Opposition or to the House of Assembly in expecting us to do a thorough job of examining it. If we look at this Treaty, Mr Speaker, when we think of the difficulties that were spelt out by the Minister for Economic Development and the difficulties that we have had since 1980 in the House of Assembly Committee in looking at ways of getting some changes in our membership of the Community, we were told that it was impossible. The Minister for Economic Development has said that no formal application was made to the United Kingdom because it was clear from the kind of informal contacts that it wouldn't get anywhere. It is not a philosophy that I subscribe to that you don't put in a claim because you know you are going to get it turned down; if that were the case we would still be at 1930 wages in Gibraltar, Mr Speaker. But if we look at this Treaty, what do we find? That the seven year transition period has been extended for Luxembourg so what is sacrosanct about Luxembourg that Gibraltar cannot have? In the case of Luxembourg instead of being 1993 it is 1995 and we were told that there was no way that something different could be done for Gibraltar. Is it that the Government didn't know that Luxembourg got a longer transitional period? It also says that in 1991 the Commission will examine the transitional period and may come to a conclusion on amending it, presumably up or down, and we have no say in it. We are saying that the transition period is seven years unless the Commission before the seven years are up decides to do something different and we have no control over the situation and it must be obvious to Members of the House that however much we may kick about it there is no way the United Kingdom would go to make a case to the Commission on our behalf in 1991 if they haven't been prepared to do it in 1985 or 1984. The Government is coming here defending the policy, essentially, of Spanish and Portuguese accession to the Community, the enlargement of the Community on our current terms of membership, that is the essence of what we are doing. By incorporating in the Schedule Spain and Portugal as Members of the Community we are saying the terms that have been agreed between the Community and the applicants are satisfactory to us as a Member of the Community for the same reason that every other Parliament has ratified Spanish and Portuguese accession because they have accepted that the terms achieved in the negotiating process have been enough to protect their national interests. Our national interests have not even had a say in it, Mr Speaker, they haven't even surfaced, we have been totally ignored in this process, it is as if we were not in the Community. If we are looking at the dangers of not being in the Community let somebody spell out what the advantages of being

in it are because as far as I am concerned we might as well not have existed. In the negotiating process the position of Ceuta and Melilla in the agreement with Spain is re-negotiable, they have included a Clause in it which allows them to go back and see the re-negotiation of the applicability of Community law to the two enclaves if there are difficulties for the two enclaves. We haven't got that, we have never had it and even now we don't have it so what are we doing ratifying the Community's enlargement? I don't see where we stand to gain by enlargement. The fact that we may or may not have stood to gain by the frontier opening, and it is still early days to say whether we have or we haven't, but we must not forget that we have paid one very heavy price. I don't envy the Hon and Learned the Chief Minister in his having to go to answer Senor Ordonez on the Moran proposals.

HON CHIEF MINISTER:

I don't propose to answer.

HON J BOSSANO:

I think that perhaps if instead of the Hon and Learned Chief Minister going accompanied by the Minister for Economic Development it were the Minister for Economic Development and myself, we might give Senor Ordonez a few more headaches than he is likely to get but that is not going to happen. There is, of course, notwithstanding the fact that the Brussels Agreement was accepted by the Government of Gibraltar with reservations, notwithstanding the fact that there is a 1977 motion of the House of Assembly that sovereignty is not a matter for discussion with Spain and that we all subscribe to that motion still, notwithstanding that, we all know that the proposals of Senor Moran have to do with sovereignty and that an answer is going to be given to those proposals which means talking about sovereignty, we all know that, although the Government is clearly doing it reluctantly and doing it under a measure of duress. But then we have to ask ourselves, right, if the commercialisation of the Dockyard was accepted because it was the only option, if the Brussels Agreement was accepted because it was the only option, if the ratification of the enlargement of the Community has to be accepted today because it is the only option, what is it going to be tomorrow, the airport? And what is it going to be the day after, the sovereignty? Each time we will be told: 'No, that is sacrosanct, that will never come. What we are doing now does not necessarily mean that we are going to have to do something even less palatable tomorrow'. If the Government of Gibraltar is talking as my Hon Friend Mr Pilcher said about fighting for our corner, our corner belongs to all of us, it belongs to us here, it belongs to the many thousands of our

fellow citizens outside who are totally unconscious of what is going on in here, who just simply vote for us every four years and expect us to get on with the job in the intervening period. The response that we are giving the Government today is that we have to say to them on the passage of this Bill that I am afraid they are on their own and I am afraid they are on their own because as far as we are concerned we get an occasional glimpse of them having to follow a road that they don't particularly like but for much of the time we get a different message, we get a different message that they are following a road which is going to lead us to salvation and we don't see that and we haven't seen that from the beginning and therefore, Mr Speaker, we are opposing this Bill at this stage, we do not propose to seek to change anything in the Committee Stage but we shall certainly be raising many, many matters in 1986 in connection with what is being passed today for which the Government will have to answer because they are supposed to know what they are doing, they are supposed to know what they are legislating and we don't think they do.

MR SPEAKER:

Are there any other contributors? I will then call on the Hon and Learned the Chief Minister to reply.

HON CHIEF MINISTER:

Thank you, Mr Speaker. I would like first to deal with the first part of the Leader of the Opposition's intervention with regard to the date of the meeting of the House and the problems that have occurred in connection with that. Of course we should have had a meeting earlier than now. Unfortunately, for a number of reasons it has been impossible practically to do so. My intention was first to meet on the 5th November, then I intended to meet on the 12th November. I must remind the Hon Member that once October came we had the unusual and what was a welcome change of the Governor's Farewell Address to the House of Assembly and that unfortunately took part of the time and the business of this House. Then when we were about to have a meeting early in November we had to go to London for talks on the 4th November. Thereafter the time schedule for that and the arrival of the new Governor made it impossible and again the Secretary of State on the 21st made it impossible and, in fact, the idea was to have it on the 26th but at the request of the Clerk of the House for the convenience of Members so that they would have a free day after the Governor's arrival to put their questions, instead of meeting on the Tuesday we met on a Wednesday. I don't know whether the Hon Member realises that but that is the extent to which sometimes one has got to do what is unusual in order to try and meet with the convenience of the House. The other

thing that happens many times is that a meeting of the House must be in order to bring legislation to the House primarily, that is my obligation as Leader of the House. I know that once a meeting is held the question of questions come along but my interest is, first of all, to see that monies that are voted are covered quickly by an Appropriation Ordinance and then legislation which has to pass. I hope, though I know it is not enough yet, I hope that there has been a slight improvement in the publication of Bills. We went to the extent this time, in order to be able to publish some of the Bills a fortnight before the meeting, I had to agree the printer's proof before it was approved in Council of Ministers and the Hon Attorney-General will bear witness that I said no, we must be ready to publish tomorrow, we must publish a clear seven days. The Legislation Committee meet as often as it can to prepare the programme for legislation. When I said that we hope that we could work together on the normal relationship, I mean it in every word and nothing that I have done consciously means that I take anything for granted in that respect from the Hon Member. The fact that we have a good relationship and we can talk about matters, even disagree on many other matters, is not a reason for me not to bear him the greater respect and bear in mind his practical convenience, too. Again, there was a point I have just remembered I am not blaming the Hon Member, there were also difficulties about dates which the Hon Member again changed in order to suit him and I kept him informed as quickly as I could of the dates that were available so that he could make his own arrangements. The real fact is, of course, that we all have all sorts of other things to do but I always say and I tell my colleagues that legislation and the meetings of the House come first, other things are secondary. We don't meet that often to be able to say that they should come second, if we were here every day it would be a different matter. The Hon Member frightened me when he said he wasn't going to be too short but he has impressed me with his brevity because he started to talk at 4 o'clock and he finished at 20 to 5 so he hasn't been too long by his standards. In any case, I will deal with some of the points he has raised because I think they are very valid and have got to be answered. But I will say one thing in general, terms and that is, inevitably, it happens all the time and it happens because of our nature and that is that we think ourselves a nation. We are probably a nation in many senses but in the international world, unfortunately, we are not. We discovered that in the 1960's in the United Nations, we discovered that in many other occasions, we discovered that in the terms of accession to the European Economic Community. The Hon Mr Perez was talking this morning as if we had to give the go ahead to Spain going into the Common Market and therefore we were going to agree to Spain going into the Common Market. No, I won't give way now, I am sorry. That is my interpretation

of what he said and it stays like that. We feel that we are a nation and that therefore we are equal and, in fact, in many respects we are but in hard facts and legal terms we are not and it is a balancing act, the Leader of the Opposition has rightly described that, it is a balancing act because it is a question of Government by compromise in this area, absolute compromise, and when Mr Canepa was talking about pressures he wasn't talking, as I understood it and he has confirmed it to me, he wasn't talking about pressures from the British Government but pressures of events. The events for which we are not responsible and for which other people may not be consciously responsible or sometimes they are and what has been described as to-ing and fro-ing which is no pleasure either, I can assure you, it is certainly no pleasure to have meetings where very difficult situations are discussed with very different points of view but that I think is a measure of the extent, if I may say so, of the extent to which one is listened to because if one went on something and you got a no for an answer, that would be the end but if there is on-going effort to try and meet a solution to difficult problems it shows that one is listened to and though we pull no punches at meetings, as my colleague said, look at what happened last night in the United Nations. The United Kingdom amendment to their solution on the Falklands spoke about the right of self determination of the people and a number of the European countries, let alone Latin American countries and others, voted in favour of an Argentinian resolution. When the Hon Member says 'you are alone in this', of course, in a decision where one takes and the Opposition is not with us in legislation we are alone in whatever we come here for but let us not be completely alone from the rest of the world and let us not be completely alone from the very few friends we have and the few friends we have, unfortunately or fortunately, are in the United Kingdom. Nobody else cares for us, whether they care enough or they don't care enough is another matter, or whether they care enough according to what interests they put first is another question but let us make no illusion that we have no other friends and let us therefore try to see how much we can get from our friends in support in matters and this is really the whole trend of government, the whole trend of the pressures of events. It isn't that pressures are not put, one is not pushed to do things, but things push one into matters, events push us into having to take certain decisions. Of course, the commercialisation of the Dockyard was not one of many options. I don't remember, maybe the Hon Member can bring some statement I made, probably he has got it there prepared already, but I don't remember saying we had any other option and I always thought that the Hon Member was completely misguided and completely naive, if I may say so, if not deliberately misleading, in telling the people that if the British Government gave you the £28m you would put the economy straight with your secret plan. The point is they wouldn't have given you a penny



directly for anything unless they know where it is going to, so it wasn't that there was £28m there just to see who was the best taker, it was that they were compelled in a way as the alternative for a grant-in-aid situation in Gibraltar which we refused, to provide an alternative to the Dockyard. That is the reality of the situation, that is the reality of all the facts of what has got to be realised is the running of this place. I think Hon Members opposite have given a completely wrong slant to the legislation today. If we forget the advance implementation, as Hon Members said, I think it was Mr Feetham who said it, we would have come to this situation anyhow because we are Members of the Common Market and as the Hon Leader of the Opposition well knows, whether we pass this Ordinance or not, come the 1st January all the laws of the Community apply to Gibraltar over our heads and what we are doing is honouring a commitment that we undertook in 1973 and applying it when others have applied it and others have agreed that Spain and Portugal should join the Community. It is not correct to say, certainly to my knowledge, that during the negotiations with Spain that Gibraltar's interests have not been taken into account. They have been taken into account. You see the product of the things that are bad, you don't see the product of things that could have been much worse because it has been in the areas where we have been concerned, we have made representations, we had a feedback to the extent to which those representations have been possible.

HON J BOSSANO:

Can the Hon Member say one single thing that has been changed in respect of Gibraltar in the context of the enlargement of the Community which would not have happened automatically without any negotiations, one thing?

HON CHIEF MINISTER:

Without negotiation, no, I didn't say that.

HON J BOSSANO:

If the Hon Member has said that Gibraltar's interests have not been neglected, I want to know one thing that has been done specifically because of Gibraltar's interests that has not come automatically because everybody else got it, that is to say, we haven't got seven years for Gibraltar, we got seven years because everybody else got seven years. If everybody else had had ten years we would have had ten, if everybody else had had five we would have had five so I want to know in one single thing, like other people fought for agriculture and wine and this and that, what did we get?

HON CHIEF MINISTER:

We may not have got much that I can identify now but one we did not get. Let me tell you that Spain was seeking a shorter period of transition for the freedom of labour for Gibraltar, separate from the rest. I know that it was an easy one to defend but let me tell you that these were the attempts. I have got evidence of that, I can assure Hon Members, Spain attempted to obtain a shorter transitional period and had been told that this could not be agreed so the question is not that they were going to give away things that were not being given away for themselves but the fact that the question of Gibraltar was in the minds of those who were negotiating. Some Hon Members opposite saw Mr Hannay, Mr Hannay was described by the Prime Minister when we went to see her about the Dockyard as saying he knows everything that has got to be known about the Common Market, he is now I think Head of the UK Mission in the European Community. He saw us, we didn't pull any punches with him, he went away and brought back some comfort in some respects and in others it was impossible and no doubt other things will emerge as we go along, perhaps, when we get those promised questions in the new year where we may be able to prove that some things were obtained that I am not going to say now, it is very difficult to answer that question at this stage. But going back to the fact that this is a Gibraltar obligation, I can understand Hon Members saying 'we don't want to be associated because of the link to the Brussels Agreement and all that', that I can understand but the fact is that if we do not come into the Community in this way we would come in in a very bad way which is imposing Community laws through the European Courts. For certain things we may be responsible, for other things the United Kingdom may be responsible and for those things for which the United Kingdom may be responsible which affect us we might have a situation of the exercise of special powers to impose legislation to which we are committed by virtue of our membership initially in 1973. This is just confirming if there had been no Brussels Agreement this is just doing the obvious, the point is that at that time nobody thought that we would be affected because the countries that were Members were very far away from Gibraltar and we didn't have the immediate pressure but the fact is that it is either that or, if it is possible, and I would like to state that my tentative inquiry is not for any purpose because I have no intention of moving that but in order to be able to say so here, I don't know whether constitutionally we could get out of the Common Market today if we wanted. I have said that because the alternative to having the Common Market law imposed indirectly because we do not want to legislate in accordance with our commitment, remember it was the commitment of Gibraltar and at that time the House of Assembly was united in that and, in fact, I was the one who put in a word of caution at the time

of the jubilancy of Major Peliza about the fact that everything would not be solved but that was back in 1973. Really, the amendments that are brought today here are just the absolutely necessary amendments that are required if we are to continue in the Community in a normal way. If we are to continue in the Community in an abnormal way then, of course, we could refuse. The Government normally honours its commitments and the commitment of one Government binds another insofar as a nation is concerned in a general concept and as far as we are concerned there is no question but that we have to honour our commitment with all the responsibilities that it brings, with all the headaches that it brings but in the true knowledge that we are doing what we think is best for Gibraltar.

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

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

The following Hon Members voted against:

The Hon J L Baldachino  
The Hon J Rossano  
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 abstained:

The Hon E Thistlethwaite  
The Hon B Traynor

The Bill was read a second time.

HON CHIEF MINISTER:

I don't know whether Hon Members opposite will agree to take the Committee Stage today, if not we will have to come tomorrow for it.

MR SPEAKER:

The alternative is, before you make your mind up, the alternative in accordance with Standing Orders, is that if the House does not agree unanimously it cannot be taken on the same day but, of course, it can be taken tomorrow morning.

HON J BOSSANO:

We are not prepared to take the Committee Stage today.

THE LANDLORD AND TENANT (AMENDMENT) (NO.3) ORDINANCE, 1985

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Landlord and Tenant Ordinance, 1983 (Ordinance No.49 of 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 ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, there is nothing new in this Bill. Clauses 2, 3 and 4 were all contained in Bill No.18 of 1984 which was published on the 29th November, 1984. Clauses 2 and 3 comprised Clauses 7 and 8 of that Bill and Clause 4 comprised Clause 13. All three Clauses were read a second time on the 11th December, 1984, but were omitted in Committee as they dealt with sections included in Part IV of the Ordinance such as the Business Premises Section because at that time, Mr Speaker, there was no intention of bringing Part IV into operation and I think the Government moved eleven amendments in Committee and the Opposition moved two amendments and it was decided not to proceed with these three Clauses in Committee. Mr Speaker, Clause 2 corrects a printing error which occurred in Section 62(3) of that Ordinance. A whole line containing the words 'by any member of the group for the purposes of a business' was omitted. Clause 2 corrects this error by inserting the missing words between the word 'occupation' and the word 'to' in the last line of Section 62(3). Clause 3 of the Bill re-enacts in a slightly different but clearer form the provisions of Section 69 of the Ordinance. By Clause 8 there should be implied in every tenancy agreement that a tenant may not assign his interest without the landlord's written consent and that the landlord's consent shall not be unreasonably with-

held. Further, Mr Speaker, the landlord may, as a condition of consenting to the assignment, charge a premium not exceeding the equivalent of two year's rent payable immediately before the date of the assignment. Further, the landlord may withhold his consent if the assignee intends to change the user of the holding. As assignee cannot materially change the kind of business carried on in the holding without the landlord's prior written consent. Clause 4(a) of the Bill makes it clear that the compensation to be paid to the tenant under Section 49(2) of the Ordinance should be paid on the basis of the length of time that a tenant has occupied the premises under his present and under any previous tenancy agreement. Generally speaking, tenancy agreements, Mr Speaker, are for a period of up to five years and consequently if the Ordinance were not amended it would be very rare for a tenant to be able to obtain the compensation specified in items 2 to 6 of the Table contained in Part II of the Fifth Schedule to the Ordinance. Clause 4(b), Mr Speaker, corrects the obvious printing error of 'tears' to 'years'. I commend the Bill to the House.

MR SPEAKER:

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

HON J L BALDACHINO:

With all due respect I am willing to speak on the principles of the Bill but not on the merits because there is no merit.

MR SPEAKER:

You shouldn't say that because I may hold you to it and you are going to find it very difficult.

HON J L BALDACHINO:

Mr Speaker, I have reached the same conclusion even though I have gone through a different path than the Hon the Minister for Housing, Mr Featherstone, did in thinking that this is not a good Bill but a bad Bill. I will explain that, Mr Speaker, because when the Hon Member and I think he was Chairman of the then Select Committee when he was proposing the recommendations made by the Select Committee on this Bill and answering my Hon colleague the Leader of the Opposition, even though I wasn't a Member of the House I was sitting in the public gallery listening to what he was saying, he maintained that this was a good Bill or that this was going to be a good law because both affected parties were making at the time complaints about the Bill. If that is the thinking of the Hon Member then, Mr

Speaker, we must see the thinking of the Hon Member now that this is a bad Bill because there is only one side shouting at the moment or saying that it is a bad Bill. Even now letters are coming out in the press and there was a letter sent to him and also a copy to the Panorama and also Action for Housing which was another of the affected parties that the Minister was referring to at the time, are saying that this law does not meet the requirements of the tenants. Mr Speaker, I have been looking through the law and to me it appears, quite frankly, as if I was playing 'Monopoly' because I was referred from Section to Section, I had to go backwards and forwards. I don't know if people in the legal profession enjoy that, I didn't enjoy it, quite frankly, I don't enjoy going backwards and forwards. In one of these to-ings and fro-ings I landed on the Second Section of the Fourth Schedule and as the Hon Minister for Housing quite rightly and I agree with him when he said to me that it was no longer the Sinking Fund, that it was now called the 'Reserve Fund' and I personally think that it is a more appropriate name to be called in this instance. Mr Speaker, the Fourth Schedule referred me to Section 16, part (3). At the time I didn't realise that but when I read Section 16 I realised that Section 16 had already been repealed and had been substituted by Section 18(a). I have been looking through Hansard and through this Bill and I cannot find an amendment to the Fourth Schedule, so I am returning the favour to the Hon Member because I think he changed that to comply with the amendments they are bringing to this House. I think that this Ordinance is made more to the interests of people outside this House because we had the unlucky incident where I proposed an amendment to this, as a matter of fact it was two, one was defeated and one was passed with the approval of the Government and in the next House he came back and it was changed back to the original one. I think that the Opposition in this case cannot play a role where it can put an amendment because it would appear to be subject to veto from outside sources. Mr Speaker, I can say that the same as there are people now complaining or against, mostly tenants, the third part of the law, I think there will be other people when Part IV of the Bill comes into operation who will also be complaining once it becomes effective especially those people who have small family businesses. Going through the explanation that the Hon Member has given for bringing these amendments to the House, the ones that we are now discussing, he said on the 26th March, 1985, and he was referring to Clause 13: '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'. What has the Government thought about this amendment, Mr Speaker? Why take so much time to bring the same amendment that we had before because what the Hon Member has

done, I don't know whether it is to confuse us on this side because we are not of the legal profession, he has, for example.....

MR SPEAKER:

Let it be said that on the other side, in fairness to them, there are only two members of the legal profession.

HON J L BALDACHINO:

What (a) used to be before he has now changed it to a subsection, (b) now comes before (a) and that is all that has been done in this new amendment. Mr Speaker, the word 'tears' which is in the Fifth Schedule, I think it is, the Hon Member says that it is a printing error. It could well be a subconscious error because the person who was drafting the Ordinance.....

MR SPEAKER:

No, the errors that have been referred to are typographical errors such as 'tears' instead of 'years' and that is the error you are referring to.

HON J L BALDACHINO:

What I am saying is that the explanation that the Hon Member has given us is that it is a printing error. I agree that it might be a printing error and what I am saying is that I have another interpretation that the person who was drafting the Ordinance in his subconscious mind as he was drafting the Ordinance he must also have been reading the Ordinance and he was most probably thinking that when this came into operation there could be a lot of tenants who would shed tears and then in a moment where the subconscious took over instead of writing years he said we had better regulate the amount of tears that one can shed and it says 'more than ten years but not more than fifteen tears'. The person considered that there would be tears and he must have said: 'I had better put a helping hand there and control the amount of tears that we are going to have'. We are going to have so many tears once it comes into operation and the landlords start doing what they can do and that is one way of looking at how tears came to be in the Landlord and Tenant Ordinance. As I said before, Mr Speaker, and I don't want to go over all the arguments again. We have been consistent since we had one Member in the House, and now we have seven Members, saying that we would not agree to it and we went along, Mr Speaker, as my Hon Friend the Leader of the Opposition said in the Opening Ceremony of the House, that we should try and help the Government, we did this in this Landlord and

Tenant Ordinance even if we weren't in agreement with it, we did it because we proposed two amendments to the Ordinance but what I am not prepared to do at this stage is to propose any more amendments because, quite frankly, I think that the power to accept an amendment does not lie in this House of Assembly, it lies somewhere outside. This Ordinance does not protect those who are in a weaker position. This Ordinance is more like a guide book to landlords to get out of Part III and tells them what they have to do so that they can carry on doing what they are not supposed to do. That is what the Landlord and Tenant Ordinance does as far as I am concerned. Mr Speaker, we will most certainly not be supporting this Ordinance in any way.

MR SPEAKER:

Are there any other contributors?

HON CHIEF MINISTER:

I have not followed very much the earlier part of the Hon Member's intervention but I will agree with him that unfortunately this Ordinance has had a very checkered life and that we hope that these are the last amendments because we propose to bring into full effect the landlord's part on the 1st January, 1986, and that is why it was necessary. I entirely agree that it has had a very checkered life from the very beginning and though perhaps not directly, one of the results of course is that two Attorney-Generals have dealt with it.

HON M K FEATHERSTONE:

Sir, I will only speak on the merits of the Bill because basically it has no principles. Its merits are intentionally to correct mistakes in the original Bill and I don't think that anybody can go along with having an Ordinance on the Statute Book which is in incorrect language and cannot be properly understood and therefore the merits of this Bill are absolutely pre-eminent. In particular, the alteration under Clause 4 to the Schedule from duration of current tenancy to period of occupation of the premises under the current or any previous tenancy is of paramount importance and was one of the most important features in that Schedule made by the Select Committee. This Bill simply purports to put right things which were wrongly worded or inadequately worded in the original Bill and therefore I think on its merits it deserves every commendation. I trust that the Opposition will see it that way.

HON J BOSSANO:

Taking up the point that has just been made by the Hon Member,

the reason why the Opposition does not see it that way is because we think the Landlord and Tenant Ordinance is such a bad piece of legislation that it takes more than correcting the typing errors in it to put it right, Mr Speaker. If the Government is prepared to come back and do a proper job of regulating the relationship between landlords and tenants then we will look at it in a different way but if all we are doing is, in fact, trying to alter printed errors or to bring into effect the part that got left behind just like we had the previous situation where the thing was dead and then revived, then as far as we are concerned, we have been against the thing throughout its checkered history going back to the setting up of the Select Committee and we are still against it, that is why we are voting against.

MR SPEAKER:

I will then call on the Hon and Learned Attorney-General.

HON ATTORNEY-GENERAL:

I just would like to express my gratitude to the Hon Mr Baldachino for drawing my attention to yet another error in paragraph 2 of the Fourth Schedule and perhaps in Committee he won't object to my moving an amendment just to change Section 18(2) to Section 80A(2) and to call the 'Sinking Fund' the 'Reserve Fund'. I am grateful to him.

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 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 ATTORNEY-GENERAL:

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

MR SPEAKER:

Do all Members agree that that should be today?

HON J BOSSANO:

No, Mr Speaker, I think we will take this later.

HON CHIEF MINISTER:

If the Hon Member will allow me. I realised that he objected to the question, I thought it was symbolic and I hope it is symbolic of not agreeing but I have to say something, if you will allow me on this question and that is that normally unless a Bill is very important and requires reaction outside the Opposition, it is put on the Agenda for Committee Stage and Third Reading subject to objection not only by one day but if it is required the Hon Member knows that I say yes, leave it to another meeting. But there are some Bills that in a meeting of two or three days can be taken. I don't think there is much need to say that the Gaming Tax or the other small Bill on the drugs require a lot of time from one day to another so that is why it is put there, it is not put there in an attempt to bulldoze the thing but if it is wanted that way I knew we would come tomorrow, anyhow.

HON J BOSSANO:

It is not the intention of this side of the House to hold up proceedings unnecessarily, Mr Speaker, but I did make the point that we feel that there ought to be a gap on all legislation as a matter of course between the First and Second Readings and the Committee Stage of the Bill where if we have a debate on the principles of the Bill, I know this doesn't necessarily follow on this one because there are two clearcut positions on the Landlord and Tenant Ordinance and what I have said before was that what we would like to establish is that the general practice ought to be that that gap should exist but that if there are compelling reasons for something to be put on the Statute Book quickly then we are prepared to go along with it being done quickly even if it means we do a less thorough job but for us part of the value in the debate on the principles of the Bill in the Second Reading is that sometimes we are not sure

whether the conclusions or the implications that we see when we get the Bill circulated are accurate. It gives us an opportunity if we question things of hearing explanations from the other side and re-assessing our own position either for or against the Bill. We believe that that ought to be the general practice and that it ought to be the exception rather than the rule that they are all passed in one meeting. If the Government feels that it is important to take this today to accelerate the business, alright, we will take it today but the point that I am making is that our view is that it shouldn't be the general rule.

MR SPEAKER:

You are being so nice to each other that I am slightly confused, do we have it today?

HON J BOSSANO:

We will take it today if it is important for the Government, yes, we will take it today.

The House recessed at 5.25 pm.

The House resumed at 6.00 pm.

THE INCOME TAX (AMENDMENT) (NO. 2) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. I will deal briefly with the question of the abolition of tax on interest which is charged by institutions lending for development purposes. One of the problems encountered in recent years has been that of access to long term finance for private development projects in Gibraltar. Overseas financial institutions have been reluctant to lend for this purpose and therefore local companies have had to have recourse to short term expenses, and virtually speaking, overdraft facilities. Since the border opened there has been a

change in the readiness of overseas institutions, in particular, to lend for long term development but the particular difficulty has been withholding tax and, indeed, the whole question of tax on the interest or, indeed, the profits or any other effect on such finance. The proposals in this Bill will, in effect, put long term lending for development purposes on the same sort of footing taxwise as the Government's own borrowing for commercial loans. The concession will be limited to those projects which are beneficial to Gibraltar and hence the criteria to be applied in determining that will be those which are applied by the Development Aid Advisory Committee under the Chairmanship of the Minister and then, secondly, there will be a further scrutiny of the terms and conditions of the loan as provided for in the Bill. The aim is to exclude any project which is simply re-financing of an existing loan without any expenditure of a capital nature for development or improvement of existing assets. I would, however, like to correct any impression that there is a tax giveaway, Mr Speaker. The opportunity cost, in fact, of this is nil because if the amendment were not made and the tax concession, to call it such, were not made available then the finance would simply not be forthcoming because companies would not lend when they can obtain favourable tax terms by simply putting their money in Euro bonds or other securities. Secondly, even if tax were to be withheld, the amount which is lost is, we are really talking of very little because the lender would in a taxable situation obviously offset the cost of money to him so the tax payable would simply be on the terms the difference between the lender's own borrowing rate and the rate at which he lends to the developer. I need hardly say that the rationale of this particular measure is to make it cheaper to borrow money for development purposes and, indeed, to open up the market to overseas and domestic sources of finance in competition. To cite one recent example of which I am aware and which would be covered by this Ordinance, the facility would result in a reduction of 1½% compared with the interest rate which would otherwise be payable. The other Clause of the Bill, Mr Speaker, is self explanatory, I think, and I don't wish to add anything to what is said, in fact, in the explanatory memorandum. I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

We are opposed to this measure, Mr Speaker. I don't think the Hon Member can simply talk about the opportunity cost being nil and that the money would not come here if the measure was not there. What he is suggesting, in fact, is that development



would not get off the ground because finance would not be available unless we provided for that finance to be invested with a tax pay return in Gibraltar, that is what he is saying. If he is saying that the opportunity cost is nil because the money would not be lent if the interest were taxable he is saying there would not be available capital for investment in Gibraltar other than on the basis of us legislating to make the return interest free.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker, if the Hon Member will give way. I did not say that there would not be available capital, I said that the opportunity cost of this particular concession would be nil because the money which otherwise might come from the overseas institutions, I did mention that particularly, would not come if there were withholding tax or, indeed, any tax.

HON J BOSSANO:

Yes, that is exactly the point that I am making, Mr Speaker. Presumably the Hon Member is not saying that the developments would appear because there was money. We can pass this Bill and as a result of that we can suddenly find ourselves inundated with institutions wishing to invest £1,000m which they would be unable to invest because there is nothing to invest £1,000m in. The money that would be actually lent would only be the money that was borrowed, you cannot lend more money than there are borrowers for and therefore what he is saying to us is that the people who have got developments would not be able to borrow the money because there would not be lenders unless we provided them with this incentive because if there are lenders for which there are no borrowers the effect is still nil. There has to be both for the transaction to take place. Our understanding of the present economic scenario from the Minister for Economic Development, is that we are not facing difficulties in attracting developers but what we have to do at the moment is control developers rather than attract developers. He said so in a Conference in the Rock Hotel, I think it was in the Heritage Conference, he again suggested today, I think, when talking earlier in the context of the European Communities and the effect of the open frontier, that there might be overheating in developing and that the Planning Department might have to slow down the process. Well, then, if we are already overheating, without making interest tax free and we make the interest tax free it will just overheat even more, we might even evaporate and I am sure the Hon Financial and Development Secretary wouldn't want us to evaporate.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Or would he?

HON J BOSSANO:

I will allow him to interrupt me if he wants to clear up that point. The provisions for capital investment in Gibraltar are already very generous. If someone gets a development aid licence, he gets reduced liability for the payment of municipal rates, nothing for the first year and then on a declining basis, which lasts for a ten-year period. He also has, as I understand it, the opportunity of recovering his entire capital investment before the profits become taxable, so that is he only starts paying tax after 100% return on the capital invested, as I understand it. If I am wrong I will be corrected, but as I read the Income Tax Ordinance in relation to Development Aid if somebody invests £½m in a project then the net profit on that project is not taxable neither are the dividends paid out of that net profit taxable until the whole of the capital investment or whatever proportion of the capital investment is allowed for Development Aid but the Development Aid makes possible that 100% of the capital investment should be. I know that the Government can decide to make it 50% or 30% and sometimes when the Development Aid licences are published in the Gazette I have noticed that in some projects it is less than 100% but what I am saying is that there is provision for 100% return of capital without tax and there is provision for reduced payment of rates and now we are saying, as well as that.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I think that he may be making a mistake. It is not 100% return of the capital which is 100% profit, he means 100% depreciation, I think. The value of the capital investment is allowable up to 100% against profits.

HON J BOSSANO:

As I understand it, Mr Speaker, the depreciation provision of the Income Tax Ordinance are in addition to the capital aid granted under Development Aid otherwise it would mean nothing. Everybody is allowed to depreciate the capital investment everywhere, of course, this is in addition.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. He cannot have a double depreciation. Normally with an investment, certain equipment or the plant or anything of that nature which would be allowable

under the Income Tax Ordinance is covered by the provisions of the Income Tax Ordinance. With the Development Aid he can also get relief on building but other items of expenditure are not covered by the Income Tax Ordinance.

HON J BOSSANO:

You can get relief on buildings which would not normally be depreciated, Mr Speaker. If somebody builds a building, the normal practice with buildings is that either they are kept at the historic cost in the accounts or else they are re-valued afterwards. It has been a very long time and I think we have got to go back to the 1930's which was the last time that buildings were depreciated and reduced in value. We are talking about a situation where somebody builds a building with £1m and can make £1m net after the expenses of maintaining the building and running the building and what have you, make £1m net free of any liability to income tax if he gets 100% Development Aid for that project. On top of that all he has to do is to have a Finance Company which he owns and he lends himself £1m and he charges himself 20% and then he can pay himself to his other Company 20% per annum in interest and then he never pays tax, ever. I think this creates a loophole on the one hand which, to my mind, is unnecessary because it is making the attraction of capital investment and of development greater in a situation where we are being told the amount of people interested in development is already as much as we can cope with. Why do we need to keep on giving incentives? It is the same as if we had a situation where we are importing labour and giving people subsidies to create more jobs or whatever. Everywhere in the world that I know of the fiscal incentives that the Government gives are designed to achieve the resolutions of specific problems so if you have got regional aid it is because you have got a depressed region, if you give people unemployment premium it is because you want to subsidise employment. It seems to me that if the reason why we need to do this is because the developers that we have got are finding difficulty in raising finance then that is a reason that needs to be given but we haven't been told that. We have been told that the lenders are not interested in lending here unless we provide this but, of course, for the lenders to lend there must be borrowers and I would have thought the area where we clearly have a shortage of lenders is for the average working man wanting to buy a house in Gibraltar who doesn't get Development Aid. We know that although the only Building Society to all intents and purposes is doing a good job and is attracting some money in, we must not forget that part of the attraction of the deposits in the Building Society is the measure that we passed in this House of Assembly which the Government brought and we supported and, in fact, we said we would support no ceiling. At the time when the Hon

Member's predecessor brought the Bill to the House, Mr Wallace, the position of the GSLP was to say that we would support that there should be no ceiling on the interest from Building Society deposits being tax free and we were told that this would create a bottleneck of more people depositing money than there were borrowers for and that the Building Society would get so much money that they wouldn't know what to do with it and that is why it was better to put a ceiling, that is what we were told at the time. We happen to know from people who have made approaches to us, that there are people who would like to buy a house and who have difficulty in getting a mortgage either because the Building Society is doing what it can within the money that it has got and the banks don't appear to be very interested and we have talked before in the Elections Ordinance about the concern of making sure that people stay in Gibraltar and don't go across the other side. Well, here we are giving an incentive for people to take their money out of the Building Society because if in the Building Society you can only get tax relief up to £500 interest and you have got a lot of capital, then you wouldn't put it into a Building Society, you would lend it to somebody who has got a Development Aid licence. If somebody is building a block of luxury flats and gets a Development Aid licence he can borrow the money at a lower rate of interest or else the lender can make a better return on his capital than by lending it for owner occupation for the average person in Gibraltar. I don't see the logic of that, Mr Speaker. I also think that the Government itself, I would have thought the Hon Financial and Development Secretary, would not want to create competing sources of investment with the Government's own borrowing requirements. Unless he can tell me that this will stop him borrowing money which might make me change my mind, if he tells me he will not take up anymore loans under the Loans Empowering Ordinance because all the money is going to go into Development Aid then we might decide to support it but apart from that I would have thought that if he wants to borrow money and if part of the attraction of investing in Government bonds is that the interest is not taxable and you provide another source of tax free investment, then you are creating competition for your own borrowing sources. The Government, by passing this Bill, is creating a situation where resident investors will have an additional choice whereas at the moment resident investors wanting to invest in the local market and not have to pay tax can only do it by either lending to the Government or by investing in a Building Society account. We support that, we think that if that means that cheaper finance is available for public expenditure and cheaper finance is available for home ownership, then it is good, there are sound reasons why politically one decides to discriminate in favour of those areas because you want to channel the money in those areas. If you then give the same opportunity to commercial development then you are only doing that because commercial

development is being stifled because of lack of capital but if it is being stifled then surely the Government must realise that if in terms of the local market you have a situation where, for example, tomorrow a development related to tourism offers a better tax free return than either the Government or the Building Society, they run a risk of either having their cost of money pushed up by competition or of losing that source of finance. If we are talking about international institutions which, of course this Bill doesn't because it says whether resident or non-resident. I am not sure what is the position with international institutions now but I would have thought that it is not very difficult for a developer to borrow money internationally, quite frankly, without that being subject to withholding tax. I know that it was done for many years by the Government of Gibraltar and then somebody came along and suggested that it couldn't be done unless we specifically exempted it and we had the situation where the interest payments on Hambros Bank and on Lloyds Bank were exempted from the payment of tax retrospectively, I stand to be corrected on this but I would have thought, for example, Mr Speaker, that if Dragados y Construcciones who is the developer for the new Water Gardens, were to borrow in Spain £1m for developing the project in Gibraltar, I don't see how we can say to them: 'Before you pay the bank in Spain the interest you have to make it subject to Gibraltar withholding tax'. So what are we talking about international investment? Do you mean to tell me that that cannot happen now? That the Government's position is that they cannot borrow the money in Spain without having to deduct Gibraltar tax from it? I think that is nonsense. The main incentive here is for the local money market, as I see it. There is no indication, as far as I can tell, because we have not been told anything different, that the developments that there are in the pipeline run the risk of not getting off the ground because of an inability to raise capital internationally because of our tax laws. Certainly, raising capital locally may be a difficult thing because of our tax law but there is a limited size of capital market in Gibraltar and if we are going to introduce more competition for those funds then the opportunity cost may not just be the loss of theoretical revenue, it may increase in local interest rates, greater pressure on the mortgage market for home owners, greater difficulty in the Government raising money through the issue of their own debentures and I think those negative aspects have not been mentioned at all by the Financial and Development Secretary, to me they seem real. I think on the second part of the Bill our position would be that we don't see why a non-resident person should be able to perform ten times a year and not pay tax for the thirty hours work and a local performer should, and, therefore, if the Government feel that performers should have thirty hours of performance a year for which they don't get taxed then they should say that in the

case of local performers the first thirty hours of performance a year should not be taxed either. Again if we look at a situation where we are not just talking about people who may be professional entertainers in the international scene but a band from the neighbouring territory and a band from here playing at a Christmas dance in a few weeks time. Presumably, the local band is supposed to pay tax and the other one isn't and then the local band is put in an uncompetitive position vis-a-vis the other one which is unfair competition. Why should we do that, why should we give an advantage to the outsider? If the Government feels it is necessary, if the Government feels they shouldn't pay tax then the Opposition will not support that unless there is equal treatment for our own people. It is self explanatory that they are going to do it for non-residents but he hasn't explained why they are doing it for non-residents. As far as we are concerned we will not support the thing being for non-residents only. If the Government feels the measure is necessary then we will support it if it is done on an equal basis or unless they give us a reason why they are discriminating.

HON A J CANEPA:

Mr Speaker, insofar as international financing is concerned, I think I would confirm that people who, in my experience, are interested in major development projects, notably Queensway, Rosia and such like and the East side reclamation development, certainly don't have any difficulty in arranging for financing. The money may come from Hong Kong, the money may come from Arab countries, there is no problem. But it was represented to me earlier in the year by local businessmen that they were experiencing difficulty in getting loans for what I would describe as either modest development projects, projects, let us say, of the order of £½m, perhaps, between £½m or £1m, or for investment in new plant and machinery which could be sizeable, in fact, it could be in excess of the minimum amount which they qualify for a Development Aid licence, they did represent to me that they were finding it difficult to get a loan for longer than five years. Five years seemed to be the norm and it was only very exceptionally that they could get a loan for seven years, very, very exceptionally, the norm is five and that creates problems. By this measure, they represented, it would be possible for them to arrange with local banks, it would be sufficiently attractive for local banks to give loans in excess of seven years. I discussed the matter with the Financial and Development Secretary, I think he held a series of meetings with people who had made the representations and that is the genesis, really, of the first part of the Bill. Insofar as the second part is concerned, what has been represented to the Government by impresarios, if you like, endeavouring to attract entertainers from outside Gibraltar to provide some

entertainment for tourists and, indeed, for the resident population, notably a number of Spanish performers like Manolo Escobar, Chiquetete, others in connection with the Miss Gibraltar Show, it was represented that there are practical difficulties in following up the question of assessing them for tax in respect of their earnings, in respect of the fee and if they are here for a few days only, perhaps less, a matter of twenty-four hours, it is not easy for the Commissioner of Income Tax to assess that person. The only way an assessment could be made would be made in due course through the medium of whoever is bringing the entertainer or the act. That would mean that inevitably the fee would be increased. If it was known that tax was going to be levied then if an entertainer was prepared to settle for a fee of £1,000, say, well if tax was going to be levied he would ask for £1,500 or £1,800 to take account of the element of tax. That is the reason behind this but, of course, it does raise a valid point about local entertainers. Presumably because local entertainers are normally taxed in the normal way and if it is known by the Commissioner of Income Tax that people who are employed anywhere in the public service also on a part-time basis are part of a band which particularly at Christmas time performs on a regular basis, presumably, eventually, obviously not under PAYE but eventually when the final assessment is issued, the Commissioner of Income Tax would assess them in respect of these other part-time earnings in much the same way as is now happening with a group of school teachers who, I understand, are having an assessment made in respect, supposedly, of the exercise of their trade or profession privately. The matter is taken care of for local residents, in practical terms the matter is taken care of. It does raise an issue of principle though and the principle is whether we should discriminate in favour of entertainers from outside because of practical difficulties as against local entertainers and perhaps this is a matter on which the Government might wish to reflect further.

HON CHIEF MINISTER:

I think on that point, the point might be met if the number of appearances should be reduced not to exceed five in any year because in that case you would be catering for the people who come from outside to do a performance and go away and not recurring to come here and taking the benefit of tax free.

HON J BOSSANO:

If the Hon Member will give way because otherwise I cannot speak. I think the point, as the Hon Minister for Economic Development has said, is not whether five or ten or one hundred is reasonable or unreasonable, as far as we are concerned if the Government wants to stop taxing people they can do that to

everybody and we will support them straightaway. The point is that we don't think it is right because independent of people who are international artists of international repute, independent of that, we have also had small sort of semi-amateur groups that have come across since the normalisation with the frontier. If you have got a situation where you ask one group or another group for a price, we don't think it is right that the Gibraltar group should have to charge a higher price because they get taxed and the other group can charge a lower price because they don't get taxed and we don't think that it is a sound principle, anyway, to have in our legislation that two sets of people doing identical things should get taxed differently, that one should be able to do it and that is not a taxable income and that somebody else is doing exactly the same thing and it is a taxable income. It may even be against Community law, in fact.

HON A J CANEPA:

If the Hon Member will give way. The point is, of course, that if you have got local entertainers who earn their living from such entertainment then, of course, they will get the normal allowances of £850, at least. In respect of somebody coming from outside depending, of course, on what their earnings are, if the fee is low, if the fee is, let us say, below £850, you could say: 'They are not entitled because they are not residents'. They are not entitled by law to the allowance of £850 but by not taxing them you are, in effect, taking account of that aspect except that where the fee, naturally, is very, very high, if it is an entertainer of international repute and the fee is a few thousand pounds then, of course, even if notionally you take account of the £850 that they are not entitled to but you give it to them, as it were, nevertheless there is an income in excess of £850 that would normally be taxed in the case of a local entertainer and the outsider would otherwise be getting away with it.

HON J BOSSANO:

I think the point that in fact we were making earlier, Mr Speaker, in relation to Regulation 1612 in question time which the Hon Financial and Development Secretary undertook to look at which is where we changed the rules, we changed the rules on residents following the advancement of EEC rights because under the Gibraltar law I think it was until 1978 or 1979 we had a situation where a non-resident British Subject was entitled to personal allowances and then that was altered and what the Government changed retrospectively to the 5th February, I am sure the Hon and Learned Attorney-General can confirm, they published the new Tax Rules in the Gazette backdated to the 5th February as a result of which they introduced this new

concept of a 'permitted person' and the permitted person is entitled to a proportion of the annual tax allowance depending on the period during which he is in gainful occupation or employment or profession in Gibraltar so that if he has got earnings for a period during which he is earning he gets a proportion of the allowance and that proportion of the allowance is a proportion based on time. If he works for a month in Gibraltar he gets one-twelfth of the annual allowances. The point that we had made earlier is that under Regulation 1612 it says quite clearly that the worker in the European Community must be given equal treatment as regards taxation and whenever we have raised this the Hon Financial and Development Secretary has come back with harmonisation and it has nothing to do with harmonisation. Harmonisation is a requirement to bring Community law in line with each other in different places. If there was a requirement for harmonisation we would then have to bring our tax allowances into line with a Community tax allowance or our tax rates into line with the Community tax rates, that is what harmonisation is, but we are not talking about that, we are talking about the prohibition of discriminatory treatment within the tax jurisdiction. I will give way if he wants me to.

MR SPEAKER:

No, we are giving way too much. The Financial and Development Secretary has the right of reply which he will be able to exercise.

HON J BOSSANO:

I don't know whether there is a need for me to find the relevant part of Regulation 1612 or does the Financial Secretary know what I am referring to? He does know. There is an article that says specifically that workers cannot get treated differently as regards taxation. Our interpretation of that is that, in fact, what the Government did in changing the tax rules and what the Hon and Learned Attorney-General did was that recognising that by taxing frontier workers differently from resident workers we were in fact, in breach of Community requirements and therefore he said: 'Frontier workers become permitted individuals as opposed to resident individuals, since they are non-resident workers to get the allowance proportionate to the time that they are working here'. Of course, that raises the point that we raised in question time that if you have got a non-resident worker here and he becomes unemployed and he is unemployed for three months of the year then he gets three-quarters of the annual allowance. If you have got a resident worker and he gets unemployed he gets the full twelve months allowance, therefore if you get the two workers and you look at

their two incomes, side by side, the non-resident permitted individual is paying more tax on the same income as the resident permitted individual and that is contrary to Community law and contrary to Regulation 1612, in our judgement. Coming back to this business of the entertainer, we think that it is wrong, anyway, and it may be contrary to Community law to say: 'It is not a taxable income for a non-resident person but it is a taxable income for a resident person', because it isn't just a question of the period of residence here. Under the existing law the non-resident person would be entitled to the equivalent of three hours of the annual personal allowance, that is what the law says at the moment, as a permitted individual. If he works for one day he would be entitled to one over 365 of the annual allowance. Presumably, if he works one day in the month then that would count for one month. In that case, Mr Speaker, on that basis, there is already an opportunity there, I would have thought, under the existing law without any change, for a performer that comes in only once who makes one performance and who is then entitled to a couple of hundred pounds tax free allowance because he gets the equivalent of one month's allowance, he has already got that advantage whereas in most cases, in fact, the local performer would be somebody who may have been doing it on a regular basis for a very long time but who will be already in a full-time job and who will already have used his allowances and who will be already on a higher marginal rate of income tax. I think in that context the person that comes in new from outside would be able to do it paying proportionately less tax but the important point of principle is that what is taxable income must be taxable income for everybody and not taxable for some and not taxable for others, as far as we are concerned. We have had a better understanding of the reason for the thing being brought to the House as a result of the explanation the Hon Mr Canepa has given but it still hasn't met our obligations to it, I am afraid.

MR SPEAKER:

I will then call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I don't propose to say a great deal in reply because the Hon Minister for Economic Development and Trade has in fact answered quite a lot of points which the Leader of the Opposition made. I would simply say that on the question of competition with the Building Societies and other forms of borrowing, I really do not think that the sort of finance which we are talking about here, the sort of institutions, would be competing with the Building Societies or, indeed, Government debentures or any other local source for that sort of finance, that is my view.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I am sorry, Mr Speaker, the Hon Member hasn't seemed to have listened to anything the Minister for Economic Development has said. The Minister for Economic Development has said that the institutions are not a problem, that it is the small businessman that has made representations to the Government because they have difficulty in getting the money for more than four or five years and that is the local market that we are talking about. If he is only concerned about the big institutions let him put a floor, let us say interest received by people in respect of loans in excess of £½m but that will not do anything for the small businessman. What are we talking about? Which end are we talking about?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I was answering the Hon Gentleman's point that he made earlier that we would be competing with the local market for funds, that is to say, people would not be putting their money in Building Societies, they would be putting it into lending institutions. However, I see that I didn't fully understand the point he was making. I don't propose to dwell on that but I think I do owe it to the Hon Member to answer his point which he raised again about the possible discrimination under Regulation 1612/68. Of course, these Regulations say that there shall be no discrimination on grounds of nationality, that is to say, whether a person is a member of one Member State or another they should enjoy the same social and tax advantages but I do think that the Hon Member has not grasped but it may be my fault in question time for not explaining it properly, Mr Speaker, I sometimes do have difficulty in grasping the point which is being raised, that the crucial distinction is, of course, between resident and non-resident in this particular instance and that is the crucial point underlying the answer I gave earlier about the reduction of allowance when a person is non-resident and this would apply, as I said, whether he is of French or Spanish or any other EEC nationality, that is, they are not discriminated on grounds of nationality.

HON J BOSSANO:

Mr Speaker, will the Hon Member give way? Can the Hon Member then explain why the Government changed the Income Tax Rules backdated to the 5th February to create a non-resident permitted individual if it wasn't to meet this point? The Government changed the law when we raised this point. If the Hon Member is right now then can he tell me why was he right

before? He cannot be right both times.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think we covered this earlier in question time, Mr Speaker. I shall certainly consult the Hansard and see what it was I said and if need be I shall provide the Hon Member with some more information. I cannot recall precisely why it was that we did certain things at the time, it was obviously in the context of the Brussels Agreement and certain changes which were being made but no doubt we can look into that. I have nothing more to add on the Second Reading of the Bill, 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 Hon Members voted against:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J E Pilcher

The following Hon Members were absent from the Chamber:

The Hon M A Feetham  
The Hon J C Perez

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.



THE SUPPLEMENTARY APPROPRIATION (1983/84) 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, 1984, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. I do not propose to make a speech. The contents of the Bill was the subject of comment in the Principal Auditor's Report for 1983/84 and it is simply a question of clearing up the excess expenditure in that year by means of another Appropriation Bill.

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?

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1985/86) ORDINANCE, 1985

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for Ordinance to appropriate further sums of money to the service of the

year ending with the 31st day of March, 1986, 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. In accordance with convention I do not propose to make a speech as Hon Members will, of course, have an opportunity to question the items shown in the Schedules during the Committee Stage.

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

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 Traffic (Amendment) Bill, 1985; The Administration of Estates (Amendment) Bill, 1985; The Misuse of Drugs (Amendment) Bill, 1985; The Landlord and Tenant (Amendment) (No. 3) Bill, 1985; The Gaming Tax (Amendment) Bill, 1985; The Income Tax (Amendment) (No. 2) Bill, 1985; The Supplementary Appropriation (1983/84) Bill, 1985; and The Supplementary Appropriation (1985/86) Bill, 1985.

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

THE TRAFFIC (AMENDMENT) BILL, 1985

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

Clause 3

HON A J CANEPA:

Mr Chairman, there is a point which has been worrying me since yesterday evening in Clause 3. It is really to do with the remark which the Hon the Leader of the Opposition made. Section 55A of the principal Ordinance, subsection (5), reference is made to any person who behaves in an insulting manner or uses threatening or insulting expression. I was wondering and perhaps the Hon Mover of the Bill, Mr Featherstone, might clarify this point for me, I was wondering, Mr Chairman, whether under the question of insulting manner or insulting behaviour, whether that might include the possibility that the Leader of the Opposition's journalist might urinate in front of the Commission. I wonder what the position would be.

HON J E PILCHER:

He is not here at this moment.

HON J BOSSANO:

Mr Chairman, isn't the Mover of the Bill going to clarify the position or do we all have to urinate on top of Mr Canepa?

HON M K FEATHERSTONE:

I would leave that to a member of the Committee, the Commissioner of Police.

On a vote being taken on Clause 3 the following Hon Members voted in favour:

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

Clause 3 stood part of the Bill.

Clauses 4 to 6 were agreed to and stood part of the Bill.

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

THE ADMINISTRATION OF ESTATES (AMENDMENT) BILL, 1985

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

Clause 2

HON ATTORNEY-GENERAL:

I beg to move that in the new Section 57(1) the sum of "£1,500" appearing therein should be omitted and the sum of "£2,500" substituted therefor.

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 3 be amended in paragraph 1 of the form contained in the Third Schedule that the sum of "£1,500" be deleted and the sum of "£2,500" substituted therefor and I think that covers all the references of £2,500.

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

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

THE MISUSE OF DRUGS (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) (NO. 3) BILL, 1985

Clauses 1 to 3

Mr Speaker 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 voted against:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J E Pilcher

The following Hon Members were absent from the Chamber:

The Hon M A Feetham  
The Hon J C Perez

Clauses 1 to 3 stood part of the Bill.

New Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that a new Clause 4 be inserted which reads as follows: Paragraph 2 of the Fourth Schedule to the principal Ordinance is amended by omitting the words "notwithstanding section 16(2) pay into the sinking fund" and substituting therefor the words "notwithstanding section 80A(2) pay into the reserve fund".

Mr Speaker 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 Miss M I Montegriffo  
The Hon R Mor  
The Hon J E Pilcher

The following Hon Members were absent from the Chamber:

The Hon M A Feetham  
The Hon J C Perez

New Clause 4 stood part of the Bill.

Clause 4

HON ATTORNEY-GENERAL:

I beg to move, Mr Chairman, that old Clause 4 be renumbered Clause 5.

Mr Speaker put the question which was resolved in the affirmative and Clause 4, renumbered Clause 5, was agreed to and stood part of the Bill.

Clause 5

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 5 be renumbered Clause 6.

Mr Speaker put the question which was resolved in the affirmative and Clause 5, renumbered Clause 6, was agreed to and stood part of the Bill.

The Long Title

Mr Speaker 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 Miss M I Montegriffo  
The Hon R Mor  
The Hon J E Pilcher

The following Hon Members were absent from the Chamber:

The Hon M A Feetham  
The Hon J C Perez

The Long Title stood part of the Bill.

THE GAMING TAX (AMENDMENT) BILL, 1985

Clause 1

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move that Clause 1 be amended by adding a new subsection 1(2) and renumbering the existing Section 1 as 1(1). The substantial amendment which is the new subsection 1(2): "This Ordinance shall come into operation on 1st January, 1986".

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

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

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

THE INCOME TAX (AMENDMENT) (NO. 2) BILL, 1985

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

Clause 2

HON CHIEF MINISTER:

Sir, I beg to move that Section 7(1)(y) be amended by substituting in the second last line the word "five" for the word "ten" appearing therein.

Mr Speaker 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 carried.

Mr Speaker put the question and on a vote being taken on Clause 2, as amended, 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 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

Clause 2, as amended, stood part of the Bill.

### Clause 3

Mr Speaker 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 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

Clause 3 stood part of the Bill.

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

### THE SUPPLEMENTARY APPROPRIATION (1983/84) 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 (1985/86) BILL, 1985

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

### Schedule

Schedule of Supplementary Estimates Consolidated Fund  
No. 1 of 1985/86

### Head 5 - Electricity Undertaking

HON J BOSSANO:

Mr Chairman, we are opposing the vote of £135,000. There are two points that I want to make. One is seeking clarification from the Government because I think this is the first time that I remember that we have used Development Aid for expenditure from the Consolidated Fund, I do not recall any previous occasion. I have always been under the impression that, in fact, it was not possible. Even when on a previous occasion Development Aid Funds were used for what was, strictly speaking, recurrent expenditure, or if it was not Development Aid Funds it was supplier finance which was being used for recurrent expenditure, it was put through the Improvement and Development Fund which was the question of the Waterport Station being manned by Hawker Siddeley personnel and when we have used consultants in relation to that, we were really dealing with recurrent expenditure but the money had to be voted from the Improvement and Development Fund and then capitalised in the accounts. I have checked the Ordinance myself and I cannot find anything there otherwise I would not be asking, I would be telling the Government what I think the law says. The law says that money provided by the UK Government by way of loan or grant for development projects has to be credited to the Improvement and Development Fund and to the extent that the £13m is money granted for development projects then it would appear to be limited by the provisions of the Public Finance (Control and Audit) Ordinance having to be used through the Improvement and Development Fund and not through the Consolidated Fund. The end result would still presumably be that it would have to be subsequently charged to the Electricity Account but then presumably instead of being charged to one financial year it would be dealt with as other expenditure has been dealt with on the basis of capitalising the cost. That has been done for running costs including fuel, for example, for one year it was then capitalised. I would like to know that this is possible because it raises, I think, an important political issue in the sense that I remember on an occasion a number of years ago when the Government after a lot of soul searching eventually asked Her Majesty's Government for money for recurrent expenditure which actually was turned down, as it happened, I think it

was the sum of £13m that the Government asked the British Government for and it was turned down and I remember they were accused by the then Opposition of doing a U-turn and all sorts of things and he was saying that they were not asking for budgetary aid, that this was a one-off thing. Clearly, this is also a one-off thing but nonetheless we are talking about money from Development Aid being used to finance what is expenditure which will form part of the recurrent budget because it is expenditure from the Consolidated Fund and it will form part of the estimates of expenditure 1985/86. I know that obviously the approval of the ODA has been obtained for the money otherwise it could not be used, I am not questioning that part of it, what I am saying is that it raises an important point of principle as far as I am concerned, given the long resistance that has been shown by the Government in the past in the House to meeting the cost of recurrent expenditure from UK aid and that the one time that they broke away from that principle it was a very exceptional occasion, I cannot remember the exact circumstances that led to it but I remember that the Chief Minister made a point that as far as they were concerned the Government was, in principle, against asking for budgetary aid, they were making an exception in this case, eventually they did not get it and I am not saying that they are doing a U-turn, I think they may have not even given thought to this aspect of the matter but it is something that struck me immediately because of the history of the controversy that has surrounded the ability to use Development Aid for anything other than development projects financed from the Improvement and Development Fund. I think, independent from that technical point but one which we feel should be cleared because we attach a certain amount of importance to it, there is the question of the actual need to spend this money because one might say: "The money is coming from UK", but of course it is coming from within an existing allocation of £13m, that is, it is not that we are getting £135,000 that we did not have, it is just that we are using part of the £13m to pay for consultants to advise the Government on a productivity scheme for the Generating Station and it is £135,000 that if it was not used for this would be available for investment in Government projects. The only thing it would not be available for is housing because the ODA so far has not allowed the Government to use money for housing. It seems very odd to me that they should not allow the Government for housing and they should allow the Government to use the money to bring consultants to advise on productivity schemes. I suppose it is their money and they tell us how to spend it. We do not believe that there is a need for a consultancy service from British Electricity International to introduce a productivity scheme for the Generating Station. We support the introduction of the scheme because, in principle, we are in favour of productivity schemes. We have reservations as to how productivity can be measured in that area because there is an obvious unquantifiable measurement of productivity

in an area where you are producing goods and if you are working in a car factory then you measure productivity by how many cars per man year you produce so the measurement is related to output as against manpower and every time one reads about increase in productivity in Leyland or anywhere else or in any other industrial enterprise, it is always measured by virtue of the fact that more cars are being produced and they say: "Well, a British car worker produces ten cars and a Japanese one produces twenty", and there is a visible and unquantifiable measurement.

HON J B PEREZ:

The time element, because you may have a particular factory producing ten cars per day and have another one producing ten cars in three days so you could measure productivity on that basis as well. I am sure the Hon Member would agree.

HON J BOSSANO:

Not really because in measuring productivity you talk about man hours or man days or man years or man weeks. For example, I can tell the Hon Member that in my recent discussions on productivity with the commercial dockyard they have drawn a distinction between productivity which is the amount of time it takes to get the job done and the time element of the turn-round of a ship. You could still have the same level of productivity and if you are running the dockyard twenty-four hours a day then in twenty-four hours you get your ship out but that is one day that the ship is out of business whereas if you are doing it on an eight-hour day then it takes you three days but you still do the job in twenty-four hours except that it has taken you three days but I think if you are measuring output in terms of the amount of units of labour that it takes to produce a unit of the sellable product then clearly there is a quantifiable . . . . I may be able to become more productive.

HON J B PEREZ:

I thought that was the reason for talking so much nonsense.

HON J BOSSANO:

To get back to the point, Mr Chairman, we do have difficulty in understanding, quite honestly, in a situation where at the end of the day what you are producing is electricity units and the number of electricity units is basically determined by demand for those units and your ability to generate electricity is determined by your generating capacity, in that situation there seems to be two limiting factors which at the end of the day nobody, as far as we can tell, can change and therefore it is possible



to organise work more efficiently given that new working routines are produced. For example, there is a situation in Waterport Power Station which I think perhaps is worth mentioning for the record because sometimes there is this hostility towards the public services and towards employment in the public sector which makes people think that perhaps the electricity that is produced in the Generating Station is produced by an army of people, well, this is not the case. The engines in Waterport Power Station are controlled by three men; one switchboard attendant, one plant operator and one plant assistant, that is all there is, three men working twenty-four hours a day, seven days a week and they produce the electricity which . . . . .

HON CHIEF MINISTER:

And a supervisor.

HON J BOSSANO:

There is one PTO supervising the operation but the reality is that while we are talking here at the Generating Station there are three men engaged in the production of electricity and two men engaged on the maintenance and one supervisory, there are only six people there now producing electricity of Gibraltar.

HON CHIEF MINISTER:

And machines.

HON J BOSSANO:

And machines, so therefore the capacity of the machine limits how much you can produce. You can be a superman in productivity and you still cannot produce more electricity than the machine produces which is 4½ megawatts or whatever, and you certainly cannot put into the system more than the people are going to use. We see a limited scope in this area but we support the move towards the introduction of a productivity scheme and we support the introduction of a productivity bonus and we can see that there may be ways of organising the routine and the work pattern in the Department as a whole more efficiently but we do not think that we need to spend £135,000 or £183,000 in having somebody from UK coming here to tell us how to do it. I would have thought, Mr Chairman, that the experience that we had with the Chairman of the Steering Committee and the experience that we had with Hawker Siddeley running Waterport Station at, I think it was something like five or six times the wage cost of what it is now, on what it was from the moment our people took it over, Hawker Siddeley's costs were in the region of five or six times the labour cost that the Government

of Gibraltar is having to meet now, I would have thought that experience would make us think twice about using consultants and therefore we are voting against the measure primarily because as a matter of policy we need to be persuaded that somebody with some very exceptional qualities is coming along to tell us how to do something because we are incapable of doing it for ourselves, we do not think this is one of those cases.

HON CHIEF MINISTER:

I would just like to explain one point about the question of budgetary aid and that is the significance it has, the conditions that are attached to it that are repugnant. I would not for one moment refuse help if it was required and we could not provide it, if it was not tied to conditions and we could not get it ourselves, if it was not tied to any conditions which were not acceptable to us but the repugnancy about it is the system that when you get grant aided, you get into that kind of category of administration, then they run the whole show for you and they tell you that you have to have permission before you can buy a bicycle or a typewriter. In this case earlier in these proceedings questions were being put as to how much of the £13m had been unspent and there was mention of that. In practicality this money has not been provided by us before because we could not afford it in the budget two years ago, it has been agreed that it should be used for this purpose, the people who are giving the money have agreed, the people who are receiving the money have agreed so that is why it has to go in one way and come out the other, it is as simple as that.

Mr Speaker put the question and on a vote being taken on Head 5 - Electricity Undertaking, 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 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 5 - Electricity Undertaking was passed.

#### Head 6 - Fire Service

HON J E PILCHER:

Mr Chairman, on the cost of replacing stocks of oil dispersant we will be voting, obviously, in favour of this as we have made subsequent points about the oil pollution in the Bay but there is just one thing that I would like cleared and that is the fact that it says here "a claim has been made on the ships' insurers" and that is referring to the incident involving two tankers but, surely, this extra expenditure is not only geared at the oil dispersant that has been used for that particular case seeing that there have been many cases of oil pollution one claim of which is still pending a decision and, in fact, I think the Minister at that stage told us that they were preparing a claim against either the Shell Company of Gibraltar or the MOD about the main spillage some time back in, I think, March.

HON J B PEREZ:

This particular supplementary of £5,000 only arises as a result of the collision in May, 1985, and attempts have been made to recover that amount of money.

HON J E PILCHER:

The other claim that we were told on Shell or the MOD, has that claim been submitted?

HON M K FEATHERSTONE:

The other claim has not yet been made, enquiries are still being pursued as to the persons responsible.

Head 6 - Fire Service was agreed to.

#### Head 8 - House of Assembly

HON CHIEF MINISTER:

Mr Chairman, I would like to point out that we have made provision here for the necessary equipment and so on but I think under your Chairmanship we shall have to have a meeting before it is implemented to see how it is going to be done, what hours and what the nature is but I undertook, in the course of correspondence with the Hon Leader of the Opposition, to make provision for that and that is the item.

HON J BOSSANO:

I do not think there is any problem in getting us to vote in favour of this item, Mr Chairman.

HON CHIEF MINISTER:

I want to say that it is subject to how we are going to broadcast.

HON J BOSSANO:

Fair enough, we understand. I think the importance that we attach to the broadcasting of the proceedings of the House is because we think it is desirable to involve people more into the proceedings of the House. I agree with the Hon and Learned the Chief Minister that something that is intended to be for the betterment of the House and the betterment of Gibraltar and for making our work more comprehensive to people outside, if we were to find that his fears at one time were to be justified, then I myself would be reluctant to carry on with the experiment, that is to say, if we suddenly forgot that we were talking to each other and were constantly conscious only of the fact that we were talking to an outside audience and that that meant that the quality of the work of the House suffered for it, then we would be better without the broadcasting and I think the Hon and Learned Member at one stage was very reluctant to follow this road because he thought that that would happen. All I can tell him is that if we were to find that that was happening he will have my full support to put it right.

HON CHIEF MINISTER:

We will wait and see.

Head 8 - House of Assembly was agreed to.

#### Head 10 - Income Tax

Mr Speaker 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 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 10 - Income Tax was passed.

Head 14 - Medical and Health Services

HON MISS M I MONTEGRIFFO:

Mr Chairman, we will be voting in favour of the overtime here but I would like to make the point that the Opposition considers that if the Government would have taken the advice which we have been giving them for nearly two years now that trainee nurses should be supernumerary to the establishment, they would not be having to spend this amount of money on overtime.

HON M K FEATHERSTONE:

No, they would be spending more in salaries and wages.

HON MISS M I MONTEGRIFFO:

But there would not be any shortages.

Head 14 - Medical and Health Services was agreed to.

HON CHIEF MINISTER:

Before we carry on. I see that the Opposition have voted against the sum of £5,200 for rent and service charges for additional accommodation required to house the Arrears Section at Leon House. Is it that they are against our being able to recover the arrears?

HON J BOSSANO:

Mr Chairman, I did not speak because I thought that I had missed my opportunity to do so not because I have any difficulty in explaining it. No, it is that we are against the Government renting accommodation and we have been every time they have sought funds to pay rent because we think that the Government is doing enough to protect landlords with the Landlord and Tenant Ordinance without as well as renting expensive accommodation from them, that is the reason.

Head 15 - Police

HON J BOSSANO:

On the Police vote, Mr Chairman, which we are supporting. I should like to make the point which I think I made the last time we had an appropriation for an additional eight policemen, I think it was, and we had a situation where we went through a budget without making provision for it and then the policemen were recruited and they were trained and they were on the street and eventually the supplementary provision came here and nobody could explain why it was that eight extra bodies were needed, I think Members of the Government will remember that. If they are needed they are needed, but it seems as if it is the only area of Government where the need seems to be instantly established and, in fact, the people are recruited and working before the money has been voted. We welcome the fact that the Government announced at question time that they had changed their mind on the employment of a Mental Welfare Officer and that the thing would be advertised very shortly, we are glad that they have done it but let's face it, the logical thing for one to think is if the problem was not having enough money then surely it is better to have eleven constables and one Mental Welfare Officer if there isn't enough money for twelve constables and one Mental Welfare Officer than to have twelve constables and no Mental Welfare Officer. The Police vote seems to have less trouble in competing for funds than other Departments do. We would like an explanation. We are going to vote in favour because we assume that the Government must see a need and we certainly want Gibraltar to be well policed and we are certainly concerned that in an open frontier situation there should be less security or more incidence of crime or whatever, so we are supporting the basic principle and we assume that they are in a better position to judge what is required than we are but we do not like the idea of a situation materialising only in this Department, apparently, where we are presented with a fait accompli whereas in other areas it seems that people are told: "No, because you cannot get it until the House of Assembly has voted the money or until budget or until whatever".

HON CHIEF MINISTER:

I am not responsible for the Police but I have now a say to some extent and these matters come up at a meeting between the Commissioner, the Governor and myself in respect of the Police vote. The point is that the Police did not start on the question of the opening of the frontier by asking for a number of people. The Commissioner felt that he had to gauge the extent to which more people were wanted before he could commit himself to employing them and naturally whilst at the beginning a lot of overtime was being paid, he was not able to make a real assessment of the extent of the necessity because he does not want to employ unnecessarily. I am quite satisfied in my own

mind and he is the only Head of Department who works to the Governor in my presence in this respect, I am quite satisfied that he took the time necessary to find out how many were required in order not to employ more people than necessary. The other aspect of it is that it is not the same as employing three or four people because the Police must be taken in batches in order to help the training and putting them on the street. Sometimes they do on the job training at the beginning but they must muster, sometimes that is why there is an element of delay in employing people because until they know how many they are it is very uneconomic to start schooling for four or five policemen now and for another four or five policemen later on. That is why the Commissioner took longer to make up his mind how many, he ultimately would require having regard to the commitments that he found and the level of overtime that he was compelled to pay the men in order to get the service he wanted. That is why we saw the other day on Parade quite a number of recruits, more than there are here, because some were on the job training until more were recruited and they all went to school and that was the Passing Out Parade we saw.

Head 15 - Police was agreed to.

Head 19 - Public Works was agreed to.

Schedule of Supplementary Estimates Consolidated Fund No. 1 of 1985/86 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No. 1 of 1985/86.

Head 101 - Housing

HON J L BALDACHINO:

On Subhead 14, Mr Chairman, we will be voting against this and we will be voting against this because we cannot have the situation where the Government is criticised by the Opposition saying that they haven't got a housing policy and the Minister for Housing comes back and in his reply says that they do have a housing policy and that is to build more houses but he hasn't got the funds. Mr Chairman, in this case we think that the priorities in that context must be wrong because if they are allocating at the moment £20,000 and the estimated cost of the project will be £150,000 to build six A2 Quarters, I think a more appropriate thing to spend that money on would be to build more houses for the people on the Housing Waiting List. We also have to take into account that in the Housing Waiting List there are still 788 tenants of the Government who are in communal tenements and they also have 120

tenants who still haven't got any bathrooms and that there are people homeless, there are people living in sub standard and in slum conditions. It is not that the Opposition is against the Government providing houses for its employees it is just a question of priorities and I think that the priority in this case lies generally in the Housing Waiting List because we have got so many people in the conditions I have mentioned and as a matter of fact we also have to take into consideration that Government Quarters are given in accordance to status within the Government and not necessarily within the needs and requirements of that family. It is also a fact, I think that we might have an officer, a certain officer, who has his own property and most probably will be getting one of these Quarters. You also have officers who have retired who have moved somewhere else and his family is still there. These are provisions that in general the people in the Housing Waiting List do not have and in the situation where we find ourselves in housing in Gibraltar, I think that if we have to build then it should be for the general Housing Waiting List and not build six A2 Quarters. I think that in this case, Mr Chairman, the Government has got its priorities wrong.

HON A J CANEPA:

Mr Chairman, it is a matter, of course, for the Opposition to conduct matters in the House as they see fit and as they wish and if they do not want to ask questions but instead want to make a speech on an item, they are quite welcome to do so. I am, frankly, prepared at any time when, particularly the Shadow Member for Housing wishes, to have a debate in the House on general housing policy, at any time, and to include in that debate the whole question of civil service Quarters or Quarters for Government employees because very often when we think about the civil servants we are in danger of thinking that we are just talking about the clericals and executives when we are talking about all Government employees, people in the Hospitals, professional people like teachers and so on. As I say, it is a matter for them how they proceed but I wonder whether before a Member from the Opposition stands up in respect of a supplementary provision and says: "We are voting against this", whether an attempt should not be made beforehand to elicit some information, to ask questions, get answers, and then if you are not satisfied with the answers and in spite of the answers that you get you disagree, by all means vote against but at least give us an opportunity to make a case if there is a case to be made. In the last few years, Mr Chairman, a number of A2 Quarters have been lost, they have been dequarterised; Woodford Cottage, Gowland's Ramp, another one at Engineer Lane, a number of them. Where it has become very costly to rehabilitate a Quarter, where we have had to spend £25,000, £30,000, £40,000, we have said: "No, we are not prepared to do this". The

Chief Justice's Quarter has gone out to development and six or eight units are going to be built there and we have said: "No, either we put the site out to tender and invite proposals for development or we have included a number of Quarters in the redevelopment of Crown Properties Scheme". We have lost a number of Quarters and we also have a commitment, whether the Hon Member agrees with it or not, the fact is that we are bound by contractual agreement with the various Staff Associations in respect of Quarters. We have an obligation to provide them with a certain number of Quarters. This morning I even discovered to my amazement that we even have an obligation to provide them with a certain number of garages and the figure is forty-five. With A2 Quarters it is the same, there should be a certain number of Quarters because we have a contractual obligation and because the service requires that senior civil servants many of which posts we wish to see taken over by Gibraltarians, should be accommodated because if they are not accommodated they will leave Gibraltar and if they leave Gibraltar we have to recruit expatriates and then whereas the Gibraltarian officer may be prepared to accept a three or four roomed Quarter, for the expatriate we may have to give him more rooms and two bathrooms as well. That is the reason for this policy which is a historical one. What we are doing, Mr Chairman, in North Pavilion, which is a building handed over by the Ministry of Defence many years ago which was a Government workers' hostel for some years, we are rehabilitating it in order to try to provide Quarters similar to those at South Pavilion and to accommodate people, in many instances who are also short of accommodation, who have given the Government valuable service and whom we hope, as a result of being accommodated, will continue to give the Government valuable service. And the cost of £150,000 for six Quarters is reasonable, at £25,000 per unit it is reasonable. If we try to build new houses for £150,000 we would probably get three units only. This is the reason behind this supplementary provision.

HON J L BALDACHINO:

I will take note of what the Hon Member has said that I should ask questions but isn't it true that 8% of every new housing project is given for Government Quarters?

HON H J ZAMMITT:

Yes, it is true, Mr Chairman, that there is a percentage of every allocation of housing to Government Quarters but if there is nothing owing or if they are above that figure then, of course, the general housing block would not suffer the loss of a new build so, in fact, the housing stock is not losing by providing these six Quarters. If, for instance, as my Hon Friend has mentioned, there has been a loss of A2 Quarters in the ones that have gone out to tender and one thing and the other and at the end

assuming that there were fifty houses to give out and taking away the pensioners, the civil service, the medical category, etc, which we can agree or disagree on the percentages, if these six are taken away it certainly means that there are six more houses to allocate to the general housing list which is beneficial at the end of the day to the housing stock.

HON J E PILCHER:

Mr Chairman, without going into the pros and cons of policy decisions on A2 Quarters, I take the point made by the Hon Mr Canepa and, in fact, the arguments put by him have convinced this side of the House that we might not agree with their policy but certainly the reason why this money is being spent is certainly accepted by this side. If there are agreements with unions that have been made and if there are contractual agreements then, obviously, the Government must honour these and therefore we will be voting in favour of the £150,000. As a second follow-up, I would like to say that at least it shows, Mr Chairman, that this side of the House does pay attention and listens and can be convinced by that side of the House which is not the same that we can say with most of the Bills that are, in fact, brought to the House and their minds have already been made up and very little that we say sways anything at all.

Head 101 - Housing was agreed to.

Head 104 - Miscellaneous Projects was agreed to.

Head 105 - General Services was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No. 1 of 1985/86 was agreed to.

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

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

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

The House resumed.

HON J E PILCHER:

Mr Speaker, before we go on we would like to say that we are quite prepared to take in today's session the Bill . . . . .

MR SPEAKER:

We have gone out of Committee already.

HON J E PILCHER:

I know, Mr Speaker, but although we have gone out of Committee what we are saying is that before we proceed any further we would like to go back into Committee Stage to consider the Ordinance to make provision in connection with the inclusion of the Kingdom of Spain and the Portuguese Republic within the European Communities which the Opposition are quite happy to take at this stage.

MR SPEAKER:

I am most grateful to the Hon Member.

HON CHIEF MINISTER:

I think the point has been made and taken.

MR SPEAKER:

I would ask the Hon Attorney-General then to move into Committee.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the European Communities (Spanish and Portuguese Accession) Bill, 1985, clause by clause.

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

#### THE EUROPEAN COMMUNITIES (SPANISH AND PORTUGUESE ACCESSION)

##### BILL, 1986

#### Clauses 1 to 3

Mr Speaker 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 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

Clauses 1 to 3 stood part of the Bill.

#### Schedule

Mr Speaker 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 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 Schedule stood part of the Bill.

HON J BOSSANO:

Mr Chairman, can I just make one point in relation to the Schedule which has puzzled me. It is a point, really, that I feel the Hon and Learned Attorney-General needs to answer and that is, for example, it happens more than once but if we take the definition of Community National which is being repealed and the new definition which is substituting it, to me they appear to be identical.



HON ATTORNEY-GENERAL:

Mr Chairman, when we passed the 1985 (Amendment) Ordinance, in the Third Schedule we amended the definition of Community National and we amended it to read: "Community National means a national of a Member State of the European Economic Community being a State specified in the First Schedule or a national of the Kingdom of Spain other than a person to whom the provisions of Section 4 apply". The purpose of this amendment is to restore the definition to what it was before we amended it by the inclusion of the words "or a national of the Kingdom of Spain". With each one of these amendments in the Schedule they all concern amendments which were made in the Third Schedule to the 1985 (Amendment) Ordinance which we are repealing by taking out, quite literally, "Spain, the Kingdom of Spain, a national of the Kingdom of Spain".

#### The Long Title

Mr Speaker 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 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 Long Title stood part of the Bill.

#### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Traffic (Amendment) Bill, 1985; the Administration of Estates (Amendment) Bill, 1985, with amendments; the Misuse of Drugs (Amendment) Bill, 1985; the Landlord and Tenant (Amendment) (No. 3) Bill, 1985, with amendments; the Gaming Tax (Amendment) Bill, 1985, with amendments; the Income Tax (Amendment) (No. 2) Bill, 1985, with amendments; the Supplementary

Appropriation (1983/84) Bill, 1985; the Supplementary Appropriation (1985/86) Bill, 1985; and the European Communities (Spanish and Portuguese Accession) 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 put the question and on a vote being taken on the Administration of Estates (Amendment) Bill, 1985; the Misuse of Drugs (Amendment) Bill, 1985; the Gaming Tax (Amendment) Bill, 1985; and the Supplementary Appropriation (1983/84) Bill, 1985, the question was resolved in the affirmative.

Mr Speaker put the question and on a vote being taken on the European Communities (Spanish and Portuguese Accession) Bill, 1985; the Traffic (Amendment) Bill, 1985; the Landlord and Tenant (Amendment) (No. 3) Bill, 1985; and the Income tax (Amendment) (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 Zammitt  
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

Mr Speaker put the question and on a vote being taken on the Supplementary Appropriation (1985/86) 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 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 Bills were read a third time and passed.

#### PRIVATE MEMBERS' MOTIONS

HON M A FEETHAM:

Sir, I beg to move that: "This House - (1) Notes the statement by the Minister for Labour and Social Security on the 26th March, 1985, that during February and March this year there was an increase in employment of 700 people; (2) Notes the result of the April, 1985, Employment Survey now presented by the Minister which shows that full-time employment between October, 1984, and April, 1985, has decreased by 80; (3) Calls on the Minister to apologise to the House for providing misleading and erroneous statistics at Budget time". Mr Speaker, this is one of those motions which are pretty well self explanatory and I am sure that the House is aware of what was said in March in response to a number of questions which were put by my Colleague, the Leader of the Opposition, in relation to employment. For the record we are, at this stage, not predicting how much unemployment or employment there is going to be or not going to be, that is not the purpose of this motion. But as far as we are concerned there isn't enough or sufficient information available to us for us to make any projections. What we are saying in the motion is that the projection made by the Minister that there was an increase in employment of 700 during the months of February and March this year extra to the employment in GSL, was incorrect and, in fact, we challenged this because we thought, and I think quite correctly, that it was pie in the sky and since we challenged it at the time and he appeared to be so adamant about his statement, he could have used the rest of the session of the House to come up with more clarification and with more detail which he didn't. What he cannot do now, six months after the statement, is to produce an Employment Survey which makes no mention on what he said and which does not produce the picture which would support the statement of the Minister. Why we have brought the motion is because there is an important element especially during Budget time that the Minister and, indeed, the Government provides accurate statistics so that the Opposition can make an accurate assessment and the Opposition can make a useful contribution especially in important sessions like the Budget. Mr Speaker, we say this because it is

difficult enough not to have available to us sufficient information without the Minister coming to the House with erroneous and misleading statistics because it does not do justice not only to the House but, in fact, to the Government because it is only a matter of time before the situation develops where we get a different picture and this sort of motion which is totally unnecessary is brought to the House and the Minister himself is responsible for this being done and, Mr Speaker, what I would like to see is what the Minister has to say.

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

HON DR R G VALARINO:

Mr Speaker, Sir, I deplore the motion and the way it has been presented for a variety of reasons. In the first place, subsequent to the meeting of the 26th March, 1985, I clarified the position in an exchange of correspondence with the Mover of the motion. I quote from a letter which I wrote to him on 15th May: "Dear Michael, Thank you for your letter of the 6th May. The information I gave to the House was based on the following:- (a) that 500 vacancies had been filled by the Department of Labour and Social Security during the first three months of a fully opened frontier, (b) that it was reasonable to estimate that a further 200 vacancies had been filled directly by employers without the Department's intervention. The figure of 500 is based on actual statistics kept by the Department and although not all vacancies filled are in respect of new jobs because some may relate to changes of employment or filling of vacancies created by retirement, etc, there is no doubt that most are in respect of new jobs. Unfortunately, the way the Department has kept its records up to now does not enable it to provide a breakdown of vacancies filled in the manner you have requested. However, following a request from the Leader of the Opposition, the system has been changed and a breakdown of vacancies filled by trade and industry will be available from the end of the current year. As regards the number of vacancies filled by employees directly, the estimate of 200 is possibly on the conservative side. In the normal course of events people are recruited directly by employers if they are Gibraltarians or other EEC Nationals. It is only when they find difficulty in recruiting that employers notify the Labour Department. According to information published by the Department of Employment in the United Kingdom, only about one-third of vacancies filled there are notified to the Job Centre". This was on the 15th May in answer to his letter and, in fact, we did further correspond on the 22nd May when he asked: "Can you therefore assist by being more specific as requested in my letter of the 6th May as to the 500 vacancies?" and I said: "I regret but at this point it is practically impossible". Further to my statement I corresponded with the Hon Member.

HON J BOSSANO:

Mr Speaker, isn't that the same thing as he said in the House? What is the difference?

HON DR R G VALARINO:

Perhaps I should have made the clarification public at a subsequent meeting of the House but I would have expected that the Mover would have brought this clarification to the notice of his colleagues at the time this letter was written.

HON J BOSSANO:

What is the clarification, Mr Speaker, we still haven't had any clarification? I have just heard the Minister read out a letter which says exactly the same thing as he said to me which I have got here in Hansard and if I read this, Members will see that I am reading the same as he has got in his letter. Where is the clarification?

HON DR R G VALARINO:

Mr Speaker, do I sit or does he because I haven't given way?

HON J BOSSANO:

Mr Speaker, if the Hon Member wants to speak this early so that he doesn't have to answer the motion, it seems to me that that is what he is doing, he is refusing to give way so that he can then sit down and not talk again.

HON DR R G VALARINO:

I will give way.

HON J BOSSANO:

The Hon Member has said that the motion should not have been brought to the House because he wrote a letter in May which he has just read and which he says that the rest of the Opposition hasn't seen and that is why we do not know about it but the letter that he has just read says that the explanation is that 500 people were found employment by the Labour Exchange and that is exactly what he said in Hansard. He said here: "If we take the number of 500 people in January and February I think we could easily add another 200 people to that figure which were the 200 people who do not get employed through the Labour Exchange", which is exactly what he is saying now. We are saying this is inaccurate, we are waiting for the explanation. What he has just given is not the explanation, it is a repetition.

HON DR R G VALARINO:

Mr Speaker, I am speaking from the very beginning and I am speaking historically but I would like to reiterate one paragraph which I have read before: "The figure of 500 is based on actual statistics kept by the Department and although not all vacancies filled are in respect of new jobs because some may relate to changes of employment or filling of vacancies created by retirement, etc, there is no doubt that most are in respect of new jobs". The motion is particularly deplorable because it takes entirely out of context one figure in one Table of the Employment Survey without regard for the remainder of the contents of the Survey. If that is not erroneous and deliberately designed to mislead the House, I don't know what is. Allow me to amplify, Mr Speaker. The motion makes reference to the fact that according to the Survey, full-time employment between October, 1984, and April, 1985, has decreased by 80. This figure is apparently arrived at by deducting the totals in the column of Table 1 relating to full-time employment only. It totally disregards part-time employment which is employment also. When I talk about employment figures in this House I normally refer to employment in all its forms unless I say the contrary. A comparison of the figures of total employment between the October, 1984, and April, 1985 Surveys shows an increase of nearly 200. The figures shown in the Employment Survey are based on the response to questionnaires sent to employers by the Statistics Department. I understand that the response to the questionnaires is of the order of 85% so that the resultant figures cannot be as accurate as the actual labour and insurance statistics kept at the Department of Labour and Social Security. I will give just one example to highlight this discrepancy. The Employment Survey for October, 1984, shows a total of persons in employment of 11,115. DLSS statistics for December, 1984, based on the return of insurance cards, show a total of 11,376 which represents a difference of 263. To that must be added a total of 809 cards which were not returned on the due date and although some of these jobs may no longer have existed by that date, it is safe to assume from past experience that at least half of them did. That would show a discrepancy between the figures shown in the October, 1984 Employment Survey and the December, 1984 DLSS returns of over 660.

HON M A FEETHAM:

Will the Hon Member give way?

MR SPEAKER:

You have the right to speak in due course.

HON DR R G VALARINO:

And is ample illustration, in my view, of the fact that the figures shown in the Employment Survey are not entirely accurate and can only be regarded as showing trends. Let me now turn to that part of the report which has a bearing on the substance of the motion and which the Mover has so conveniently omitted to refer to. The main employment trends during the six-monthly period covered by the report are summarised in paragraph 2 and I quote: "At the time of writing this report, the indications are of a continuing rise in employment trends. To date, more persons have been employed in the commercial yard. There has been a noticeable increase in the number of new company registrations. The job vacancy level remains high. The October, 1985 Survey should therefore provide a more complete and stabilised picture of the impact of dockyard commercialisation and frontier normalisation". Mr Speaker, Sir, it is a well known fact that figures and statistics can be interpreted in many different ways to suit different needs. The only reasonably accurate way of determining changes in the level of employment is through the records of insurance cards which are returned to the Department once a year. It is only after the records are returned at the end of this year that it will be possible to state with any certainty to what extent the level of employment has increased. Mr Speaker, the motion calls on me to apologise to the House. In view of what I have said, I feel that there is no need for an apology and I do not propose to give one. However, I think the boot is on the other foot and it is for the Mover of the motion to apologise to the House for wasting its valuable time in bringing before it a motion of such little substance on a matter which I had, in all good faith, clarified with him by correspondence many months ago. There is nothing about the motion which is constructive and I can only surmise that it has been brought before this House in order to give the Mover the opportunity to play political theatricals.

HON J BOSSANO:

Mr Speaker, I am tempted to move an amendment to my colleague's motion censuring the Minister and then we can have a division and we can see whether other Ministers in the Government support the complete nonsense that the Minister for Labour has just presented the House with. I think the motion brought by the Opposition on this issue was put in a language which stops short of censuring the Minister for Labour but sought to impress upon the Minister for Labour that the House of assembly and the performance of the economy of Gibraltar and the statements made by the Government at Budget time are things that are not to be taken lightly. I do not think the Minister understands half of the things he says, never mind being able to explain to the rest of us. I think he is in a state of confusion permanently in this House of Assembly. I don't

know what he is like when he leaves the House of Assembly but here he spends seven out of the eight hours in a state of confusion and he doesn't have the right to try to confuse the rest of us. The Minister, when I questioned his figures at Budget time this year, Mr Speaker, almost accused me of not wanting people to be employed. I said to him: "Are the 700 people that he claims to have been employed in February and March inclusive of the 500 in the commercial dockyard or are they in addition to the 500 in the commercial dockyard?" And his reply was: "No, Mr Speaker, much to his chagrin they are not part of the 700". And I said: "Well, all I am trying to do is establish a fact". And he said: "You are not trying to establish a fact, you are trying to confuse the facts". That is what he accused me of in the Budget, that I was trying to confuse the facts. All that we are doing is telling him that he was then confusing the House. Is he still saying that the 700 people that he mentioned did not include the 500 in GSL, is he still saying that today? He is saying that in January and February and March 1,200 became employed in Gibraltar; 500 in GSL and 700 outside GSL? He is saying that he is responsible for tabling in the House of Assembly an Employment Survey which according to the Government's Statistician for whose accuracy with statistics I have got a much greater respect than I have for the Minister's, let me say, he is saying that this which according to the Government's Statistician is what the Government uses for projecting its assessment of economic performance, is not accurate. Doesn't he understand that in the explanation that he has given that there is a discrepancy between insurance cards and the labour results, that the same discrepancy existed in April and in October and that therefore if you are comparing the Survey of October with the Survey of April it does not matter how many insurance cards there are because if there were 500 more insurance cards than in the labour returns in April, there were 500 more insurance cards in the labour returns in the previous October unless he is telling us that for some peculiar reason there were now hundreds of people insuring who are not being reflected in the Survey but if the discrepancy is there it has been there in every Survey since the first Survey was done in 1972 and everybody has known it in the Labour Department and in the Statistics and it is a matter that I have raised a number of times in the Manpower Planning Committee of which he is the Chairman, the discrepancy between these figures and the other figures, but it isn't something that happened this April for the first time ever so that does not explain the difference. The reality of it is that the Minister had something prepared for him which he didn't understand, which is quite a common occurrence and which looked quite attractive and he thought he was on to a good wicket because he was saying to us in the last House of Assembly that, in fact, the 700 was nearly the 1,000 he had predicted for the whole year. Do I quote the page and the sentence? Mr Speaker, I will get the exact wording, he said: "I am sure that the figure of 1,000 which I said we would

be able to recruit in a year will be so, in fact, I am afraid that the figure will be more than 1,000 because I am at this very moment running out of labour". And then I asked him: "Mr Speaker, are the 500 in the commercial dockyard included in the 700?" And he came back saying that it wasn't, that it was 700 plus 500 and then he went on to say that we were trying to confuse the facts and that, in fact, he had just been asked to provide 450 workers and that he didn't know where he was going to get the 450 workers from and that he welcomed the assistance of the Opposition in producing 450 workers for him and that he looked forward to come in the following budget and being able to report an even better state of affairs, that is how he finished his contribution. He was telling us he had got 700 people employed in two months of which 500 had been employed by the Labour Exchange and 200 had been employed without going to the Labour Exchange and then he tells us that these are accurate statistics. I remember we had an exchange where the Chief Minister was saying that he had not said that it had to do with the insurance cards and if the Chief Minister looks at page 135 of Hansard he will find that I was correct in what I had said. The Chief Minister said they were not statistics and the Minister for Labour said and has said today: "These are statistics". Those were the words of the Hon Minister for Labour and the words of the Chief Minister were: "There were not statistics". That is what page 135 says if the Hon and Learned Member cares to read it. The motion was intended purely to make the Minister understand that it is really not the done thing particularly at Budget time, Mr Speaker, particularly when you are talking about jobs and particularly when you are talking about economic performance and he has got an important Ministry in Gibraltar. Labour happens to be one of the most crucial areas in the current changes that Gibraltar is going through.

HON A J CANEPA:

Your former colleagues used to say, when they were in Government, that labour was the economy.

HON J BOSSANO:

I can tell you that certainly the prosperity of Gibraltar will depend on Gibraltar's workforce and on nothing else, that is the only source of wealth that Gibraltar has got, the skills of its people, it has nothing else and we can only earn a living in the world by providing a service to the rest of the world by the skills of our people and therefore the extent to which we have full employment is a welcome thing, nobody questions that, but to bring to this House of Assembly a statement during the course of a Budget and tell the House that 700 people had been employed in two months, that is 350 people a month, and that that trend is continuing, that is 3,600 people a year. We would be employing the whole of Andalusia

before the seven year transitional period was over. Instead of having two million visitors a year we will have two million workers a year at this rate. This is astronomical, Mr Speaker, and it should have been obvious that it was nonsense at the time and the Minister should have had the good grace there and then at the Budget, to come back and say: "I got the figures wrong, I am sorry" because it has happened before, anybody can make a mistake but I think what we cannot allow is that if somebody makes a genuine mistake on top of that they try and ram it down your throat and tell you that they are right and you are wrong because we do our work and we spend a lot of hours doing our work. It is very easy to be a Member of the Opposition and not have the responsibility of a Ministry and just turn up here in June and turn up here in November. We try to do a more conscientious job and we spend a lot of time reading the Employment Surveys, we read all the Government Reports, we have meetings and discuss ourselves how the economy is going. We feel if we are going to be critical of the Government, we need to be critical because we have got our facts right. If we make a mistake, fine, we will apologise to the Government and say: "We got it wrong on that occasion" but what we cannot do is, the Minister now turns round and says to us that he wrote a letter to my colleague in which he said that the explanation why he said that 500 people had been employed was because 500 people had been employed and the reason why he said there were 700 was because he had said that 200 were employed outside the Labour Exchange so he puts in the letter exactly what he said in the House and he says he cannot understand how that doesn't clarify it. Well, because he can keep on saying that 700 people were employed in those two months till the cows come home and they are visibly not there. When I spoke after him, Mr Speaker, I said that there were two people in the House who would certainly want to know where his 700 employees were, the Financial Secretary because there was no reflection of it in the estimates of income tax and me because there was no reflection in the union records and I said: "There are 700 potential customers adrift there" and I told him where I thought he was making a mistake at the time, it seemed obvious to me. He said that "Not all the 500 are new jobs". Well, it is more than that, it is what I told him then, Mr Speaker. I can tell the Hon Member that his Department has been employing 160 people a month but employment has not gone up by 160 people a month because I can tell him that I know people who have changed in three construction firms in the last six months. There were people who were working in the Library Street site who left the Library Street site who went to work for Lilley Construction and who are now working down at the Marina and they have been recorded three times because each new employer has been given a new work permit. If you have got a situation as you have in the construction industry where there were 400 people last October and there were 400 people in April and those 400 people have changed jobs, it doesn't mean employment has gone up by 800 people. It is wrong,



Mr Speaker, particularly in a Budget it is wrong because if we thought at the time that these figures were accurate we would have launched an attack on the Financial Secretary and told him: "You cannot expect £21m at the end of the year if employment is increasing at the rate of 700 people in two months, you should put another £3m in your estimates for income Tax". I think, quite frankly, the Minister is not taking us as seriously as we are trying to take him. Either he stops quoting figures he does not understand or he makes sure that the civil servants who prepare them for him explain it to him sufficiently carefully so that he does not get himself in a twist.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I think that there is a bit of confusion. The Minister has now made it clear that when he talked about the new jobs on the 26th March he has clarified in the letter that within those new jobs there were possibly other changes of employment, he has given that explanation. He clarified in his letter to the Hon Mr Feetham that he also includes the element of part-time employment counting as employment because he says in his letter, I think, something like "unless I say it otherwise, new employment also means part-time and full-time employment". I think then the figures are not as different as they are made out to be. I think where possibly the Minister has gone wrong is in mixing the Gibraltar Shiprepair yard 500 figure and the 700 figure that he claimed between February and March. I think I will grant you that the Minister probably got confused over that but that there could possibly have been around 700 jobs because of the element of part-time employment and full-time employment, there could be that. I think, with the opening of the frontier, a lot of part-time employment was created because people were not sure how it was going to develop and I think that even though the figure of October, 1984, and April, 1985 is quoted and you show a decrease, if you look at April, 1984, to April, 1985, there is an overall increase in employment. I think if the Hon Member will do that I think it is correct. That is all I would like to say.

HON A J CANEPA:

Mr Speaker, the Hon Mover of the motion early on in his intervention spoke about the Minister for Labour producing the Employment Survey.

HON M A FEETHAM:

No, it was tabled by the Minister.

HON A J CANEPA:

The Minister has nothing to do with the compilation of the Report, in fact, his Department have nothing to do with it either. The correspondence between the Minister and the Hon Mr Feetham took place between May and the end of June this year well before the publication of the Employment Survey Report. At that time the Hon Mr Feetham had nothing very much to go on, he had nothing very concrete, he had no figures before him to go on other than his gut feeling that the Minister was getting it wrong. He felt that his assessment of the situation, his analysis of what was happening in the employment situation in Gibraltar, was not borne out by the figures that the Minister had quoted during the Budget session. He exchanged correspondence with the Minister in which the Minister attempted to clarify what he was saying, the figures that he had given in the House. Where I think the Hon Mr Feetham has gone wrong in bringing the motion to the House is that once the Employment Survey Report was available to him because it was circulated to him prior to it being tabled in the House, I think that he should have invited the Minister in writing, if necessary, in the light as he saw it he should have made the contention that he has made in the motion which in the event is not totally accurate because it is a loss of 80 full-time jobs but the overall situation is better, he should have invited the Minister at this meeting of the House, at the first meeting of the House after the publication of the Employment Survey Report to make a statement clarifying the position. Invariably the practice here in the House is that if one gives information and later on it is brought to one's notice either by a Member of the Opposition or when one goes back to the Department and checks, if it is brought to one's notice that the information that one has given is erroneous it is the practice and it is the proper parliamentary practice to come and give the right information to the House, in other words, to put the record straight and in doing so one naturally says: "I am sorry that I misled the House". You can take that as an apology but I will explain in a moment what I really understand to be an apology in the context of its inclusion in the motion moved by the Hon Mr Feetham. I think he should have written to the Minister inviting him to put the record straight. If the Minister refused to make a statement in the House of clarification in the light of the statistics available in the Employment Survey Report and let it not be forgotten, Mr Speaker, that not all employers return the questionnaires and therefore the Minister is right when he says that it is only when at the end of one year and the beginning of the other, it is only when insurance cards are returned and new ones are issued that you can be more sure as to what the employment situation is. I say more sure because there may be a small number of employers who are breaking the law in employing people without payment of insurance but those must be a very small minority and I think the number of insurance cards in issue at



the beginning of the year or shortly after because it takes some time, is perhaps the most accurate yardstick that we have. The Minister, I think, should have been invited at this meeting to put the record straight. If he refused to do so I would say then that the Hon Mr Feetham was not only entitled to bring the motion that he has brought but as the Hon the Leader of the Opposition has said, could have gone even further and introduce a motion of censure which in a way it is because it is not an apology to say: "I am sorry, Mr Speaker, that I misled Hon Members this morning when I gave such and such a figure, it was wrong, it should have been so and so". That is different. When a motion is circulated and made public in the way that it has, the Minister is being put in the dock and an apology then is a different matter altogether, in my view. The Minister made the point that statistics can be used and can be twisted to achieve any purpose. I am going to bring a matter which is not totally germane to the motion in that it has to do with education and not with labour but I will allow, if he so wishes, the Hon Mr Mor, the Shadow Minister for Education, I will give way to him and give him an opportunity to clarify the matter. The other day, Mr Speaker, the Chief Minister and I were told by the delegation of Members of Parliament that the Hon Mr Mor had told them, I hope they got this right, that only 20% of students in Gibraltar studying their 'A' levels get scholarships. Is that correct, did he say that?

HON R MOR:

I have not made a statement in the House of Assembly.

HON A J CANEPA:

I know but I wish to elucidate the point as to how statistics can be used and I am aware that it has been reported to us that he has made such a statement and by an important group of people who come to Gibraltar for very important reasons and we do not want them to go away with the wrong impression.

HON R MOR:

I was asked how many students got scholarships and I said I did not have all the information, I supposed it could well be round about 20%.

HON A J CANEPA:

20% of what? 20% of Sixth Formers? 20% of those who are studying for 'A' levels?

MR SPEAKER:

I am afraid I must now allow cross examination.

HON A J CANEPA:

Right, Mr Speaker, but I will make the point that that information is erroneous. I am not going to ask him to apologise because to tell visiting Members of Parliament that that is the case when that is erroneous and it is erroneous because he has included in his figures the Lower Sixth and the Upper Sixth and anybody who is in the Lower Sixth, over 100 students in the Lower Sixth are not eligible for a scholarship in the year in which they are in the Lower Sixth, they only become eligible when they are in the Upper Sixth and there are not, Mr Speaker, in Gibraltar over 200 students in the Upper Sixth even if we take the Boys' Comprehensive and the Girls' Comprehensive Schools together, there are not 200 students in the Upper Sixth and 20% of 200 is 40. I think I have made the point.

HON M A FEETHAM:

What is the point?

HON A J CANEPA:

That misleading and erroneous statistics were given to prove the point that he has been making here about the inadequacy of the scholarships system, that is the point.

HON J BOSSANO:

We have got a motion in the House of Assembly because a Minister of the Government gave the House of Assembly information at Budget time. If I were to bring motions to the House of all the private statistics that Members on that side quote, we would be here till the middle of next week and have insufficient time. We are talking about a statement recorded in Hansard, challenged at the time, with the rest of the Budget session giving the Minister an opportunity to go back and check and it is not the first time that a statement by the Government at Budget time has been challenged and in the course of the meeting the Minister has come back and said: "I got it wrong". The Minister has stood up today and still continues to defend what he said in April. The Minister is saying today that he did not mislead the House when he said that 700 people had been found employment in two months. The Minister has not said that, other Ministers have said he may not have included the 500 from GSL. It is an attempt to introduce a totally misleading and diversionary tactic by the Minister for Economic Development who should know better to say that my colleague, in passing, might have told MP's that about 20% of the age group go to university. Whether 20% is high or low depends on how many in other places go, maybe only 10% go in UK.

HON DR R G VALARINO:

I said in the last paragraph, after I wrote the letter: "Perhaps I should have made the clarification public at the subsequent meeting of the House but I would have expected the Mover to have brought the clarification to the notice of his colleagues at the time the letter was written".

HON J BOSSANO:

But what is the clarification?

MR SPEAKER:

We will leave it at that.

HON A J CANEPA:

Mr Speaker, I have the floor. I have no doubt in my mind, Mr Speaker, that proper parliamentary practice, I am prepared to have proper parliamentary practice and not introduce in this House the kind of statements that have been made privately by the Hon Mr Mor to Members of Parliament. I would accept that there is no need to bring up the matter in the House but neither is there any need for the Hon Mr Feetham a few days after the Employment Survey Report has been published and without warning the Minister and telling the Minister: "In my view you have got it wrong, Reggie, you made a mistake. Now be man enough to stand up in the House of Assembly and admit that you have got it wrong". That is what the Hon Mr Feetham should have done and then if the Hon Dr Valarino was convinced and saw that he had got it wrong and was not man enough to stand in the House and explain and make a statement of clarification and give the House an apology, then I think this sort of motion was perfectly in order but I think that it isn't in order and it isn't in the best principles of parliamentary practice. An apology presupposes that it was a deliberate act on the part of the Minister to mislead the House and if it was not a deliberate act then it is not worthy of this kind of motion which is tantamount to a motion of censure unless he has been given an opportunity in writing or verbally by being warned and being invited to retract the statement that he made, that is what the Hon Mr Feetham should have done.

HON R MOR:

Mr Speaker, just a point of clarification on what the Hon Mr Canepa has accused me of trying to mislead Members of Parliament. I am quite prepared to give way to him and ask him whether 20% of the age group . . . . .

MR SPEAKER:

We are not going to argue the point. You can most certainly explain the circumstances and say what you like on the matter but we are not going to argue as to the accuracy of your statement.

HON R MOR:

But, Mr Speaker, I was not making an official statement. As regards the motion, Mr Speaker, I think the important thing is whether the Hon Minister for Labour and Social Security actually misled the House with those figures. Whether there was any attempt from this side of the House to get him to make another statement correcting his original statement is irrelevant as far as the motion is concerned. Our concern on this side of the House is that the Member has issued inaccurate information to this House and it calls for the Minister to apologise.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, my colleague the Leader of the Opposition has extended in supporting the motion much of what I would have said in response to the Hon Minister for Labour but he seems to make a great deal about this letter that I wrote to him. The fact is, Mr Speaker, that he maintained a view during Budget time which was challenged by this side of the House, particularly by my colleague the Leader of the Opposition and we made a lot of play about the way things should be handled and I will obviously reply to what the Hon Minister for Economic Development has said, but he went a little bit further much to the annoyance of my colleague the Leader of the Opposition when we challenged those figures as if, Mr Speaker, my colleague was against people taking jobs in Gibraltar, as if my colleague is against increased employment in Gibraltar. That is the impression he was creating during Budget time: "Here we are, 700 new jobs in Gibraltar surplus to GSL and Bossano across the way does not like it", that is the impression he was giving in this House and, of course, since we, obviously, who are certainly in that area in our professional outlook in terms of trade unionism and in terms of our background as socialists, labour is an area where we are certainly better informed as, for example, the Hon Chief Minister is in the legal affairs, this is a matter where one is more specialised. When we challenge a thing like that, when we challenge a statement of the Minister at Budget time in relation to labour, I think that nine times out of ten we are

correct in what we are saying. What did I do after that particular meeting? I wrote a letter to the Minister and said: "Give me a breakdown". I haven't even got the letter here but I challenged what he was saying and I said: "Give us a breakdown of these 700 extra jobs by industry and so forth", seeking information. What did the Hon Minister for Labour do? He wrote back saying exactly the same thing that he had said in the House. So there was a second challenge there and a second opportunity for him to rectify it and, of course, since we are talking about procedures, since we are talking about taking matters up again, they are in a better position than we are to see and project and to see what the trends are between what he said in March and what has been happening since especially since after my letter to the Minister. If he had been doing his job he probably would have seen that what he said was not correct and, of course, since he repeated to me what he said in the House I, obviously, like anybody else from the Opposition who have got limited information available, waited until the Employment Survey Report was tabled in the House and, of course, I got an advance copy and it confirmed that in fact what the Minister had said in the House and what he had said to me in writing did not tally with the information which is as accurately as possible produced by a Government Department, in fact, it shows that we were right in what we were saying then. It is a matter of opinion whether we bring a motion to the House or we do not bring a motion to the House. I am not going to dwell on whether I should have five minutes before this House, said to him: "You have gone wrong, you should apologise". As far as I am concerned I have not brought a censure motion to the House. If the Opposition were to bring a censure motion to the House not only would we say so but it would be definitely on something of such fundamental importance as to warrant a censure. What we are saying is that in view of the attitude of the Minister, in view of his confirmation that, in fact, he ought to apologise because he was wrong and I think we are entitled in the House to seek that apology. When the Hon Minister in the Ante Room asked me: "Are you going to dwell very long?" I said: "No, it is going to be two or three minutes because I think that this has to be said and it is up to you". I was trying, Mr Speaker, to give the motion the importance that was required but I was not giving an impression of animosity or, indeed, of hostility which is not the attitude the Hon Member has taken in answering my motion. Let me now inform the Hon Minister, if he really wants some information, that full-time employment for this period has gone down in Gibraltar. If he wants to know a little bit more about figures the overall figure for full-time employment has gone down in Gibraltar and the trend has been in part-time employment. That is where the trend has been in real terms unless, of course, in looking through all the insurance cards and all the cards which have been moved about to justify what is not justifiable, we find that since March we have actually lost, we had

an increase in January and February of 700 jobs and we lost them since and it squares up with the figures that the Minister has quoted. That is a fact, these are things that we are very well aware of and things which are very close to our hearts. Whether the Minister wishes or not wishes to apologise to the House, of course, is his prerogative and no doubt with the Government majority there is very little prospect of this motion going through, anyway, but there is a fundamental point finally that I want to make in defence of my motion and that is, first, he gets his figures right; secondly, we in the Opposition especially in an important session such as Budget time, need to have as much accurate information as possible so that we can make a fair assessment of the Budget and, indeed, assist Government in the Budget debate because that is what we try to do from this side of the House. That is all I have to say, Mr Speaker.

Mr Speaker then put the question in the terms of the Hon M A Feetham's motion and on a division being taken the following Hon Members voted in favour:

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

The following Hon Members voted against:

The Hon A J Canepa  
The Hon Major F J Dellipiani  
The Hon M K Featherstone  
The Hon Sir Joshua Hassan  
The Hon G Mascarenhas  
The Hon J B Perez  
The Hon H J Zammitt

The following Hon Member abstained:

The Hon Dr R G Valarino

The following Hon Members were absent from the Chamber:

The Hon E Thistlethwaite  
The Hon B Traynor

There being an equality of votes for and against, the motion was accordingly lost.

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I now move that the House should adjourn sine die.

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

The adjournment of the House sine die was taken at 8.50 pm on Thursday the 28th November, 1985.