

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

28TH JANUARY, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Tenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 28th January, 1986, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 27th November, 1985, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I am sure all Hon Members will wish to join me in congratulating our Chief Minister on the very high honour that Her Majesty the Queen has conferred on him in Her New Year Honours List.

DOCUMENTS LAID

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

- (1) Report on the activities of The Gibraltar Regiment for the period April, 1984, to March, 1985.
- (2) Report on the activities of HMS Calpe for the period September, 1984, to September, 1985.

HON CHIEF MINISTER:

Mr Speaker, it is customary for me to rise and make an annual statement on the affairs of The Gibraltar Regiment and HMS Calpe. Because these statements are lengthy and detailed I propose this year to table Reports on the activities of both these Units which are most satisfactory and in doing so I am sure that this House will join me in wishing both The Gibraltar Regiment and HMS Calpe which continue to play such an important and effective role and have achieved such high standards, every success in the future. Members will thus be able to read the Reports and ponder on them. Thank you.

Ordered to lie.

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

- (1) The Employment Injuries Insurance (Benefit) (Amendment) Regulations, 1985.
- (2) The Employment Injuries Insurance (Claims and Payments) (Amendment) Regulations, 1985.
- (3) The Social Insurance (Overlapping Benefits) (Amendment) Regulations, 1985.
- (4) The Social Insurance (Contributions) (Amendment) Regulations, 1985.
- (5) The Social Insurance (Benefit) (Amendment) Regulations, 1985.
- (6) The Social Insurance (Insurability and Special Claims) (Amendment) Regulations, 1985.

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.10 of 1984/85).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.3 of 1984/85).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.4 of 1985/86).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MINISTERIAL STATEMENTS

MR SPEAKER:

The Hon and Learned the Chief Minister, the Hon the Minister for Economic Development and Trade and the Hon the Minister for Education, Sport and Postal Services have given notice that they wish to make statements. I will now call on the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

May I ask my Friends to proceed with their Ministerial statements. I have to make a statement on the question of the Inquiry but I am afraid that it is not yet ready.

MR SPEAKER:

I will then call on the Hon the Minister for Economic Development and Trade to make his statement.

HON A J CANEPA:

Mr Speaker, I beg leave to make a statement which is of some concern to our trading community. I am referring to the general revaluation of business premises which has recently been carried out for implementation in the Financial Year 1986/87.

As the House may be aware I have held a number of meetings with the President and Directors of the Board of the Chamber of Commerce following strong representations made on behalf of private sector businesses who are seeking a moratorium on rates pending a review of the rating system.

Whilst the Government is fully conscious of the effect of these increases, it has, as is known, not agreed to a moratorium because it considers that the present rating system is both equitable and fair in arriving at a rateable value for business premises.

However, the Government has been looking at the possibility:-

- (a) of improving procedures for hearing objections;
- (b) of cushioning the impact of these increases.

In respect of the former, the Government has decided to create a Rating Review Board as an intermediate step between the Valuation Officer and the Courts. This would enable objections to the Valuation List to be more speedily reviewed by a small body consisting of the Director of Crown Lands, a representative of the Chamber of Commerce, and an independent qualified Valuer to be nominated by the Government.

The necessary legislation to create this statutory body is being actively pursued. The Board will therefore have an arbitration role and will be empowered to direct the Valuation Officer to make any necessary alterations to the List. It would not, however, affect the right of an aggrieved person or the Valuation Officer to refer the case to the Courts.

With regard to the possibility of cushioning the impact of these increases the Government has been giving careful thought to the matter. It considers that some relief should be granted over a two-year period and that such relief should be fair and practical. It has therefore been decided to bring legislation to the House to provide that, where an occupier of business premises is not in arrears, he will be entitled to a refund equivalent to 40% of the increase in rates in the first year and 20% of the increase in the second year.

Additionally, consideration is being given to the possibility of amending the present legislation to ensure that the rateable value of owner-occupied premises is reviewed annually and not just at each general revaluation. If found to be practicable, this would in effect avoid such drastic increases in the future.

HON J BOSSANO:

Mr Speaker, does the Government intend to do anything for domestic ratepayers or is it just businesses that they are concerned about?

HON A J CANEPA:

Nothing has happened, Mr Speaker, in respect of domestic premises this year. I don't think there is any increase in the pipeline until 1987, perhaps.

HON J BOSSANO:

Yes, Mr Speaker, I am well aware that the rates have not been increased for domestic premises but, surely, the Government has not forgotten the fact that there was an objection to the rating system made in November, 1984, which was conveniently ignored by those whose responsibility it was to deal with it until the time period expired which was then the subject of a motion in this House which then required a change in legislation to legitimise what was not previously legitimate otherwise the change in law would have not been required and therefore there is now in the law of Gibraltar a method of assessing rates for domestic premises which we voted against and in the context where the Government recognises that there is something wrong with the way they have raised commercial premises, do they propose to do anything about the way they raise domestic premises before the next increase is introduced?

HON A J CANEPA:

Yes, Mr Speaker, I think that that is a matter that no doubt can be gone into once we get over this minor hurdle. I don't agree with the statement of the Hon Leader of the Opposition that the Government recognises that there is anything wrong with the rating system, if I allow that to go unchallenged I would give the impression and I want to reiterate what we have said, we don't think that there is anything wrong with the rating system. We don't want to change the basis of it. Perhaps what happened is that in the same way as we have been helpful in respect of domestic premises by deferring increases by allowing for refunds of 10% or whatever if it is for owner-occupier and so on, in the same way we have recognised that a certain element of

relief had to be given because of the impact and the impact has been in some ways exacerbated because the Government was lenient and understanding in, in fact, putting off the general revaluation on two occasions and we didn't shout it from the rooftops and we haven't had the credit for that that perhaps we should have got.

HON J BOSSANO:

Independent of that, surely, Mr Speaker, if the Government is setting up a Board to determine the rateable value of commercial premises in which a representative of the Chamber of Commerce is going to be included, that is an indication that the present method of arriving at the rateable value is unsatisfactory.

HON A J CANEPA:

Mr Speaker, I make a statement here in the House because as Minister for Trade representations are made to me and I take them on board. I do not have direct responsibility anyhow, for the matters which the Hon Member is referring to. I would invite him though, if he so wishes, to write to the Director of Crown Lands and ask him to look into that and he can state if he so wishes that I have invited him to do so and I am sure the Director of Crown Lands will give the matter the attention which it no doubt deserves. I think that based on the approach that we are making towards business premises it might be possible to pick up an idea or two that could conceivably be carried over into the domestic sector.

HON J BOSSANO:

Apart from the question of the domestic sector, Mr Speaker, I am seeking further clarification on Government policy in relation to a Government statement and they have announced, as a matter of Government policy, that a new body called the Rating Review Board is going to be created which will include a representative of the Chamber of Commerce who, in turn, are the representatives of the ratepayers for commercial premises. Surely, that is an indication that the Government has come to the conclusion that the current method of arriving at the valuation is unsatisfactory and they are going to give the consumer, as it were, a say in the value of the property before the property is valued.

HON A J CANEPA:

I think what we are doing by having a representative of the Chamber of Commerce and we are putting them in a slightly awkward position, I think, because they are also landlords, many of them, they will be there on this Board and they will be able to see that justice

is done. They are in a minority, they will be able to see that justice is done but I think that that concept - I don't want to get involved in the matter of domestic premises because I didn't get involved previously, even in the debate, I had nothing to do with that but it should be possible, I think, to learn some lessons from there and perhaps if they need to be applied to the rating system for domestic premises or the system whereby appeals are made, I am sure that the Government would be amenable to considering the matter.

HON J BOSSANO:

I am leaving on one side the question of domestic premises on which as far as I am concerned I am satisfied with the answers I have been given. I am seeking further clarification on the Rating Review Board. Have I understood correctly, Mr Speaker, in thinking that the Rating Review Board is going to be involved in establishing the valuation or in hearing appeals?

HON A J CANEPA:

In hearing appeals.

MR SPEAKER:

I will now call on the Minister for Education, Sport and Postal Services.

HON G MASCARENHAS:

Thank you, Mr Speaker. Following the now established practice of keeping the House informed whenever a review of Postal Charges is to be introduced, it falls upon me to make a statement on the increases which will become effective on 1st March, 1986.

The last review of Postal Charges took place on 1st April, 1984. Since then the Congress of the Universal Postal Union has recommended an increase of 50% in postal charges generally. As far as letter post is concerned, the individual administrations of the Union are allowed a certain degree of flexibility within the limits imposed by the Articles of the Convention and it is this flexibility which is now being used in order to maintain the increases at the lowest level possible. It is now proposed to revise the charges by applying the appropriate rate of exchange between the pound sterling and the Special Drawing Rights, which is the currency used for accounting between Postal Administrations, in order to maintain the level of charges set in April, 1984.

I wish to stress the fact that, although the Universal Postal Union is increasing the basic rate and recommending that member administrations revise their charges accordingly, we have decided not to apply this increase. We are merely adjusting our charges to reflect the adverse rate of exchange between the currencies mentioned above.

The following are some examples of the new charges which reflect these changes:

Surface rate from 17p to 19p for a letter weighing up to 20 grammes.

Airmail rate to Europe from 20p to 22p for a letter weighing up to 20 grammes.

Airmail rate to other destinations and other postal services are also increased although the number of zones has been reduced from 6 to 4.

The local postal rate will not suffer an increase and will remain at 4p for a letter weighing up to 50 grammes. There will, however, be an increase in rates applicable to the local parcel post in order to bring these to a more realistic level.

The International Reply Coupon will be priced at 55p which is the corresponding value in sterling of the amount fixed by the Universal Postal Union.

In my last statement on the review of Postal Charges in the House two years ago I said that proposals were under consideration to increase the number of PO Boxes with a view to improving the service provided in keeping with the Government's policy of supporting the infrastructure in the development of Gibraltar's role as a Financial Centre. I am glad to say that the work was duly completed and that the number of external PO Boxes has been increased from 391 to 571. Thank you, Mr Speaker.

HON J BOSSANO:

Could I just ask on the PO Boxes, Mr Speaker, I understand the first part of the Hon Member's statement related simply to a technical adjustment, but on the PO Boxes, can he tell the House how long is it since they bought the PO Boxes which are now going to be installed?

HON G MASCARENHAS:

They were actually purchased, I believe, in the financial year 1984/85.

HON J BOSSANO:

Can he tell us how it is that it has taken the Government since 1984/85 from the point of purchase to the point of installation?

HON G MASCARENHAS:

Mr Speaker, the matter of the boxes has been a bone of contention with the Minister himself for a long time. I have seen them virtually on a daily basis and it never seemed to me to grow, it seemed they had been planted and left there. I think it is a situation whereby the PO Boxes was a matter of design for Public Works rather than the construction of them, there was a complication and then I think that part of the reason is that by Public Works standards it was not a major job and therefore priorities for major jobs elsewhere meant that the workforce was continuously being diverted elsewhere and this got left behind.

HON CHIEF MINISTER:

Mr Speaker, I am sorry to say that I haven't got my statement and perhaps this might be a convenient time to adjourn and I will make my statement immediately after.

MR SPEAKER:

There is no reason why we shouldn't go on to legislation. A ministerial statement can be made at any time.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, regretfully, I am afraid I have to apply for the suspension of Standing Order 30 because the Employment (Amendment) Ordinance, 1986, was not delivered to Members of the House within the requisite period of time. I apply for the suspension of Standing Orders and I can only apologise to all Members of the House for the delay in letting them have the Bills, I simply do not know what went wrong. I simply don't know what went wrong; nobody is to blame but my Chambers but it didn't go up to the printers till the 31st January.

HON J BOSSANO:

Mr Speaker, obviously we prefer to have as much advance notice of legislation but we recognise that this oversight sometimes happens so we have got no objection.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE EMPLOYMENT (AMENDMENT) ORDINANCE, 1986

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Employment Ordinance be read a first time.

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Sir, the Regulation of Wages and Conditions of Employment Ordinance now incorporated into the Employment Ordinance, provided that employees in receipt of wages not exceeding £1,500 per annum should be provided with a contract of employment by their employers. The same Ordinance also provided that the amount of compensation which could be awarded by an Industrial Tribunal on determination of a complaint should not exceed £3,120. These figures have remained static for a number of years and in accordance with the recommendations of the Conditions of Employment Board, the Government has decided that they should be amended to bring them in line with current rates of wages. It is proposed that the figures should be revised annually on this basis in the future. 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 BOSSANO:

On the general principles of the Bill I would just like to make one point, Mr Speaker. I don't know whether it requires another suspension of another Standing Order. We don't mind receiving it late but we would like to have something printed on it when we get it.

HON M A FEETHAM:

Mr. Speaker, I wish to speak on the general principles of the Bill. Obviously, we welcome the amendment. The only thing is that we are very conscious of the fact that as far as the award is concerned unless the person concerned has got a better job elsewhere the award means nothing to him so what we would like to do is to leave the Committee Stage to the next meeting of the House because I would like to propose an amendment to the Bill which will entail that the person who has had an award made in his favour, there is such a thing as a basic award which is not included in the present legislation which is the minimum guarantee following unfair dismissal which is not reflected in the present legislation which ought to be included. What I am trying to say is that it may well be, for example, that somebody is unfairly dismissed and because he got a job elsewhere within a week of having been dismissed he gets no compensation at all even if that person may have been working with his previous employer for anything up to ten or fifteen years or even nine years. There is such a thing as the basic award which we would like to include as an amendment.

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

HON DR R G VALARINO:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill will be taken at the next meeting of the House of Assembly.

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Mr Speaker, I do not intend to proceed with this Bill at this meeting of the House. I am still waiting to hear the reactions of the Gibraltar Lawyers' Association to the contents of the Bill.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the suspension of Standing Order 30 in respect of the Births and Deaths Registration (Amendment) Ordinance, 1986, because this Bill was not given to Members within the requisite period of time. Again, it didn't go to the printers until the 21st January.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Births and Deaths Registration Ordinance be read a first time.

Mr Speaker 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, there are three principal objects in this Bill. The first object is to reduce the number of books which need to be kept in the case of registration of deaths from three books to one book. The second object is to remove the obligation which falls on officials in Gibraltar Government hospitals to register deaths which occur in the Government hospitals and the third object is to increase the penalties for breach of the provisions of the Ordinance to a more realistic level. Mr Speaker, by Section 20 of the Ordinance the register of deaths must be kept in three separate and distinct books marked 'A' the Ordinary Civil Population in which is registered the death of every person who died in Gibraltar who is a native of or domiciled or otherwise permanently resident in Gibraltar. The second book is book 'B' entitled the Floating Civil Population in which is registered the death of every person who dies in Gibraltar who is an alien without any permit or on a temporary or special permit. And the third book is entitled book 'G', the Garrison Population in which is registered the death of every person dying in Gibraltar who is a member of the Armed Forces of the Crown or the wife, child or other member of the family of or domesticated with any such person. It is considered, Mr Speaker, in this day and age those three books are not necessary and only one book is necessary and it is proposed by Clause 3 of the Bill to reduce the number of registers to one book. Mr Speaker, at the present time when a person dies in a Government hospital the Hospital Administration is responsible for registering the details of the death of such persons. Very often the Hospital Administration doesn't have all the necessary details to correctly register these deaths and on occasions great distress is caused to members of the family who are called by the Registrar to rectify the entry before the appropriate certificates can be issued. Clause 5 of the Bill, Mr Speaker, removes this obligation from the Hospital Administration and leaves the responsibility for registration of deaths occurred in a Government hospital to those persons who have the responsibility

for the registration had the death not occurred in a hospital. The third object, Mr Speaker, is fines for breach of the Ordinance. These are not being increased in the fees but an increase in the penalties that calls for the various offences stipulated in the Ordinance. These penalties haven't been increased for a considerable number of years. Mr Speaker, I have checked the 1935 edition of the laws and the penalties specified in column 2 of the Schedule set out in Clause 7 of the Bill, all those penalties appeared in the 1935 edition of the laws and they haven't been increased since. The object of Clause 7 of the Bill is to increase those penalties for the various offences as shown in Clause 7. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

There being no debate 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.

MINISTERIAL STATEMENTS

MR SPEAKER:

I will now call on the Hon and Learned the Chief Minister to make his statement.

HON CHIEF MINISTER:

Mr Speaker, I apologise for not having had the statement prepared beforehand but the shape of it was changed at the last moment.

In a press release issued on Thursday 23 January we announced the decision taken in Council of Ministers the previous day to advise the Governor that a Commission of Inquiry should be appointed to inquire into the incident which occurred at Cooperage Lane on Wednesday 15 January. The release stated that I would announce the terms of reference for the Inquiry at today's meeting of the House and that it was hoped to announce the appointment of a sole Commissioner at the same time.

The terms of reference are as follows:

To investigate and enquire into:

- (1) the events of the 15th January, 1986, insofar as the work being carried out on the building site at Casemates Triangle is concerned
- (2) the type, nature and extent of the work being carried on on the building site prior, during and subsequent to the 15th January, 1986
- (3) the causes of the collapse of part of the south wall of the said building site resulting in the death of Mrs Josephine Pulham
- (4) the respective responsibilities of the persons, firms or companies owning, occupying or being on or engaged in work being carried out on the said building site and whether such responsibilities were adequately and properly discharged
- (5) the legal responsibilities of the Government of Gibraltar, its servants or agents with regard to the work being carried out on the said building site and whether such legal responsibilities were adequately and properly discharged by the Government, its servants and or agents
- (6) whether all proper steps were taken to ensure the safety of the public generally and of the persons on, in or near the said site during the carrying out of all works on the said site
- (7) the respective responsibilities of the Police, City Fire Brigade and emergency services following the collapse of the south wall of the said building site and whether those responsibilities were adequately and properly discharged
- (8) whether the legislation applicable to the work being carried on on the said building site is adequate and sufficient to ensure that such work was carried on competently and properly and with due regard to the safety of the workmen on the site and to the public generally; and if not to recommend amendments thereto.

I am glad to be able to announce that Sir John Farley Spry, Chief Justice of Gibraltar from 1976 to 1980, and currently the President of the Gibraltar Court of Appeal, as well as Commissioner for the reprinting of the Laws of Gibraltar, has agreed to be appointed sole Commissioner for the Inquiry.

The terms of reference have been sent to the Commissioner who has been invited to comment on them. Once the terms of reference have been finalised - and no changes of substance are envisaged - the Commissioner will be formally appointed and the Inquiry will commence shortly afterwards.

The Inquiry will be held in public except insofar as the Commissioner himself may decide that any particular session should be held in private.

HON J C PEREZ:

Mr Speaker, since I have a motion down in my name I would prefer, with your permission, to give due consideration to the statement of the Chief Minister and perhaps when it comes up in the Order Paper I will either give a reply to the motion and not proceed with my motion or proceed with it depending on the contents of the Chief Minister's speech which we would like to look at in detail.

The House recessed at 5.05 pm.

The House resumed at 5.45 pm.

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 Elections (Amendment) Bill, 1985, and

The Births and Deaths Registration (Amendment) Bill, 1986.

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

THE ELECTIONS (AMENDMENT) BILL, 1985

Clause 1

HON CHIEF MINISTER:

Mr Chairman, I have given notice of a number of amendments and I have an amendment on The Long Title.

MR SPEAKER:

Which will be called ultimately.

HON CHIEF MINISTER:

Then I will deal with Clause 1. I beg to move that the words "Elections (Amendment) Ordinance, 1985" be omitted and the following words substituted therefor "House of Assembly (Amendment) Ordinance, 1986". This change arises out of the reprint of the laws where the Commissioner for the reprint has grouped together a number of Ordinances in certain ways in order to make it easier to amend them and now what used to be the Elections Ordinance will be the House of Assembly Ordinance as well as others already on the statute book under that name.

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

HON CHIEF MINISTER:

I have an amendment, Mr Chairman. This Bill was read at the previous meeting when the Opposition, whilst they agreed on the principles of the Bill, wanted to look at the wording of the Bill more carefully. I have put in an amendment and I have had the opportunity of discussing the amendment with the Hon Leader of the Opposition. The purpose of the amendment is in order to clarify and give a definition to what is now (1A) which would become (1B) and then there would be a new (1A), I will come to the other amendments first but I think I ought to explain it in this way. (1A) would come at the top immediately after (c) of Clause 2 and include the words "In determining questions arising under sub-section (1)(i) as to whether a person has lived in Gibraltar during the whole of the qualifying period regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence in or absence from Gibraltar". The question is that there may be people who might be entitled to vote by post and yet not be eligible to be elected so these are the factors that the Registration Officer would take into account in coming to a conclusion whether people are entitled to vote in accordance with the rest of the definition. Under Clause 2, first of all, the words "Section 2 of the Elections Ordinance" should be omitted and the following words substituted therefor "Section 3 of the House of Assembly Ordinance". The marginal note should be amended to read: "Amendment of Section 3" which is the new Section of the House of Assembly Ordinance. In sub-clause (c) the word "subsection" to be amended to "subsections" because as you will see by the amendment of (1A) there is more than one subsection. Finally, of course, and consequentially, (1A) would become (1B) and (1A) is as it appears in the Ordinance.

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

HON J BOSSANO:

Mr Chairman, I think the amendment, in fact, addresses itself to a point which we ourselves had not raised which is the question that in the legislation that is proposed it is not intended to deprive of their voting rights people who happen to be, shall we say, accidentally away from Gibraltar. We were somewhat unhappy the last time when we asked for more time and I think, perhaps it is paradoxical, but we asked for more time and then we don't tend to use the time we get because we have other commitments and we take it for granted that since we have the time we then leave it till the last minute and I think that tends to happen and quite honestly, Mr Chairman, since the House met the last time we ourselves have not come up with any answers to overcome the fears that we expressed the last time and having expressed them in the House we have not ourselves been able to think of a way of how can we do what we agree in principle is desirable without it having repercussions that we don't want to see. I think one of the areas where we were somewhat confused, shall we say, was this business in the Section that talks about a person being stationed in Gibraltar where in the explanatory memorandum there was no reference to stationed and then in the legislation the thing is, one could say, circumscribed by qualifying it and saying that it is the person who is stationed in Gibraltar for the principal purpose of carrying on a business, profession or occupation and has his family elsewhere, Members will recall that I gave the example of the current personnel manager of GSL and the previous personnel manager of GSL one of whom had his family in Newcastle and the other one had his family with him in Gibraltar. Looking at it as a layman, without the knowledge of legal terminology, for me 'stationed' has the meaning that the average man in the street will understand, that is, stationed is somebody who is out here on a limited contract and going back. If it doesn't mean that then the meaning of that section is different from what it appears to be. If it means that that section only applies to people who are in that category, that is, the people who are out here on a limited time contract and at the expiration of that contract return to their home country, then the question of whether they have their wife and children with them is irrelevant because it only applies to a person who is stationed in Gibraltar. I think that point which we made the last time which we ourselves have nothing to propose on how to clarify the situation, is something that we would wish to see answered before we actually make this law because at least we want to know who we are applying the law to and I think, certainly, the Electoral Registration Officer should not be put in the invidious position of having acceptance or refusal of somebody

in the Register than challenged by a legal interpretation in the Court so we certainly wouldn't want to do anything and I don't think the Government would want to do anything which is then open to a challenge on interpretation of the law and the possibility of it being overturned because a wider meaning has been assigned to it than was originally intended. I also think that on the question of where a person has more than one home 'he shall be presumed to live permanently or indefinitely in that place in which he has his principal home'. I think we have in the current situation that is developing in Gibraltar and as the House knows we have ourselves expressed very strongly our concern about an exodus of Gibraltarians, in that context there is a section of the population that has two homes, we know that, or at least if they don't have two homes they have a house on the other side and an address on this side. The criteria for determining the principal home, is that going to be determined by the Electoral Registration Officer? Is he going to be the one who decides in each particular case where the principal home is? Because it says 'he shall be presumed to live permanently or indefinitely in that place in which he has his principal home' but it doesn't say how you arrive at where his principal home is and these were the kind of worries, I think we need to avoid a situation where the person given the responsibility for implementing what the House of Assembly legislates is then put in the frontline of having to deal with challenges to what he is doing and how he is interpreting it and in that context the definition should be such that it should be as clearcut as possible and as incapable of more than one interpretation as possible.

HON CHIEF MINISTER:

Mr Chairman, before I ask the Attorney-General to deal with that, I should have said something before and that is that some of these definitions are not just drafted locally but have been taken from well tried criteria in textbooks. For example, stationed in Gibraltar is precisely defined in one of the legislation of which there is a basis. I think I should have said that at the beginning but I would leave it to the Attorney-General to deal with.

HON ATTORNEY-GENERAL:

Mr Chairman, it really is a question of fact. The new Clause (1B) is to help to define what we mean by permanently or indefinitely and it is a matter for the Electoral Registration Officer to determine as a question of fact and what we have tried to do in Clause (1B) is to say, well, if a person has but one home and that one home is in Gibraltar the presumption, and it is a rebuttable presumption, but the presumption is that that person intends to live permanently and indefinitely in Gibraltar

so the Electoral Registration Officer gets an application and the home is named as in Gibraltar and if he is satisfied that that person is properly living in Gibraltar that is his one home in the world then he can put him on the Voters List. It is a presumption, does he intend to live permanently or indefinitely in Gibraltar, if he has only got one home anywhere in the world and that home is in Gibraltar that presumption would be yes, he intends to live permanently and indefinitely in Gibraltar. If a person has two homes, one in the United Kingdom, one in Spain and one in Gibraltar then it becomes a question of fact which is the principal home. He might have a home in Gibraltar perhaps through his parents-in-law and a little flat in Spain. The Electoral Registration Officer will look at all the facts and circumstances and say which is that man's principal home. We try to make presumptions here all of which are rebuttable by the facts as given to the Electoral Registration Officer. (c) is for a person who is in Gibraltar and the principal purpose of his being in Gibraltar is to carry on a business, to carry out a contract, to carry on a trade or profession or an occupation. A person who is working here, if his family is with him the presumption will be that he intends to be permanently or indefinitely in Gibraltar. If his family is not with him the presumption is that he is going back to where his family live and therefore we say that the person's principal home then will be wherever his wife and family are and therefore he is presumed to live permanently or indefinitely in the place where his wife and family are. These three ideas were taken from a Royal Commission Recommendation, a recommendation by the Private International Law Committee in its first Report which was published in 1954 and where they said: "The idea of domicile is where the person has his permanent home, should be made easier by the adoption of the following presumptions:- (1) where a person has his home in a country he shall be presumed to intend to live there permanently, (2) where a person has more than one home he shall be presumed to intend to live permanently in the country in which he has his principal home, and (3) where a person is stationed in the 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", and it is those three presumptions that we have taken here to try and help the Electoral Registration Officer to determine whether a man intends to live in Gibraltar either permanently or indefinitely.

HON J BOSSANO:

Has the Hon and Learned Member cleared up the question of 'stationed'?

HON ATTORNEY-GENERAL:

In the first draft of the Bill I avoided the word 'stationed' because in Gibraltar stationed always had a Service connotation like Army or Navy or Air Force. What I would have liked to have seen is where a person is in Gibraltar with the principal purpose of carrying on a business, profession or occupation, to show that the *raison d'etre* of the person being in Gibraltar is to work here, to carry on a trade or a business. Stationed seemed to make it easier or more acceptable to show a temporary purpose of being in Gibraltar for the purpose of a trade, profession or business. I am easy about the word stationed, as I say, in the first draft stationed wasn't in it and I would personally be happy with: "where a person is in Gibraltar for the principal purpose of carrying on a business, profession or occupation", because in Gibraltar 'stationed', despite what the recommendations of the Royal Commission are, in Gibraltar stationed has a Service connotation.

HON J BOSSANO:

What I am asking, Mr Chairman, is in fact, if somebody is challenged on his right to be registered on the basis that he is in Gibraltar for the purpose of carrying on a business, profession or occupation but in fact can he argue that that doesn't apply to him because he is not stationed? This is the question that I am asking, really.

HON ATTORNEY-GENERAL:

I think the thrust of it is, what are you in Gibraltar for? Why are you here? I am here because I have got a contract, I am here to do a job. Where are your wife and family? My wife and family are in the United Kingdom. Therefore the presumption is that he is not in Gibraltar permanently or indefinitely. If his wife and family are here then the presumption is that he is here for indefinite purposes. I would like 'stationed' out but I think 'stationed' complies more clearly with the Royal Commission and provided that the Electoral Registration Officer knows what it means "where a person is in Gibraltar for the principal purpose of carrying on a business, profession or occupation", that is the thrust of (c).

HON CHIEF MINISTER:

I do not think it is necessary to remind Members that if somebody applies to be registered and the Electoral Registration Officer refuses, he has the right of appeal against the decision of the Electoral Registration Officer's interpretation.

HON J BOSSANO:

That is precisely the point that I am making, that I am sure we do not want to create a situation where the poor Electoral Registration Officer is constantly having his decision appealed against and the Register of Electors will not get finished. Our concern, I suppose, in a way can be put down to the fact that when we are looking at it we are looking at it not from a technical angle of the drafting of legislation but from what the law appears to be saying and as a layman the law appears to be saying to us certain things which we find difficult to translate into practice if somebody comes along and disputes the interpretation of the law. If we take, for example, forgetting the part about the person being stationed, "where a person has more than one home he shall be presumed to live permanently or indefinitely in the place where he has his principal home". Well, is the principal home where he spends most of his time? Is it going to be determined by the amount of time spent there and how can that be ascertained? Suppose we are talking about somebody who doesn't have a wife and children, how do you know where his principal home is?

HON ATTORNEY-GENERAL:

The wife and children have got nothing to do with (b), the wife and children are only for the person stationed in Gibraltar for the principal purpose of carrying on a trade, profession or business. The two homes is another one. If a person has two homes then it is a question of fact which is his principal home.

HON J BOSSANO:

Then what we are saying is that a person who is stationed in Gibraltar for the principal purpose of carrying on a business cannot be presumed not to intend to live permanently here unless he has a wife and children, so bachelors can be stationed in Gibraltar with no intention of staying here and they can register.

HON ATTORNEY-GENERAL:

Bachelors who are here in Gibraltar for the principal purpose of carrying on a trade, profession or business, yes, provided they satisfy the Electoral Registration Officer that they are here for a reasonable length of time, that they are in Gibraltar for carrying on not a one day contract nor a one week contract.

HON J BOSSANO:

So the Financial Secretary would not be able to register but the Hon Attorney-General would.

HON ATTORNEY-GENERAL:

The Financial Secretary would have to establish to the Electoral Registration Officer, despite the fact that his wife and family were in the United Kingdom, that his principal home was in Gibraltar, that he was here. It is a presumption which is rebuttable.

HON CHIEF MINISTER:

I think the two of them have made their case clear.

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

The Long Title

HON CHIEF MINISTER:

I beg to move that in The Long Title the words "Elections Ordinance (Chapter 48)" be omitted and the following words substituted therefor "House of Assembly Ordinance".

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

THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL, 1986

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to give notice that Section 39(2) which appears in the Schedule set out in Clause 7 of the Bill be amended to Section 39(3).

Mr Speaker put the question which was resolved in the affirmative and Clause 7, as amended, was agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the House of Assembly (Amendment) Bill, 1986, and the Births and Deaths Registration (Amendment) Bill, 1986, have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

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

PRIVATE MEMBERS' MOTIONS

HON J C PEREZ:

Mr Speaker, let me first explain that I do not propose to proceed with my motion and if I may, I will now reply to the statement of the Hon the Chief Minister only to say that one of the reasons that the motion was being moved in the first place, as Hon Members might have seen from reports in the press, was because I felt anxious that the Government were not responding to my call for a public inquiry but I was later relieved when the press release was issued that they were going to set it up. The terms of reference as set out by the Chief Minister certainly is what we were looking for and the person that has been appointed is to our satisfaction and, Mr Speaker, the only thing that I might quarrel with is that I would have personally thought that included in the Commission should have been someone with certain expertise such as a civil engineer or something like that but certainly we are satisfied with the way the inquiry has been set up and therefore I do not propose to proceed with my motion.

HON CHIEF MINISTER:

Mr Speaker, I would just like to say that it is much easier, of course, for an Opposition, I won't say for the Opposition, to ask for an inquiry immediately anything happens but, of course, the Government have got a wider responsibility and have to look at matters. There was no loss of sight in this, the unfortunate event happened on a Wednesday and the following Wednesday, at the Council of Ministers meeting, we had all the material which was required from Heads of Department and had all the material required, also arrangements were put in train immediately for a Commissioner. I am glad that the Commissioner has been accepted as I hoped would be as being the right person for a job like that. Having a sole Commissioner is, in many ways, accepted generally as being much better. One assessor might take a particular view, two might cancel out the Commissioner and three might be too heavy.

I think these kind of inquiries and of much bigger import in the United Kingdom, provided the person who presides it is well aware, is sufficient to see that justice is done and we feel that that is the right way to do it and I am grateful to the Hon Member for withdrawing the motion because, in fact, we responded at the time that it was necessary to have all the material ready.

The House recessed at 6.20 pm.

WEDNESDAY THE 29TH JANUARY, 1986

The House resumed at 10.45 am.

HON R MOR:

Mr Speaker, I beg to move: "That this House considers that the agreement entered into between the Government of Gibraltar and Her Majesty's Government for meeting the cost of paying Old Age Pensions at current rates to former Spanish workers fails to adequately protect the position of Gibraltar and should not have been finalised without a full prior debate in the House of Assembly". Mr Speaker, yesterday morning during question time when we were on supplementaries following the question on making the Actuarial Report public, the Minister for Labour and Social Security made what I feel was an unfortunate remark. He said that he would not let me see the Report so as not to allow me the opportunity of playing with figures. This must obviously be indicative that the Government has something to hide and is therefore reluctant to even let the Opposition see this Report. It is most unfortunate, Mr Speaker, that on an issue of such importance and of such public interest as the Spanish pensions, the Government should attempt to hide the details which are related to the Social Insurance Fund especially when Actuarial Reports are paid for from the contributors money. I can assure the Minister, Mr Speaker, that I do not play with figures as he says. Being a semi-professional accountant and a registered auditor in Gibraltar I take figures quite seriously and, in fact, figures supplement my standard of living. But I can also assure Members opposite that I do not need to see the Actuarial Report to put in question the Government's figures as he will find out within the next few minutes. As you can see, Mr Speaker, the motion before the House claims that there is a failure on the part of the Government to safeguard the interests of the people of Gibraltar. By this I mean that the Government has already committed Gibraltar to paying £4½m towards meeting the cost of pensions to Spaniards during the next three years. The Government's claim that these £4½m is money that belongs to the Spaniards accumulated since 1969 is being questioned today, Mr Speaker. I submit to this House that the figure of £4½m is incorrect and I will also say that the amount belonging to the Spanish

pensioners is substantially less today than what the Government claims. I will, of course, be providing sufficient evidence to substantiate what I am saying. Let me make it quite clear, Mr Speaker, that the GSLP is not in any way against the Spaniards getting their pensions at whatever rate are mandated by EEC law but what we cannot agree to and completely oppose is that one single penny of the contributions of workers in Gibraltar should go towards paying for these pensions. The workers in Gibraltar were not responsible for what happened in 1969 nor were they responsible for the agreement made by the AACR Government with the British and Spanish Governments on this issue. We have always had doubts about the accuracy of the figure of £4½m which has consistently been quoted. When I have asked what the amount belonging to the Spaniards in 1969 was, I have always had a rather vague reply which, I suppose, in some ways is understandable but an approximate figure could have been supplied. I therefore decided to carry out a research myself in order to establish this figure. One of the problems I encountered was where to start looking for this information. Mr Speaker, I must admit that in this respect I had a stroke of good luck. I am not sure whether I should be grateful to my wife for having conceived my son nine months before the 16th December, 1969, or whether I should be grateful to my son for having been born on the 16th December, 1969. The fact is, Mr Speaker, that had my son not been a handsome one-year old boy in December, 1970, I would not have entered him for the baby of the year contest. I have a copy here of the Gibraltar Evening Post dated the 7th January, 1971. The only good thing about this paper during all these years was, of course, that my son's photograph was in it but by an amazing coincidence, there is also this headline here, Mr Speaker, and the headline reads: "If the AACR had agreed to hand over £½m" and the writer suggests that they would have been labelled "Doves" by the IWBP. It is interesting to note a comment on this article, the article, of course, referred to handing over £½m to the Spaniards at that time. It is interesting to note a comment here by the writer: "The AACR is composed of responsible men who through the years have been trained to govern, not to oppose. Their mission has always been one of creating and not of destroying as has been the case of those in power today". Of course, they were referring to the IWBP in Government. No doubt, Mr Speaker, this is an unbiased opinion of an impartial and apolitical columnist, he is right of course, we are Left. I now had a base on which to work on, I had the date where I could start my investigations and I therefore called at the Gibraltar Chronicle offices and I searched through the Chronicles of that period covering December and early January and, in fact, I came across an article which carried a report on a statement made in this House of Assembly on the 10th December, 1970.

MR SPEAKER:

A statement made by whom?

HON R MOR:

By the then Chief Minister, Major Bob Peliza. I think I should read the statement so that we know what this was all about when we refer to the £½m. The statement reads: "Sir, for some considerable time we have been faced with the difficulty of how to meet outstanding obligations to Spanish subjects who formerly worked in Gibraltar. There are due to them as workers a number of payments which both from a legal and moral point of view we would like to see discharged. Owing to practical difficulties not within our control, it has not until now been possible to arrive at what seems to be an acceptable settlement. As the House will know, the monies due are arrears of wages, work pensions, work gratuities and benefits payable under the Employment Injuries and Social Insurance Ordinance. The main problem concerns these last payments which are held in the Social Insurance Fund the sole purpose of which is to pay benefits to those people who have contributed to it. Part of that Fund has been built up by Spanish workers. However, there has been a very real and difficult problem concerning the actual payments to these workers of the old age pensions and other benefits to which their past contributions have made or will make them eligible in the future. This is that owing to the complexities of the different benefits it is necessary to scrutinise individual cases and to check in personal interviews the circumstances of the applicants. This has not proved possible to arrange. We have now come to the conclusion, after an exhaustive examination of the possibilities, that the only feasible solution is to negotiate the transfer to the competent Spanish organisation of that part of the Social Insurance Fund held in respect of these workers and for the Spanish authorities then to take over the responsibility for making the appropriate payments to individuals. This we have asked the British Government, on Gibraltar's behalf, to do. Negotiations have accordingly been initiated through the British Embassy in Madrid. Details of the transfer, as well as of the arrangements made thereunder, have still to be worked out. In due course the necessary legislation to authorise the transfer will be brought before the House". He then goes on to talk about the other monies due to the Spaniards and he ends by saying: "I feel confident that the House will appreciate that the Government should be endeavouring, in the interests of the workers themselves and for the good name of Gibraltar, to resolve this problem". After the statement was read, Mr Speaker, a rather lively exchange took place and I think it is interesting to note some of the remarks that were made. For example, Mr Speaker, at one point the Chief Minister who was then Major Bob Peliza, said: "There is no question of any bullying, it is a question of stating the position of the Opposition and not sitting on the fence". It would appear that for the AACR Government old customs die hard from what ensued yesterday at question

time. Another point of interest that I am quite sure the Hon Leader of the Opposition will take up later on is the question of a comment again made by the Chief Minister where he said: "Mr Speaker, as far as I am aware the Leader of the Opposition is usually consulted on matters of foreign affairs and I presume that he must have been consulted on this as well". But perhaps the most interesting and the most important remark which is recorded here, Mr Speaker, was what the then Hon Sir Joshua Hassan, Leader of the Opposition, said on the 10th December, 1970: "Mr Speaker, may I crave your leave to make a statement of a personal explanation on this matter. Of course the problem is one that has been pending for a long time but the way in which it is now proposed to solve it is now being suggested for the first time. In fact, he says that they have been wondering about this problem with all its difficulties and that they have now hit on something. This great brain wave of giving over £1m to the Spaniards was not in our minds". Those were the words of the Hon and Learned the Chief Minister. I think it is interesting to note as well that for the first time £1m has now been established as the money that was being intended to be handed over to the Spaniards. Further on the Chief Minister made a clarification even on this £1m and he said: "I think I should assure the Hon and Learned Leader of the Opposition, and I think he knows this, that part of that £1m belongs to the workers themselves, and that the whole object of this operation is to make sure that those people, whose money it is, and where we have a legal obligation have it paid back to them".

HON A J CANEPA:

Part of the £1m, not the whole of it.

HON R MOR:

Not the whole of it. Mr Speaker, but if I may refer again to what the present Hon and Learned the Chief Minister said then as Leader of the Opposition, that is: "This great brain wave of giving over £1m to the Spaniards was not in our minds". By just reading it it is impossible to say whether the Hon and Learned Member said this in a cool, calm and collected manner or whether he was ranting and raving like Rumpelstiltskin but I will tell you, Sir, and if I may quote from the Hansard, before he spoke, I am not sure whether you were Speaker.

MR SPEAKER:

I was Speaker.

HON R MOR:

Then you said: "Mr Isola, we must not make a statement on the subject matter of the debate. We will now go on . . ." and you were interrupted. Then the Hon and Learned Member spoke and after that, Mr Speaker, you are quoted as saying: "Order, order", so in fact you had to call the House to order. I have here a copy of part of a speech made at budget time following this debate and I have an extract here from Mr Maurice Xiberras and this is what he said: "I was surprised"

MR SPEAKER:

The date of that meeting is March?

HON R MOR:

It would have been around March.

MR SPEAKER:

March, 1971?

HON R MOR:

Yes. If I may quote from part of this: "I was surprised to hear the Hon and Learned Leader of the Opposition referring to socialistic principles on the question of the possible infiltration of Spanish labour when it was he of all people who said in this House that we were giving up £1m to the Spaniards". There were shouts of 'hear, hear', and then the Hon Member interrupted and said: "Who did it?" and Mr Xiberras said: "Yes, he, Sir, was opposing it. He shouted out in this House, out of turn and quite beyond control, he shouted out and it appeared in a certain newspaper the day after" and there were again cries of 'hear, hear'. Mr Speaker, let the record show that on the 10th December, 1970, the Hon and Learned the Chief Minister ranted and raved about handing over £1m to the Spaniards and in December, 1985, exactly fifteen years later, he is happy and content about handing over £41m and to put it in his own words, in his New Year Message, Mr Speaker, 'a matter for particular satisfaction'. Mr Speaker, I have established without doubt that the amount of money in the Social Insurance Fund which belonged to the Spaniards was, in fact, less than £1m in 1969. You heard yesterday morning that according to the Financial and Development Secretary the interest earned by the Social Insurance Fund was 12½% but that the amount belonging to the Spaniards would have probably earned less than that. But even if we were to be generous and assuming that the whole of the £1m belonged to the Spaniards and instead of 12½% we worked out the interest at 13% which was a figure quoted in the letter by the Government,

if we compound this interest on £1m since 1969 we would end up at the end of 1985 with a figure of £3.5m. This is £1m less than what the Government is committed to pay, Mr Speaker, which means that over £1m is money which belongs to the people of Gibraltar. This is intolerable and it is totally unacceptable to this Opposition and it is deplorable that under these circumstances the Government should consider this a matter for particular satisfaction. Therefore, Mr Speaker, in conclusion, I submit that the Government is not safeguarding the interests of the people of Gibraltar and I therefore commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon R Mor.

HON CHIEF MINISTER:

Mr Speaker, I am primarily responsible for the agreement so I think I ought to start this debate in reply. It seems to me from the intervention of the Mover that the main thrust of his argument is that we are giving away £1m more than we ought to give to the Spaniards which belongs to others than the Spaniard contributors to the Fund. Well, it is interesting to see that and it is very much in consonance with the way in which the Opposition has been dealing with this matter or rather have not been dealing with this matter. The Opposition well know that the question of Spanish pensioners was becoming more and more acute as Spain joined the Common Market yet they have kept very quiet, they have said nothing in this House, they have brought no motion, they haven't warned us about anything, they have just kept quiet in order to be able then to attack one way or the other. It is, of course, of particular satisfaction to be here elected by the people of Gibraltar in 1972, 1976, 1980 and 1984 and to be reminded what one said in 1970, at least an achievement that very few Members opposite may be able to attain. If they do at some time enter into this side of the House which I very much doubt, perhaps after the visit to America by the Hon Leader of the Opposition he may be coming back with ideas that will be more acceptable to the people of Gibraltar as a whole and then perhaps the militancy of the party may disappear and then they may appear more, if I may say so to use a phrase of my Hon Colleague, the sheep's clothes may be even much warmer than it is now to cover the wolf's body. Anyhow, it looks as if the Hon Mover has had no more arguments to use other than what was said in 1970. I remember that very vividly and the great surprise at that time was not whether £1m should or should not be handed to the Spaniards it was that the IWBP led by the then Chief Minister for two years and ten months, Major Peliza, were completely out of step in their approach to this matter because they couldn't have been more anti-Spanish than they were, they couldn't have been more, and this at the time was

considered to be a most extraordinary U-turn on the part of the Integration With Britain Party. It may be they were being properly advised that this would be a recurrent problem in the future but I remember that they were not so enthusiastic about the way in which they brought the matter to the House. Anyhow, I will deal with the question of the money at a later stage because I think this is very important to clear. I think from the experience we have of the calculations of the Hon Mover, he is normally wrong. I will leave that to other people to decide but as far as I am concerned I will say this without any hesitation, the £41m which we have mentioned have been, according to my information, the actuarial assessment and if I had to choose between an actuarial assessment of the Fund from the Government's actuaries and the agreement of the suggestions of Mr Mor I would rather accept the actuaries' than Mr Mor's suggestions.

HON R MOR:

You don't know it all.

HON CHIEF MINISTER:

I am speaking, I didn't interrupt you so please let me carry on. Anyhow, the Gibraltar Government does consider and I think, generally speaking, it has been accepted that the agreement entered into or rather that the fact that the British Government have agreed to provide £161m is good for Gibraltar, it is good to settle the immediate problem of the question of the pensions which is brought about by the Spanish entry into the European Community and that it adequately protects the position of Gibraltar. I think some Members will remember that there was a discussion on television some time ago, I think it may have been in November, where a member of the Executive of the AACR and a member of the GSLP, Mr Moss, and a lady who appeared as representing the European Movement but who nobody would classify as a friend of the AACR, Miss Anes, a former Minister of the IWBP, had a discussion and that discussion was less than controversial since all concerned agreed that Gibraltar had a moral responsibility in this matter and that the responsibility should be discharged. That was the outcome of the discussion at the time. This is precisely what the Gibraltar Government was able to achieve after extremely tough and difficult though friendly negotiations with the Secretary of State in respect of the years 1986 to 1988. Anyone who has any sense or perceives how the administration in the United Kingdom looks after pennies in the Health Service and in all other matters, to get from the British Government £161m on a matter on which there is a dispute, and I don't mind saying so clearly though I will reiterate at a later stage what the Gibraltar Government position is on it, on a matter which is in issue because there is, strictly speaking, in terms of local law, a legal responsibility for us

to pay these pensions, a matter which is in issue and I don't say that because I am saying that it is in issue that we haven't got a good case, I think we have an excellent case and I think that the proof of that is in the immediate agreement that has been reached. In a matter which is in issue, to have been able to get the British Government to accept and for the moment I am assuming that the £4½m is the money that is due to the Spaniards, I will leave other people to deal with that because that is the understanding and I am as responsible as anybody else for that figure but Members opposite will appreciate that that figure was not discovered by me or was not discovered by my colleague, it is a figure which has been thrust out many times and on which there have been quite a number of assurances that that was the money available and that the British Government have accepted that around that figure which we said was the one we morally were entitled to pay, around that figure have accepted a settlement for the next three years and as has been stated on so many occasions, it has been done without prejudice to either side so that the way ahead for further discussions and ways of solving the problem will be gone into and other matters will be discussed with the British Government of which, of course a thorough investigation of the Social Insurance Fund will be one of the important matters to be discussed. Of course there was a problem of Spanish pensioners and it was public knowledge. If it was public knowledge in 1970, it was public knowledge at the last meeting of the House in November and in spite of that the Opposition did not come forward with any suggestions as to how the matter should be dealt with. It is typical of the Opposition which attacks the Government on all sorts of issues this being not only its privilege but its duty but which never comes up with constructive alternative policies and which, if I may suggest, is also its duty. This applies as much to this question as to the Leader of the Opposition's economic plan for Gibraltar about which we have heard so much over the elections and so little since the elections. I wish the Hon Member would listen with attention and not be laughing all the time, I don't do that when he speaks. I listen to him very carefully and I have respect for what he says and it is no use making faces in order to ridicule what one is saying, that I think is rather unlike him, if I may say so, and I am glad that he has taken the point.

HON J BOSSANO:

No, Mr Speaker, the Hon Member should stop being so funny and then I wouldn't be laughing.

HON CHIEF MINISTER:

It may be funny to you but even if it is it is the considered argument of the Head of the Government and however funny it may be to you this is what Gibraltar wants to hear, what the Head of the Government does or what the Leader

of the Opposition does, that is what they want to hear. I could be belittling and doing things when the Leader of the Opposition is talking but I normally keep a very quiet face and I normally do not interrupt either by contortions of the face or otherwise. Anyhow, all I say is that we had a meeting in November, that the problem was as acute, perhaps the most acute ever because Spain was on the throes of entering the European Market, there had already been discussions all round, there has been a considerable amount of concern in Gibraltar, a considerable amount of concern in Gibraltar as to how the matter was going to be dealt with and that crossed the whole spectrum of opinion in Gibraltar, people following the Leader of the Opposition, people who follow us, people who follow nobody, there was big concern about this matter at that time and, of course, this was of very big concern to the Government because it was a matter that was arising, that could sour relations between Gibraltar and the vicinity, that could spoil all the benefits and things that have been brought about by the opening of the frontier and the restoration of normality between Gibraltar and its vicinity. Anyhow, as I say, whilst I do not wish to improve on their electoral prospects such as these might be, I would make the point that the Opposition will never achieve credibility in the eyes of the electorate simply by telling the present Government that it is doing everything wrong unless it is also able to tell them what we should do, what is the alternative policy for Gibraltar that the Leader of the Opposition has in mind, what is his famous economic plan about which nobody knows anything except those who propound it or perhaps it is because the plan would be so repugnant to public opinion that their electoral chances would be considerably diminished and if, in fact, they did well at the last election, as obviously they did, it was certainly not at the expense of the Government but at the expense of other sources which are no longer, and if I may say so, fortunately, in this House. There was some criticism recently about the fact that the meetings of the House last less than they used to last before. Well, I would like to say, despite our differences, that this happens because the Opposition do not filibuster and the meetings were endless because of that. I think we do business with this Opposition despite what I say but in parliamentary terms we do business with this Opposition much more practically and no less effective and in less time. If that is anything, we have certainly produced productivity here though we don't get any payment for it. The motion states that the matter should not have been finalised without full prior debate in the House of Assembly. I have already indicated that the matter was public knowledge before the agreement was entered into, before the last meeting of the House of Assembly was held but then, as I said before, the Opposition did nothing to put forward with any motion or any suggestions on the matter. I think my assessment, and it is purely a personal one, my assessment is that they were sitting on the fence, ready to pounce on us

if we gave way and when they found that in fact the agreement that had been reached was generally acceptable as the way out for the moment, or for three years, then they have come up now to say that we are giving away £1m which does not belong to the Spanish Sub-Fund and that that is immoral, that that is improper. We shall have to hear a little more about the figure, I am certainly not going to deal with it, I can tell you, but I am assured that this is a figure which has been certified and which has not been questioned at all by any of the people who have had to look into the matter. I think the agreement fully protects Gibraltar's position and is no more than the consensus of opinion expressed during that television discussion to which I have referred and we shall continue to protect the interests of Gibraltar after 1988. Ministers would welcome any constructive and realistic thoughts which the Opposition might have in this regard for the future. I would state that the Government's own position on the matter for the future is as clear as it has been throughout. Neither the Government nor anyone can commit Gibraltar to the enormous burden which this problem represents, this Government or any Government. We consider that the ultimate responsibility rests on the British Government. We have agreed to a joint review because it is necessary to establish a long-term solution and in that review and in the discussions which will ensue we will as hitherto protect Gibraltar's position. We will look at the whole matter fairly, objectively and with the sense of responsibility which has characterised the Government in all its dealings. Another occasion when we have not shirked in dealing with this matter, and there has been no response from the Opposition was in the Swearing-In Ceremony of the new Governor. I finished my address of welcome saying: "I cannot conclude my reference to the economy of Gibraltar's finances without referring to the question of the effects of Spain's entry into the EEC and in particular pensions for Spanish nationals formerly working in Gibraltar. This is a major problem and our consultations with the British Government are continuing for this reason. I can say no more at this stage". And then we decided that we were going to London the following day when we had talks and then there were subsequent talks on the 21st November. Even the organ of the Opposition party, 'The People', on the 8th November, 1985, said: "What lies behind the London talks; by our political correspondent. The Press Release from Government Secretariat last Wednesday however confirmed that the Minister for Economic Development and Trade was discussing the question of the payment of pensions to Spanish workers employed in Gibraltar prior to the closure of the frontier. This issue will obviously be faced in Madrid since it represents an injection of £6m to the Campo Area. The Gibraltar delegation will most probably be asking the British Government to meet the sum of money involved". Well, that is good speculation but no concrete proposals have been put. There was, there is and there has always been a moral commitment in respect of the contributions that were not collected by the

contributors themselves. My colleague reminds me that it has been a legal commitment since the 1st January, 1986, and I think this was also referred to by the District Officer of the TGWU in his talks with the Spanish authorities across the way that there was a moral responsibility. Of course, it was very comfortable to say that the British Government should pay all of it but we have had to consider what part of it Gibraltar has a moral responsibility to do, we have not accepted the final responsibility, we say that the responsibility comes as a result of a Treaty which the British Government has entered into with another Government of which Gibraltar is a dependent territory but that does not exempt us from making that contribution which we think that morally doesn't bear the test. With regard to the question of the amount I am sure that during the course of the debate there will be plenty of evidence on that aspect of the matter but with regard to the agreement I defend it with pride and with a sense of achievement because I think, for the moment, Gibraltar will have solved a big problem that has been looming since 1970 and let me say that even in the release announcing the agreement on the 23rd December, it stated: "It has been alleged recently in Gibraltar that this matter has been left too late". In fact, it was raised by me with Señor Oreja in Strasbourg in 1977 and has been under discussion at various levels since then and it was then that I attempted and I tried to come to a settlement on the basis of a payment of whatever money was due. Unfortunately for a number of reasons that are well known to Hon Members, the talks that followed the talks between the then Foreign Secretary, Dr David Owen, and Señor Oreja, at which the then Leader of the Opposition and I were present, after two meetings, one in Strasbourg and one in Paris, the working party fizzled out, that is, the party in power in Spain fizzled out and nothing came of it and it was left to the subsequent Government, on approaching the Common Market, to raise the matter on which Gibraltar had taken a stand which I think we can all be proud of.

HON M A FEETHAM:

Mr Speaker, the Hon and Learned the Chief Minister has just said, as he was reminded by his colleague, that we had a legal obligation on the 1st January, 1986, to meet this but, in fact, we have had a legal obligation since the 1st January, 1973. The moment we joined the European Community we had an obligation for present Member States and for any future Member joining the Community. The fact is that this problem arose, first of all, in 1969 with the withdrawal of Spanish labour and, as my colleague has said, in 1970 the matter was discussed and the Government of the day came up with a possible solution which was opposed by the AACR Opposition at the time. I say this because we tend to forget how things begin to develop and this is where there is a fundamental

difference in what we consider should have been achieved and what, in fact, has been achieved by the AACR Government who are in office today. The problem is, I think, that we tend to get involved in our discussions with the British Government, we tend to get involved in domestic matters which are matters which come under the Government of Gibraltar and it seems to overspill into matters of foreign affairs and in that sort of situation we get the British Government actually forcing the Gibraltar Government in directions which the Gibraltar Government may not wish to go and the difference then is it depends on what the attitude and the determination there is on the part of the Gibraltar Government to defend the interests of the people they represent which in this case, of course, are the people of Gibraltar. It is like everything else, it is a matter of opportunity and it is a matter of taking the opportunity and it is a matter of using the opportunity and it is a matter of timing. I am not going to tell the Government that they got their timing all wrong and I am not going to tell the Government that they should have put or shouldn't have put up a bigger fight than they have, the result is that in their view they have done what they consider to be best and we do not agree. I am saying that what has happened since 1970 is that there began a form of discussion about this liability which was there that had to be met, that the sooner that that liability was overcome it was better in the interest of the people of Gibraltar, the sooner that that liability was paid and not left in abeyance it would have been easier for the Government of Gibraltar to have resolved its problem more satisfactorily than leaving it there because as time progressed it became quite clear that Spain was going to make a move towards joining the European Community and, in fact, in 1975/76, as I understand it, they made their first approach towards joining the Community and, of course, because it had a dictatorship, because it had a Fascist Government in office, the application was not considered to be opportune to be accepted because all the principles of the European Community would have been in conflict with the Fascist Government that existed in Spain at the time. That was the first warning, the first red light that shone and it became important and imperative to have that matter resolved if at the end of the day we were going to get a satisfactory conclusion. In 1977, following the formal application which was left in abeyance, in 1977 we have the Chief Minister saying that, in fact, it was raised in Strasbourg, that he spoke to Senor Oreja on the matter with David Owen and the matter came more to the forefront again. And, of course, looking at it from the Spanish point of view, it was obvious to them that because there existed in the European Community Treaty a Regulation on Social Security, Regulation 1416/68, which said quite clearly that that commitment had to be met, as far as the Spaniards were concerned it was there, it had to be given when they joined on the 1st January, 1986, anyway so why accept something which they could use later to their best interests? That

is why when we discuss lost opportunities it is a matter of judgement and as far as we are concerned there has been a lost opportunity because it was also becoming quite clear and that is why I cannot accept that the Hon and Learned Chief Minister should stand up and say that the Opposition have been doing nothing about this matter because the Opposition have been doing a great deal on this matter limited to its ability to be able to influence the Government or the British Government from this side of the House especially when the British Government is quite clear that it will not accept the confidentiality of the Leader of the Opposition and Members of the Opposition and possibly they have got their reasons why they confide more in the Hon and Learned Chief Minister. That is a matter that is public knowledge but the fact is that we have been very consistent in our policy in this respect, not by looking at the pensions problem in isolation, we have been looking at this problem from its wider context and the repercussions of Spanish entry as far as Gibraltar was concerned and this was one of the items which was clearly there which would have a repercussion on Gibraltar as there are other matters which we have raised such as directives on the Finance Centre which, obviously, the Government appear now to be doing something about perhaps to keep at bay the Finance Centre Group and other people who I think have got a very genuine and very strong case on this matter. The Government were told in 1980 that we needed to look at this matter in its wider context. It was in that context that we could have best achieved a solution to this problem because it is like everything else, the Spaniards went into the European Community, their application was welcomed, the negotiations were welcomed by everybody and it is welcomed by the Opposition that Spain should be in the European Community, that Spain should be a democracy, that Spain should be a partner in this Community. We have never said anything to the contrary but what we are saying is that in the context of those negotiations which have taken place we, little Gibraltar, had the right to expect that its problems should be resolved, that its problems should be looked at in depth and there is no doubt, in the view of the Opposition, things which could have been achieved if there had been more determination on that side of the House which there hasn't been and that is quite clear and one of the problems was this, another problem was that Gibraltar would face a financial cost which shouldn't have been faced by them, which is the responsibility of the British Government to have faced. It is no good saying: "We have achieved an agreement because all we are given is this for the time being" because we don't know what is going to happen in three years time. It may well be that the Government are not going to be there in three years time, it may well be that we may be in Government in three years time and the problem is ours. It is typical of the AACR Government, all they do is patch the problem day by day on a piecemeal basis, that is the policy of the AACR, it has been like

that all its life. We had the famous contingency plans which were not there when the Spanish labour was withdrawn. Of course we have a moral commitment, there is money there which belongs to the Spanish workers, it has to be given to the Spanish workers but it is no good the British Government arguing and the Gibraltar Government accepting for the time being that we have any more responsibility than that because the British Government is responsible, the British Government policy towards Gibraltar despite its sustain and support policy which has been a pittance compared to what they were giving to us before the frontier closed in proportion to what we had at the time. The British sustain and support policy was there because what else could they do against a hostile Fascist Government that was trying to destroy Gibraltar but certainly it did not prevent the British Government from encouraging investment on the other side of the frontier. The Costa del Sol started in Gibraltar and look at the way it has all been developed. Life continued between the British Government and the Spanish Government despite it had a Fascist regime, it continued but here we are today accepting more than what we should have accepted because when the time came for that frontier to open it came because they were joining the European Community and it came as well because the Gibraltar Government has accepted the Brussels Agreement and it would seem to me from this side of the fence that perhaps this sort of problem, this commitment that we now have could have been resolved in the context of the Brussels Agreement. It is no good the Chief Minister saying that we haven't said anything, that we seem to want to pounce on them. The last thing that this side of the House wants, and I am speaking personally, is to pounce on the Government by letting them make mistakes and making political capital, certainly we are not in politics for that, I am certainly not in politics for that. I think we have been quite fair in our contribution on this matter because we have been making a case since 1980 and it has been building up in proportion to the representations that we have had here, we have only had our colleague and Leader here and we have had six other reactionaries with him here on this side of the House but, in any case, it has been building up and the crux came when we met with the Foreign Office people and it was clear to us by then that the whole thing had been sealed and delivered and it all finished up with the Brussels Agreement. This agreement, I think, was out of time, the timing was wrong, they have missed the opportunity and I think that that is the extent of the responsibility which the Government have towards its people and that is that they failed in the opportunity that they had, that their timing was wrong and at the end of the day the people of Gibraltar are going to have to pay for this and we shall see when the time comes. One final thing is that I find it difficult when the Hon and Learned Chief Minister stands up and seems to go off at a tangent because it is difficult for me on this side to really answer him because by doing

so I would have to lower, to some extent, my standard to the standard that he has shown this morning in some aspects of his contribution. My colleague, the Leader of the Opposition, has been invited to America by the American Government. He is going there because I think it is an important thing for Gibraltar that he should go there. He will obviously learn a great deal and I am sure whoever he speaks to will learn a great deal about Gibraltar. It is a recognition for Gibraltar because I think it is the first time it has happened, I don't think the Chief Minister has been invited by the American Government on such a visit so I would have thought that instead

HON CHIEF MINISTER:

May I be allowed to interrupt. If what I have said in a quasi critical but what I hope was a humorous way has been taken seriously, let me say that that was the last thing that I intended. I know it has been a great honour for Gibraltar that he should be thought of. It is, no doubt, of great interest for Gibraltar and I don't want to minimise at all the invitation that he has received. I am sure that he might well accept it from me if I tell him that that was not my intention but one is allowed a little latitude in these matters without in any way transgressing the proprieties of the matter because, after all, I would have said the same thing if he had been invited by the Russian Government for a fortnight.

HON J BOSSANO:

It may well be next time.

HON M A FEETHAM:

Mr Speaker, I have got nothing else to say.

HON DR R G VALARINO:

Mr Speaker, Sir, I cannot accept that the agreement entered into with Her Majesty's Government for meeting the cost of paying Old Age Pensions to former Spanish workers fails to protect the position of Gibraltar. The Government has a certain commitment to the Spanish pensioners particularly those who reached pensionable age before 1969 and even without accepting that it is obliged to pay those pensions at current rates of benefits, it has been established that the extent of that commitment amounts to £4.5m. That is the amount which the Gibraltar Government has undertaken to contribute towards the cost of Spanish pensions over the next three years and as has already been stated publicly, the Gibraltar Government has reserved its position as to what will happen in the future. The Hon Mr Mor, in his contribution, spoke at length but I am afraid he left out the second part of his motion

which says: "fails to adequately protect the position of Gibraltar and should not have been finalised without a full prior debate in the House of Assembly". He said nothing about this and he also added a note regarding question time, regarding the Actuarial Review, the fact that we did not allow the Member to see the Report before this. This was in order that he would not distort the position of this Report to his own end. The fact that he is a part-time accountant, and he has said this, only helps to incriminate himself as it is well known that accountants produce certain figures when it is necessary to prove their case. Discussions with Her Majesty's Government will continue but that does not alter the fact that the Gibraltar Government has not committed itself beyond the £4.5m. In the Government's view this is a perfectly adequate safeguard of Gibraltar's position and in the circumstances it is not accepted that the agreement, as it stands, should previously have been debated in the House. The Government may, of course, decide to bring the matter of any future arrangements before the House for debate depending on the progress of further discussions with Her Majesty's Government. I feel that it is up to the Hon the Leader of the Opposition, Mr Joe Bossano, who has got clear ideas on the subject, to be able to stand up and reply on the matters raised. Thank you, Sir.

HON J C PEREZ:

Mr Speaker, the position of the last contributor on the Actuarial Report is ridiculous and shows exactly what the Hon Mr Mor has said in his opening contribution and that is that the Government is, in fact, attempting to hide something. He is saying that by actually supplying a copy of the Actuarial Report to the Opposition that we on this side of the House could distort the Report to our own ends. I think, Mr Speaker, that there must be something in the Actuarial Report which the Minister and the Government in general do not want us to see, something which is completely normal in other countries that it should not only be made available to the Opposition but it should be made public and people can even go to a bookshop and buy a copy of that Report. I am afraid that the position of the Hon Minister for Labour is suspect, Mr Speaker. His attempt to hide information which should be public in order, perhaps to hide something which is of great significance to this debate, to this motion and to the deal that has been gone into with the British Government is, Mr Speaker, unacceptable and should be strongly recriminated. He says that Gibraltar is not committed after the three years. Well, I would disagree with that strongly, Mr Speaker. Gibraltar would not have been committed after those three years if the British Government were to be effecting the payment but from the first payment that the Gibraltar Government effects on the 3rd February, that will commit Gibraltar to the future without having solved anything after those three

years and I am afraid, Mr Speaker, that that does not protect the position of Gibraltar adequately. To say, like the Chief Minister said, that we should have raised it previously in the House and put forward our alternatives is perhaps not to listen to what goes on in this House because our position with regard to the Brussels Agreement and to the advancement of EEC rights was exactly that by advancing rights eleven months we gave up our fight to get derogations within the Common Market and one of the issues which could have been achieved in that context and one of the issues which could have been discussed in that context was the one on the Spanish pensions and I am afraid, Mr Speaker, that he said that the Opposition in the last House did not raise it. Well, he obviously has not read Hansard because I personally told the Hon Mr Canepa that I was glad that for the first time since the recent discussions were held with the British Government, he gave an indication on how those discussions were going on and the Hon and Learned the Chief Minister wants us to come up with alternatives to something which the Government is negotiating completely in secret because the only thing we knew was that he went to London twice with the Hon Mr Canepa but in fact the only indication that things were not going favourably for Gibraltar in those negotiations came from Mr Canepa in the debate in the last House and I did point out to this House and to the Hon Mr Canepa that I was glad that for the first time we were getting an indication of how things were going to which he retorted that it was not a matter where he could come and give us details of his dealings with Sir Geoffrey Howe and to which I replied that it was a matter of great importance that the Government should come out with something public on this issue because the commitment to pay pensions was on the 1st January, the commitment was there. We were talking about weeks and we still didn't know what was happening and then the Hon and Learned Chief Minister comes to this House and asks why didn't we raise it in the last House and I am sure if we had raised it in the last House he would have complained that he was under pressing negotiations and that it was the wrong thing to do for the Opposition. Mr Speaker, I have nothing more to add.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if I may, I would like to shed some light on the arithmetic or rather the politics of the debate although in doing so I hope that what I have to say may give some indication as to how the figure of £3m which the Hon Member quoted came to be quoted in the Gibraltar Post. The only political comment I will allow myself to say is that I am glad to see that Hon Members read the Gibraltar Post as well as the Gibrepair Newsletter. There are two important calculations to be made in measuring the value and the growth of the Social Insurance Fund and by deduction the Spanish Sub-Fund, namely, first the excess of contributions over benefits in each year

and secondly, the accumulating interest which includes capital appreciation earned on the balance in the Fund year by year. Both figures vary from year to year and in theory, at any rate, one or the other could be a minus figure in any one year, in theory. The accounts of the Social Insurance Fund over the period from its inception in October, 1955, to 31st December, 1969, shows that there was an excess of just over £1.62m in contributions over benefits paid out, that is just over £1m. In the case of Spanish contributions and their employers' contributions, it was calculated that the excess was just over £½m, namely, £538,230, that is 50.68% of the total. Turning to the second calculation which takes into account the accumulating interest from year to year in the Fund, and I will come to the definition of interest in a second, the value of the Social Insurance Fund, the whole of the Social Insurance Fund at the 31st December, 1969, was £1,528,498 and this, of course, is a figure which can be verified from the Government's accounts. The Spanish share of this Fund, the Spanish Sub-Fund, was calculated using the same percentage, 50.68% that I have just mentioned, as £774,643, let us say £775,000 for the sake of brevity, which is the basis of future calculations for the Spanish Sub-Fund.

HON J BOSSANO:

What date was that, Mr Speaker? I missed the date of how he arrived at the £774,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That was the 31st December, 1969. Since 1969 there have been no further Spanish contributions and the amounts paid out in benefit to former Spanish workers have been insignificant so the growth of the Fund has been partly on account of the excess contributions by Gibraltar residents over benefits paid out but mainly on account of the interest earned on investments made by the Fund. The value of the Social Insurance Fund at the 31st March, 1985, was £11,955,000 and this is the figure which will appear in the Government accounts when they are published shortly. The actuary has also calculated the rate of interest earned by the Fund year by year since 1969 and the formula which the actuary has devised for this calculation takes account of the contributions and benefits in each year as well as the capital appreciation or losses on investments and that is why in my comment yesterday on the question raised by the Hon Member, I said that to call it interest is to use the term of art and on this definition the interest has varied from as little as 1% to cover 20% over the years. The arithmetic mean for some of the years since 1969 being about 12.5%. The more important figure is, of course, the increase in the value of the Fund from year to year which is obviously shown in the Government accounts and which, in fact, shows annual increases varying from 7% to 33%. In calculating what may be said to be

due to the former Spanish workers, the Government actuary applied the annual rate of interest earned on the Fund, calculated year by year in accordance with the formula just described, and applied this to the share of the Fund originally attributed to Spanish workers on the 31st December, 1969, that is the figure of £775,000 which I have mentioned. This calculation produced the figure of between £4.2m and £4.5m after allowing for the amounts actually paid out from the Fund to Spaniards and this figure is at 31st December, 1985. Broadly speaking, this is one-third of the value of the whole Social Insurance Fund at that date. To put it another way, the Spanish Sub-Fund has earned interest at the prevailing rate earned on investments in the whole of the Fund, which is a reasonable assumption, but does not increase in value as a result of any net growth in contributions because, of course, no further contributions have been paid since 1969, and as a further check on the reasonableness of the calculation, Hon Members will, I hope, find that if £775,000 is accumulated at 11½% compound over sixteen years in accordance with the time honoured formula - $a = p(1 + \frac{r}{100})^n$ - which is compound interest, it will over sixteen years produce a figure of £4.3m.

HON J E PILCHER:

Mr Speaker, I will be brief in my intervention but there are a few points which cannot be left untackled. Obviously, the intervention by the Hon Financial and Development Secretary hits the nail on the head because although the Hon and Learned Chief Minister said that the Hon Mover of the motion, the Hon R Mor, always got his numbers wrong, the reality is that the Hon Mover of the motion did not get his numbers wrong because he was working from a different base, the base being the £½m that was made public in 1970 and therefore if you work it at exactly the same formula and compound interest from £½m you come up with the figure of £3.5m. But, of course, the Hon Mover of the motion, Mr Mor, did not have the figures which the Hon Financial Secretary I think gave us an insight to yesterday for the first time, of £774,000.

HON A J CANEPA:

You could have put a question in the November meeting and got the answer.

HON J E PILCHER:

The Hon Mr Mor had asked for the thing beforehand, I think he said that yesterday in his contribution.

HON A J CANEPA:

He should have asked the Department.

HON J E PILCHER:

Plus the fact that obviously the Hon Mover of the motion, Mr Mor, does not have the Financial and Development Secretary sitting beside him to be able to expose the facts and expose the finances in the way that the Hon the Financial Secretary has them. The Hon Mr Mor can only use his figures, his calculations which is what the Hon Minister should have been doing instead of having given such a wishy washy answer and then sat back and hoped that the Hon Financial Secretary would get up and give all the information which he has. I think that is a criticism on the system of Government that we have and not a criticism on the Financial and Development Secretary.

HON CHIEF MINISTER:

If the Hon Member will give way one moment. I can understand Members opposite taking the plunge into the arguments that Mr Mor has done but the Government cannot do that, the Government has got the responsibility and, of course, the responsibility is a divided one in the sense that there are people who deal with these matters. I wasn't shirking in any way, all I was saying is that this is a matter too technical for me to deal with, it may not be too technical for the part-time accountant but it is certainly too technical for me to deal with but I knew that we had founded all our arguments on sound ground and it is now shown that they are sound. He has taken another way, he has taken the plunge without asking, that is his responsibility.

HON J E PILCHER:

Well, it is not a plunge and obviously I will not pre-empt what the Hon Mover of the motion or what the Hon the Leader of the Opposition are going to say in reply to that. I was just making the point that the Hon and Learned Chief Minister made when he said that the Hon Mover of the motion normally got his figures wrong, that is the point that I was making and the point which I was making which I repeat and reiterate is that if on the other side of the House the Financial and Development Secretary were not sitting there, which would be the norm in any Parliament, then a different story would come forward. Anyway, that is the point. The Hon and Learned Chief Minister will agree with me that I normally sit through the debates and listen to things that are being said, obviously, I laugh and I smile and I talk but normally I do pay a lot of attention to what is being said and he has disappointed me at this stage because I won't say that he was ranting and raving but certainly the initial answer to the Mover of the motion was not an answer based on logic, it was an answer based on, I think, a slight anger at the Mover of the motion and in his reply he ranted about the Hon Leader of the Opposition's

visit to America, the Opposition being wolves in sheep's clothing. He talked about everything except the motion in question and it seemed to bring back to memory, since the Hon Mover was talking about the then Leader of the Government, Major Bob Peliza, it seemed to come back to me when I used to sit over in the Public Gallery.

HON CHIEF MINISTER:

Anything but that.

HON J E PILCHER:

Anyhow, again it stems from various things. I think I won't go into the actuaries report because I think the Hon J C Perez has already commented on it but how is the Opposition supposed to do proper work because we do read the papers, we do read the Evening Post, we do read The People, we do read the Gibraltar Shiprepair Newsletter but we also read Hansard which, apparently, Members of the Government do not do because the Hon and Learned Chief Minister said that we could have brought this out in November. We have been raising the matter of pensions since the 11th December, 1984, when we brought to this House a barrage of questions on the Brussels Agreement one of which was Spanish pensions. We have raised the issue, I think, in every single debate that there has been, in fact, on 27th November where the Hon and Learned Chief Minister said that we could have raised it, we did in fact raise it and the Hon Mr Canepa answered at that stage, and it is in Hansard, 27th November, when we were discussing the entry of Spain and Portugal in the EEC, we did raise the question of pensions and it is down in Hansard. The Hon Mr Canepa was saying how difficult it would put Gibraltar economically and what the options were because at that stage you didn't have an agreement on the pensions and, in fact, we were very surprised that at that late stage you didn't have an agreement on the pensions so it is not right to say that we could have brought it in November but we bring it now. In November an agreement had not been arrived at, we didn't know what the agreement was, we were only putting pressure on Government to make sure that they continued the line which the Hon Mr Canepa has been saying here in the House and outside the House for the past year which is that they would not pay out a single penny of Gibraltar taxpayers money. This is what we were saying then.

HON A J CANEPA:

We say that today.

HON J E PILCHER:

You say that today but that has as yet to be proved. The moral responsibility again has been tackled by the Hon Michael Feetham and I think quite diligently. The question of the agreement arrived at with the UK Government after tough, difficult and yet friendly discussions. This, with all due respect to the Hon and Learned Chief Minister, we have heard this before in the House for the past two years. Every time we are at the receiving end of something that the UK want to push down our throats, we are told how tough, how difficult the agreement was and yet how friendly it was. We are in no position, we are not saying that it is not the case but we are in no position to gauge how tough, how friendly, how unfriendly, how untough, we are in no position, we accept it at face value but what I am trying to say is that it does not hold any water because this is said time and time again. I think we have heard this in the House, certainly for the past two years and certainly since I have been coming to the House regularly for the past twenty years, especially over the last two years because things have been getting progressively more and more difficult. The last point I want to make is a point which I have made before and which is on the principle of how an Opposition is to deal with its affairs. I think the Hon and Learned Chief Minister jumps and sidesteps every time he wants to create a different approach. He calls us a constructive Opposition when it suits him and a destructive Opposition when it suits him. I remember on the 11th December, 1984, he was calling us a destructive Opposition when what we wanted to do was break the Brussels Agreement, put so much pressure so that the Brussels Agreement would not go forward, now he is telling us 'you should have done something about the pensions in November', we would have been told in November 'what you are trying to do is break the agreement so that we are sure that we cannot get an agreement because all you are trying to do is be destructive'. I wish the Hon and Learned Chief Minister would once and for all tell us what is his definition of constructive and destructive, not because we are going to pay any attention to him but at least we will know when we are being destructive and when we are being constructive according to him. It seems to me that he uses the argument in his favour and against us irrespective of what we are saying on this side of the House. In December, when we walked out, in January, I think it was, again in November and again today with the opposite in mind that we should have put more pressure in November so that today we shouldn't have been bringing this motion forward. It is, to a point, confusing from our side of the House to see whether or not we are constructive or destructive. I would just like to finish with a comment that the Hon and Learned Chief Minister said that we were sitting on the fence. Well, we have never sat on the fence, Mr Speaker, we have never sat on the fence, perhaps not because we didn't want to sit on the fence but because the AACR were sitting there and there was no room for us.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I don't think I can be accused by the Opposition of being destructive in my contributions to the House. I am very confident about the future of Gibraltar despite all the problems that surround Gibraltar at present, all this question of the millions of pounds on pensions, etc, etc. I am confident because I know that for the next three years the taxpayers of Gibraltar will not be paying for the pensions and in three years time there might be a Socialist Government in the United Kingdom and there might be a Socialist Government in Gibraltar and I am sure they will fix everything between them, and a Socialist Government in Spain so there is no problem. But, of course, if it is the other wayround, we might get on better with Maggie Thatcher than the Hon Leader of the Opposition. But having said that, when one is on that side and if I was there I would see it exactly the same way as you do but once you are in Government you see

HON M A FEETHAM:

As Felipe Gonzalez.

HON MAJOR F J DELLIPIANI:

As Felipe Gonzalez who has changed his mind about NATO, things are different, one has to work hard and fight hard for the benefit of Gibraltar and when one cannot go any further one makes a tactical withdrawal, a tactical withdrawal based on the Fabian tactics to attack again and that is the attitude that I have adopted in the Government and I look forward to what the Hon Leader of the Opposition has to say because I never read Hansard but I like to hear the logical way he presents his case. Thank you, Mr Speaker.

HON J L BALDACHINO:

Mr Speaker

HON MAJOR F J DELLIPIANI:

Mr Speaker, if the Hon Member will give way. I am sorry, Mr Speaker, I have a previous engagement and I have to pair off with Mr Feetham, I am going to miss Mr Bossano's contribution.

HON J BOSSANO:

Then you will have to read it in Hansard after all.

HON MAJOR F J DELLIPIANI:

In cold print it is not the same. Thank you, Mr Speaker.

HON J L BALDACHINO:

Mr Speaker, I am going to be very brief. To say that the Opposition has never raised the question of pensions in this House is not correct. My Hon Friend, Mr Pilcher, referred to this question when we were discussing the Brussels Agreement when he asked what was going to be the payment to Spaniards who had contributed to our pension scheme at the time. But what is true, Mr Speaker, is that quite rightly, it is their decision to do so, once the Government reach an agreement such as this one the way we see it will not be beneficial for us because if we carry on the trend, irrespective of what the Hon Members opposite have said, according to the figures of the Hon Financial Secretary, by 1988 we could have paid out of the pension scheme contributions the £4½m which was, according to his calculations which I have no doubt whatsoever are correct, will be what the Spaniards actually paid into the pension scheme. The Hon Mr Canepa said in the House that we were not going to pay a penny out of any Gibraltar contributions. By 1988, and I would like clarification on this, it means that if the AACR is back in Government after the 1988 elections, they will not reach a commitment to pay any more money out of these contributions because that is what he is actually saying. When he said that we are not going to pay out, the way I understand it is that it means that the £4½m that are going to be paid up to 1988 is the sum that has been contributed by the Spaniards with accumulated interest, after that he says: "I will not pay any more". If I may refer to the discussion on television which the Hon and Learned Chief Minister referred to in his contribution where there was a representative of the GSLP, Mr Moss, and a representative of the AACR, Mr Peter Montegriffo, and Miss Anes, it was clear from what was said there that Gibraltar should not be paying, that was made quite clear in that discussion programme. There had been prior indications that there might be some sort of agreement with the British Government and the representative of the AACR put to the viewers and to the discussion generally the same views that had been expressed by the Hon Mr Canepa in the House previously. It is true to say, Mr Speaker, that the Government once they reached an agreement with the British Government as to how they were going to pay the £7m, never brought it to this House so the Opposition did not have the opportunity to express its views on what the Government had agreed. If they had brought it to this House we would have had the opportunity to express our views and maybe we could have convinced the Government to take a different approach to the problem or they could have carried on in the same way they have done without coming to the House but they should certainly not criticise us for not being more effective in putting

across to the Government our views because as I said before we were not given the opportunity to do so in this House. If they don't bring it to this House then they cannot criticise us for not asking them questions on the agreement because we don't know, they have been discussing it all along with the British Government and presumably with the Spanish Government when the Hon and Learned Chief Minister and the Hon Mr Canepa went to Madrid but this House never had the opportunity to discuss the agreement prior to it being confirmed with the British Government and the Spanish Government.

HON M K FEATHERSTONE:

Mr Speaker, I must compliment the Hon Robert Mor in his younger days, at least, for having read the Gibraltar Evening Post which I believe was produced by a very eminent group of intelligent people. The whole position of the Spanish pensions obviously derives from EEC legislation that we have to meet the commitment of the EEC Social Security Fund and it was put to the British negotiators by the Gibraltar representatives that we should seek derogations from this but in their wisdom they felt that they could not obtain derogations for Gibraltar on this issue and we therefore have to follow the stipulations of the EEC and pay pensions at the current rate as from January, 1986. But morally we are bound to pay those pensions to at least 792 Spaniards who had qualified for a full pension before the closure of the frontier. Irrespective of the closure of the frontier those persons had qualified for a pension under our pension scheme before the closure of the frontier and they today, morally, must have a right to have their pensions paid. As to the other 3,500-odd persons who have attained pensionable age since 1969, do we have a moral right to meet their pensions forever? We say no, but we do say that we have the moral right to pay them back the money that they have paid in and as the Hon Financial Secretary has said, this works out to some £4½m. It may not be immediately appreciated but at 12½%, £100 over fifteen years is boosted to £585 and that is where the figure of £4½m comes from. If you take the £775,000 that had been paid in by the Spanish pensioners and multiply it by the factor of 5.85 you get the figure of around £4½m and that money is actually increasing because we are only taking out of the Spanish Sub-Fund in the year 1986 £1m so there is still a fair amount of money left in the Fund which is attaining interest during 1986, again the same will happen in 1987 and until 1988 when the Fund should be exhausted there may actually be a little bit left over, some £200,000 or £300,000. What happens after 1988? That is a vital question. I would say that we still have a commitment to the 790 pensioners who had qualified before 1969 though they must be getting fairly well on in years and I would imagine a number of them will have passed away by that time and the commitment will be a reducing commitment. The rest we must say is up to the British Government and perhaps the Spanish Government and perhaps the EEC to finance. The financing from

Gibraltar should only be as far as I can see it, the moral commitment we have to the pensioners who had actually qualified before the closure of the frontier and no others. Thank you, Sir.

HON J BOSSANO:

I am glad, Mr Speaker, that I have heard the Hon Member who spoke last speaking because he seemed to me to be making a statement of policy which I would have thought would have appeared earlier on in the debate but, in fact, maybe it isn't a statement of policy, it is a statement of what the Hon Mr Featherstone would like to see. I don't think there is any question at all nor has there ever been as we have seen from the quotation of my Hon Friend the Mover of the motion, about the fact that part of the money in the Social Insurance Fund did not belong to us, it belonged to the people who had contributed and who had been forcibly removed from Gibraltar by their own Government. I think the general view of the public in Gibraltar is that their Government bears a measure of responsibility because it was the doing of their Government that has created the situation where people made a contribution and were deprived of obtaining the benefits but the situation, Mr Speaker, as has been explained by the Hon Mr Feetham, is that we have looked at pensions for Spanish workers not as an isolated item but as a consequential item of Community obligations and we have had a situation where since July, 1980, we have been saying to the Government of Gibraltar that we should re-negotiate our terms of membership to enable us to cope with the burden of Spanish entry and that the government of Gibraltar had an opportunity to put that down as a condition before they committed Gibraltar by accepting the Brussels Agreement. Those are decisions that were taken by the Government, it may be as the Hon Major Dellipiani has said that when you are in Government you do what you can, not what you want, and that therefore the Government had no choice but I think there is a difference between saying 'we have done a wonderful job and can be very proud of what we have done', and 'we have done the best we could not because we are happy with the results but because we have no choice'. There are two different versions of what it is that has happened. There is the Hon and Learned Chief Minister's version that he has repeated today and which he has made public about how good the deal is, just like there was the same statement made in relation to the £28m for the commercialisation of the Dockyard which was described as the most that could be obtained, the best possible deal and in any case a generous one in its own right, and we were told yesterday in the House of Assembly they are going back for more money. Clearly, it cannot be considered as generous in 1986 as it was considered in the election campaign of 1984. One can understand the problems that the Government may be facing and the point of view put by the Hon and Gallant Major Dellipiani but one cannot accept that the Government

of Gibraltar today is taking a line and accusing us in Opposition of being insufficiently responsive in telling them how to deal with the problem when the shoe was on the other foot, Mr Speaker, a statement was made by the then Chief Minister in the House of Assembly explaining what the Government was proposing to do, which is more than the current Chief Minister has had the courtesy to do to us here, and the then Leader of the Opposition, the Hon and Learned Member opposite, refused to answer, that is to say, he didn't comment on the statement, he didn't ask any questions about the statement, he didn't react to the statement and the Government then complained that here they were coming to the House of Assembly with a statement about this £1m that they were trying to pass over to the Spanish Government and the Opposition was not reacting, what was their view. And the Hon and Learned Member, Sir Joshua Hassan, accused Major Bob Peliza of bullying him, he was being bullied, he said, it is in Hansard, he said: "I will not be bullied by the Chief Minister into giving an answer". By comparison, I don't know what we should accuse him of with the things he says to us. I think we have been treating him very nicely. Independent of the importance of finding out about the debate that took place then on Spanish pensions, I think it has been quite illuminating to discover what the House was like because, of course, I am only familiar with its performance since 1972 and I think it would be quite a useful exercise to find just how the AACR behaved in Opposition. It would seem to me that they were certainly far less well behaved than we are, Mr Speaker, and you seem to have had much more trouble controlling them than you have controlling us. Of course, no doubt the Hon and Learned Member was much more boisterous in his more youthful days, fifteen or twenty years ago, than now, although we must admit he is quite frisky for his years, I think, Mr Speaker.

HON CHIEF MINISTER:

It makes no difference. I have eternal youth.

HON J BOSSANO:

Yes, he might not have a secret economic plan but he does seem to have the secret of longevity. Therefore, in that situation, we went back to that date, fortuitously as has been explained, and discovered that there was a Government statement and there is no doubt that that Government statement must have been prepared by the professionals in the Labour Department, saying the proportion of the Fund that belongs to the Spanish workers, not legally but morally, that is to say, legally it is less, part of it is a legal obligation not all of it, is £1m, but the statement made in the House, an official Government statement not challenged by the then Opposition which is now in Government, unchallenged all these years, tells us that in fact the £1m and it is certainly a figure

that I have heard floated about since then and I believe it is a figure that was reflected in the Actuarial Review at the time, £1m was said to be the figure proposed by the Government for settling the problem, that is to say, that there was a built-in incentive that they were given more than they really ought to have to get them to accept it because it was the Spaniards who didn't want to accept it. Events have proved them to be very wise in this decision at the time because had they accepted liquidation of that liability for the payment of £1m which at the time the AACR apparently was not happy with because they didn't see why we should give £1m to the Spaniards although they accept now that it should have been £1m that we should have given them then because they are basing their £4½m now on the fact that it should have been then £1m instead of the £1m which they then thought was too much. I don't know whether that is the effect of moving from this side to that side or the effect of simply equating the argument to the circumstances of the day which is something that certainly the AACR cannot be equalled on, I think they have got a particular aptitude for turning every argument on its head to prove that they are right in what they are doing at any particular point in time although they might have been doing or saying the exact opposite the previous time. It is something that I think is looked upon with awe and admiration throughout our community but certainly not with approval. In looking at the figures we then were bound by the information available to us and the information made public by the Government as recently, Mr Speaker, as the 9th January. On the 9th January the Press Officer of the Government says that the accumulated sum together with accrued interest over the years totals about £4½m based on an average rate of interest of 13%. If the Hon Financial and Development Secretary applies in the opposite direction a compound rate of interest to 13%, working from £4½m he will not arrive at £774,000 so if the figure of £774,000 is correct then the £4½m is incorrect and we had this information published by the Government on the 9th January that the figure was £4½m based on an average rate of interest of 13% on the sum of money that was there originally, the only public information about the original sum of money was £1m. We applied the 13% to the £1m and we came up with a difference of £1m and it is a perfectly reasonable calculation to make, Mr Speaker. We tried to get, in fact, the last Actuarial Report from the Department before we brought the matter to the House in the hope that that Actuarial Report might throw some light on what appears to us to be incorrect calculations but we were refused that on the grounds that no previous Opposition had asked for it which seems to me very flimsy grounds. We then asked for the thing to be made public and we are told by the Minister that he will consider it but after the motion so that we cannot use the information in the motion which is when it is relevant. Of course, it is peculiar that one should be able to go to Her Majesty's Stationery Office and buy for £3.40 the Report of the British Government

Actuary that tells us what the cost of pensions in the United Kingdom are to the year 2000 and one should not be able to have information about one's own Pension Fund to which one is contributing in Gibraltar and I think, really, the Government is in an indefensible position and I wonder what they would have said if they had asked for the actuaries report in 1970 and they had been refused by the then Government. The other peculiarity is the question of the cost when we had a question earlier on as to how the cost of the pensions were arrived at, Mr Speaker, and we were told that they were arrived at, in fact, by the actual numbers of claims that had been received and they hadn't been assessed. In fact, the calculation published by the Government didn't show that, the Government said publicly that in arriving at the amount that had to be paid, they had worked on certain assumptions. They had assumed that pensioners had an average of 23 contributions per year and that there were 4,200 pensioners and that an average of 23 contributions per year would produce an average pension of £30 and that £30 by 4,200 produced £6½m. That is the Government public statement of how they have calculated their liability, nothing to do with claims, nothing to do with the British Government Actuary. I am sure the United Kingdom Actuary would never support this calculation.

HON A J CANEPA:

If the Hon Member will give way. I had something to do with that. That letter from the Press Officer was in response to questions that were asked by Mr Lombard in a previous letter. The judgement that had to be made then was how much detail, how complicated should one make the explanation. The figure of 13% was my figure because I knew that during the years, particularly the latter years when I had been Minister for Labour and Social Security, the Fund was earning 13%. At the time, the Director of Labour and Social Security and some of his staff were away from Gibraltar precisely on matters to do with the pensions and there was some pressure to get the information in the Chronicle but it was an attempt, perhaps with hindsight regrettable, in a way, to give answers to specific questions in as simple a manner as possible. For instance, Mr Lombard had asked: "Why the problems for the Fund? Is it that the Fund has not been wisely invested?" Well, it has been wisely invested whether it earns 12%, 12½% or 13%, It was answering that question 'had it been wisely invested?' Yes, it has been wisely invested because it has been earning about 13% and I think the letter says 'about 13%'. But to then use that figure to do the kind of calculation that the Financial and Development Secretary has done accurately is another matter. Up until a couple of months ago the information that we had was that there were roughly about 4,200 pensioners. As we came much nearer to the end of the year, more claims came in and, in fact, since the beginning of January,

1986, so today we have the figure of 4,600 but in the course of the discussions with the British Government at the beginning of November, the figure that we were going on was about 4,200; we were saying it has already reached 4,200 so we knew that there were 4,200. I think he must not see that letter as being more than an order of figure and not the kind of precise specific information which we would give here in the House in answer to a question where as a result of supplementaries the matter could be clarified further. Here one was attempting to answer questions from a layman and not make the matter complex. That is the background and if it is misleading I personally apologise because I had something to do with it.

HON J BOSSANO:

Mr Speaker, I am grateful for the intervention of the Hon Member and I don't really think he owes us an apology on that because I am sure that on the basis of what he has said there was no intention of misleading us but the point is that we reacted to that situation and, in fact, when we questioned the accuracy of those figures my Hon Friend was accused of doing precisely what we have just been told the letter was. The letter was misleading, we thought it was misleading, we then wrote to the Chronicle saying: "Well, we cannot understand this, this doesn't seem to make sense" and we were accused of doing the calculations wrong. This is on the 9th January, we are talking about a situation where in January, before we had come to this House, the matter was being raised in public and the Government appeared to be defending the calculations made in a letter which to us didn't make sense. The implications of that calculation effectively were that there were 4,200 people all of whom had been born on the 1st January and all of whom would reach 65 on the 1st January, 1986, which is nonsense but that is the implication that one can draw from this kind of rule of thumb calculation. It seemed to us very peculiar that as late in the day as the 9th January calculations should still be so loose and we didn't seem to be able to get a clearcut answer from anybody as to precisely what the cost was and we have brought it to the House now because we couldn't bring it to the House before. Last November the matter was still under discussion and last November the Hon Mr Canepa was still defending the position which I think has been the position of the Government and certainly the position of everybody in Gibraltar as to where the liability begins and ends. But, of course, we have not been involved at all because as my Friend Mr Feetham mentioned, Mr Speaker, the position is that apparently the rules on consultation are different now from what they were in 1970 because in 1970 the Hon and Learned the Chief Minister was being consulted by the British Government over the Spanish pension question

and he said in the House of Assembly, and it is recorded in Hansard, that he had told His Excellency the Governor in 1970 that he could not commit himself because he would have to discuss the issue with the rest of the Opposition which apparently he was able to do in 1970 and I am not able to do in 1986. Perhaps, if I had been consulted on the same basis as he was in 1970 I might have come up with something. Certainly, it is clear that within the Social Insurance legislation that we have and by the application of EEC Regulations to that Social Insurance legislation, there is no question about it, the liability is there it is clear and we cannot get out of it, there is no question about that so therefore what should have been tackled well in time should have been the legislation that we have which is within our prerogative to change. I cannot understand how that simple avenue has never been apparently explored by the Government in all the time they have been dealing with this problem since they were elected in 1972 because if you cannot get somebody to accept the payment then at least you can control your side of the fence and you can do something about your legislation in a way which doesn't conflict with EEC requirements. I don't think that avenue was open to us once we advanced EEC rights under the Brussels Agreement. I think once that happened any attempt to change anything would have been seen as a clearcut attempt designed to achieve a particular objective but I certainly think it could have been done earlier than that. I also think, Mr Speaker, that when we are talking about the cost to the Fund the Government must know that it is misleading to say that the agreement that they have done is without prejudice to either side. It is not a question of being without prejudice to either side, we are prejudiced by it because if we have got a situation where we are saying and have been saying "the only amount we have to contribute is the amount that is due to them" which is calculated apparently now at £4½m and not so before, but let us assume that the current calculation is the correct one and that it is £4½m, we are using that up in the next three years so therefore at the end of the three years we are starting negotiations from a position of having nothing to contribute and having accepted by implication an increasing burden which was the immediate reaction of our Party when the thing was made public. We thought, it is obvious to us, that if the British Government is going to make a contribution of £6m in the first year, £5½m in the second year, £5m in the third year, there is a clear descending contribution and ours is going up so it is inconceivable that in 1989 any Government can get the British Government to give more than £5m, that is, to go in the reverse direction. It is axiomatic from that agreement that the most that can be obtained in 1989 is £5m, that is the range, the range is that the most is £5m and the least is nothing and the negotiations would be in between those two figures. If the most is £5m we will probably be talking about

£8m in 1989 and we will probably be talking about us paying £3m having used up the £4½m. So how can we still be saying that we are still defending what has been defended throughout since 1970 that the only liability we had was what they had contributed plus accrued interest. The position taken by the Hon Mr Featherstone, the last contributor on the Government side, is no longer tenable in the context of this agreement, it is not a tenable position for any Government to take on the basis of what will happen in 1989. We also asked in question time, Mr Speaker, what was the basis of that UK contribution, was it a fixed sum or was it a proportion of the cost. We were told it was a fixed sum so then we asked what happens if the cost is higher? Well, if the cost is higher we have to go back and discuss it with the British Government. Well, then is it a fixed sum or isn't it a fixed sum? How can we at this late stage still not know whether if the cost next year is £8m they will still contribute £5½m and we then have to contribute £2½m or they contribute £6½m and we still contribute £1½m. We cannot get that answered now. I think it is something that should have been tied up as well, I would have thought so. Even if we don't like the deal at least we would have expected to be able to ask questions and get answers which shows that the Government has catered for such an eventuality because the Government knows that in November, 1986, it will be coming to the House to raise Social Security benefits in January, 1987, and that means it will have to be raising it now for 4,660 people who were not there last year. Is that extra cost going to be met by the British Government, going to be shared or going to be met by the Social Insurance Fund? The answer is, we don't know. When are we going to know when we come to November and we have last minute negotiations to try and get it done between November and January like we had this year? Is that a sound way in which to run the affairs of Gibraltar? However many times the Hon and Learned Member gets elected, he can still be here like Rip Van Winkle in twenty year's time but it is still not a defensible way to run the affairs of Gibraltar. It is on that basis, Mr Speaker, it is on logical, analytical arguments like we always have on every other issue that we question the Government, not because they are wolves in sheep's clothing, no, we are the wolves and they are the sheep in wolves' clothing. We are not questioning their wish to obtain results in Gibraltar's benefit, it would be nonsensical to assume that any Government of Gibraltar of any ideological view would want to do anything other than the best for Gibraltar, it is nonsense, who else would they look after other than their own electorate who put them there but the point is that it is part of our role in this House of Assembly to get the Government to explain its policies for the benefit of the people of Gibraltar whose money

they are handling and it upsets the Government that we should do our job in this House and I am afraid they will have to continue to be upset for as long as they don't come up with more defensible explanations of what they are doing than they have done on this occasion and they have done on previous occasions on other issues. We are landed with a totally unsatisfactory agreement, an agreement that puts a burden on the Government that comes into office in 1988/89, whichever Government that is, it is a very difficult situation to be faced with where, in fact, to try and undo what has been done effectively means running straight in the face of Community law, an extremely difficult position has been put in the future when Gibraltar has got enough problems without having to add this one to all the rest. I think as far as we are concerned, Mr Speaker, we certainly will press for the Actuarial Report and we will certainly press for more information on this because the discrepancy of the £½m and the £¼m I don't think has been satisfactorily explained. The Financial and Development Secretary effectively was saying to us that the £¼m is 50.68% of the balance of the Fund on the 1st January, 1970. Clearly, in 1970 the officials in the Department didn't think that 50% of the Fund was due to the Spanish workers, that was not thought so in 1970. There is no doubt that the statement that was made in the House in 1970 was prepared by officials like most statements are and therefore if the Hon and Learned Member had been there he would have had the same statement prepared for him saying the amount that we are going to pay the Spanish workers to liquidate the liability is £½m. We were talking then about £½m out of a Fund that was worth £1½m so we were talking then about the Spanish proportion which included more than the legal liability being 30% of the Fund, not 50% of the Fund. If we are told sixteen years later that it was 50% of the fund we need to know why because one would have thought that in 1970 you were in a better position to do an accurate calculation when the Spaniards had left a year before than to do the calculations sixteen years later. How can somebody defend that the calculation done retrospectively is more accurate than the calculation done currently? That was not explained but in any case I think it is wrong to assume, as the Hon and Learned the Chief Minister seems to have assumed, that the main thrust of the Opposition's motion is the discrepancy between the £3½m and the £4½m, that is not the main thrust of the Opposition's motion, that is a clear example of the inadequate way in which this has been handled because we have had to do research ourselves which my Hon Colleague has done on behalf of the Opposition based on press reports, based on Hansards of sixteen years ago, based on calculating the average rate of interest ourselves and coming up with a figure to see how one fits with the other because the Government hasn't come clean, the Government hasn't

come along and said: "Look, here are all the papers and all the information and we have got nothing to hide", because this is Gibraltar's money, not the AACR's money, not even Government's money, it is the money of the contributors of the Social Insurance Fund and it ought to be totally open, there should be nothing confidential or secret about it. If they want to keep secret the arguments they have had with Sir Geoffrey Howe, fine, but let us not have secrets about where our money is going and how it is being spent. The main thrust of the Opposition motion is the unsatisfactory way in which it has been handled and the unsatisfactory result that has been achieved and those two counts have not been defended at all. The response from the Government benches has been, apart from the initial reaction of the Hon and Learned Chief Minister obviously because he was upset about what had been unearthed by my Colleague who had obviously brought one of his skeletons out of his cupboard, but apart from that initial reaction I think the tendency from other speakers has been to defend the situation partly on the grounds that in Government you have to cut your suit according to your cloth and it is an argument we have heard before and we know about Felipe Gonzalez and NATO and all that but that doesn't justify the situation we have got in Gibraltar whether they stay in NATO or whether they get out of NATO. It seems to me that one can notice on this occasion as, indeed, one has noticed on other occasions, Mr Speaker, when the Opposition has brought a motion of an important public matter to this House that notwithstanding the counterattack of the Government initially as more and more speakers come into the debate and the thing is looked at, perhaps, more from the point of view of looking at the merits or demerits of what we are talking about, we see a reflection from within Government benches of misgivings about how it is being done. The only argument that we cannot counter is, in fact, the argument put by the Hon and Gallant Major Dellipiani. It is not possible and it will not be possible for any of us on this side of the House to say whether we, faced with the same problem and with the same resources and opportunities, would do better or worse until we have a chance to do better or worse and prove ourselves better or worse and that is unanswerable because we are talking about a hypothetical situation and it is only if and when it happens that we can demonstrate any different result. So on that score we cannot question the performance of the Government but I think the Government would have done better to have perhaps before finally committing themselves to that road, given us all an opportunity to look at the options and debate the options and that has not happened.

HON A J CANEPA:

Mr Speaker, I am very grateful to the Leader of the Opposition for giving me an opportunity to virtually wind up on behalf of the Government because he has raised a number of points that I would only have been able to answer by asking him to give way at the time and I don't think that that is conducive to good debate. I want to deal, in fact, with his intervention, first of all, and deal with those points that he has raised because they are the ones that are most fresh in everyone's mind. As a follow-up to the letter that I clarified in my intervention when I asked him to give way, we then issued a considered Government statement in response to one which the Hon Mr Mor had made public and in that statement some details were given which clarified the points that were worrying Mr Mor and which hadn't been that accurately dealt with in the letter. Unfortunately, when the Government statement was published it was condensed very considerably, I think it must have been cut down to a quarter or less and all the facts, therefore, at least they didn't see the light of day, they were not made public in the Chronicle. The point that Mr Bossano makes about the £5m in this tapering agreement whereby the British Government contribution is £6m, £5.5m and £5m, he takes that as being the ceiling of any British contribution in 1989 and he says that it is axiomatic. Well, it isn't that axiomatic if I point out to him that there is some advantage to Gibraltar in having that kind of arrangement because if the British Government is prepared to pay £6m, £5.5m and £5m which is £16.5m, if you divide that by three it is £5.5m, there is some advantage in a tapering arrangement rather than, say, £5.5m, £5.5m and £5.5m because we retain in the Social Insurance Fund as much of the notional Spanish sub-Fund for as late as possible and therefore interest continues to accrue. First of all, we didn't accept that it was a tapering arrangement and that that was going to be the starting point in any case in 1989 and, secondly, there was this hidden advantage to us in that we would get more interest during the second and the third year. That is the reason behind it. I have no doubt that the British Government will attempt to work from the figure of £5.5m for 1989 and that, of course, has got to be resisted. The last minute negotiations, it certainly wasn't for any failure on our part and they became particularly difficult at the end and the settlement virtually came on Christmas Eve because it was only then, according to Her Majesty's Government, according to them, that they appreciated the full import of the case that we had been making and the burden that this would be on Gibraltar and they did a dramatic about turn in respect of the position that they had been adopting when last we had been in London. I don't know how far I should go on this but it was a very dramatic about turn, not only in respect of the sum that the British Government was putting into it but in respect of the

period of the agreement, I won't go beyond that. As I say, we were making the running throughout, we have been writing one letter after another, with very cogent and very well argued arguments which never received a satisfactory answer, which never received a considered answer, they never attempted to deal with our points one by one and debunk them. There is no blame on our side and I think, obviously, it was the imminence of the 1st January, 1986, by which date Spanish pensioners legitimately were aspiring to be paid and the serious implications that there would have been, not just for us but for the British Government as well, for us serious because we are at the receiving end, we are here and the Spanish pensioners are over there, I think it was the imminence of that that made them see that they had to come to terms. I think it has become evident during the course of the debate as to the reasons why Mr Mor was really failing to make what was an adequate case when he was hinging everything on the figure of £4.5m and he was naturally relating it to the £0.5m of Major Peliza's statement. How it is that in 1970 the then Gibraltar Government through its Chief Minister made a statement in the House that the figure was £0.5m I honestly don't know. What I do know is that when I took office in the middle of 1972 and I asked about the notional commitment to the Spanish pensioners in respect of their added contributions and interest accrued, the figure that I was given and which has always been in my mind, in fact, I honestly couldn't remember this morning when Mr Mor read that ever having heard of the figure of £0.5m. I must have heard about it in 1970 because I followed politics but the figure that I was given and which throughout the years has been in mind was £700,000, not £770,000, £700,000 was the figure that I was given by officials in the Department when I took office and throughout the year that has been the figure that I have had in my mind and at the time when I came into Government or at the time when the Spanish labour was withdrawn, the figure of the Sub-Fund, the amount that the Spaniards had put in with accrued interest was £700,000, that was the figure I was given in 1972 so it is not a case of now working back over all the years, no, the figure was available in the Department in the middle of 1972. So I hope that Mr Mor and the Opposition now accept that because they have stated that Gibraltar has, they recognise a moral and a legal commitment of a certain sum which has now been worked out to be £4.5m which is the notional Spanish proportion of the Fund that could be termed as the Spanish Sub-Fund which is there because of contributions made by former Spanish workers and their employers. Therefore the case of the Hon Member is weakened to the extent that he was arguing on a different premise, he was arguing that the agreement that the Government had reached adequately failed to protect because we were paying more than what was due to the Spaniards. I am sure he now accepts that in these three years we are not paying more than what is due

to the Spaniards. What of the future? I will deal with that in a moment. We only agreed to that amount which belongs to the Spanish pensioners, that is the position that we take and I have stated publicly on more than one occasion here in the House and elsewhere that I did not agree that a single penny from current contributors should go towards meeting pensions for Spanish workers who were withdrawn in 1969, who were withdrawn to do us economic damage, to injure us, but what perhaps has never been debated in this House is the position not of the Spanish workers who were withdrawn in 1969 but the position of those Spanish workers who had worked in Gibraltar prior to 1969, who had contributed to the Social Insurance Fund since 1955 and who had become pensioners prior to the Spanish labour force being withdrawn in 1969 and in respect of those people, and we must draw a clear distinction between the two categories, people who contributed from 1955 to the day when they reached the age of 65 somewhere between 1955 and 1969 and who were already pensioners, they may have been working, they may have been over 65 and working but they had already earned a pension and very likely a full pension and the other category that were withdrawn and they were withdrawn through no fault of their own but they were withdrawn as a weapon to harm Gibraltar and I say to the British Government and to the Spanish Government and to the Community that whatever legal or moral commitment Gibraltar has towards those people has been cancelled by the harm that they have done us and because I maintain that the people of Gibraltar have got to be compensated in economic and in social terms for the harm that was done to us and that the two cancelled each other and I will say later on how I think that that problem should be addressed and dealt with. But I think we have got to accept that in the same way as the people that are contributing to the Fund today, the workers of today, in the same way as they are footing the bill for other pensioners, for pensioners, Gibraltarians and others, other than the Spaniards, who contributed in the early years no more and no less than those Spaniards who had reached pensionable age, in the same way as we are paying for their pension, we should also pay for the pensions of those Spaniards who were not withdrawn, those Spaniards who had already earned their pensions. If we quantify that figure and it is about £1.5m today, of that order, surprisingly there are over 700 of those pensioners, I am amazed, but that is the case. If we quantify that figure it is about £1.5m and I think that in 1989 the contributors to the present under the Fund, the workers of today and of 1989 have got a moral and a legal obligation through their contributions to pay for those pensions just as we today are paying for the pensions of any similar group of Gibraltarians who paid for ten years, between 1955 and 1969. I hope that that is clearcut and that will be our approach, that is what I think Gibraltar should put into the resolution of the problem from 1989

onwards and it will be a diminishing commitment because there are 700 today and it is £1.5m, there will be fewer in 1989 and they are very elderly, that commitment we shouldn't shirk and I think, properly explained, the people of Gibraltar will accept that. What about those who were withdrawn? Legally we have got a commitment to pay them a pension at a reduced rate because they have a deficient contribution record, legally, just as we have a commitment to pay anybody who has got a deficient contribution record. Anyone who becomes a pensioner today who has got cuts in his contribution record and let us say that he has an average, therefore, of thirty contributions per year, he fulfils the two conditions and his average is thirty, will be paid according to the tables at the appropriate rate. Why do people have deficient contribution records? They have left Gibraltar, for a variety of reasons, but one thing is to have a deficient contribution record for reasons of one's own volition because of personal circumstances and another thing is to have a deficient contribution record because you have been used as a political weapon to bring to their knees a community. The legal position is the same for both, a Spanish pensioner withdrawn in 1969 may have a contribution record which gives him an average of thirty and so may a Gibraltarian. Should they both be paid today at the same rate? Legally, yes, morally it is another matter and if the Community Regulations require that the Spaniard should also be paid at the same rate, it is not Gibraltar that should foot the bill when that individual was used precisely to harm Gibraltar. That is the line that we have been taking and that is the line that has got to be developed for the future because we only have a three-year agreement. It is the most that we could get, a three-year agreement, it is not easy to commit any Government beyond its own term of office. The British Government says: "Alright, for the next three years we look at it but beyond that it is very difficult". The matter is going to be addressed immediately. Mr Bossano, I think I made a note, he said something about 'we are going to start negotiations in three year's time'. No, we are starting the negotiations now, we are laying down the parameters now as to what our approach will be and there is going to be an exercise to look into the extent of the commitment, what is the actuarial position, what is Gibraltar's capacity to pay. Frankly, I don't care what is Gibraltar's capacity to pay. I have mentioned what I think is the maximum and hope that we would be in the position in 1989 that we are able to make a contribution of the order or equivalent to the £1.5m per year that I have explained. I have dealt, I think, with the point of the Peliza statement of 1970. What didn't come out clear from Mr Mor was what would the Opposition have wanted to see and that, apparently, they have not been able to make clear because we have not given them information, we haven't told them how the negotiations were. The negotiations were critical and I have given an indication of a dramatic

about turn which had public information been given about the course of the negotiations, the result might have been far less satisfactory than what it actually was because then the British Government may have been seen publicly to have been adopting certain positions and felt cornered that it could not move from them or we ourselves for that matter. But even if Hon Members on this side of the House hadn't made it clear I will say what the Opposition could and ought to have done. They could at least have tried to get factual information. The figure of £775,000, that figure could have been asked for rather than go to all the research that Mr Mor, which must be very painstaking, did, I think it would have been quite proper to put a question here in November: "What does the Government calculate to have been the amount which the Spaniards contributed with accrued interest?" And if there wasn't the opportunity to do it here in November, if they wanted the information subsequently, they could have written in to the Minister asking for that. That is different from asking for the Actuarial Review. I haven't seen the Actuarial Report, I don't know if any Members other than my colleague the Minister for Labour have, I haven't seen it and frankly I am not very bothered about seeing it because once I lay down the parameters as to what the approach should be and the line should be, that is just an instrument that will enable me to arrive at the figure that I want, so I am frankly not worried about seeing it and even after today's debate I am not going to ask for it, I take certain views about Government Reports being made available to the Opposition but I will not go into that today. I thought therefore that what Mr Mor would have done would have been, in fact, to go into the question of what happens after the three years, he didn't, but Mr Bossano has done and I will deal with that point at the end. It is a pity Mr Feetham is not here, he asked: "What happened since 1970, the sooner the problem was overcome the better". We did take steps shortly after 1970 when we came into Government. I introduced in the first Review in July, 1973, a residential qualification. If we had not introduced that residential qualification in July, 1973, we would not have been able to increase the pensions of resident pensioners, of Gibraltarians if you like, without increasing them for Spaniards who were already pensioners and for those who became pensioners over the years, not many did because there was a strange provision in the law that unless they left the Campo Area they could not apply and therefore we used to get, periodically, pensions from people that had emigrated to Barcelona or at least beyond the Campo Area but instead of paying to Spaniards who were already pensioners at the rate of 1972 or 1973, we would have had to increase them so one was looking ahead and one was safeguarding and I don't want to go too much into that here publicly but I would do so privately, one was looking ahead and seeing that we had to be able to review the pensions annually for Gibraltarians, for people living here, without having to meet an intolerable burden in respect

of other beneficiaries who were no longer here, EEC or no EEC. The legislation was brought to the House with effect from July, 1973. What was not clear, of course, was that Spain in 1972 or 1973 had any notions of joining the Community, that couldn't be clear, in fact, they were not eligible to join and only became interested in joining until Franco died which was at the end of 1975 and then when they made the transition to democracy they were in a position to apply. And then came the attempt to settle the problem to deal with the matter in 1977 which was not agreed to by Spain. But I will say one thing today and that is that in any case this attempt by the Peliza Government or by Sir Joshua Hassan with Señor Oreja in Strasbourg in 1977 was in point of fact all quite academic and it was academic because it is illegal. It is illegal to compound a figure and to hand it over to the Spanish Government in settlement of the problem because the pensions, the commitment arises on the Social Insurance Fund to individual Spanish pensioners, it is not a commitment to the Spanish Government. This lump sum which was intended to wipe off our commitment and take care of it and would have been handed over to the Spanish Government for them to make arrangements to pay the pensions would, in fact, have been illegal unless it was agreed to by each individual beneficiary because if he did not then any aggrieved person could subsequently have taken the matter up legally, he could have taken legal steps initially in the Supreme Court here in Gibraltar and failing that, subsequently in the European Court and it is a question of the European Court up to a point that strengthens our hand in that if we had defaulted, if the Gibraltar Government defaulted, it is not Gibraltar that would be arraigned before the European Court, the Member State here responsible is the British Government and that is one of the points that they have never been able to refute in the course of our discussions with them. Mr Pilcher then came in and tried to exonerate Mr Mor. The Financial and Development Secretary sits here but the information which is given to him by accountants in the Treasury would have been given to me and I would have explained the matter the way that he has done so it is no particular advantage that he is there, he is an accountant and he traditionally deals with that aspect but if there wasn't a Financial and Development Secretary sitting here there would have to be a Minister responsible for financial matters but the information would have been given to us in exactly the same way. I think therefore to wind up, Mr Speaker, I should deal with the question of the future and I have given some indication as to what the line should be.

HON J BOSSANO:

Could I just ask the Hon Member one question? What is going to be the mechanics of the £6m, is there going to be a contribution which will show up as income in the Social Insurance Fund?

HON A J CANEPA:

I don't think that they have been settled yet, this is the subject of correspondence between the Financial and Development Secretary and ODA and, in fact, when Mr Cox was here the week before last they had discussions on the matter, I don't think it has been settled. We are getting two payments of £3m, we know that, but the whole thing has not been totally wrapped up yet. What, therefore, of the future and what happens or what should happen and how should we attempt to influence what should happen, what line should we take in 1989? As I say, I think that the contribution that Gibraltar should make to a settlement is to say that we recognise moral and legal obligations to those people that were already pensioners and we will increase contributions, if we have to, from our workers to meet that but insofar as the others are concerned, it is a threefold responsibility. It is a responsibility of the British Government because we cannot afford to pay and they have got underlying financial responsibility for Gibraltar because they did precious little against Spain during all the years of economic siege, they helped Gibraltar in their policy of support and sustain for which we are very grateful but no retaliatory steps were taken against Spaniards and because the ultimate responsibility under the EEC Social Security Regulations is there under the Treaty, the ultimate responsibility is Her Majesty's Government's and not Gibraltar's, so they have a responsibility. But what about the responsibility of others? What about the responsibilities of the Socialist friends of Hon Members opposite and I am referring to the present Spanish Government. They have got, in my view, a responsibility and the responsibility which they have

HON J BOSSANO:

I think they were in jail, Mr Speaker, when the labour was withdrawn.

HON A J CANEPA:

I recognise and I applaud and admire the stand that those people were taking and I am personally a great supporter of the present Spanish Government. But in the same way as I commend the attitude which my Hon Friend Mr Zammitt explained to Ministers at one of our recent meetings on the question of Spanish pensioners, commend the attitude that they have adopted towards soldiers of the Republic who fought for the Republic, for the legitimate Government of Spain during the Civil War, I would commend that they take a leaf out of that book and that is that if the Spanish Government today recognises that those soldiers have pension rights so do the workers who were working in Gibraltar and withdrawn in 1969 have pension rights which the Spanish Government

should make a contribution to. They should recognise that and they should make a contribution and we have told the British Government that they should take that line, they haven't done so yet and we will continue to press them. And the third party to a settlement must be the Community, the European Economic Community must put something into the solution of the problem because they create the problem as well by having Social Security Regulations which are alright in normal circumstances, of course, that there should be no discrimination is fine, in fact, I have forgotten to mention that the other thing of course we tried to do was to get derogations in 1983. During the course of 1983 we tried to get derogations so that we wouldn't have this commitment and the Commission ruled out any derogations on the basis that they were discriminatory, it went against the principles of equality of treatment. If the principle is one of equality of treatment and if the Treaty of Rome is about promoting and improving the living standards of citizens of the Community, to impose on Gibraltar this kind of obligation in 1989 onwards hardly is equality of treatment as between Gibraltar and powerful Member States and it is hardly equality of treatment in the burden that is put on us as individual contributors compared to others. That is the line that I would commend and they have been quite prepared to make concessions to Greece so that Greece would not veto Spanish entry. Well, again, let them take a leaf out of that book. This is the concerted line, I think, that we have got to vigorously pursue the next three years. I hope that we can make progress on that because if we cannot the situation in 1989 would indeed be difficult and then Gibraltar might have no choice but to seriously consider leaving the Community with all the constitutional, economic and political consequences that would arise from that and I hope that we will not be cornered into that position. This is the line that the Government will be pursuing from now on and having regard to the fact that there has to be a general election in between and it is within the realms of possibility that another group of people might be sitting here, it would be, I think, a good thing for Gibraltar if the Opposition of today who could be the Government of tomorrow, in 1989, I would invite them to think constructively about these matters and about this approach and come out with a firm statement of policy. If it is broadly in accordance with the line that one is taking that I think would be good for Gibraltar because the British Government would know that in 1989 whoever is in office in Gibraltar would be adopting a similar point of view, a point of view which I think fully safeguards and protects the aspirations and the welfare of the people of Gibraltar.

MR SPEAKER:

If there are no other contributors to the debate I will call on the Hon Mr Mor to reply.

HON R MOR:

Mr Speaker, I think the motion has been dealt with extensively and I will try and minimise my comments. I have taken down a few notes and I think perhaps I should deal with what the Government intends to do in the future, this is of course a matter which will be discussed in this House, presumably, at another stage. If I may refer to a comment by the Hon and Learned the Chief Minister, he said that I had based all my contribution on the possible facts that there was an overpayment of £1m. I would have assumed that £1m is not only a valid argument but also a very valuable argument in connection with our finances. There seems to be, Mr Speaker, a mania with the Government about me getting my figures wrong, in fact, it has been mentioned at three stages during this debate and in this respect I am glad for the intervention of the Hon Mr Canepa earlier on when he interrupted the Leader of the Opposition and he did admit that in the letter of the 9th January the figures were rough and ready. I have a copy here, Mr Speaker, of the Gibraltar Chronicle of the 21st January and the Government has rejected my statement which accused them of producing rough and ready estimates.

HON A J CANEPA:

I think I have explained the circumstances of that letter adequately. That is not the sort of information that we would have given here in the House in answer to questions, it was an attempt to meet a lay person's limited understanding of the Social Security Scheme.

HON R MOR:

Quite, Mr Speaker, I can well appreciate that and I accept that, Mr Speaker, but what I cannot accept is that the Government should issue a statement rejecting my comments that the figures were rough and ready and then you coming to the House and admitting that they were rough and ready.

HON A J CANEPA:

Those but not the figures that we have been using in the course of the discussions or the figures that I knew were available to the Government if gone into. If the matter was gone into I knew that the figures could be produced.

HON R MOR:

Mr Speaker, the Government statement goes a bit further than that and says that the Social Insurance is a complex matter and that it is not surprising that Mr Mor's statement and calculations are completely erroneous. I would consider

this a childish attempt to discredit me publicly, Mr Speaker, and I think the Government should withdraw that statement considering that here in this House of Assembly they have already admitted that what I said was true.

HON A J CANEPA:

I personally would withdraw that statement insofar as I have responsibility for it if the Hon Member also then withdraws his statement about the £1m.

HON R MOR:

Mr Speaker, definitely if I am proved wrong I would be the first to admit that it is wrong.

HON A J CANEPA:

I have been able to appreciate, Mr Speaker, today the difficulties under which Mr Mor was labouring without having access to accurate information, I see that. But, as I said, I do not know why he did not ask.

HON R MOR:

Mr Speaker, I think I should clarify that point. In fact, I had asked earlier not recently but some time ago, I had asked the Department of Labour and Social Security what was the original figure contained in the Social Insurance Fund which belonged to the Spaniards and I was given a figure of £1m but I couldn't completely accept that figure until I was given something more definite like any document that would have shown that so that is the reason why I carried out this investigation. I am also very pleased to hear, Mr Speaker, that the Hon and Learned Chief Minister also did say that he was not prepared to give anything over what rightfully belongs to the Spaniards. I might tell the Hon Alex G Alexander that I used to read the Gibraltar Post, yes, Sir, I will admit that, I was young and innocent then. Mr Speaker, I think the whole argument hinges now on whether in fact the original figure was £1m, as stated in the statement given by the Hon Chief Minister at the time, Major Peliza, or whether it in fact is £1m as has been said here. Until that is clarified the danger still exists that the people of Gibraltar are not being protected by the agreement arrived at between the Gibraltar and British Governments and I would therefore ask the House to vote in favour of this motion.

Mr Speaker then put the question in the terms of the Hon R Mor's motion and on a vote being taken the following Hon Members voted in favour:

The Hon J L Baldachino
The Hon J Bossano
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 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 Member abstained:

The Hon B Traynor

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon M A Feetham
The Hon E Thistlethwaite

The motion was accordingly defeated.

ADJOURNMENT

HON CHIEF MINISTER:

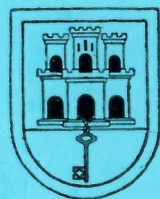
I beg to move that this House do adjourn sine die.

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 1.40 pm on Wednesday the 29th January, 1986.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24 MARCH, 1986
VOL. I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eleventh Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Monday the 24th March, 1986, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 28th January, 1986, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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. 5 of 1985/86).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 6 of 1985/86).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1985/86).
- (4) Supplementary Estimates Consolidated Fund (No. 2 of 1985/86).
- (5) Supplementary Estimates Improvement and Development Fund (No. 2 of 1985/86).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 12.30 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.05 pm.

The House resumed at 5.40 pm.

THE ORDER OF THE DAY

BILLS

FIRST AND SECOND READINGS

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) ORDINANCE, 1986

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Social Security (Insurance) Ordinance be read a first time.

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, as the House is already aware, agreement has been reached for the UK Government to contribute the sum of £16m over the next three years to meet the cost of pensions for ex-Spanish workers. The Social Security (Insurance) Ordinance as it stands at present does not provide for such contribution to be paid into the Social Insurance Fund and the Bill is intended to rectify this position. I commend the Bill to the House.

MR SPEAKER:

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

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

HON DR R G VALARINO:

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

This was agreed to.

THE PERPETUITIES AND ACCUMULATIONS ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to modify the law of Gibraltar relating to the avoidance of future interests in property on grounds of remoteness and governing accumulations from property 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 Bill deals with a most technical and complex branch of the law with which I must confess I am not familiar. The last time I had anything to do with perpetuities and accumulations was as a student about thirty-one years ago. Mr Speaker, the Bill is the

result of proposals put forward by the Finance Centre Group in order to make Gibraltar a more attractive and competitive place for setting up and establishing funds. The Bill is, with two exceptions, almost a direct equivalent of the 1964 Perpetuities and Accumulations Act in the United Kingdom. Mr Speaker, when a trust is created the law limits the period during which the trust may run. The rule against perpetuities limits the period of a trust to a life or lives in being, and twenty-one years and a possible period of gestation thereafter. First, Mr Speaker, a person could give property to such of his descendants as are living twenty-one years after the death of the last survivor of all linear descendants of King George V. Clause 2 of the Bill, Mr Speaker, gives the settler a more realistic option to the above and chooses a more realistic period of fixing the life of the trust up to 100 years. In this respect, Mr Speaker, the Bill differs from the 1964 Act of the United Kingdom in that in the United Kingdom the perpetuity period is 80 years. The Finance Centre Group recommended 100 years in order to equate our law with that of the law of Jersey which also commits a trust to exist of up to 100 years. Clauses 3 to 15 are all of a very highly technical nature, Mr. Speaker, which have been explained by the Learned Law Draftsman in the explanatory memorandum of the Bill. Mr Speaker, I am afraid that I shall have to leave it at that. All these Clauses are a direct crib from the 1964 Act. Clause 16 of the Bill, Mr Speaker, re-enacts with one change. Section 42 of our Land Law and Conveyancing Ordinance which was passed in this House on the 20th October, 1983. In 1983 the House fixed the accumulation period contained in Clause 16(1)(b) at 40 years, we have now enlarged this period from 40 years to 100 years in order to bring our law into line with the law of Jersey. In this respect, Mr Speaker, the United Kingdom Act is that in the United Kingdom the particular accumulation period is 21 years. Mr Speaker, Clause 17 of the Bill contains a mistake which I shall amend in Committee. Clause 17 should read: "Section 5 above shall apply to any question". Clause 18 of the Bill removes Section 42 from the Land Law and Conveyancing Ordinance. It is a consequential amendment following upon Clause 16 so now the whole law of Perpetuities and Accumulations is contained in one Bill. 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:

The Bill is, in fact, totally incomprehensible to the Opposition, Mr Speaker, and therefore we shall be exercising an act of faith in voting under the guidance of the Hon and Learned Attorney-General and assume that the only

mistake in the Bill is the one he has mentioned because it could be full of mistakes and we wouldn't be any wiser. I would just like to make one point. If, in fact, what we are doing is making Gibraltar competitive with Jersey and Guernsey and meeting the request of the Finance Centre Group and, in fact, both sides of the House support the development of the Finance Centre, why do we have to limit ourselves to what they are doing? Why can't we do something better than they are? If we are moving, for example, from 21 years to 100 and if being 100 is attractive and they are offering 100, why are we not going further? Is there a reason why we can't?

MR SPEAKER:

Does any other Member wish to contribute? Perhaps the Hon and Learned Attorney-General might wish to reply.

HON ATTORNEY-GENERAL:

This is entirely on the recommendation of the Finance Centre Group. They have suggested 100 and 100 we put in the Bill and I think they suggested it on the basis of the law of Jersey. You have got to have some sort of limitation period, you cannot let a trust run on forever and I think they have chosen to make it competitive with Jersey. I am surprised that they didn't choose 150 years but they didn't and we have kept to the recommendation of the Finance Centre Group.

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 IMMIGRATION CONTROL (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Immigration Control Ordinance 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, the existing Section 12(2) of the Immigration Control Ordinance was enacted by this House in December, 1983. The whole purpose of Section 12(2) was to assist applicants for naturalisation to overcome a condition imposed by the British Nationality Act 1981 that applicants for naturalisation were not subject under the Immigration Law to any restrictions on the period for which they might remain in Gibraltar. Unfortunately, Mr Speaker, the Section as enacted contained a number of flaws. The first flaw was that the Section applied only to aliens, consequently the Section did not apply to Indian nationals who are Commonwealth citizens and not aliens but it did apply to Pakistani nationals who are not Commonwealth citizens and by definition are aliens. The second flaw was that the Section was not related to the naturalisation process in any way. No obligation was imposed on the person who had been granted exemption from immigration restrictions to apply for naturalisation, nor did the Section enable an exemption to be revoked in the event of an unsuccessful application for naturalisation. Clause 2 of this Bill, Mr Speaker, overcomes these flaws by enacting that any person who would be eligible to apply for naturalisation as a British Dependent Territories Citizen under the British Nationality Act 1981 but for his inability to comply with the condition imposed by the British Nationality Act that he be free from immigration restrictions may apply to the Governor for exemption of those restrictions and it also provides that any exemption granted may be revoked and if the exempted person either fails to apply within three months for naturalisation or is refused naturalisation. Mr Speaker, as this is a matter which concerns nationality, Her Majesty's Government in the United Kingdom have to be consulted. A reply has been received from the Nationality Division of the Home Office which reads, inter alia: "~~There is a~~ plausible case for arguing that the proposed amendment to the Ordinance achieves its objective, which will justify the Governor issuing certificates of naturalisation to people in this position". The FCO somewhat wryly commented, Mr Speaker: "I hope that on the basis of this advice, that is, the Home Office advice, you will be content to amend the Immigration Ordinance as proposed and be able to effect naturalisation under Section 18 of the British Nationality Act 1981 without fear that they will be challenged". 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 M A FEETHAM:

Yes, Mr Speaker, very briefly. As You know Members of the Opposition have been, over a period of time, asking questions about when this Bill was going to come to the House so since this Bill meets the particular requirements that we were seeking we, of course, welcome it and support the Bill.

HON CHIEF MINISTER:

I think, perhaps, it would be a good opportunity to apologise to those who have submitted applications, who are waiting for so long, whatever the outcome of the application will be, but certainly they have not had an answer and this will give the opportunity to the department to process them and to be looked on their merits.

HON J BOSSANO:

Mr Speaker, I shall not let the opportunity go by, we are supporting this, it is designed to meet a specific requirement and clearly what we are doing is correcting an anomaly and therefore fulfilling the will of the House when the original thing was done. The original objective of the original amendment has been frustrated by problems which were not foreseen at the time. But I think there is a need for the Government to take a close look at the whole of the Immigration Control Ordinance which seems to us, in other respects in relation to the European Community, to contain requirements which are, in some cases, in our view, in conflict with Community law and consequently unenforceable. I don't think it is desirable to have legislation on the statute book which has ceased to have any meaning and we would certainly commend to the Government to take a close look at the existing Immigration Control Ordinance after this amendment and perhaps bring to the House a more up-to-date piece of legislation which is more consistent with European standards than the one we have got on the statute book.

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 SUPPLEMENTARY APPROPRIATION (1985/86) ORDINANCE, 1986

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, 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. I think, as the House will know, by convention any question on the details of the Bill are normally taken at the Committee Stage so I will end with that remark, Mr Speaker. I commend the Bill to the House.

MR SPEAKER:

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

There being no reply 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 the House should resolve itself into Committee to consider the following Bills clause by clause: The Social Security (Insurance) (Amendment) Bill, 1986; the Perpetuities and Accumulations Bill, 1986; the Immigration Control (Amendment) Bill, 1986; and the Supplementary Appropriation (1985/86) Bill, 1986.

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

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) BILL, 1986

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 PERPETUITIES AND ACCUMULATIONS BILL, 1986

Clauses 1 to 16 were agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that this Clause be amended by deleting the figures "17(4)" and substitute therefor the figure and word "5 above". So that Clause 17 reads: "Section 5 above shall apply to any question".

Mr Speaker put the question in the terms of the Hon the Attorney-General's amendment which was resolved in the affirmative and Clause 17, as amended, was agreed to and stood part of the Bill.

Clause 18 was agreed to and stood part of the Bill.

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

THE IMMIGRATION CONTROL (AMENDMENT) BILL, 1986

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

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

THE SUPPLEMENTARY APPROPRIATION (1985/86) BILL, 1986

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No. 2 of 1985/86

Head 2 - Crown Lands

HON J BOSSANO:

On Subhead 4 - Rates Assessment of Government Buildings. I think we were told, Mr Chairman, in answer to a question that the Motor Vehicle Testing Centre was being introduced in the Valuation List from January, 1986. Will that require then a further supplementary in respect of that building?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, not that I am aware of, Mr Chairman. If it does, obviously, we will come to the House but I am assuming that it will be met by reallocation if there is any increased expenditure.

HON J BOSSANO:

Reallocation from what, Mr Chairman? How can it be met by reallocation? The Government is showing under Rates Assessment - Government Buildings, £141,900 which by implication means that in the £392,000 they did not include the notional payments of rents for the Desalination Plant at Waterport, it doesn't mean any transfer of money since what is shown here as expenditure will appear as income. That assumes that last March this was overlooked and was left out. We have also been told that the MOT Station is going to be included on the 1st January, 1986, we don't quite know why it should be the 1st January, 1986, because it was there for the rest of the financial year but, presumably, in being included now it implies that it was not included in March and consequently the same logic would apply to the assessment of the rateable value of that building as applies to the assessment of the rateable value of the Desalination Plant.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, certainly I am not challenging the Hon Member's logic but just looking from my notes on the Vehicle Test Centre, the situation is rather different whereas as he remarked in the case of Waterport it was a mistake, there was an omission, in the case of the Vehicle Test Centre it is being included with effect from the 1st January, 1986, and the net annual value of the building and rateable equipment is £9,700 so if one is talking from a period of 1st January, 1986, to 31st March, 1986, the amount involved is considerably smaller than in the case of Waterport and I am assuming, thought I cannot confirm it because I haven't got the information, that it will not be necessary to come to the House for supplementary funds because of the smallness of the amount.

Head 2 - Crown Lands was agreed to.

Head 12 - Labour and Social Security

HON J BOSSANO:

Could I ask, Mr Chairman, can we be given some indication of what, in fact, was involved in the staff inspection? We have asked before, I think, about the desirability of strengthening the Labour Inspectorate to be able to cope, is this related to that or not?

HON DR R G VALARINO:

No, it is not. This is additional staff taken on during the course of the year to implement Community Regulations arising out of the Spanish accession therefore increasing manning levels at Key and Anchor. These are still present on a supernumerary basis until the Department is staff inspected again during the course of the year.

HON J BOSSANO:

The Staff Inspectors were not asked to look at the problem that also arises from the Spanish accession which the Hon Member must be aware of where the Department is frequently being asked to investigate allegations of labour being employed without proper documentation. Doesn't the Hon Member think it is important to have the Staff Inspectors look at the manning levels in that respect so that we are able to ensure that the law is being complied with?

HON DR R G VALARINO:

Mr Chairman, yes, I fully agree with the Hon Leader of the Opposition. In fact, the Staff Inspectors looked at this and we have had some changes in the staff there and I am glad to say that this Department is better structured now. In fact, from one of the last questions I answered at the last meeting of the House I was able to say how many people were now being taken forward for taking on illegal labour and therefore not paying either social insurance contributions and tax avoidance. Certainly the Department now is extremely good, the inspectorate section and the Staff Inspectors were happy at the time and the Department was working alright. Anyway, there will be another staff inspection during the course of the year and something else may arise out of this in which case more details may be obtainable from various sectors of the Department including the inspectorate. I will let the Hon Member know if there is any change.

Head 12 - Labour and Social Security was agreed to.

Head 13 - Law Officers was agreed to.

Head 14 - Medical and Health Services was agreed to.

Head 16 - Port was agreed to.

Head 18 - Prison was agreed to.

Head 19 - Public Works

HON J C PEREZ:

Could I ask Government whether the additional cleaning services following the full opening of the frontier has to do with an increase in staff?

HON MAJOR F J DELLIPIANI:

No, Sir, it is just an increase in overtime.

Head 19 - Public Works was agreed to.

Head 21 - Telephone Service

HON J C PEREZ:

Mr Chairman, on Subhead 1(A) it says 'cost of employing two telephone trunk operators on a temporary basis'. Will this mean that after direct dialling with Spain there will be no need to carry on employing the operators or what is Government policy on this?

HON J B PEREZ:

Precisely that, Mr Chairman, that is why they were on a temporary basis.

HON J C PEREZ:

Have they got a limited contract? Is the Hon Member in a position to say when

HON J B PEREZ:

It would be wrong of me to try and remember the contract terms but they were obviously employed on a temporary basis but I can get the information for the Hon Member.

Head 21 - Telephone Service was agreed to.

Head 22 - Tourism, (1) Main Office

HON J E PILCHER:

Mr Chairman, on Subhead 1(A) Salaries - Additional staff as a result of the full opening of the frontier. Can I ask what the additional staff are, in fact, for?

HON H J ZAMMITT:

Yes, Mr Chairman, when the frontier opened it was obvious that we had to keep the Information Offices open at the frontier which, of course, was not there before and, in particular, at the coach park when we saw the coaches coming through and, of course, more arrival of aircraft, I am talking there of Information Clerks at the various Information places.

HON J E PILCHER:

One thing that I find amusing is on Subhead 2 - General and Office Expenses - Increased expenditure on cleaning materials as a result of the frontier opening. Do the officers get more dirty as a result of the opening of the frontier?

HON H J ZAMMITT:

There is more area to clean and there is more usage. For instance, I was astonished to see the amount of toilet paper used at coach parks and other cleaning materials, Mr Chairman.

(2) London Office

HON J E PILCHER:

Is it just the possible relocation of the London Office. Are we thinking of moving the London Office again?

HON H J ZAMMITT:

Yes, we are looking at the situation, Mr Chairman, very carefully because the rent increases of our London Office is a matter of concern, certainly for the future and Government is looking at and no more than looking at, the possibility of finding premises which we could purchase which would offer accommodation for the Manager and a shop front for the Office whereby we could sell the present Manager's residence and try and buy, which in the long-term would be an investment, our own property in a suitable place.

HON J E PILCHER:

A Gibraltar Embassy?

HON H J ZAMMITT:

No, Mr Chairman, if we had an Embassy then we wouldn't have had to pay VAT which we now have to pay.

Head 22 - Tourism was agreed to.

Head 23 - Trading Standards and Consumer Protection was agreed to.

Head 26 - Contribution to Funded Services was agreed to.

Schedule of Supplementary Estimates Consolidated Fund No. 2 of 1985/86 was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No. 2 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.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Social Security (Insurance) (Amendment) Bill, 1986; the Perpetuities and Accumulations Bill, 1986, with amendment; the Immigration Control (Amendment) Bill, 1986; and the Supplementary Appropriation (1985/86) Bill, 1986, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

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

The House recessed at 6.15 pm.

TUESDAY THE 25TH MARCH, 1986

The House resumed at 10.40 am.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House considers that to allow any aircraft the use of the Gibraltar Airport as if it were landing in Spanish territory would constitute a de facto infringement of Gibraltar's territorial integrity and pose a threat to its sovereignty. It calls on Her Majesty's Government to note this view and make it known to the Government of the Kingdom of Spain". Mr Speaker, there has been concern about the future of the Gibraltar airfield for a very long time and the history of this goes back to the Strasbourg process and I have been bringing motions on this subject to the House over a number of years and have seen unanimity of sentiment in the House but when it comes to translating that sentiment into unequivocal statements, I have seen, in fact, a wording used which if you will recall, Mr Speaker, for example, in the last motion that we brought we felt effectively that the position being adopted by the Government was one where the amendment created a motion where in our view the second part of the motion contradicted the first part when we were talking about the joint use and Spain having no say and as far as we are concerned if we have got joint use we don't see how you can have no say and that is the crux of the matter. The crux of the matter is that it is not an issue over which we can waffle, it is not an issue over which we can run with the hares and hunt with the hounds and therefore, Mr Speaker, we need to be categorically clear and we are totally convinced on this side of the House that of all the areas where giving in to Spanish demands would put Gibraltar at risk, this one is the most crucial and the most important and that if we give in on this one we are then on the edge of a slippery slope and there is no holding back. Gibraltar's airfield is an enormous asset to Gibraltar in an open frontier situation and in the kind of development that is being planned for the surrounding area. It is an asset which will help Spanish development anyway and it is an asset that by being used as a result of traffic being generated in the surrounding hinterland can at the same time provide an input into Gibraltar's own economic growth but there is no question of the airfield having to be used as if it was partly owned by Spain simply because they stand to gain from it and we stand to gain from it. The facts of the matter are that, in fact, at the end of the day if the Spanish Government does not accept what we consider to be a perfectly reasonable and normal attitude on our part, that is to say, that they are welcome to lay services to Gibraltar on the basis that they are landing in Gibraltar and that the people who get out of the plane get off in Gibraltar and whether they choose to stay in Gibraltar when they get out of the plane or they choose to go to Spain, well, then they are free to do so the same as everybody else but we don't see why we have to effectively create what we all know they want which is

something that may appear very inoffensive, that people get into a sealed bus and then they disappear off the horizon and then presumably at some later stage one has to say: Well, the bus, of course, is not in Gibraltar, the bus is in Spain all the time so it will be a Spanish bus with Spanish wages and Spanish insurance and Spanish income tax and then, presumably, the fuel for the plane will go that way and the people who move the suitcases will go that way and eventually, as far as we are concerned, we will have to finish up going over to the other side to get on their bus to get into our plane because you will have parallel developments and on that side the development will be cheaper. Long-term if you have got a situation where we are developing the airport in parallel with theirs and it is a joint use airport, effectively the infrastructural services provided on that side of the frontier will knock us out of business on this side and it starts off from being the Gibraltar airport to being the La Linea/Gibraltar airport to being the La Linea airport. One thing that I would invite Government's comment on because I think it is important that Government should dispel false rumours if they are false rumours and the rumours as far as I am aware emanate from our neighbours, is that the proposals under consideration for a sealed bus are on the initiative of the Government of Gibraltar, that is, that it is the Government of Gibraltar that wants a sealed bus. I think it is important that the Government of Gibraltar should clearly say that this is not the case because there is not much point in my standing up here, Mr Speaker, and saying what I think of the Spanish idea of the sealed bus if it isn't a Spanish idea. I believe that there have been few issues in Gibraltar, Mr Speaker, where there has been as great a unanimity of view as on this one from the kind of reactions that we have had when we raised the matter and when publicity was given to the motion. We have found that there is support for a clearcut stand on this issue which says Gibraltar's airport is our airport, it is an RAF airport, it is for the use of civilian services to Gibraltar and it must continue to operate on that basis and because we have now normalised our relationship with Spain, that Spain should have the same opportunity to put services too as Air France would or any other airline, we don't want to discriminate against, we don't want to discriminate in favour of Spanish companies or Spanish airlines or Spanish aircraft and we have found that that corresponds, as least from the feedback that we have had, to the views of people in business, to the views of working people and it reflects for people in Gibraltar a watershed, a marking point that if we were to be seen to be on this one then people would be very, very seriously worried about the direction in which we are going. I think it is vital that we see this as a move on which we, the elected leaders of the people of Gibraltar, Mr Speaker, the Chief Minister, yourself, and I as Leader of the Opposition, are in a position to give leadership and lead the people of Gibraltar on a united stand, to speak with a single voice on this issue because, in fact, I think all of us

in Gibraltar, in this House, are in a position to go out of the House and stop and talk to people and we know what people feel and we know whether Gibraltar is divided on this issue or united and I think there is no question, whoever one stops to talk to, the view that one gets back is that the people of Gibraltar have got a very clear idea on this one, there is no confusion about it and therefore I commend, Mr Speaker, the motion to the House. I don't want to extend myself in putting arguments if in fact we are ad idem on this one and we all think the same then there is no point in just keeping the House here unnecessarily if the motion doesn't need defending. I think it is essential that we take this stand and I think it is essential that the British Government should be left in no doubt as to where we stand. I have, perhaps just to say, because I like to put things on the record, that when we met Mr Ratford in The Convent we had something like an hour with him and we told him that there was this prevailing rumour in Gibraltar that the British Government had already in principle given the nod to Spain and they were here sounding the ground out and trying to sell the package to us and particularly to the Government of Gibraltar and that the Government of Gibraltar was decidedly unhappy about it and he said that this was not the case, he said that the situation was that negotiations were still going on and that the British Government wanted an agreement with Spain but there were still differences and there would not be any agreement until we were satisfied that sovereignty was not at risk. I was sitting on one side of the table with my colleagues, Mr Feetham and Mr Pilcher, and on the other side we had Mr Ratford and the Deputy Governor and Mr Sindon and I said: "We or we over there?" And the answer was that they were talking about we over there so in fact when we were told 'we' it meant them not us and therefore I think it is important that that should be put on record because as far as I am concerned that wasn't a secret confidential meeting, it was a meeting where I went as Leader of the Opposition representing the Opposition and that is the answer I got and that is the answer I am entitled to bring back to the House and to the people of Gibraltar, that their view was put to us there and, in fact, our response to that was that the days of paternalistic colonialism were long gone and that our view was that the British Government was perfectly entitled in looking after our interest to come to us and say to us: "Look, we think this is best for you, option A as opposed to option B and if you take option A these are the advantages and these are the disadvantages and if you take option B those are the advantages and those are the disadvantages" and we who have now started wearing long pants, we have come out of short pants now, Mr Speaker, we then decide which option we take. On our shoulders the responsibility would then rest. If we made the wrong choice then; fine, but I have no doubt that the people of Gibraltar who aspire to a higher standard of living and aspire to being better off like every other people anywhere, if the crunch comes and they have to choose

to be less well off but clear that this is their homeland and that it is not being put at risk, that is the choice and it is a choice that one sees reflected constantly and a choice that we represent as a political party and we told Mr Ratford that as far as we were concerned they would be discharging their responsibility to us by pointing out to us the mistake we were about to make by not giving up our airport and then if we still decide to make that kind of mistake, fine, it is our responsibility. I am saying it primarily to have it on record, Mr Speaker, because it isn't directly relevant to the motion except, perhaps, to the last sentence in the motion because that is why it is important that we should be saying publicly this is what we want Her Majesty's Government to make known to Spain, our view, not their view, the view of the people of Gibraltar. I also think that in the context of the future of air services in and out of Gibraltar there is one important consideration again which goes beyond the motion and that is, we have got this Civil Aviation Authority in UK which is responsible for having to approve services in when Air Europe applied for a licence or anybody else applies for a licence, we have got the Gibraltar Air Transport Advisory Board which is here to give advice and which represents both sides of the House and therefore any question of any services, I think, by a foreign airline must of necessity come within the Anglo-Spanish air services agreement otherwise why are we talking about Gibraltar being a cabotage route and British airlines having priority on the route over other airlines, except when it comes to talking to Spain? When it comes to talking to Spain all the existing rules suddenly seem to go out of the window and therefore either we have got the right to ask independently on this issue and then we will draw up our air services agreement with anybody that we want or else we are part of the British air services agreement with certain nations and consequently if it is a service between Spain and Gibraltar and by a Spanish airline it has to come within the rules of reciprocity in Anglo-Spanish services and we must be part of that or we must have our own independent one with equal standing which I would imagine is even less palatable to Spain given how sensitive they are to recognising ~~that we exist~~ at all in a number of forums, whether it is sport or whatever it is. On that basis I think that, again, as background to the motion, our view would be that this should be the formal view of the Government and, indeed, what we would welcome would be that the Gibraltar Air Transport Advisory Board should have an opportunity to advise on this issue on that basis otherwise we have to rethink the whole question of whether it is worth carrying on with an institution which seems to have no useful purpose other than to look at fares once a year. I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, in standing up to speak on the motion on behalf of the Government I would like to say that we share all the remarks made by the Leader of the Opposition and the spirit of the motion. For once, I think, I will have to be a little longer than the Leader of the Opposition because I have a duty, now that the matter has come before the House, to put the matter in its proper historical context so I hope Hon Members will bear with me if I take a little longer than the Hon Member has done in order to deal with the matter. Let me say straightaway on what he has said that it is not true that the proposals about the sealed bus came from the Government of Gibraltar. Let me say that the view of the Government of Gibraltar has always been that we do not object to the joint use in the same way as the use with any other country that would bring its aircraft against a completely reciprocal basis of our being able to send aircraft to that country. That is the view of the Gibraltar Government. The talks on the airport which have taken place, on and off, over a period of months, I agree very much have given rise to much speculation in the press in Britain and in Spain and much anxiety. In fact, for those of us who know what is happening I sometimes wonder why people should have anxiety because we do not feel any anxiety ourselves because we have made our point very clear and if it comes to the crunch, well, we will see what the people's views are because we know what they are and we will put them forward. But, of course, what has happened is that as a result of so much press speculation and other media speculation, there is a degree of confusion or even of misunderstanding and certainly of anxiety, and I therefore propose to set these talks in their proper context and perspective. In doing so I will explain the Gibraltar Government's position on the matter while, as the Leader of a responsible Government, observing the confidentiality of the talks themselves to which we have been party. The talks, of course, had their origin in the provisions of the Brussels Agreement which speak about promoting cooperation, on a mutually beneficial basis, in a number of matters, notably in this particular context, economic, touristic and aviation matters. The first talks on civil aviation were held in June, 1985, and were followed by further talks in London in August, 1985, and in Madrid in February, 1986. The last round was held in Gibraltar and La Linea earlier this month. At the suggestion of the British Government, I agreed that the Administrative Secretary should attend the August, 1985, and February, 1986, talks as part of the British delegation. As announced on both occasions, the Administrative Secretary would, obviously, report to me on his return. He did not attend the talks held locally in March. Our approach to the Lisbon Agreement and, subsequently, the Brussels Agreement, has always been, first, that no concession of any kind should be made on the sovereignty issue and, secondly, that any developments or agreements reached on matters of cooperation would have to be on a mutually beneficial basis. I believe, in regard to cooperation as a whole,

that both sides have in fact achieved mutual benefit although, because of differences of size and economies, the benefit, though mutual, cannot be of the same nature for both. No less important, in my view, is the fact that this cooperation and the personal relationships between the peoples on the two sides of the frontier have been established in a remarkably smooth and indeed friendly manner. There has been the odd hiccup, but there can be no doubt that, at local level in particular, the cooperation and relationships are genuine. This is as it should be, especially as we are now all citizens of the European Community and common believers in democracy. I have to add, in all honesty, that, understandably, some latent resentment still exists. This makes it all the more necessary for all concerned to be alive to sensitivities. The specific areas identified in the Brussels Agreement as appropriate for cooperation on a mutually beneficial basis were economic, cultural, touristic, aviation, military and environmental matters. Our view throughout has been that economic and cultural matters, generally speaking, should be allowed to develop naturally and spontaneously, rather than in an institutionalised way, although with assistance from Government Departments where appropriate. This, I believe, has happened, and happened successfully for both sides. Cooperation in touristic and environmental matters requires a greater degree of active participation and drive on the part of the authorities on both sides. This too has happened and we are in touch with the President of the Mancomunidad with a view to giving a fresh impetus to activities in areas of cooperation which are appropriately dealt with at local level and with direct participation by the authorities. As I have said on previous occasions, the potential benefit for both sides is very substantial and I believe that this view is shared by the Mancomunidad de Municipios of the Campo Area. I have referred to these matters because I think the question of cooperation in aviation has to be seen in the context and against the background of the situation as a whole. In our view, cooperation in aviation is no different, in kind, from cooperation in any of the other matters I have mentioned. It is, perhaps, different in degree because it embraces cooperation in economic, touristic and cultural matters as well and has, therefore, the prospect of very wide and mutually rewarding scope. It is universally accepted philosophy that communications and tourism lead to greater understanding among peoples in human and cultural terms and, I dare to say, in political terms as well. They are also of economic benefit, not only in terms of communications operations as such, but also in terms of all the tourism and general business spin-offs. We have no doubt at all that air communications between Gibraltar and Madrid and between Gibraltar and towns in Southern Spain, through a regional network, would result in all these benefits, quite apart from providing a more convenient method of travel for residents of Gibraltar and the vicinity. This convenience, in terms purely of proximity, would also extend to many thousands of people in the adjacent

Spanish neighbourhood. Furthermore, in the same way as the Gibraltar airport played such a large part in developing the Costa del Sol in its early days, there can surely be no doubt that the airport can play a similar role in developing the more southerly part of the region and in increasing substantially the numbers of tourists who would spend a two-centre holiday, part of it in Gibraltar and the rest in the adjoining area, with the opportunity to fly to the attractive cities near Gibraltar by means of a convenient, fast and inexpensive regional air network. I don't think I have to enter into a detailed statistical exposition of the economic benefits for both sides - and I must stress, for both sides - of a greater civilian use of the facilities of the Gibraltar airport. The potential must be obvious to all and I think the Hon Mover did mention that as being an asset to us and a benefit to the others. I revert now to the question of the talks which have taken place, at official level, on the question of civil aviation. The first point I wish to make is that the Gibraltar Government, throughout this long and, at times, difficult period, has scrupulously observed confidentiality. As I said earlier, the press in Spain, Gibraltar and Britain has speculated on the subjects discussed at these talks. There have been reports of special arrangements at the Gibraltar terminal itself, of the waiving of immigration and customs controls, of sealed buses and of a second terminal on Spanish soil. I do not intend to comment on whether any of these reports are accurate or not. I have not done so up to now and will not do so today. But it is these reports which have led to the acute anxiety felt in Gibraltar today on the airport question. The reasons for that anxiety are obvious: the press reports have linked civil aviation with political issues in regard to sovereignty. The Spanish Government maintain that Britain has no legal title to the territory on which the airport is situated. The position of the British Government, for their part, is clearly on record: Britain sees sovereignty over Gibraltar, including the isthmus, as being indivisible. To me, it seems that cooperation in civil aviation, in the way I have described briefly, and in the terms of the Brussels Agreement, can and should proceed, to the substantial benefit of both sides, possibly to the greater benefit of the Campo Area, without any political undertones. If considered necessary, the Spanish Government could, if I may say so, make a declaration, analogous to that made in relation to their continuing membership of NATO, to the effect that cooperation in the greater civilian use of the Gibraltar airport would be entirely without prejudice to Spain's position in regard to sovereignty over the isthmus. The British Government could make a suitable parallel declaration, if thought necessary, depending on the terms of any Spanish declaration. It has been done on NATO, it has been done on the Common Market, it has been done on the opening of the frontier, it has been done on the Geneva Agreement and the Brussels Agreement. These declarations would safeguard the respective positions of both sides on sovereignty and allow the

touristic and commercial exploitation of greater civilian use of the airport to proceed, to the considerable advantage of both sides through increased economic activity, and the creation of jobs, in the Campo Area and in Gibraltar. The other side of the coin is that, if greater civilian use of the airport does not proceed, many opportunities, on both sides, will have been missed. The absence of direct air communications between neighbours, and members of the Economic Community at that, is unnatural. The waste of opportunity would be regrettable. I said earlier that I would explain the Gibraltar Government's position on this matter while observing the confidentiality of the talks themselves. This confidentiality is important, not only because there are commercial considerations, but also because all concerned in these talks must observe it. We certainly do not wish to have a finger pointed at us on this score. The Gibraltar Government's position, therefore, in the abstract, as it were, is simply that, in accordance with our approach throughout, the matter should be dealt with strictly on the basis of cooperation to mutual benefit and without political undertones. When the Administrative Secretary reported to me on the talks held in Madrid on the 10th and 11th February, it seemed to me that there existed the possibility of political undertones creeping into the discussion. Up to that time they had been purely on a technical matter but at that level I thought political undertones were creeping in. I cannot be more specific than this for the reasons I have said of confidentiality. It continued to be true, of course, that the talks were at official level only and that any outcome would be ad referendum to Ministers. Nevertheless, because of the possibility which I have mentioned, I felt it necessary to inform the Governor that I did not wish the Administrative Secretary to attend the talks to be held on the 4th and 5th March. It was made clear to me by Mr Ratford last week, and I understand that the same point was made to others whom he met during his visit, that a conclusion on this matter is not imminent, that it is unlikely that further discussion will take place before May and that such discussion will be at coordinator level and will cover a range of other matters. I have made the necessary representations to the Governor and have put forward my recommendations on how the matter might be dealt with, a matter which would be acceptable equally to the Opposition as it would be to the Government, and I have no doubt that they will be carefully considered in London. Our attitude continues to be one of goodwill based on mutual respect for the respective views of the two sides on the fundamental issues. I would now like to deal with the wording of the motion. I unfortunately find it impossible to accept, from the Government's point of view, the wording of the Hon Leader of the Opposition's motion whilst agreeing fully with the spirit. I have to make amendments but I would like to say that they should not be regarded as watering down the motion in any way, certainly that is not our intention I can assure the House. The amendment I propose must not in any way

be regarded as watering down the sense or thrust of the motion nor do they have that effect. I did try to see whether the changes which, in my view, were desirable, could be made by retaining the framework of the motion and substituting some of the words but I found that this was impossible because of the way the motion is drafted. My amended motion is an attempt to express our common view on this matter while, at the same time, taking into account the hypothetical nature of the present situation. I have to make an amendment to this amendment and that is that I did not envisage eliminating the last paragraph and therefore the amendment that I propose would have all the words of the first sentence substituted but I do not intend to do anything to take away the last paragraph, whatever we agree, 'Her Majesty's Government should ~~NOTE~~ and make it known to the Government of the Kingdom of Spain' but whilst the typed copy does not contain that phrase I did not intend to take it away. I am sure that Hon Members want to know exactly what I propose. This is what I think is the feeling as seen from the Government side. In introducing the amendment I don't say that it is being looked at in the wider sense of Government responsibility because I don't want to say anything that would appear to undermine what the intention of the motion is but the amendment envisages a reality which I think we have before the House. The amendment would read: "This House affirms that, should proposals be put forward, in connection with greater civilian use of the Gibraltar airport, which might make it possible to represent or interpret such use as being an encroachment on British sovereignty over the isthmus, such proposals would be unacceptable to this House and to the people of Gibraltar". As I think I mentioned Mr Ratford's report on this matter, the matter is still under consideration, the matter is long away from an agreement, it has not gone even up to Minister level and I wish to put an input there of the feeling of the House in respect of the matters in which we are concerned. Put it one way or put it the other, my suggestion is that it comes exactly to the same problem because what we are concerned is that nothing that is done in respect of that as far as this House is concerned should be interpreted in any way that we are prepared to cede either, even further than cede, that anything could be interpreted as ceding. I want to make it quite clear that the message from this House should be that whatever arrangements are being considered the input from Gibraltar should be that even if there are assurances on both sides, anything that could be represented and I have no doubt that that would be very quickly done by the other side, that that, in itself, capable of that interpretation, is obnoxious and repugnant to this House. I hope that my statement will serve to allay anxieties in Gibraltar and to reassure people that, as always, the Government stands for the protection and preservation of Gibraltar's British sovereignty in all its aspects. With Britain's help and with the support of the overwhelming majority of the people of Gibraltar,

we have succeeded in doing this ~~through~~ very difficult times and I have every confidence that together we will continue to do so. Thank you, Mr Speaker.

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

HON CHIEF MINISTER:

I should have said before I sat down, Mr Speaker, that I very much ask the Opposition to look at the thing carefully and to see whether they can see their way to accepting the proposal.

MR SPEAKER:

Since there is an amendment before the House, of course, the Hon the Leader of the Opposition has the right to contribute to the amendment.

HON J BOSSANO:

I think, Mr Speaker, we need some time to consider to what extent this, in fact, reflects the same position as the original motion does or not. If we had had the amendment before we started we might have been able to respond immediately but we need at least to discuss it amongst ourselves. If we could have a five or ten minute adjournment.

HON CHIEF MINISTER:

Absolutely, I think we could have a recess for you to consider it.

HON J BOSSANO:

We don't want to respond negatively if it is possible to respond in another way.

MR SPEAKER:

Perhaps it would be convenient to have a short recess.

The House recessed at 11.20 am.

The House resumed at 11.40 am.

HON J BOSSANO:

Mr Speaker, we have considered the Government's amendment and I propose the addition of a few words which, in our view, are necessary for the avoidance of doubt but do

not effectively change in any way the wording proposed by the Government but simply serve to avoid possible later debate as to whose interpretation is the one that matters. I think it is important and we are responding to the Government's amendment to our motion very much in recognition of what the Hon and Learned Chief Minister has said in moving the amendment which satisfied us that, clearly, we share the same view and we share the same sentiments and it is important for Gibraltar that that should be known and that this motion consequently is, in fact, a statement of the Gibraltar view on this issue. The amendment that I propose, Mr Speaker, is that we should include the words "in the view of the Gibraltar House of Assembly" after the word "might" appearing in the third line. The motion would therefore read: "This House affirms that should proposals be put forward in connection with greater civilian use of the Gibraltar airport, which might, in the view of the Gibraltar House of Assembly, make it possible to represent or interpret such use as being an encroachment on British sovereignty over the isthmus, such proposals would be unacceptable to this House and to the people of Gibraltar". It then continues with the final sentence: "It calls on Her Majesty's Government to note this view and make it known to the Government of the Kingdom of Spain". I think that is a very clearcut statement and it should serve, in fact, to reassure people that whatever rumours about what might or might not happen, at the end of the day if what is intended should happen is seen by us, who have got the responsibility of being answerable to our electorate, as being a danger, then clearly the stand is there and it is a clear stand and it is a united stand and it is a stand that I am sure the people of Gibraltar will be reassured by and comforted by. I commend the amendment to the House, Mr Speaker.

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

HON CHIEF MINISTER:

Mr Speaker, I am delighted to accept that amendment, about which we have consulted, making it more clear but it was always that intention that I had in mind. I am delighted to accept that and I think it will be a very good thing if it is clear that we are unanimous in our sentiments on this very important matter that might have crucial results in the future.

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

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

HON A J CANEPA:

Mr Speaker, it is very much of a red letter day in the light of this present House of Assembly that was elected in January, 1984, that I think it is actually for the first time on what is a major matter of foreign policy we have been able to reach unanimous agreement. I think that it is even more significant against the background of the debate and controversy that surrounded us and divided us on the question of the Brussels Agreement. There has been a great deal of feeling, I think, in Gibraltar recently, it has been echoed or found echo in one or two letters that have appeared in the media locally calling for a united view, wishing to see the Gibraltarians getting together on this matter and I think that the message that should come out of this House loud and clear is that the leaders of the people are able to do precisely that, they are able to give the leadership that is necessary and they are able to work together for the benefit of the people as a whole for the benefit of those who elected them to this House of Assembly just over two years ago. The problem, Mr Speaker, with this matter, this issue of the airfield, as with many other matters that affect us in Gibraltar, that impinge in any way on sovereignty or any of the attributes of sovereignty is, in my view, the harassment to which the people of Gibraltar are subjected on a daily basis, on a weekly basis, from the media, principally, of course, the Spanish media. The Spanish media is constantly putting forward the Spanish attitude, the Spanish approach to the various matters that arise over Gibraltar and one really has to feel very sorry for the people of Gibraltar that we have to live under this cloud, under this Sword of Damocles and, of course, it is not in the realm of practical politics that Spain will drop the claim. The most that one would hope is that the human dimension of the problem should prevail, that the understanding that there is on the part of the people of Spain in the neighbouring region will, in time, work its way through to the Government in Madrid and that they should have a far better understanding of what the issues are. The problem, as has been put to me by Spanish politicians in the Campo Area, is that the politicians in Madrid right at the very top do not understand the human essence of the Gibraltar problem. They think that all that there is in Gibraltar is a few hundred Gibraltarians meeting and serving the needs of a base and not that there is the reality of a people with an identity of their own and with a way of life of their own that has been so well established over the years and until that message gets across, Mr Speaker, we will continue to get a repetition of the situation that here you have the Spanish Government scoring a great political triumph

with the result of the referendum and in the same breath the issue of Gibraltar has got to be brought right to the forefront of it all in a manner, in a way that leaves a bad taste for us in Gibraltar because if we in Gibraltar take a very broad view and we think that it is good for Western defence that the referendum should have gone the way that it has and as democrats I think we should welcome that, nevertheless our feeling, our desire to identify ourselves with that success is seriously marred and seriously jeopardised by the fact that the Gibraltar issue is once again dragged into the forefront bringing us once again under pressure. It is something that we have to live with but we, I think, as leaders in Gibraltar, all politicians must be constantly conscious of this and make it our business in the House and from the House, in our regular contacts with people, I think Mr Bossano made reference to that, we see people constantly, we meet them in the streets and talk to them, reassure people, bring home to them the essence of the Spanish attitude to Gibraltar. For Spain Gibraltar is the number one obsession and because of that their aspirations are very high about the Gibraltar issue, I think their aspirations are high on virtually everything, the Spaniards invariably in their approach to the EEC, in their approach to NATO, they are in doubt as to whether they are going to go in or stay out but if they are in they want to be given command of the Straits and what have you. This is very much in the nature of the Spanish people, it is one of the idiosyncrasies in their character that they raise their aspirations very, very high and then, of course, they cannot deliver the goods and they fall flat on their faces. Unfortunately, on this occasion the speculation has not been just in the Spanish media and, of course, what the Spanish media is invariably putting across is the Spanish point of view, it is the Spanish negotiating position and I am glad that the Chief Minister cleared up in no uncertain terms, at the invitation of the Leader of the Opposition, that of course any suggestion of a sealed bus could not possibly emanate from the Gibraltar Government. If there is to be such a thing as joint use of the airfield, there is a perfectly good air terminal which we have expanded recently and airlines are welcome to make use of it. But anything else that can give the impression that sovereignty is being undermined, that the rights that we have achieved by way of immigration control or customs control are going to be undermined, we cannot be a party to that sort of thing let alone be the initiators of such a proposal, this is madness, but this is the kind of thing of course that brings about anxiety and undermines the confidence of the people. I agree with Mr Bossano that to give in on the issue of the airfield could spell out trouble in the future. It is the most crucial area, it is the most crucial area because Spain does not recognise British sovereignty over the isthmus, because Spain does not consider that the isthmus was ceded at the time of the Treaty of Utrecht and I think that, on the contrary, any fear that the question of the airfield should spell out trouble for

us in the future will, after today, I think, take a completely different line, a completely different direction in that the message that comes out which I am sure will be noted by the British Government and by the Spanish Government is that this House of Assembly can be united and that therefore any suggestion, any view that in a difficult situation the Opposition would make political capital out of the situation and be quite happy to see the Gibraltar Government resigning and they take over just for the sake of power is something which is totally out of the realm of practical politics as far as Gibraltar is concerned. I think that that is a good thing, Mr Speaker. I was somewhat disturbed about the point made by Mr Bossano regarding the meeting that he had held with Mr Ratford that it is Britain that has to be satisfied about what constitutes an infringement of British sovereignty over the isthmus or not. One knows that Britain is the governing power, as it were, the administering power, but this is where I am a little bit worried about any joint declaration surrounding an agreement over use of the airfield because it would be the British Government that would have to be satisfied about that joint declaration and we knowing and following very closely events as we do in Spain and knowing the Spanish character and idiosyncrasies in this respect, we have no doubt about the extent to which the media in Spain, the press, would make political capital out of any agreement that involved a two-terminal solution or a sealed bus solution and any description of flights as being internal flights and so on. The British Government for their part might be somewhat satisfied about assurances from the Spaniards but that would not in any way remove the reservations that we would have and that is why I think it was particularly important to introduce the amendment that Mr Bossano introduced to the Chief Minister's amendment in that it is the view of the Gibraltar House of Assembly that should be the underlying factor because we are much more sensitive to the situation than anybody else. I would just, in conclusion, take the opportunity, Mr Speaker, since I have been saying a great deal about press speculation on the matter, to make reference to the Sunday Telegraph article where it has been alleged that Whitehall believes that the talks on the future of the Rock would move very quickly in the coming few months and that the Foreign Office was likely to agree to the Spanish demands for special immigration and customs arrangements from passengers proceeding from one point in Spain to another through the Gibraltar airport. The allegations in this article are not accurate, they are based on speculation and no credence should be attached to them. The article has been discussed with Mr Ratford last week and we, for our part, found his detailed explanations quite reassuring. Finally, Mr Speaker, to make reference to what a veteran diplomatic observer had to say that the people of Gibraltar would not be prepared to go back to the bad old days, one would hope that given Spanish membership of the EEC the Spaniards would not in the face of any intransigence on the people of Gibraltar reintroduce restrictions and most certainly

not close the border. If they were to do that they would be infringing their Treaty of Accession where a declaration was attached to the trade chapter regarding freedom of movement. I don't think that it would ever come to that but if it came to the crunch I have no doubt that the people of Gibraltar would be happier to go through another sixteen or seventeen years of economic blockade than to give in on any issue which they felt undermined their future. There is, I think, a parallel in this, whilst joint use of the airfield could bring about and would, no doubt, bring about commercial and economic benefit for the Rock, our approach to that is very much in parallel with what is our approach on the question of supplying our own electricity and our own water. It would be very much cheaper to get water from Spain, it would be very much cheaper to plug into the Sevillana and get our electricity from there, nevertheless we have never done so, we have never contemplated doing so because we have believed firmly in the policy of self sufficiency and because we believe that we have to be economically strong through our own resources in order to be politically strong. As I said earlier, Mr Speaker, I hope the message will now go out clearly from this House, the Members of the Government and of the Opposition are united in their approach to the matter and it will strengthen the hand of the Government immeasurably in the consultations which take place quietly within the realms of confidentiality and about which a great deal cannot be said but what one would like is to reassure people that in the conduct of affairs on this matter the view that has been constantly expounded to the British Government and put across is the view that any ordinary self respecting Gibraltarian would put across. Thank you, Mr Speaker.

HON J E PILCHER:

Mr Speaker, I will be very brief because I think there is very little to add on the extensive explanation of the Hon and Learned Chief Minister, the amendment speaks for itself and the contribution of the Hon Leader of the Opposition and certainly the scenario painted by the Hon Mr Canepa but I think I have to say a couple of things. I agree with the Hon Mr Canepa that this is a red letter day although I wouldn't go as far as calling it a red letter day because a red letter day seems to signify a uniqueness of the day in question, although red is alright. The point, I think, we would like to make is that I think this should dispel the continuous criticism of especially this House of Assembly in that the Government and Opposition couldn't come to terms with anything whether it was on foreign affairs or on local affairs and that it was a question of the Opposition opposing for opposition sake and the Government wanting to make sure that they were the leading power and not agreeing to anything the Opposition said. I think this will dispel criticism and certainly I would like to reassert here and now the fact that our party will take a united front with the governing party

on whatever issue we think that the Gibraltar Government has taken the right attitude in the right situation. We have, in fact, said this in the past and I think today proves that it was not only just a set of words but something which we were prepared to follow up with action if action was needed and just to reassure all the Members opposite and members of the media that there is no question at all of us making political capital and jumping in if the AACR would want to resign on any issue, that we on this side of the House were backing them to the hilt. It would be a united front and not a petty squabble in this House. I think one other point is that it shows what we have always said that reassurance for the people of Gibraltar must come from this House of Assembly. I think this debate that we have had this morning, this motion which we all agree on is, I think, the best reassurance that the people of Gibraltar can have and I think it is a thing we have been saying in the past and I think it is a lesson to be learned and whenever there are these rumours and these aspersions being cast, that the place to resolve them is here in the House of Assembly and although I accept the confidentiality that the Hon and Learned Chief Minister is subject to, nevertheless there are times when without breaking confidentiality, like obviously he has not done this morning, we can come to this House of Assembly and reassure, even if we don't agree, reassure people of our different position. The last point I would like to make is a point that I made to Mr Ratford. I think the Hon Mr Canepa has already pointed to it and I suppose it is a point which has surfaced because of perhaps the idiosyncrasies of the Spanish people, the continuous bombardment of the Spanish media and it is a point I made to Mr Ratford and which I want to repeat here and it is a point that has surfaced over the last couple of weeks in the British media and certain part of the British media which is very close to the Foreign Office and that is the softening of attitudes of the Gibraltarians. I reassured Mr Ratford that not only is there no softening of attitudes about the principles of sovereignty and other principal issues but, in fact, because we expect more from a democratic party, if anything the Spanish and British Governments will find that there is a hardening of attitudes over things like sovereignty and not a softening of attitudes. That is all I want to say, Mr Speaker.

HON M A FEETHAM:

Mr Speaker, I wasn't going to make a contribution but I think the debate has gone to a great extent as one had envisaged because this is a very important issue but I think we must not give the impression at the same time that we are naive insofar as the circumstances prevailing in this matter which are very profound in relation to the fundamental problems that we are going to be faced with. We are actually saying in this House that the Spanish Government are unreasonable and that they are taking a line which is not acceptable to us because it does not

seem to be a democratic line to take by a Government that forms part of the European Community and continue to be a member of NATO. But the thing is that we must also make it quite clear to the people of Gibraltar and to the British Government because the British Government is the Government that I am concerned about because it is the British Government that handles our affairs. The British Government's attitude in relation to Spain in the context of the problem of Gibraltar changed drastically and fundamentally with the signing of the Brussels Agreement which we have not agreed with and I am not going to get into a debate about that because in fact the Chief Minister has defended the wider interpretation of the Brussels Agreement as his Government sees it and, of course, he knows how we see it but the British Government accepted in the Brussels Agreement the question of discussing for the first time sovereignty over Gibraltar with the Spanish Government which was a complete shift to what Mr King had said in 1964 in the United Nations when he said that Spain had no right to be consulted on the future of Gibraltar and this was a matter between the people of Gibraltar and Britain. Therefore, when we talk about high aspirations of the Spanish people and the Spanish Government it is because the British Government has given them aspirations as far as the question of sovereignty is concerned, let us be quite clear about that, and it is in that area that we have to show by supporting this motion here that, in fact, the people of Gibraltar have got strong reservations about that matter and that when we talk about mutual cooperation and things like that we have to be very careful that we are not actually building up their hopes to such an extent that the Spanish Government turn round and say: "You are just not delivering anything and therefore you are in breach of the Brussels Agreement" because it is a unilateral agreement between Britain and Spain, it has got nothing to do with the European Community, it is outside the scope of the European Community and that is what we have got to be careful about. I can assure Members of the House that as far as I am concerned I am not surprised at all that the question of Gibraltar should have come up in the NATO referendum. It is an important issue for the Spanish Government, the question of Gibraltar in the context of NATO, and it would have come up and I don't think it is a secret and I am sure that every Member across there in having discussions with different political or administrative people on the British side have been told in private what they don't want to say in public and that is that there is a withdrawal of the British presence in the Mediterranean and that their interests are best defended in the North Atlantic and the Southern Atlantic and there is a review taking place in NATO and there is a possibility that Spain is also earmarking Gibraltar as part of their structure so it is nothing new and we shouldn't give it too much importance that Spain is in fact saying in the context of NATO that we have to talk about the Gibraltar command, we are certainly against it. When we discuss this sort of motion let us not concentrate too much on what the Spanish Government view is because we have known that for 274 years, they haven't changed

at all, the British Government have changed and our fight in this family that we belong to is making sure that sometimes the children are becoming far more educated in the eyes of the world, educational process has improved and our children today know more than I knew when I was their age and in relation to the British Government we know much more now than we knew years ago and that is what we have got to be very careful about that we put things in their true perspective and that is why this motion in support on the matter of the airport, this united front is so very important. Our struggle is in convincing the British Government that what is in their best interest and that is what Ratford was saying, 'what we consider to be best for you', is what he was saying to us, may not necessarily be so. We can interpret what we think is in our best interest because there is conflict of interest on the matter between Britain and Spain over Gibraltar and that is why this is very important and I think perhaps at the expense of having said something which may bring the debate slightly out of context in the atmosphere that it has taken place, I think I had to say that in all conscience because I think it is an important thing that should be said and people should know about.

MR SPEAKER:

If there are no other contributors I will call on Mr Bossano to reply if he so wishes.

HON J BOSSANO:

I shall be very brief, Mr Speaker. We attach a great deal of importance to this, I think we highlighted it in the Swearing-In of Sir Peter Terry when he arrived as Governor, we drew attention to this issue and to the importance of this issue and to our stand and I think it was in that contribution that I spoke of a stand which was not merely a GSLP party political stand but a stand as Gibraltarian patriots ready to stand up and be counted when it came to the defence of their homeland. I think that is the message of the motion, that this is not a GSLP/APCR motion, this is, in fact, a Gibraltarian motion expressing a Gibraltarian sentiment and telling the rest of the world that at the end of the day it is what Gibraltarians want and what Gibraltarians think that is the paramount factor in the equation and once that is made clear, and it is a unanimous view, I think we are talking from a position of strength. Whatever other issues may divide us because we see things differently, when the crunch comes Gibraltar has to come first because if there is no Gibraltar then what are we fighting each other over. Thank you, Mr Speaker.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:-
"This House affirms that, should proposals be put forward in connection with greater civilian use of the Gibraltar airport, which might in the view of the Gibraltar House of Assembly make it possible to represent or interpret such use as being an encroachment on British sovereignty over the isthmus, such proposals would be unacceptable to this House and to the people of Gibraltar. It calls on Her Majesty's Government to note this view and make it known to the Government of the Kingdom of Spain".

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

The Hon J L Baldachino
The Hon J Bossano
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon M A Feetham
The Hon Sir Joshua Hassan
The Hon G Mascarenhas
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J B Perez
The Hon J C Perez
The Hon J E Pilcher
The Hon Dr R G Valarino
The Hon H J Zammitt

The following Hon Member abstained:

The Hon B Traynor

The following Hon Member was absent from the Chamber:

The Hon E Thistlethwaite

The Hon J Bossano's motion, as amended, was accordingly passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move that the House should adjourn to the 17th April, 1986, when we will take the Budget.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Thursday the 17th April, 1986.

The adjournment of the House to Thursday the 17th April, 1986, was taken at 12.15 pm on Tuesday the 25th March, 1986.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24 MARCH, 1986
VOL. II - BUDGET

THURSDAY THE 17TH APRIL, 1986

The House resumed at 10.45 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social
Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and
Postal Services
The Hon E Thistlethwaite QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

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

IN ATTENDANCE:

J L Ballantine Esq, RD - Clerk of the House of Assembly (Acting)

PRAYER

Mr Speaker recited the prayer.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the Suspension of Standing Order

7(3) to enable Members to lay on the table various documents.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 7(3) was accordingly suspended.

HON J BOSSANO:

Mr Speaker, I would like to say something on the suspension of Standing Orders.

MR SPEAKER:

Certainly.

HON J BOSSANO:

I think that it has to be understood that we attach a lot of importance to the material that we get in these Surveys and that it enables us to assess the picture presented by the Government to the House at Budget time particularly when we have seen a picture that changes so dramatically from one year to the next. We have had a situation, Mr Speaker, where the Abstract of Statistics for statistics up to December of last year was made available two days ago; where the 1984/85 Audited Accounts were made available to us just over a week ago; where the Employment Survey for last October was made available to us on Thursday of last week; and where the insurance records of people employed was made available to me this morning from last December. In that situation, I think I have to say that although we welcome, belated though it is, this material being made available to us, it may mean that when we listen to what the Government has to tell us in its opening remarks on the state of the economy, we may require more time than we have usually asked for to contrast their picture of the economy with the picture that we make ourselves from these figures. Because what we normally do when we have these figures, in anticipation, is to make our own assessment of what is happening to the economy and we are ready for the Government when they come forward with their version of events. This year we are not in a position to do that.

MR SPEAKER:

I would like to say that the suspension of Standing Order 7(3) exclusively relates to taking business out of its order and not the circulation of papers but, of course, the point is taken.

HON CHIEF MINISTER:

Perhaps I might make it clear that it is not that it is done near the Budget but it is done as soon as possible and we try to make sure that it is before the Budget.

HON DR R G VALARINO:

The only thing I would like to say is what he mentioned about the return of employment cards. I think you said you had asked for them from last December. In fact, the date you asked for them, I think, was March and they were produced.

HON J BOSSANO:

Mr Speaker, if I may clarify the point. The position is that I usually get them shortly after December, which is when the cards are handed in, without having to ask. Since this year by March I still hadn't had them, I wrote in asking for them in March and I got them today. That is what I am saying.

DOCUMENTS LAID

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

- (1) The Hotel Occupancy Survey, 1985.
- (2) The Air Traffic Survey, 1985.

Ordered to lie.

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

The Employment Survey Report - October, 1985.

Ordered to lie.

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

- (1) The Draft Estimates of Revenue and Expenditure for 1986/87.
- (2) The Accounts of the Government of Gibraltar for the year ended 31st March, 1985, together with the Report of the Principal Auditor thereon.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing Orders Nos. 29 and 30 in respect of the 1986/87 Appropriation Ordinance, 1986.

Mr Speaker then put the question which was resolved in the affirmative and Standing Orders Nos. 29 and 30 were accordingly suspended.

THE APPROPRIATION (1986/87) ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate an amount not exceeding £59,205,043 to the service of the year ending with the 31st day of March, 1987, 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.

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing Orders Nos. 29 and 32B(3) in respect of the Finance Ordinance, 1986.

Mr Speaker then put the question which was resolved in the affirmative and Standing Orders Nos. 29 and 32B(3) were accordingly suspended.

THE FINANCE ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Building Societies Ordinance, the Development Aid Ordinance, the Estate Duties Ordinance, the Imports and Exports Ordinance, the Income Tax Ordinance, the Licensing and Fees Ordinance, the Public Health Ordinance and generally for the purposes of the financial policies of the Government be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time.

As on this occasion last year, Mr Speaker, I would like to begin by saying a little about International Economic Developments, something about the UK economy, and then turn to domestic Gibraltar matters.

In general, 1985 was a good year for world trade amongst the developed countries, although growth, at 4 per cent, was substantially lower than in 1984. Amongst OECD countries, inflation averaged 4½ per cent. Despite the fall in the value of the dollar, the US economy continued to provide the motive force for growth in the economies of the West. The US deficit on current account, however, widened from \$107 billion in 1984 to a record \$117 billion in 1985. By the end of the year there was pressure on Japan reinforced by an increase in the value of the yen, to stimulate demand in the domestic economy.

The terms of trade moved against oil and other primary products during the year and OPEC output was down by about 14 per cent, the purchasing power of many developing countries being thus reduced. The problems encountered by debtor nations in maintaining levels of domestic activity and meeting import bills were in sharp contrast to the fortunate position of the United States, able to maintain growth notwithstanding the widening deficit on current account because of the sheer size and strength of its economy relative to the rest of the world.

The widely predicted fall in the value of the dollar did not gather momentum until after a series of signals from the US Federal Reserve Bank to the market accompanied by concerted action on the part of the Central Banks of the group of five. In the event, the dollar has depreciated by about 20 per cent against a basket of major currencies.

There was a general expectation that interest rates would fall in the wake of the depreciating dollar. However, markets in both the US and UK were slow to respond, and it is only recently that signs of a possibly long term fall in interest rates have really emerged.

In the UK, growth in 1985 was under 3 per cent, rather less than in 1984 after adjusting for the effects of the miners' strike; growth in service industries was at twice the rate for manufacturing industry. Sterling appreciated against the dollar by almost 30 per cent and, notwithstanding some depreciation against other currencies, exports declined during the final quarter of 1985. Despite unemployment in excess of three million, and a marginal increase over 1984. Average earnings for those in employment at just under 9 per cent were uncomfortably ahead of inflation at 5.5 per cent. The structural problems of the British economy thus persist, with an increase in both unemployment and vacancies during 1985. There is some pessimism about the prospect of excessive wage increases in 1986 and 1987 in the UK.

It remains to be seen what effect the recent fall in oil prices will have on the UK economy. Oil prices, whether in the short or long term, are now back to the levels of 1973 in real terms. It will be recalled that the oil price rise in the early 1970's was one of the major contributory factors in the hyper-inflation which followed as the re-cycled surpluses of the oil-producing countries, especially in the Middle East, sloshed around world money markets. This led in turn to the hike in interest rates and to low levels of investment in real assets as markets adjusted to the new situation; in a word, to the 'stag-flation' of the 1970's. Although the loss of North Sea oil revenues will be bad for the UK Treasury and diminishes the prospect of further cuts in direct taxation, the economic impact should on balance be beneficial. If markets are convinced that oil prices are unlikely to rise to their former levels for the foreseeable future and, secondly, that inflation rates are likely to remain at levels similar to those in the 1950's and the 1960's, the likelihood is that interest rates will make a similar adjustment. This would stimulate real investment, especially in the UK, where interest rates normally carry an extra risk premium anyway because of higher rates of inflation than those in other OECD countries.

However, a rather less optimistic scenario for the UK (which would be depressingly familiar) is that the pressure of domestic demand would aggravate the UK's propensity to import more than it exports. With diminishing oil revenues and a manufacturing base much reduced because of high wages and low productivity during the 1970's, this would revive the UK's chronic balance of payment difficulties, lead to further depreciation of the pound and to the all too familiar inflationary spiral. Fortunately, Mr Speaker, despite every encouragement, history has the habit of not repeating itself.

Turning to domestic matters, 1985 was the year in which Gibraltar emerged from economic siege and the tourist and trade sectors began to adjust to an influx of 2.4m visitors. The vast majority of these, 2.2m, crossed the land frontier. However, there was a significant increase in arrivals by air, from 48,000 in 1984 to 74,000 in 1985, although the latter figure includes 15,000 passengers in transit to Spain. Hotel occupancy rates were the highest since 1979 with a 25 per cent increase in guest nights sold.

Overall, there was a 60 per cent increase in the value of imports, excluding petroleum products. The figures are to some extent exaggerated by high levels of imports for Gibrepair, the North Mole and other projects, but they are nevertheless indicative of a tourist-related boom in sales of a variety of consumer goods and also imported foodstuffs. There was a 50 per cent increase in import duties collected by the Government in 1985.

While the UK still provided approximately 50 per cent of Gibraltar's imports, imports from Spain also rose substantially. Spain has overtaken Japan as the second largest source of imports, accounting for some 10 per cent of non-petroleum products imported in 1985.

Imports of petroleum products increased by more than 90 per cent. Domestic consumption accounts for a relatively small proportion of this - no more than £5m out of total petroleum imports of £42m. The bulk of petroleum products are re-exported, mainly as bunkers for shipping. The number of ships calling for bunkers increased by 84 per cent and the number of calls by deep sea vessels at the Port by nearly 30 per cent during 1985.

Overall, total expenditure by visitors to Gibraltar during 1985 is estimated at about £20m compared with £12m in 1984. However, while there was a substantial inflow of tourists and visitors, there was a substantial outflow of expenditure in Spain. Frontier crossings by Gibraltar residents, at over 1.3m, showed an increase of 80 per cent on numbers for the previous year. Rough estimates of this expenditure suggest that it was of the order of £12m to £15m, indicative of per capita spending of £400-£500 by Gibraltar residents in Spain annually.

The increased spending in Spain was accompanied by two thousand new private vehicle registrations, more than double the figure for the two previous years. About 40 per cent of these were by owners of cars formerly garaged in Spain or registered as GG, and about 60 per cent were sales of new cars to the domestic market.

The high import content of retail sales, on the one hand, and on the other the high level of spending in Spain, meant that the increase in gross domestic product was rather less than the figure of more than two million tourists might suggest. Unfortunately firm estimates of the growth in national income in 1985 are not yet available, but the probability is that, in real terms, it was no more than 2 or 3 per cent. However, this increase was against the background of a contraction in employment by the MOD and PSA which has continued for several years. Compared with 1978, when the MOD and PSA provided employment for about one-third of the working population, and either directly or indirectly accounted for about 55 per cent of national income, the current proportions are approximately one-fifth and 35 per cent respectively - figures which are, nevertheless, still high as a proportion of the total.

This prompts me to sound a cautionary note about prospects for 1986. It would be unrealistic to expect further expansion on the scale of 1985. Indeed, to ensure that 1985 levels are maintained, let alone increased, will require further investment and possibly some restructuring in the retail and distributive trades. Gibraltar still has many of the characteristics of a village economy and there is some way to go before it is in a position to compete adequately as an international shopping centre. The problem is not one which can be solved simply by the Government reducing import duties. Fortunately, there are indications that private capital for further development will be available.

As the latest employment survey now laid before the House reveals, there was an upward trend in employment and this was maintained throughout 1985. Unemployment amongst Gibraltarians has fallen to negligible proportions in statistical terms, and fears expressed in the not too distant past about employment prospects have been replaced by signs of pressure on the labour market. There is a shortage of skilled personnel in a number of sectors. The problems of Gibrepair have been well publicized but there is also a shortage of qualified personnel in the Financial Sector, in banking, insurance, accountancy and other finance-related services. This carries with it implications for the future direction of academic and technical education and career advisory services.

As the Employment Survey also indicates, the falling trend of real incomes in recent years was reversed. Average weekly earnings of £134 for full-time adult males in October 1985 compare with £122 in October 1983 - a rise of just under 10 per cent. Of particular significance is the conversion of the 23 per cent lead in average earnings by the Official Sector of the Private Sector in October 1983 into a 7 per

cent lead by Private Sector over the Official Sector in October 1985. As the survey points out, this is largely due to the inclusion of Gibrepair as part of the Private Sector, but the figures also show significant increases in the tourist-related industries, the Financial Sector and for monthly paid staff.

To conclude this review of 1985, Mr Speaker, I should add that inflation is now running at 3.2 per cent, the lowest annual rate since 1968. The increase in food prices was the lowest since 1970. There were no increases in municipal charges or Government rents during the year. The price of electricity has fallen steadily and there are prospects of further reductions in the months ahead. The reductions in charges for potable water that I shall be announcing shortly will further relieve household budgets and reduce costs to commercial consumers. With the possibility of reductions in interest rates in the near future, the conditions are favourable for the further development of the economy in 1986 and a further improvement in living standards.

I turn now to Government Estimates. The revised estimates of Government expenditure for 1985-86 reveal an increase of less than £½m over the original budget of a year ago, mainly as a result of reductions in fuel costs and social security payments, although some expenditure has been deferred until 1986-87. As a result of the increased yield in direct and indirect taxation and sales of Government debentures, there was a surplus of Government revenue over expenditure of £3m after taking into account budgetary contributions to the electricity and housing funds. The deficit in the Telephone Service was reduced to £166,000 which will be carried forward and converted to a surplus in 1986-87. The potable water fund is also in surplus for the year. Consolidated fund reserves increased to an estimated £9.3m at the end of 1985-86.

The Draft Estimates for 1986-87 assume a more modest increase in revenue from direct and indirect taxation. Provision has been made for further borrowing of £2m and for a contribution of £1.5m to the Improvement and Development Fund. IDF receipts from all sources, including sales of Crown Properties, and the balance of ODA Funds from the 1981-86 Development Aid Programme, are estimated at about £5½m.

The framing of the estimates for the Improvement and Development Fund presented difficulties because of uncertainty about the response from Her Majesty's Government to the Gibraltar Government's request for aid funds in connection with the Development Programme. The Estimates include those projects on which the Government believes an early start would be desirable. However, a number have been given a 'reserved'

status and a decision whether to make a start in this Financial Year will be taken in the light of the response from Her Majesty's Government on Development Aid and the financial implications of this.

The Estimates of Expenditure for 1986-87 show an increase of nearly £6m over 1985-86, but I should hasten to add that this apparent increase disguises a number of items for which there are either corresponding and compensating adjustments in revenue or which have no effect on the Consolidated Fund reserves. The most important of these are as follows:-

- (i) Provision is made in the Estimates of Revenue and Expenditure in connection with the re-financing of Tranche 'A' - amounting to £4m - of the Midland Bank Loan arranged under the Loans Empowering Ordinance of 1980, repayments on which are due in 1986, 1987 and 1988. Tenders were invited from Banks in Gibraltar in connection with this and a new loan agreement will shortly be concluded with the Indosuez Bank for a Floating Rate Loan facility at an interest rate of ¼ per cent above Libor. The net effect of this will be to reduce debt charges by £1.7m in 1986-87 and 1987-88 and improve the shape of the Government's future debt profile. In view of the attractive terms offered, by comparison with those of the original loan, the Government will be giving consideration to the possibility of refinancing other outstanding loans.
- (ii) As Honourable Members will be aware, Section 279(h) of the Public Health Ordinance exempts former City Council properties from the payment of rates. There is perhaps an argument for exempting all Government-owned property but the grounds for exempting some are no longer considered valid. It is proposed therefore that all Government property should be rated in future. The effect, as with the decision on amortisation of Housing Expenditure last year, will be to make the finances of the Funded Services more closely reflect the true costs. This represents a total additional charge of £446,000. Together with the increase in rates on other Government property following the recent revaluation, this accounts for the increase of £1m in the Crown Lands Vote for which a compensating amount is included in the Revenue Estimates.

These changes apart, the main increases in Departmental Expenditure are in Education, Medical and Health Services and in the Public Works Department. In the case of Education, the Estimate for 1986-87 provides for the delayed effect of payments to teaching staff for which Budgetary provision was made in 1985-86. The increases in Public Works Expenditure are mainly in connection with the maintenance and repair of highways, collection of refuse, the cleaning of beaches and other facilities with a view to enhancing the tourist product. In the Treasury Vote the main increase is, first, a provision for rate rebates in 1986-87 following the recent revaluation of commercial property; and, secondly, for a Government Subvention of £200,000 to the Gibraltar Quarry Company to pay off the existing overdraft and provide a margin of working capital for company operations in 1986-87.

Now I would like to turn to the Revenue measures, Mr Speaker.

The Government does not propose any major reductions in import duties at this stage. As Hon Members will be aware, a number of constructive proposals have been made by representative trade bodies. The Government has given careful consideration to these and will continue to monitor developments in consultation with the representative bodies concerned. Import duties can be lowered at any time if the case is compelling without waiting for a Finance Bill.

The opportunity will, however, be taken in the Finance Bill to correct one or two anomalies in existing import duties. Cider, Perry and Mead will no longer be classified as 'malt liquors' and will be shown separately from beer and lager with a duty of 14p per litre. A new category of 'low alcohol beverages made from malt with an alcohol strength not exceeding 1.2 per cent by volume' will be introduced to cater for shandy and alcohol-free beer with a rate of duty of 14p per litre.

A reduction from 5 per cent to 2 per cent in the fees for duty-free goods (other than spirits, wine or cigarettes) sold at the Air Terminal will be made - aligning these fees with the 2 per cent rate of duty charged on items sold from Bond.

Duty on car seat covers will be reduced from 30 per cent to 12 per cent.

Regulations will be published shortly relaxing import licensing control on diamonds, other precious stones and manufactured gold. However, gold bullion and, additionally,

gold coins will remain subject to import licensing control.

The Government proposes a number of changes in levels of personal taxation which, as Hon Members will be aware, have been unchanged since the 1981 Budget. The single persons' allowance will be increased with effect from 1 July from £850 to £1,100 and the married couples' allowance from £1,700 to £2,200. The children's allowance will be increased from £300 to £400. Existing rates of tax will remain unchanged, but the band of assessable income taxed at 20 per cent will be widened from £700 to £1,000. Thereafter, the 30 per cent and 35 per cent tax bands will both be widened to £4,500 in each case; the 40 per cent and 45 per cent tax bands will be widened to £3,000; above those levels assessable income will be taxed at 50 per cent. To assist Hon Members, a comparative table of tax payable at present and proposed levels, analysed by income groups and family composition, will be circulated after the contribution by the Chief Minister to this debate.

These changes will mean an increase in net take-home pay of 5.4 per cent for those on average earnings as shown in table 17 of the Employment Survey for October 1985; that is, an increase in take-home pay from £104.33 to £110 per week or £5.67. Compared with October 1982, taking the increases in average earnings since then and reductions in tax together, they represent an increase in take-home pay of over 18 per cent, which compares with an increase in the index of retail prices of 17.4 per cent during this period. However, these comparisons do not take account of the boost to household expenditure and disposable income of the cheaper prices available in Spain for a number of goods and services throughout this period.

A number of minor amendments which are consequential upon the increases in personal and children's allowance are included in the Finance Bill which also provides for a more tax-effective method of assessing the amounts payable by permitted persons and persons leaving Gibraltar - that is where less than 12 months income is earned.

The relief for first-time home-buyers of £1,000 introduced in the 1984 Budget will be increased to £2,000 as a further fiscal encouragement to home-ownership in Gibraltar. This will be effective for the tax year 1985-86.

It is also proposed to enlarge on the existing tax concessions given to non-residents with no income earned in or deriving from Gibraltar. At present, there is no provision in the Income Tax Ordinance for such individuals to be taxed on their

passive income remitted from abroad as there is, for example, in UK Tax Legislation. In future, an individual who is neither ordinarily resident nor domiciled in Gibraltar (that is to say, it is not his permanent home) but who lives in Gibraltar at one or more times for a period of not less than 30 days in any year of assessment, and who is in receipt of assessable income remitted to Gibraltar of not less than £20,000, will be regarded as resident and assessed for tax on this income. To qualify as a resident individual for this purpose he will be required to purchase a house or flat in Gibraltar for his residential occupation. The necessary amendments to the Income Tax Ordinance to give effect to this, which are necessarily complicated, will be introduced at the next session of the House of Assembly in time for the changes to take effect in the 1986-87 Tax Year.

With effect from the 1986-87 year of assessment, the rate of Corporation Tax will be reduced from 40 per cent to 35 per cent.

It is estimated that the revenue loss from changes in personal and corporate tax outlined above will be £2.4m in the Financial Year 1986-87 and £3.3m in a full year.

A highly technical amendment will be made to the Estate Duties Ordinance to clarify the position of a non-resident beneficiary under a Gibraltar Trust set up by a non-resident settler in respect of property situate outside Gibraltar. There are circumstances under which a 'chase in action' could arise against the Gibraltar Trustees of a fund as a result of the death of a person enjoying a life interest in the Trust Fund. The concepts are not easy for a layman to understand and there is some confusion on the point amongst non-residents. It is therefore proposed to amend the Ordinance to exclude from the definition of property passing on death a 'chase in action' in Gibraltar against Trustees when the deceased was not domiciled in Gibraltar and the property subject to the Trust or Settlement is situate outside Gibraltar or is property otherwise exempted under the Ordinance from liability to Estate Duty.

Secondly, Section 10A of the Ordinance at present exempts from Estate Duty any property held on deposit by non-residents with a bank in Gibraltar. This section allows for a very general interpretation of 'any property' and, as it stands, could be held to include, for example, share certificates in a Gibraltar company; this would be contrary to what is intended by the provisions of the Ordinance and it is accordingly proposed to qualify the exemption by excluding property in the form of securities or other documents of title relating to property otherwise situate in Gibraltar, not being shares or

debentures held in a tax-exempt company or Government securities or debentures exempted from Estate Duty.

The amount of qualifying expenditure for the granting of a Development Aid Licence under the Development Aid Ordinance is to be increased from £75,000 to £150,000 following the general increase in property values and to ensure that the relief granted is for projects which are consistent with the aims of the Ordinance.

From 1st November, the Airport Departure Tax will be increased from £1 to £2. Short haul flights will continue to be exempt.

As a result of the continuing increase in the cost of drugs and pharmaceutical supplies there will be an increase, from 1st July, of 20p from £1 to £1.20 on each item dispensed under the Group Practice Medical Scheme. Prescription charges were last increased in May 1984.

A number of amendments will be made to the Building Societies Ordinance, which, as it now stands, would prevent the Registrar from registering in Gibraltar foreign Building Societies of repute who wish to establish branches in Gibraltar unless the rules of the societies explicitly provide for this. A general updating of the provisions of the Ordinance may be required in due course. However, it has been decided to make this change now in view of the intention by one or two leading Building Societies in the United Kingdom to establish themselves in Gibraltar following recent changes in UK Legislation which now permit this.

I now have something to say about the Funded Services, Mr Speaker. As I have already mentioned, as a result of the improvement in the finances of the potable water service, it is proposed to make reductions in charges with effect from 1 June. The present primary rate for domestic consumers will be reduced from 22p per unit to 18p and the secondary rate from 50p to 45p. The rates for hotels and for shipping will be reduced to 35p, but the existing subsidy of 6p per unit for hotels will be withdrawn. The rates for other industrial and commercial consumers will be reduced to 40p and the rates for MOD and Gibraltar Government Departments from 56p to 50p.

The reductions will result in a decrease of £235,000 in the estimated revenue of the Potable Water Fund in 1986-87 assuming no change in the assumptions about water consumptions which underlie the estimates included in the Draft Estimates before the House. However, a further examination of these figures since the Draft Estimates were prepared suggests that they may understate the likely consumption of water in 1986-87. Having regard to this, and to the possibility that the reduction in

charges will also stimulate consumption, although probably only to a marginal extent, the Revised Estimate for the potable water account, which will be circulated to Hon Members in due course, will provide for a net decrease in revenue of only £172,000 as a result of these changes. ..

No change is proposed in the basic electricity tariff. However, the Estimates of Fuel Costs and Revenue are both based on the price of fuel obtaining in March. There has been a further reduction since the Estimates were prepared. Indeed, there has been a reduction in the FCA more or less continuously from the peak of 4.06p per unit in April 1985 to 2.09p per unit in April of this year and, as I have suggested, the prospect of further reductions in the near future. In view of this, and the general improvement in business conditions, the Government will be withdrawing from June 1986 onwards the subsidy payable to hotels for electricity on prompt payment of bills.

It is proposed to eliminate the projected deficits in the Electricity and Housing Funds by making contributions from the Consolidated Fund of £1,550,600 and £1,552,100 respectively.

After consideration of the representations made following the recent increases in rates for commercial premises, a rebate of 40 per cent (in the first year) and 20 per cent (in the following year) of the amount of the increase in rates will be given to non-Government rate-payers. Relief will be limited to those rate-payers whose accounts are not in arrears, and will take the form of a credit to the following quarter's account. The increase in rates which would otherwise be payable by the Commercial Sector in 1986-87 is approximately £1.4m. This should be reduced, as a result of the rebate, by £400,000 in 1986-87 and, as I have already mentioned, provision for this has been made in the Estimate of Expenditure for the Treasury Vote (Head 25 - Sub-head 23).

In addition to the table showing the effect of tax changes, Mr Speaker, I shall, after the Chief Minister's speech, be circulating to Hon Members a revised Financial Statement (page 5 of the Estimates) and other statements showing the changes in revenue and for the Funded Services.

I regret that this year's speech does not include, Mr Speaker, the statutory quotation from Shakespeare.

MR SPEAKER:

I was waiting for it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As this has, obviously, been remarked upon, I think I will have to improvise by saying that 'there is a tide in the affairs of men which when taken at the flood leads on to fortune'.

It only remains for me to thank Hon Members for their forbearance in listening to me and commend the proposals to the House.

MR SPEAKER:

In accordance with the Standing Orders on Procedure I will now call on the Hon Chief Minister to make his contribution to the Budget.

HON CHIEF MINISTER:

Mr Speaker, I think I can only muster sufficient voice to request, with the consent of Members, that my statement be read by my colleague Mr Canepa.

MR SPEAKER:

As I mentioned to the Hon the Leader of the Opposition before we came into the House, the Hon and Learned Chief Minister is suffering from a loss of voice. As we have established the procedure before, and since the statement which is going to be made is a written one as it is usually at this time, it has been decided that the Hon Mr Canepa will read the statement for the Chief Minister.

HON A J CANEPA:

Mr Speaker, I wish to make clear that I will be later on exercising my right to make my contribution.

MR SPEAKER:

Have no fear that you will not lose your right. You are acting now as the attorney, let's put it this way, of the Chief Minister.

HON A J CANEPA: (FOR HON CHIEF MINISTER)

Thank you Sir. Mr Speaker, before I turn to the more specific issues which arise from this year's budget, I would like to set the scene, so to speak, by commenting in wide policy terms. It is normally at Budget time when a Government takes the opportunity to explain what are its financial and economic

policies and in what direction it proposes to pursue these. Since the 1982 Budget it has proved difficult to do so and I have emphasised the need for caution, prudence and consolidation. The underlying need for this was closely tied to the uncertainty which surrounded the announcement of dockyard closure and the aborted attempts towards normalisation at the frontier. Gibraltar as a whole has had to pay a price for all this, over and above that which beleaguered our economy ever since the imposition of restrictions by Spain in the early 1960's. But we have survived. The testimony of internal political stability and sustained economic well-being in the face of adversity is a tribute to the resilience of the people of Gibraltar. We must never forget that. Nor must we forget that, in what some observers described as a cocooned or sheltered existence, Gibraltar saw an acceleration in the development of its social and educational standards, its political maturity, its trade unionism and commercial entrepreneurship, and above everything else, its identity as a people. This is not simply reminiscence, Mr Speaker. It is meant to describe what has basically woven the new fabric of a society or community which is now facing a new challenge in both political and economic terms.

I will pause for a moment, Mr Speaker, to refresh the economy. I have just plagiarised, Mr Speaker, something that Winston Churchill said in 1925 when he presented his first Budget, the only difference is that he drew from the contents of a flask containing brandy and not just water.

Today's Budget has partly been formulated in an attempt to recognise, and strengthen, this background of the past and proposes to give a lead for the future. Today, the Government can see, and can exercise, greater scope in using its fiscal policies to give a sense of direction to the economy. The purpose of this Budget is to begin to redress the imbalance of taxation which has largely been shouldered by the working man and the honest trader. Our aim is to shift the burden of taxation, not by a straight switch from direct to indirect tax levels, but by tapping and developing a wider revenue base to an extent which allows a shift in the burden of personal income taxes and, where justified, other charges whilst maintaining financial buoyancy and price competitiveness. In more general terms, we intend to promote the expansion of the economy and the creation and redistribution of wealth by removing disincentives to employment and investment. We also aim to further develop the role of the Gibraltar economy as a service economy through the growth of tourism and the financial services, the consolidation of shiprepairing together with the complementary activities of the commercial port, and the promotion of existing or new ancillary industries, however small, which can prosper within the ambit of our advantageous geographical

location, language, laws and climate on the one hand and the constraints posed by our limited land and infrastructural resources on the other. In all this, we continue to look to the defence presence as a vital sector contributing significantly to our economic and political stability in return for the valuable commitment which Gibraltar has always guaranteed. We also continue to place a high priority on tackling the housing problem despite our limited capital resources, with an increasing emphasis on home ownership schemes and the incentives necessary to promote these. The Government does not underestimate the difficulties in pursuing these objectives. There is some way to go before we can overcome some of the distortions in our cost structures, some of the problems related to industrial relations and productivity and some of the diseconomies which may expose our public budget as disproportionate to our size. Whatever the difficulties, we expect to follow a strategy which can secure an economic future. We have already laid some of the foundations in recent years by providing incentives for private sector development generally and for home ownership in particular. We also reduced import duties and restructured Municipal charges. We have been successful in mobilising domestic savings through the issue of debentures. This year we intend to go further by concentrating on the need to reduce direct taxation.

In presenting the political side to the Budget, I am also conscious, Mr Speaker, of the wider dimension which applies in today's circumstances, namely the much talked about threat of 'osmosis', erosion, or in effect what could be described as a social and economic absorption of Gibraltar into Spain, paving the way for its political integration. I wish to make it clear that we see our economic future directly in line with our continuing political and constitutional independence from Spain. This is not to say that we cannot continue to see inter-action between the economies of Gibraltar and the neighbouring Spanish mainland, particularly in those areas which are of mutual benefit. That is a natural phenomenon, and not necessarily an absorptive process. We have already seen how, in general, both traders and consumers on both sides have benefitted. It is to the foundations which guarantee our political and economic sovereignty that we must look to and protect - our stand on the issue of the future use of the airport, for example, speaks for itself. We will also persevere to maintain our infrastructural independence by securing our basic capability. By setting ourselves these fundamental political and economic objectives, I hope it will be understood that we are not guided by euphoria or electioneering but by a clear commitment to map out an economic framework within which the economy can develop and expand for the benefit of all, taxpayer or consumer, investor or saver, without

prejudicing our wishes and interests as a people and a territory in our own right.

The Financial and Development Secretary has dealt with the economic and financial scenario to the Budget and I am sure that the House will join me in thanking him for his eloquence and detail, as well as his staff who have helped to put it all together. Mr Speaker, we are looking at an improved and overdue economic and financial outlook. There is evidence of a reversal of the economic down-turn which has afflicted Gibraltar since late 1981. There are a number of contributory factors. Firstly I would like to deal with the Commercial Dockyard. The process of dockyard commercialisation has so far succeeded in cushioning the impact of closure, partly as a result of the employment build-up, but also with the initial injection of substantial capital investment. The yard's potential, in market terms, though never assured, is good. The next two years, however, will be crucial in testing Gibraltar Shiprepair's ability to realise that potential and achieve viability. I consider that test to be as crucial for the company and its workforce, as it is for the economy as a whole. Perhaps it is one of the most difficult yet to be overcome. Despite the significant contribution committed by Her Majesty's Government towards this project, the company has had to cope with unforeseen problems posed by a neglected infrastructure and the inevitable re-programming of naval work consequent on the operational requirements of the fleet. It is principally for these reasons that the company requires further funding. That is one side to it. The other, which I would group as the management and industrial relations aspect, is even more important. Unfortunately, the last six months, in particular, have seen a deterioration in the industrial climate in the yard. I do not intend to apportion blame or label responsibility, nor do I propose to pursue a debate on this matter. We are aware of the sense of frustration and the tensions which have built up among the workforce and its managers. It would appear that the underlying problems rest as much with attitudes, proper communication and consultation, as with the substance of any particular claim or dispute. That has to be put right and we have impressed this upon the company's Chairman and its Board.

I attach importance to this because we are also aware of the extent to which many people in the yard, workers, foremen and others have shown a willingness to accept change and a determination to make the yard succeed. That is the spirit which must pull through to ensure that confrontation is avoided and consensus is gained if Gibraltar Shiprepair Limited as Gibraltar's largest private commercial employer is to continue making an important contribution to the stability and development of our economy. That contribution is even more important

if we view it as packaging the role of Gibraltar as a centre for shipping. The improvement in the Bunkering Trade and in Port activity generally, as the Financial and Development Secretary has explained, is particularly encouraging. The House will also see from the draft Estimates of Expenditure that we propose to provide the resources for the establishment of Gibraltar as a full Shipping Registry.

I would now like to turn to another factor, or situation, which represents an important facet of our economic way of life. Frontier normalisation has produced an economic fillip which has largely boosted the Private Sector and to a much lesser extent, contributed to an improvement in Government finances. At the time of the 1981 and 1982 Budgets, Mr Speaker, I said that if, in fact, Gibraltar's economic prospects improved as a result of the restoration of communications with Spain and of the consequent development of normal economic activity in the Private Sector, it would be a bonus. The Government has not viewed the frontier opening as the solution to our economic ills, but purely as a return to the normality which should prevail between all neighbouring countries. Obviously, it involves, among other things, an economic adjustment, notably in commercial terms. From a recent economic analysis, it could be seen that the short-term effects have been of benefit to both sides, with a more visible impact here but a larger, and progressively propitious one on the other side. For the Private Sector in Gibraltar, it has spurred a new dynamism, as is evident by the growth in tourism and trade, the expansion of Banking and Finance Centre operations and the revival of Private Sector development and construction activity. This has already had an impact on incomes and employment and augurs well for the future. Greater emphasis will be given to training the Gibraltarian in the skills needed by these growth areas of the economy.

Whilst we have entertained some prospects for growth in the past year, it is regrettable to see that, once again, the Ministry of Defence proposes to make further manpower reductions in the year ahead. Most will have taken some comfort from the fact that the real size of the cut is likely to be less than may have been feared originally. For its own part, the Government has noted the firm commitment given by the MOD as to the continuing importance of Gibraltar to Britain's defence interests. The new investment works for the reorganisation of the Naval Base and the MOD housing build help translate the intent of that commitment. The MOD contribution to the economy remains substantial and the Gibraltar Government will continue to recognise this in relation to both its commensurate value and its political significance.

It is reassuring, Mr Speaker, to see that other factors have helped to restore a better economic climate. I would highlight the effect of lower inflation and, as it now appears, lower interest rates. For how long this pattern will be sustained is perhaps speculative, but for as long as it persists, it will have a beneficial effect on Government expenditures and on the financial position generally. We are looking at an improved financial picture better than we had expected, amidst the forecasting uncertainties at the time. The Financial and Development Secretary has already explained the reasons for this. I would only wish to comment briefly. Firstly, recurrent expenditure last year stayed virtually on target and I would credit the financial stewardship of the Treasury in improving the framework within which Government Departments exercise control, even through some of this, for example, reflects, as with the Electricity Department, lower fuel costs. Revenues have improved. The position of the Funded Services, taken as a whole, was kept in check. The end result has been a sizeable increase in reserves. The Government is therefore in a position to approach this year's Budget with some confidence and with sufficient flexibility to be able to redress the burden of personal taxation. It will also make a contribution to the Improvement and Development Fund to enable priority projects planned under the 1986/90 Development programme to proceed as quickly as possible. I will have something more to say on this latter aspect later.

The Financial and Development Secretary has already announced the changes which we are introducing to reduce income tax. I would like to deal with two aspects of this, ie the comparison of income taxes between Gibraltar and the UK and what in effect our measures represent to the ordinary man in the street. Parity of taxation was at one time the political aim of the integrationist movement. In the build-up to this year's Budget, the TGWU has made representations asking for income tax to be brought into line with that of the UK, essentially, as I read it, to restore the earnings position established for employees in 1978 when parity of wages with UK was introduced. Let me say clearly, Mr Speaker, that this Government does not support parity of taxation with the UK. Setting aside the cost, today estimated at around £8m, parity of taxation cannot be looked at in isolation. The equation extends to the levels of other forms of taxes, including social insurance which is much higher in the UK and to taxes on expenditure, many of which, if brought to the UK level, would destroy our price competitiveness and our service industries with it. This Government does not aspire to the tax regime of the UK Government with all the consequences that that has meant for those who are unemployed or have borne the brunt of lower standards of service in the social sector. I am sure, Mr Speaker, that there is unanimity in this House on this. If I

may, I would like to recall the Hon the Leader of the Opposition's contribution in the 1981 Budget when, at a time when UK income tax was already lower than in Gibraltar, he said 'the income tax structure in the UK has been a vicious attack on the standard of living of working people, a transfer of income in the wrong direction, and he went on to say: 'I will resist any attempt to emulate that in Gibraltar'. The reference Mr Speaker, is page 193 of the Hansard of the 22nd April 1981. I am not trying to play politics on this, Mr Speaker, but I feel that it is wrong for some to raise expectations when both this Government and the Opposition have spelt out their views on this matter clearly and repeatedly in the past. I must also repeat what I said last year when I explained that the Government accepted that there was a strong case for reducing income tax. We could not move on this last year. This year we have. Which brings me to the essence of the argument. What do these tax cuts represent? Will people be better off today compared to, say last year, or to the parity start date of 1978? For the individual on average earnings, it represents a tax cut of around £4 per week if single, £5 per week if married and just under £5.50 per week if married with one or more children. At today's prices, this would represent an improvement in the net take-home pay of the average wage earner of around 10% compared to October 1978; by the time the tax reductions take effect next July, this real improvement should be maintained. I hope that the increase in the child allowance will also be seen in the context of assisting those who do not benefit from family allowances. The tax changes moreover provide further relief for those contemplating home ownership.

The Financial and Development Secretary has also announced other changes, notably the reduction in water charges which represents a drop of just under £2 in the average household's monthly bill. The industrial and commercial sectors will also benefit from a 15% drop. The reduction in the rate of Corporation Tax together with other amendments to Financial Legislation is intended to stimulate the commercial climate and enhance Gibraltar's appeal as a Finance Centre. Important too is what he has not had to announce. No increases in rents or telephones, and with falling oil prices, self-adjusting falling electricity prices.

Before I complete my contribution this year, Mr Speaker, I would like to comment on the one unknown factor in the Draft Estimates before this House. When preparing and finalising the Budget, the Government had still not received a reply from Her Majesty's Government on the aid submission and the funding request for Gibraltar Shiprepair Limited. The Improvement and Development Fund Estimates for this coming Financial Year therefore reflect a minimum planned expenditure

level to meet the cost of on-going projects and some new urgent works. As the House may know from a question answered in the House of Commons yesterday, Her Majesty's Government has agreed to provide a total of £8.4 million towards Gibraltar's next Development Programme, including a contribution of £2.4 million specifically for Gibraltar Shiprepair Ltd. I hope the House will understand that I am unable to make a considered statement to a reply that was only received a couple of days ago. The Government as a whole obviously needs some time to study the contents of that reply, and, quite frankly the timing of the announcement. I say this because we may wish to revert to Her Majesty's Government on the question of the size of the contribution and the allocation towards specific projects. Also, I have to add that it is regrettable, to say the least, that a public announcement should have been made in such an unprecedented manner without awaiting a considered reply from the Gibraltar Government, particularly after the delays we have experienced on this matter.

To sum up, Mr Speaker, I would just like to express the hope that this year's Budget will be welcomed not so much for what it offers the man in the street in terms of lower taxation but, as I have tried to explain at the beginning, in terms of what it is aiming for as part of a strategy to help stimulate and expand the economy and secure its stability, so crucial to our political and constitutional strength.

MR SPEAKER:

In accordance with Standing Orders and Practice we now have to recess for a minimum period of two hours. It is now about three minutes to twelve, I would assume that the Opposition would have plenty of time to consider until this afternoon.

HON J BOSSANO:

Mr Speaker, as I said when we moved the suspension of Standing Orders, and I think has been borne out by the contributions of, particularly the Financial Secretary where he has made a lot of references to statistical indicators which have been available to us in some cases only twenty-four hours, in other cases only a week, and certainly this year we will not be able to reply to many of the things that he has said in two hours, we will need more than that. Certainly, I would say, at least three hours to make any kind of assessment of what he has said because, for example, one of the things we feel it is important for us to do is to make our own calculations of the changes in the economic situation to which he has made reference and which we have not been able to do in the time that we have had the information available to us.

MR SPEAKER:

What do you propose then?

HON J BOSSANO:

If we can come at, say, 4 pm to 4.30 pm this would be very useful.

MR SPEAKER:

Then I think it is acceptable that we should now recess until 4.30 this afternoon.

The House recessed at 12 noon.

The House resumed at 4.30 pm.

MR SPEAKER:

I will remind the House that we are on the Second Reading of the Finance Bill. 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:

Yes, Mr Speaker, I think there are a few things we wish to say on the subject. Mr Speaker, as I mentioned earlier in analysing the scenario painted by the Government in this year's Budget, we have been constrained by not being able to do a great deal of the preparatory work ourselves by virtue of the fact that we have been provided with Government Reports and Government Statistics very late in the day. And therefore I will be concentrating to a lesser extent than in other years on the technical side of analysing the figures as presented by the Financial and Development Secretary and putting forward some thoughts on the contents and the exposition of the statement of the Hon and Learned the Chief Minister.

I think we can say that the approach in the Hon and Learned Member's speech this year is unexpected because it includes so many references, although not acknowledged, to CSLP thinking. Certainly I will not be able to say to him this year that he is once again saying we have to be cautious because for the first time, I think, almost since 1972, the word 'cautious' does not appear in his speech. In the speech, in fact, he says that it was since 1982 that the references to having to be cautious and prudent and the need for consolidation had appeared, but they have appeared, specifically,

certainly from the 1981 Budget, and by inference for as long as I have been in this House. Therefore, we will be pointing out to specific policy shifts on the part of the Government in the body of the Estimates. But in the context of the overall approach of the speech we find that there is a reflection in Government thinking on the need to come to the House at Budget time with a programme which is concerned with the management of the economy and not merely with what I have criticised so often in the past, the balancing of the books at the end of the day. We have, of course, before we become too enthusiastic about the idea, to see how that is translated into practice because at the moment there is just a reflection of the thinking that we think is the kind of thinking that Gibraltar requires if it is going to move forward. Even though some elements in that thinking might be different, the basic approach must be one of economic management.

In that respect there have been not just two speeches, of course, which have relevance to the Budget, but three, because on Thursday of last week, Mr Speaker, there was a Party Political Broadcast given by the Hon Mr Perez which also was an indicator of thinking on the Budget. An indicator which, in fact, reflected much of what the Government Statistician has to say in the Employment Survey that has been tabled in this House, and I question the propriety of that being used in a Party Political Broadcast before we have had the suspension of Standing Orders before it has been tabled in the House and an hour after the Opposition was provided with it. Perhaps the next time the Government will wait a little longer before they make use of it, at least to give us a chance to look at it. And there I think, in that context, one important element was that Mr Perez was asking what was clearly a rhetorical question in relation to the statement by the Statistician that there had been 450 jobs generated in the Gibraltar economy from October, 1984, to October, 1985, and he asked 'That surely is not a bad record?' Well, our response to that is that whether it is good, bad or indifferent can only be assessed by contrasting the achievement with the objective. And, of course, in last year's Budget we were told that 700 new jobs had been created in two months, and by contrast with 700 new jobs in two months, 450 in twelve months is abysmal. We were very sceptical about the 700 new jobs over and above GSL in last year's Budget, because we argued that certainly from our knowledge of the membership of the Trade Union Movement there didn't appear to be an increase of 700 members in two months. And from the estimates of the Financial and Development Secretary he certainly didn't expect these 700 to be paying income tax because there was no reflection of it in the estimated yield. I think the Government took it very badly, they almost accused us of sour grapes, as if we didn't want the 700 jobs to exist, not that we just

couldn't believe it. But, of course, the emphasis on more jobs has been absent so far in the contributions in the House both from the Financial and Development Secretary and from the Hon and Learned Chief Minister. And last year we thought we detected, although not reflected in the estimates, we thought we detected a policy from the contributions of the Minister for Labour, the Hon and Learned the Chief Minister and the Minister for Economic Development, of a policy which basically said 'There are going to be thousands of new jobs which means thousands of extra tax payers, and because many more people will be paying tax, we will be able to tax each person less and get the same amount of money by spreading the tax net wider'.

That seemed to be what they were saying last year, Mr Speaker. Mr Speaker, I am prepared to go back and quote the references in last year's Hansard if there is any doubt about it, but I think we were told 'what is wrong with so many thousands of jobs being created? And that seemed to be the way the Government was expecting the economy of Gibraltar to progress. We ourselves question the wisdom of this and have questioned it since in the light of the liability that has been created in respect of former Spanish workers who have had to be paid pensions at current rates; of the future liability, which may be less now than it is in the future, for the payment of family allowances, and we have argued that in looking towards the development of the Gibraltar economy we cannot simply say, 'because we are going to get X people in 1986 paying tax which may make the thing easier for the Government in terms of balancing its books, that is necessarily a good thing in the long term for Gibraltar, because we may be creating problems for the community in the future which future generations of Gibraltarians will have to meet. In looking, therefore, at what the Government is doing with the economy we don't just look at what they are doing now and how that is going to affect taxpayers in July this year or the performance of the economy in the next twelve months, but where is this direction? Where is the sense of economic direction that the Government is giving the economy of Gibraltar? It is in that context that we have to say, Mr Speaker, that the Estimates of Expenditure presented by the Government reflect a situation which the Government has made no attempt to explain or to defend. The Hon Financial and Development Secretary, of course, I believe, is presenting his last Budget to the House since he is due to leave us in 1986, or is it in 1987?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No!

HON J BOSSANO:

Does that mean then, Mr Speaker, that we are going to have him for the next forty years like the Chief Minister?

Be that as it may, Mr Speaker, I thought it was, when he arrived, in one of his early contributions, he said that he had been warned prior to arrival that I had a reputation for chewing Financial Secretaries for breakfast and spitting out the pips. I think I pointed out at the time that I didn't spit out the pips!

But what we have experienced in the House for a very long time is that the Financial Secretary has tended to be put in the front line, and we have certainly experienced that in March of last year in his having to answer questions from my colleague on the question of Gibrepair, to the extent that the statement by the Hon Financial and Development Secretary today is a more balanced part of the Government's exposition of the Budget because there is a substantial contribution from the Hon and Learned the Chief Minister on what has been described as the political side, but which, I think, also contains a lot of technical work on the economy, I think that is a move in the right direction. But I suppose I must still address myself to the Hon Financial and Development Secretary and ask him to explain to us how it is that he can defend a situation where a year ago, Mr Speaker, we were told that there were going to be £1m less in the Consolidated Fund, that we find there was in March, 1985. Because one can understand that the revised figures should then be subject to fine tuning when it comes to the final figures, and we have had this before, we have had situations where the figures from the revised estimates to the final audited figures have been out by £50,000 and sometimes as much as £100,000, but I think £1m is too much, requires an explanation, and he has not attempted to give us an explanation.

We find it difficult to understand how he didn't know that he had collected in April of last year £½m more in income tax than he told the House that he had. And, of course, when the Government was presenting the Estimates last year to the House and we were reacting to those Estimates the prophets of doom, to which the Hon Mr Brian Perez referred in his broadcast last Thursday, were clearly the Financial Secretary and the Hon and Learned the Chief Minister, because they were the ones who were prophesying a colossal deficit this year: reserves of £1.7m and the need to borrow £2m. I mean, if that is not a prophecy of doom I don't know what it is. But, of course, the doom has not materialised, either because they got the figures all wrong twelve months ago, or because really there were two sets of books. We have all heard of two sets of books before in

Gibraltar, Mr Speaker, in the context of the way certain sectors of the economy operate, but I think that if we are going to have that operating as well in the Estimates and in the House of Assembly it is a bit too much. We have to assume that the picture presented to the House was, in fact, a realistic assessment. I think I used the words in my reply to the Finance Bill last year that the Government seemed to be saying to us that they were, if anything, 'erring on the side of caution rather than optimism and if there were going to be revisions, the revisions were more likely to be upwards rather than downwards'. Whilst one accepts a certain margin of latitude, because one cannot expect that anybody on that side of the House should have a crystal ball and be able to tell us down to the last penny how much money is going to come in or how much money they are going to spend, one expects a better performance, Mr Speaker, than to be starting the financial year by being told that we are facing a £3½m deficit, which leaves us with £1.7m in reserve, and we get told twelve months later that instead of that we have a £3m surplus and £9m in reserve.

Of course, within the £3m surplus, and within the £9m in reserve, we have an unusual innovation, one that certainly is not a reflection of GSLP thinking and one which we certainly are dead against. Last year for the first time and I thought from the way that it was put forward by the Hon and Learned Chief Minister with a certain amount of regret, I thought, we were being told that £2m were going to be borrowed for recurrent expenditure. I think the Hon and Learned Chief Minister in making reference to this was using it on the basis of it being an indicator of how tight the Government's finances were that they were going to do something that had never been done before. He said: 'For the first time ever to borrow £2m this year for recurrent expenditure', that is what they had decided. That to me is an indication that it isn't a policy that they are entirely happy about but a policy that has been forced on them by circumstances. Well, if the circumstances have changed as dramatically as they have, why instead of borrowing £2m for recurrent expenditure they borrow £2.3m? That needs explanation, and that has not been explained. And now we have a situation where instead of the borrowing requirement being shown below the line at the end of the exposition on page 5, as was done for the first time last year, they have gone even worse and they have shown it as recurrent revenue. So not only have we reluctantly moved into borrowing for recurrent expenditure, we have now made it a permanent feature of life. It is now recurrent revenue to have loan income. I think that is a misleading picture of the situation, I don't understand why they are doing it and I don't understand why they haven't explained it in introducing the Budget, Mr Speaker, because it is in contrast to the relatively rosy picture otherwise presented.

We also see that the Hon Financial and Development Secretary, in fact, as he did last year, in estimating revenue yield from income tax before the changes proposed, upped the figure by £14m. Last year we thought that there was an inconsistency between the estimate of the extra jobs that were going to be created in the economy and the estimate of the extra yield of income tax. This year we cannot say the same thing because they have not produced an estimate of the extra jobs in the economy, so we don't know to what extent that should be reflected in there, but I think the trend that has been shown in the Employment Survey on earnings, the fact that we have been told quite inaccurately, I believe, that the movement in earnings in the private sector is due to the inclusion of Gibrepair, which hasn't had a pay increase since 1983, would suggest that when and if pay scales in Gibrepair eventually do get increased there will be a reflection of that in the revenue yield to the Government, and that, therefore, the figure put in the Estimates is highly conservative on that basis. The importance of that is that the Hon and Learned Chief Minister has made a reference to the request that they have had from the Trade Union Movement for bringing taxation into line with UK, and he has quoted what I had to say, or part of what I had to say, in the 1981 Budget to show that neither Government nor Opposition approve Mrs Thatcher's economic policy. I am very glad to hear that he doesn't approve of Mrs Thatcher's economic policy, Mr Speaker.

MR SPEAKER:

Not quite. That is not part of the Chief Minister's statement.

HON J BOSSANO:

Well, he said that in 1981 I had said we should not follow....

MR SPEAKER:

Parity on income tax.

HON J BOSSANO:

Yes, that we should not follow the changes that had been introduced in the UK on income tax because they penalised working people, and they did, I said that in 1981 because in 1981, Mr Speaker, we were talking about a shift of the burden of taxation from direct to indirect which generally speaking takes a bigger cut of income from people on lower income and that is what has happened in UK. He doesn't need to go back as far as 1981 to establish what the GSP policy is on the subject of taxation, because we came out with a Press Release a fortnight ago saying, Mr Speaker, that we would support the

Government if they came along with improvement on tax allowances, not because we thought it was the right thing to do, but because it was the most that we could expect them to do. We didn't think they would do anything else and, in fact, they haven't done anything else. But we said a fortnight ago, and we said in last year's Budget, that what we thought was required in Gibraltar was a totally fresh look at the tax system, because we have got a tax system that has been operating in a closed economy with a closed frontier and what we require is to devise a tax system which is suitable for the current economic environment in which Gibraltar is operating. And that doesn't mean higher taxes, it means collecting taxes in a different way and giving incentives, as the Government has mentioned that it intends to do, but which we still have to see translated into action, incentives which effectively help to generate wealth instead of inhibit it. We don't think the UK tax system is suitable for Gibraltar because the UK economy is totally different from the Gibraltar economy, but, of course, we also agree with the people who complain that we shouldn't pay more than in UK. The fact that we collect tax in a different way and we give allowances for different things like, for example, the Government is doing to some extent in this Budget, and they did before. In UK you don't get £1,000 allowance for home ownership against the capital cost of the house, but that is something that reduces the tax burden but it does it in a way which is important in Gibraltar if we want to particularly encourage home ownership. So clearly you can have different ways of doing things and still achieve at the end of the day a result which is different from the ones that we have got now. Because if the Government is telling us now that simply to produce in Gibraltar a mirror image of the UK tax structure would reduce the yield from income tax by £8m, it necessarily follows that we are paying £8m more than in UK for equivalent incomes. There is no other way of looking at it. That is what people complain about and that is an element in the economy that of necessity fuels a demand for levels of earnings and levels of wages which will leave people with take-home pay which is reasonably sufficient to meet their needs, given the amount that is taken off them before they even receive their pay packet. It is in that context that we feel that the Government needs to do what they have said before they would do and they haven't done. The last time they said they were going to take a look in depth at the tax structure was in 1979, and they came back and they said they had been studying it, and all they did in 1979, Mr Speaker, was to mess around with personal allowances and raise a bit here and take a bit somewhere else. That is all they did and that is all they are doing now and that is not enough. That is not enough if they are going to achieve anything like what Gibraltar requires in terms of a sense of economic direction and what is reflected in the speech of the Hon and Learned Member as a realisation at long last on the part of the Government.

It is therefore, Mr. Speaker, against that background, that we must say to the Government: if they have found that last year they didn't have to take this drastic and undesirable step of borrowing £2m, why did they borrow £2.3m? We questioned this last year, Mr. Speaker. I said: if the Government is saying, as they did at the time, that perhaps they might not need it, why borrow it anyway? Why borrow money that you are not going to spend, and have the problem of paying interest? What is the sense of that? You have got a situation where you have got a borrowing capacity and you use that borrowing capacity because you need to spend the money, but you are no better off, Mr. Speaker, was our analysis last year, if you borrow £2m and you put your £2m in reserve. You are not £2m richer, because your liabilities have gone up by £2m and your assets have gone up by £2m, and you are exactly the same except that you are probably earning less interest on the £2m you have got in reserve than you are paying on the £2m that you have borrowed. And we find that this year, notwithstanding the fact that the Chief Minister has not said this year, as he said last year, that they were being forced to take this regrettable step of borrowing for recurrent expenditure, that they are borrowing for recurrent expenditure again. Because they have got a situation where they have shown in the Estimates that they are borrowing £4m to refinance existing loans - and we will support that. The explanation given by the Financial and Development Secretary is enough to convince us. If that is going to reduce borrowing costs then that is a good move. We have questioned in the past, I think, a couple of years ago, the structure of the debt, because it appeared to us at the time that the maturities of some of those loans were coming too close together in some financial years, and I think the Hon Financial and Development Secretary took the point and said he would look into that and see whether he could be, in fact, shifted into lengthening the times of repayment. And if that is happening and the result is going to be that the Government is going to have to spend less money in servicing the National Debt, then that is fine, because we will have more money for other things which are either social improvements or reducing the burden of taxation. But the other £2m which is shown as local debentures, and is shown as part of recurrent revenue, as far as we can tell from the Estimates is going to be used, £1½m for the Improvement and Development Fund, and £½m for recurrent expenditure, because that is what the law provides. The law gives the Government power, and we oppose that law, to borrow for recurrent expenditure. So now we have got a situation where the Government has borrowed £2.3m and is borrowing an extra £½m and they have now borrowed a total of £2.8m for recurrent expenditure which forms part of what is shown in page 5 as part of the Estimates of £10.8m, and in the revised page 5, as part of the Estimate of £8.458m. If we

look at page 5, if page 5 had been presented according to the convention adopted by every previous Financial and Development Secretary, Mr. Speaker, and there is no explanation or defence so far - the Hon Member will have the opportunity when he replies - of why the change, then what we would see would be that page 5 would show that the surplus for 1985/86 would be £685,000, because the £2.3m would not have been shown as recurrent revenue, it is a total misrepresentation to say that the £2.3m that he borrowed last year is recurrent revenue, unless he has got a queue of people waiting to lend him £2.3m every year. That would mean then that the reserves would be shown as £7.9m. We would then come down and instead of the deficit for the forthcoming year being shown as £800,000, the deficit would be shown as £1.3m because he wouldn't have borrowed the £½m and then, presumably, they would have an explanation before as to why he is borrowing £2.9m which in normal circumstances, on the basis of past Government policies since 1972, which is the time that I have been here and presumably before my arrival, would have been money that the Government was raising to invest in capital projects which I have, in fact, supported the Government on in the past, because there is a logic. And the logic is that if you are, in fact, investing money in a Desalination Plant or in a Generating Set then if you use it out of recurrent expenditure and recurrent revenue you are putting the total cost of that onto the consumers in that particular year, or the taxpayers in that particular year. So the logic of borrowing or obtaining supply on finance or any other way of financing capital investment is that you finance the cost over the life of the assets. That is why Governments and why private companies borrow, for that purpose. The Government is not doing it, has not said it is doing it, and does not explain why it is not doing it. But on the surface it would appear as if the Government is telling us this year, 'the goodies that we promised you last year are now materialising, we are now in a position to carry out changes in income tax allowances which are going to reduce our revenue by £2.4m, and we have borrowed £2.8m to do that'. Is that what we are doing, borrowing money to reduce taxation? If that is what we are doing then we want to be told that that is what we are doing because it is certainly a novel innovation in fiscal policy which no doubt the Financial and Development Secretary will want to tell me is very prevalent in America, because last year he kept on telling me how big the deficits were in the United States, and I remember that I asked him whether he was trying to say to us that if it is good for the Americans it is good for the Gibraltarians, or that the Americans were copying the Gibraltarians because we have been having deficits longer than they were. But perhaps he might like to know that there is a thing called 'the Graham Ratman Act' now in the United States which is designed to preclude that continuing.

In looking, therefore, at the Estimates this year, and after the experience of the Estimates of last year, perhaps an alternative explanation of this unorthodox behaviour might be that the Government does not really expect that any of the figures in their Estimates are going to be what is really going to happen at all. If that is the case then I think it would be better if the Government told us what they really expect to be the outcome for 1986/87, Mr Speaker. Do they really expect to collect only £21.6m in income tax? Have they really only collected £22.7m, or will we find that the final adjustment figure is not £22.7m but it is £½m up as it was last year? I can understand that these figures might have been prepared a few months ago, but it is not the first time that we have had that kind of situation in the House of Assembly and in the course of the Budget, I think it was when Mr Collings was here as Financial Secretary, that he came along and he said: "We have now got a situation where the figure that we have put in the Estimates is out by £400,000 on income tax" and they told us and they gave us a better and more realistic and more up-to-date picture in the course of the Budget, and I think if the Government expects, as they often do, that the Opposition should respond to their statements in the House objectively by doing the work of studying the validity of those arguments conscientiously, then we are entitled to expect in return accuracy.

We were told last year in the approved estimates that the Government was budgetting for a £400,000 increase in import duty: an increase from £5.6m to £6m, Mr Speaker. I would have thought that the import figure for March, 1985, was a sufficient indicator that that figure was widely out. But in the Estimates today, in the Financial and Development Secretary's speech, we have been told about the 2,000 cars in the import figures, and we have been told about the inclusion of the equipment for GSL, which presumably has not paid import duty. We have looked at the import figures in the Abstract of Statistics which we received yesterday and which we have had twenty-four hours to look at, and in that twenty-four hours it is not enough time for us to be able to dissect those figures and make some kind of judgement as to whether we are likely to be finishing the year with £9m in indirect taxation, or £10m in indirect taxation, or £8m in indirect taxation. But we are certainly more cautious this year, unlike the Hon and Learned the Chief Minister, about accepting the credibility of the figures in front of us, because we have never, I think, experienced such a dramatic turnaround in estimating on the part of Government as we have seen in the course of the current financial year.

In looking at the bottom line of the estimated Consolidated Fund Balance, we also have to question, as we did last year, and again we have had no information volunteered by the Government; what is Government policy as regards the prudent level of reserves. I think in my contribution in last year's Finance Bill I said that if we looked over the years at the different Budgets, Mr Speaker, it appeared as if the prudent level of reserves was the level that was there. So one year there was £12m the Government defended that £12m was necessary because it was the right level to have. And if the next year they had less than £1m then they argued that less than £1m was the right level to have. We have had two years in succession where the Government has been telling the House that they were targetting a Consolidated Fund Balance of £3.7m. That is the figure they produced for 1985/86 and it is the figure they produced for 1984/85. So they thought in 1984/85 that £3.7m in the Consolidated Fund Balance was enough, and it turned out that they exceeded the figure: instead of having £3.7m in 1985 they now have £6m in 1985; and if they told us in last year's Budget that £3.7m this year was enough and now they are telling us that instead of £3.7m they have got £9.2m, can they tell us why they need £8.4m for March next year? Why was £3.7m enough last year and the year before? Why do we need to have £8.4m by having borrowed £2.8m, when even without the £2.8m they would have been able to introduce the changes in taxation that they have produced for this Budget, and still be left with £6.6m, which is more than what they aimed for in the two Budgets since the last election. If we were given explanations for these changes we wouldn't need to ask for the explanations, and I would have thought that the Government would of its own initiative consider that it is necessary to do that because it isn't something that we are saying here for the first time, it is something that we have said before in the absence of previous explanations.

In looking at the body of the estimates, Mr Speaker, I mentioned before that there have been a number of changes which reflects arguments that have been put before by the GSLP and rejected by the Government. If I can mention just two of them: we have a situation where the Financial and Development Secretary has told us that the rates on ex-City Council properties are being included in the Valuation List, and that the rates on the buildings used by the Funded Services are reflected in the Funded Accounts. We said that this should be done because it would give a more accurate picture of the cost of operating those services and we were told by the Government it couldn't be done at the time in answer to a question in the House. We are glad to see that not only can it be done but it is being done. We also raised, I think it was my colleague, Mr Feetham, who raised the question of the income derived from the unspent balances in the Improvement and Development Fund, from the

interest on the unspent balances in the Improvement and Development Fund. Again we were told that there was no need to have that money shown as income for the Improvement and Development Fund, that it was quite alright for that money to go into the Consolidated Fund because it was part of the Government's overall liquidity, and yet we see that this year the interest income is, in our view, properly shown as being income for the Improvement and Development Fund. I think if the money is being put there for that purpose then it is only right that any income that it earns should also be used for further capital investment. Of course, when we see a change of this nature, such as the amendments to the Public Health Ordinance which will include former City Council properties, and which we will vote in favour of, Mr Speaker, the Government can hardly expect us to be over enthusiastic in our congratulations to them because after all they are doing in 1986 what according to the Auditor's Report of 1977 was going to be done as a matter of urgency. I know that in Government parlance 'urgency' meaning nine years is not too unusual. After all we are still waiting for the part-time pensions to actually materialise and that has been going on since 1977. Of course, the City Council did disappear in 1968, Mr Speaker, and we are still talking about City Council properties!

MR SPEAKER:

1969 wasn't it?

HON J BOSSANO:

Yes, it was as a result of the 1969 Constitution. And, therefore, it is good that at long last it is happening but, of course, I think it points to one of the elements which the Government omitted from its exposition of the difficulties that still remain in the process of transition of the Gibraltar economy, one of the difficulties that still remain to be tackled. And I think that that is that the history of Government performance is, to put a generous view on it, a path of inactivity paved with good intentions, Mr Speaker. The situation is that one now actually stops believing anymore that they are going to do any of the things they say they do, because they keep on saying they are going to do it but they don't actually do it.

We have had a situation where the home ownership thing has been going round, again, since 1977, and in the 1984 election it featured very prominently, and they were going to make a start on it very soon, and here we are now in 1986 and now we are providing some money, I believe, for the unit that is going to push this thing along. But I think there is an enormous time lag between the announcement of the policy and the translation

of that policy into reality. And clearly that is something that the Government itself has got to tackle, and it has to tackle it because that is one of the obstacles in the system as it exists at the moment which makes the Gibraltar economy vulnerable. Because I think the Hon and Learned Chief Minister is wrong in approaching this year's Budget on the basis that Gibraltar faces less uncertainty now than in the past. I think the converse is true. I think the situation is that perhaps the possibilities of what could or might be done might have widened in the new circumstances facing the economy of Gibraltar, but the uncertainties have increased, they have not declined. The kind of economy that the Financial and Development Secretary was describing which was so dependent on MOD was vulnerable to one thing, and that was a policy decision by the UK Government to cut MOD. But a kind of economy that depends on tourism, or depends on shiprepairing, is vulnerable to many other factors; changes in exchange rates, international conflicts, Americans staying at home instead of going to Libya for their holidays, all sorts of things, Mr Speaker. And, therefore, in that situation I don't think the Chief Minister can say that he is now able to spell out more clearly the kind of direction that we are going in and he wasn't able to do so before because there were more uncertainties before. I think that it is not that there were more uncertainties before, it is that before perhaps we didn't have an opportunity to do certain things which he might have wanted to do, or his Government might have wanted to do, but today, I think, the situation is that Gibraltar needs to have a rapid reaction to situations, because, in fact, we live in a more uncertain world, and we need to respond quickly to changes in competition, if we are moving into a more competitive environment. And we certainly will not be able to do that if the machinery of Government is one that has such a slow decision-making process, and that it takes so long between the time a decision is taken and that decision appears as a concrete response to the situation.

The other element, I think, which was mentioned in passing is the problems of industrial relations, which other Members of the House will be making references to, Mr Speaker. But clearly it isn't enough to make a passing reference at Budget time. I think the Government needs itself to have a coherent policy not just on the economy but on a whole range of factors which affect the performance of the economy and without which whatever incentives they give in one direction could well be nullified by what is happening in another direction.

Another unusual element in the Budget this year, Mr Speaker, is the performance amongst the Funds, of the Potable Water Fund. I think the Hon and Learned Chief Minister said last year: "In order to balance the books it will be necessary to increase

electricity by 19%, water by 8%, telephones by 26% and rents by 75%", this was twelve months ago. We now find that water makes a £600,000 profit without any need to increase it; that telephones are running at a profit; that rents don't have to be increased; and that electricity is coming down thanks to our Arab friends. I don't know how the Hon and Learned Member could have been so wrong twelve months ago, Mr Speaker. I can only suppose that he was saying what he was saying then because, as I mentioned at the time, there was already an expectation by the public at large that we would see a very swift reflection of the movement of people up and down Main Street into cheaper water and cheaper electricity and lower telephones and lower rents and less income tax. That is, I suppose, a natural expectation. If people get the feeling that there is a lot of movement and a lot of money being made they all expect to share in that, and I mentioned last year that there would be a great many disappointed people because this is what the comment in the streets was in anticipation of the Budget. I don't think that the Government this year, in the changes that it has introduced in the income tax structure, which are undoubtedly substantial. They are substantial changes compared to the situation we have had, where for many years we have had hidden tax increases because we have kept our tax system unchanged while everything else has been changing, and one of the worst features about this has been that whereas in 1979/80 when the Government introduced the different bandings it was defended then as a policy where people would be making a bigger contribution the wealthier they were, by the time we have come to 1986 the reality of it is that anybody on the minimum wage is already paying 35%, and that people move very swiftly from one bracket to the other, and that, therefore, the disincentive effect now works throughout the economy. The reality of it is, I think the Chamber of Commerce pointed this out, that in some areas when people work out what they get by working overtime on a Sunday after tax they just say to themselves: "It is not worth being away from my family and it is not worth sacrificing my leisure". I don't think that was the intention of the Government when they introduced the system in 1979/80 because at that time, against what was then the level of wages, the 50% rate was pitched at people who would have high incomes per se, and not at the result of a worker who was doing an average of ten hours overtime or whatever. But time has been pushing more and more people into that higher tax bracket, and, therefore, I think the Government this year has made a substantial move to remedy that situation. Clearly not as much as they were being asked to do but nevertheless a substantial one and we don't want to take any merit from the move that they have made. But that isn't what we think is required in terms of looking at Gibraltar's economic needs. It meets a social need, but it leaves the system as it was, except that you are just shifting it further up the scale and, of course, unless you

keep on doing that, unless the Government comes back next year and does another exercise of that nature, and the year after that, and the year after that, the reality is that if they just stand still for a few years they will find themselves back again where they were initially, because wages will push people back again into the higher brackets.

I think, perhaps, therefore, the action that we recommend to the Government in response to their proposals, which, as we have said publicly already we will support because we think that they are better than doing nothing, which is the experience of the last four or five Budgets, is that they should take into account the view that is being put forward by the Opposition, and when they come back next year to look again at the tax structure, they should do so on the basis of looking more at what can be done to reform the system than simply to reevaluate the system in order to keep it in tune with inflation or with increases in wage levels or whatever.

And, therefore, coming back to the Funded Services, Mr Speaker, we find that the situation is that the Government has sold much more water than they thought they were going to sell. They have sold £1m more which is a 50% increase. The year before that we were told by the Hon Financial and Development Secretary that consumption of water had gone down because the price had gone up, although the year before that we were told that the price was not going up. I remember, I think, last year I referred to it as an example of what he had called - he remembers, Mr Speaker - 'Orwellian obfuscation'. In this year's Budget the extra £1m is expected to more or less continue. In fact, the Budget for 1986/87 is for water sales to be £2.8m. We expected, when we were looking at the Estimates last year, that the movement of people, the extra use of hotels and so forth, would be reflected not just in extra imports but also in extra consumption of water and electricity, and, in fact, it was because of that, and because we were somewhat sceptical of the projections being made by the Government, that we asked the Government to provide us with quarterly figures showing the trend during the year which, in fact, they have been kindly doing although not very much on date. Nevertheless perhaps they can improve on their performance in 1986/87. But we have had the figures and we have been looking at the movement and it was difficult to see why that fairly regular trend would suddenly be materialised in an extra sale of £1m, which is 50% more, and that that should be continuing to 1986/87. We know that the Government has been assisting PSA because of difficulties that they have had with their own equipment which has not been producing. Is the explanation for that that the Government expects that to continue in 1986/87? If that is the case, Mr Speaker, then, in looking towards the longer term, how confident can we be then that we are not going to be facing, say, in two

years time or whatever, an increase back in water because the PSA is now able to produce their own and is no longer a customer? We would like to know whether, in fact, we are talking about a situation where the Fund is now on a better footing and, therefore, can be made to balance with less charges, which is a good thing. I don't think the Government anymore than us believes in running a potable water service as a profit-making enterprise. If we look at the situation where the increase in sales has gone up by £1m and the increase in profits has gone up by £2m, the implications of that, Mr Speaker, is that they have sold water for four times what it has cost them to produce, and I don't think that even the people who sell whisky make that kind of profit never mind the ones who sell water. Certainly we won't expect that to be the aim of Government policy to penalise those who slake their thirst because they talk too much like myself, Mr Speaker, by charging them 400% for their water.

Mr Speaker, I am being asked to get away and I am not sure that I am quite ready to round up. I need at least another fifteen minutes. I have had a number of messages telling me that I am required to be elsewhere so I wonder if we could recess at this point and I will come back and spend another fifteen minutes.

MR SPEAKER:

I had been given an indication that it was going to be at six, is that right?

HON J BOSSANO:

Yes, but it is something else that has turned up, Mr Speaker.

MR SPEAKER:

May I be completely and utterly clear. Are you telling me that you will be also committed at 6 o'clock?

HON J BOSSANO:

No, I am telling you that I will be able to come back fairly soon.

MR SPEAKER:

If the House is quite happy that the Hon the Leader of the Opposition should continue his address and we have other contributions and then he can renew it? I have asked the Usher whether tea is available but it can be available fairly quickly, we might recess now.

HON A J CANEPA:

Mr Speaker, I intend to take part in the debate and one thing that I could do is to confine the earlier part of my intervention, if it is a case of as between tea and somebody taking part in the debate, to matters where I would not be answering what the Leader of the Opposition has said. I wouldn't like to deal with any of the points in answer while he is away, obviously. That is the difficulty that my intervention is likely to involve a part where I am answering the Leader of the Opposition and a part where I am dealing with other matters which I had intended to say in any case. This is the difficulty.

MR SPEAKER:

Perhaps in the circumstances it might be better if we do recess for tea now. Will you be available at 6 o'clock?

HON J BOSSANO:

I expect to be, Mr Speaker.

MR SPEAKER:

Then I think it might be better if we recess now and we will be away for just over half an hour.

The House recessed at 5.33 pm.

The House resumed at 6.26 pm.

HON J BOSSANO:

Mr Speaker, there is another aspect, the kind of policy we would be expecting the Government to develop, which is fundamental to the direction that Gibraltar requires, and it is something which, again, surfaced in last year's Budget when I had an exchange with the Hon and Learned the Chief Minister where he interrupted me after I had quoted him in saying that the Government did not have a policy to either encourage or discourage people from moving into Spain to live and commuting back to work in Gibraltar. If you will recall, Mr Speaker, nobody could remember whether the quotation was accurate and, in fact, the Chief Minister thought I was misquoting him. What I said at the time was - this is page 163 of last year's Hansard, Mr Speaker - that they didn't have a policy and that they were neither encouraging people to go or discouraging people from going and that that was the answer he had given me in a previous question. The Hon Member said that he thought I had misconstrued what he had said because he was saying it in respect of people visiting

Spain at the time when there was discrimination at the frontier and that it was doing Gibraltar's economy harm. That is to say, he I think was mistaking my reference to the statement that he had made when he had urged people not to go across and spend their money there because the flow of money was just one way. And I said that I would either produce the Hansard or withdraw the statement that I had made, and I was able to produce the Hansard subsequently, and that is reflected on pages 192 and 193 where I was able to quote the reply that the Chief Minister had given me on the 17th March, 1982: Question No.94, where the Chief Minister had said in answer to a question: 'Is it Government's policy to discourage Gibraltarians from settling in Spain and commuting to work in Gibraltar?' He had answered: 'The Gibraltar Government will neither discourage nor encourage Gibraltarians from settling in Spain and commuting to work in Gibraltar. The Government considers that it is up to each individual to decide this for himself in the light of the circumstances prevailing once the frontier has been reopened and of the opportunities that might exist'. That is exactly what I had said he had said and that is what he had said and that is what he said in 1981 to the Foreign Affairs Committee when he told them in answer to Question No.12, that access to the hinterland for recreational purposes and some possible relief of the acute housing problem in Gibraltar were some of the benefits: and when he had told them in submission No.24 of his submission to the Committee: 'Perhaps Gibraltar's greatest problem today is housing. This could be relieved to some extent by some Gibraltarians especially, perhaps, the newly married, renting accommodation in the adjacent area. This would be of help to Gibraltar and the adjacent area will benefit economically'. I don't agree that this should be of help to Gibraltar, it might be of help to Gibraltar as a short term safety valve to take pressure off the Government to produce more houses, but I think in the long term it is a disaster for Gibraltar. And this is happening already, and it is totally unreflected in the Government's Employment Survey and the Government must know that. The Government must know that it is complete nonsense to suggest, as the Minister for Labour has suggested before, that the figures that are shown in the Employment Surveys of commuting frontier workers are, in fact, a true reflection. I am sure each one of us in this House, Mr Speaker, knows more people than are shown in the Survey who are living over there. I can certainly tell the Ministers on the other side who are shaking heads that I know more people than the forty-five who are living there. It is not too difficult to find out, Mr Speaker. All the Hon Member needs to do is to take a walk down to the frontier at eight o'clock tomorrow morning.

HON A J CANEPA:

Is that what you do?

HON J BOSSANO:

No, I don't need to do it, but I know what the situation is. I don't need to do it to satisfy myself of that because I know the people who are there who are unhappy about being there and that has been the theme we have put before to the Government. If people want to go to live there there is no way we can keep them here against their will, but people feel less secure there, it is not that they like it and, in fact, they lie about it because they are worried that if they tell the truth then not only will they have problems with remaining on the waiting list, which some of them still are, but they will have problems with their children going to school and they will have problems with their families getting medical services. It is a problem that is real and a problem that is there and it is a problem that runs totally across and negates the sentiment in the contribution of the Hon and Learned the Chief Minister about the Government having, as an aim of policy, 'our continuing political and constitutional independence from Spain'. We are grateful to the Hon and Learned Member that he has spelt it out like that because that is exactly how we feel. And it is good to identify the areas where both sides of the House are in agreement, like we identified it in the case of the airport, although I think, Mr Speaker, that it doesn't do justice to the situation for the Hon and Learned Member to say 'our stand on the issue of the future use of the airport, for example, speaks for itself'. I went out of my way when that motion was passed to say that as far as I was concerned it was not an AACR stand or a GSLP stand, it was a Gibraltarian stand and it reflected how Gibraltarians felt. I don't think it is their stand on the issue that speaks for itself. We are quite happy to share, Mr Speaker, the sentiment with them, but we are not too happy that they should pinch the sentiment and make it all their own and leave us out of it. And, therefore, as far as I am concerned, anything that we identify as being areas where the thinking of the party in Government and the thinking of the party in Opposition is the same is good for Gibraltar, and if the Government is now clear that it is against osmosis and against any erosion or anything that would affect us and could be described as social and economic absorption, which is all the Lisbon Agreement and all the Brussels Agreement was designed to do, and we all know that, but if they are now clear that we have to resist that, then, Mr Speaker, the Government's Budget must be designed to achieve not only economic growth per se, but economic growth designed to give us the weapons with which to defend ourselves economically. And we certainly don't want

to finish up with a Gibraltar, as I have said on previous occasions, where all of us are living on the other side and coming in on a daily basis to clean the flats for the rich tourists or whatever in the Water Gardens. We certainly don't want that kind of Gibraltar. I think when we look at development, and when we look at what it is doing to Gibraltar, and what we are encouraging and what we are discouraging, we must look beyond the next Budget and beyond the next election. And if the Hon and Learned Chief Minister has said that his contribution here is designed to show us that it is not a Budget proposal brought to the House looking simply to an election in 1988, then we need to see that reflected in what they are doing to discourage people from going to live over the other side. And we shall certainly be developing that theme, Mr Speaker, when it comes to the Improvement and Development Fund and when other Members of this side speak on the subject because we have been looking for it and we cannot see it. We cannot see the encouragement that is needed. We need to be told certainly as a matter of political statement whether the Government agrees with us that that should be a policy objective. That is to say, that they no longer subscribe to what they said in 1981 and what they said in 1982 about being neutral on the subject, that they agree with us that it is important to keep people here. It is important for Gibraltar's political survival, and that, therefore, when we are looking at how we run the economy we have got to have that at the back of our minds all the time, that we are running the economy for Gibraltarians, very much like when we look at Gibrepare, which my colleague will follow up, we want to see who we are developing Gibrepare for. And that, I think, Mr Speaker, is something else that is absent from the Hon and Learned Member's contribution in presenting the Estimates of Expenditure which is a disappointment to us. We would have expected, it is not something new it is something we have raised before, it is clear to us that in looking to the Estimates in 1985/86, and in the contribution of the Hon and Learned Member, a number of points that have been raised before by us the Government has taken the trouble to look at and provide us with an answer. But we don't think that the answer that we have got goes far enough in addressing itself to the problems that we can identify as facing our community. And I am not talking, as I said, about what is going to happen in the 1987 Budget or what is going to happen in the 1988 election. I think we are clearly moving into a situation, if we were not there before, and this is where when I mentioned before my disagreement with the analysis about whether we have got less certainty or more certainty about the future now.

When we had a closed economy to some extent, although I never agreed with the approach, the annual housekeeping operation could suffice. That is to say, the Government was able to weather the storm, as it were, from one Budget to the next simply by making sure that they have enough money coming in to be able to pay for the services that they were providing in a situation where, as the Hon Member has recognised, the MOD played a bigger role than it does today, and, therefore, the stability in the economy was that since the Government was not expecting any change from one year to the next in levels of employment you could almost do your sums on the back of a cigarette packet and know how much money was going to come in from each source. In the new situation where the Government is required now, not simply to do that but to do what they said they were going to do in 1983, Mr Speaker. I know that they have now got three pillars since last Thursday, but when they had two, until Wednesday of last week, Mr Speaker, what we have been expecting them to show us, and what still remains to be seen, is what the Hon and Learned Member said on the 14th November, 1983, in the press release that was issued here giving us the text of his speech to the Royal Institute of International Affairs. I think that was an important speech in terms of economic policy because, as I have said, my criticism over the years of the Government had been that they hadn't made a statement on economic policy and that was a statement on economic policy, and, in fact, it was a statement that in some respects contradicted things that had been said before and is contradicted by things that we have been told subsequently. Last year we were being told that the Irene Fantasy was coming out of dry dock with scratches all over the place, but in 1983 what the Chief Minister told the Royal Institute of International Affairs was that our economy had become stronger and prospered during the years of siege because of the Development Aid Programme, and that the economy, if anything, had improved, and that now the Government was embarked on a situation where they were determined to ensure that Gibraltar could stand on its own feet, take on a two-pronged approach, which was the development of shiprepair and tourism with or without an open frontier or normal communications, and that they were confident that this could be done. This was in 1983: we are now in 1986, the Government in 1985 tells us that they are now able to speak with more confidence and that things are now clearer and that they don't have to keep on harping on caution as in the past. We haven't seen anything more than the minutest glimmer of something more concrete materialising so far, Mr Speaker, and we are still awaiting, and perhaps with the contribution of other Members, we shall see exactly what it is that this new direction and this sound economic basis which is being created by the Budget of 1986, where this is to be found, whether it is one pillar or two

pillars or three pillars or however many pillars they want to come out with because now that at long last after having scoffed for so many years at the context of having an economic plan, they have now been persuaded that it is desirable to have one, then we want to start seeing us moving in that direction. Therefore, Mr Speaker, with those closing remarks I sit down in anticipation of all the additional information that is going to be forthcoming from the Government benches.

HON A J CANEPA:

Yes, Mr Speaker, I think that it is highly desirable to have an economic plan which is based on three pillars that we can see rather than one which is based on heaven knows how many pillars that one hears a great deal of talk about but which apparently appears to be in the realm of fantasy. I hadn't realized, I must confess, Mr Speaker, during the weeks that we have spent putting the Budget package together, nor this morning listening to the Financial and Development Secretary and to myself reading the Chief Minister's speech, that there was so little content in this year's Budget that the Hon the Leader of the Opposition would, in fact, spend more time speaking about last year's Budget than what he has done about this year's Budget, because he has really said very little this afternoon about this year's Budget. At the time of last year's Budget, Mr Speaker, what had clearly and manifestly happened was that the frontier restrictions had only just been lifted two months previously and the Government was advocating a wait and see approach to what many were already describing as the answer to all our economic ills. A view that I certainly have never shared in such stark terms. But what has happened in the last twelve months, and I say this in the context of the assertions that the Hon the Leader of the Opposition has made this afternoon about the inaccuracy of the figures of the Government, what has happened is that the forecasts that were being made at this time last year were being made against the background of a closed frontier situation, and we had no idea, or very little indication, as to what the outturn for the year was going to be. In fact, the outturn for 1985/86 has been much better than we might have hoped, but it was difficult then to put a figure on it. No doubt the Financial and Development Secretary, when he exercises his right to reply, will be dealing with the question of the accuracy of the figures, but just to take one case in point.

Mr Bossano remarked about the indications that there were regarding the level of import duties in March, 1985. Of course, in March, 1985, the level of import duties was much better than in February, 1985, or than in March, 1984. What was the Government to do? Was the Government to project that

figure as being the one for the whole of 1985/86? You cannot do that, Mr Speaker, not when you are in Government anyhow. That is totally irresponsible because if you get it wrong, if the situation for the year as a whole does not prove to be as good as for that one month of March, 1985, then well before the end of the financial year 1985/86 you are going to be in trouble because revenue will not be coming in as projected and you are going to have difficulties with cash flows, and you are going to have difficulties at the end of the year in balancing your books. Not that that should be the end—all be—all of any budget, but it is a fact of life. You need more time. In fact, I would say that even to think in terms of three or four months may not necessarily be enough because if the frontier opening had happened in January, 1986, and not in February, 1985, I very much doubt whether the Government would have today brought the Budget that it has brought, because on the basis of three months we would not have dared to put together this sort of Budget. It is based on the experience of over a year when we have seen how things can work, how things can develop as a whole, that you are able when you are in Government to take the plunge.

The level of the reserves. Of late, the last few years we have been hearing Mr Bossano say a great deal about this, and year after year different Financial and Development Secretaries, certainly the last two, Brian Traynor and certainly Reg Wallace, I cannot remember about Alan Collings and certainly Alistair McKay would not have done so, but the last two I think have said something to the effect that it is a matter of judgement and that there is nothing magic about the level of reserves. When as a youngster I used to come to hear the Financial and Development Secretary every year at Budget time, the late Mr Hayward, Charles Gomez, Sir Howard Davis, Mr McKay during the days of the IWBP, when it was and they used to start off their Budget speeches by saying that the management of the finances of the Government was like a household budget, they always started with those words. Then I remember that they used to say that the prudent level of reserves was judged to be six months and that certainly was sacrosanct for many years and it was sacrosanct when we came into office in 1972. It was so sacrosanct that it landed us in a general strike because when we asked the Treasury: 'Where is the money put by for the biennial review of wages and salaries?' We were told: 'There has been no provision made by the IWBP in the March Budget'. So we said: 'What about reserves? There is £1½m in reserves, cannot we draw from that to meet the wages increases?' 'Ah no! you must not touch the reserves, you have got to have six months of reserves', and that was sacrosanct and in those days the Treasury had a much greater stranglehold over the business of Government than what they have now.

When we came into office in 1972 and we started to bring many measures to the House the IWBP who were then in Opposition, and I am sure the Hon the Leader of the Opposition must remember, must have heard his colleagues say, how on earth were we getting this thing through. Mr Xiberras couldn't get any money for a relative to accompany a sponsored patient to UK, the Treasury said: 'You cannot do that', and here was Adolfo Canepa ten months later doing precisely that. And the Treasury won't allow family allowances to be increased, and they won't allow this and they won't allow that. How is the AACR doing it? This was the position then, but there is nothing magic about the question of the reserves. What happens is that when you are tight, when you are in a corner, against the wall, as we were in 1979/80, when Mr Isola made fun of us because he worked out that we only had five days working capital, then you make do with £1m or £2m or £3m, but when the situation improves you try to have a better level of reserves, perhaps against a rainy day or, as in my estimation in this year, to meet the problem of the unknown, as it was then, of the United Kingdom contribution to the Improvement and Development Fund. Because if we have a reasonable level of reserves we can transfer from the Consolidated Fund into the Improvement and Development Fund; we can get going a housing programme which ODA will not fund, we can do something on housing because we recognise that it needs to be done and there are proposals in the Improvement and Development Fund about which we shall be saying more later on in the Appropriation Bill. This is why we try, if you are able to, to have a reasonable level of reserves, but what the figures should be there is nothing magic about it. It can be £7m this year and alright, we could have given away another £1m in income tax to make it a bit lower, but I don't think that that is how it should be done. But there was a time when there was fear of having too high a level in the Consolidated Fund because that would generate demand for increases in wages and salaries. Happily we are not in that position today.

I am going to deal with one or two other points that the Leader of the Opposition made, Mr Speaker, but I am going to leave it until a bit later to break up, as it were, the monotony of the address. What can undoubtedly be said today, Mr Speaker, even if it couldn't be said with one's hand on one's heart twelve months ago, is that the lifting of the restrictions has certainly injected new life into many sectors of the economy, and it is, of course, one of the Government's prime objectives to maximise the benefits to the economy of Gibraltar which the fully opened frontier will afford. And today we are seeing some of the first steps in ensuring that the ordinary man in the street, the ordinary worker, will begin to see some of that benefit because people will naturally ask themselves: 'Well, if trade is doing well, if the economy is thriving,

what is there in it for me other than just inconvenience and the fact that I can spend my leisure time in Spain? There must be something more to it', and we are seeing the beginnings of that today. I don't think I need to go into the figures, Mr Speaker, I think they speak eloquently for themselves but let it suffice to say that Gibraltar's export income has received not only a significant but probably an unparalleled boost over the last year. The tourist industry has not experienced a better year since 1969 with arrivals by land and sea the highest since then. Activity in the financial sector is also very much on the increase and who can doubt that this sector is bound to play an even more prominent role in the economy in the years to come.

The reason why this is now becoming a third pillar of the economy, and that could not have been foreseen a year or two ago, is that when the Dockyard closure was announced we had a consultancy on diversification of the economy and in that study the point that was made was that the financial sector could make a significant contribution to the economy in that it could create an additional 150 or 160 white collar jobs. But that study was made at the time when the frontier was closed and what perhaps could not have been foreseen was the enormous impetus that the opening of the frontier has given the financial sector. I think it has certainly exceeded the expectations of 1978 and that is why I say today that it isn't just a case of describing it as a significant contribution but an important contribution to the economy. An important contribution where earnings are very high, where there is demand for certain qualifications and a lot of jobs are being created which are already beginning to poach from other areas of employment in the economy, where the pace is being set, people are able to demand certain levels of earnings from the financial sector. And some of the brain drain that Gibraltar has been experiencing in the last ten years or so, where we have been training a lot of young people, sending them to universities and a lot of them have not been able to return to Gibraltar because there is a limit to what we can absorb, some of those, I think, now have distinct prospects of employment in this important sector. This is the reason why we attach today much more importance to this particular sector than we have done previously.

The commercial yard, Mr Speaker, in spite of all its industrial relations problems also continues to be an important source of employment and I think it should continue to do so. It is vital that these three pillars: tourism, the commercial shiprepair yard and the financial sector should continue to generate income and employment opportunities more so having regard to the recently announced reduction in personnel by the Ministry of Defence. But we are not blind, Mr Speaker, in the Government

to the fact that the general buoyancy of the economy had not so far been of benefit to all and sundry, and we are trying to make a start today to ensure that there will be a fairer distribution of income and wealth. A challenge, in my view, that cannot and must not just be faced by the Government alone, by the administration alone, but in which other sectors in Gibraltar have an important role to play. Although the Government, Sir, is now in a much stronger position than over the past two years, we have had to meet increased recurrent and capital expenditure, but the fiscal incentives that have been studied and are being introduced now will also continue to be the subject of further consideration.

We have seen the reduction in the levels of import duty, mainly with respect to tobacco and spirits and, if necessary, in an effort to maintain Gibraltar's price competitiveness with Spain, this is an area that over the next few months we shall keep under close review. And if further remedial measures are required then it is a very straightforward business to enact the necessary legislation, Mr Speaker. It only has to be done by Regulation and there is no need even for a mini-budget. But now that Spain has become a member of the Community the effects of the introduction of IVA, their equivalent of VAT, has been that the overall price levels, as far as we can ascertain so far, the overall effect has been fairly marginal. But we need to keep a careful check on this, Mr Speaker, because fluctuations in Spain which can arise either from that or because of changes in exchange rates have got to be constantly monitored to ensure that Gibraltar doesn't come off worse in this respect. The Chamber of Commerce have put a number of proposals in this respect. They have suggested that the present system of indirect taxation should be re-structured, but there are aspects in their proposals that I think are dangerous, Mr Speaker, and this is where they involve the imposition of duty on certain basic commodities and luxury goods. Luxury goods is not a problem but basic commodities like foodstuffs I think would be a very dangerous step to take. In fact, I hold the view personally that for the Government to put import duty on foodstuffs could even undermine the whole basis on which parity of wages, with all the swings and roundabouts, is accepted by the Trade Union Movement, and I think it is against that background, for that reason alone, and because I firmly believe that in Gibraltar we shouldn't take that step of putting import duty on a basic thing like foodstuffs, that I have never been myself agreeable to that proposal. But they are being considered and I have arranged for regular meetings with the Chamber of Commerce, on the basis of a monthly meeting, and they should complement useful consultations that I have with members of my Think Tank where new ideas do emerge, nothing too earth shattering, but new ideas emerge, a useful forum for an exchange of views for

discussions, and as new ideas emerge I am confident that the competitiveness of Gibraltar vis-a-vis Spain cannot only be maintained but, in fact, developed to the maximum potential.

Much has been said in recent weeks, Mr Speaker, about the need to lower income tax and the Government has, therefore, been particularly pleased to be able to announce these reductions in the level of both personal and corporation tax. They are the first changes in the structure since July, 1981, and this new structure for personal taxation does, in my view, go some way towards reducing the disparity between the UK and Gibraltar though, as explained by the Chief Minister this morning, the Government would never seek to apply the UK structure to Gibraltar.

The Hon the Leader of the Opposition made some reference to the question of fiscal tax and its effect on the lower income groups. Again, this has been a feature of the last five years and because allowances and the progressive rates of taxation have remained constant while gross incomes have risen in money terms, tax payments have, in fact, effectively increased and take-home pay has been much lower in the last five years, and certainly much lower than during the halcyon days of 1978 when take-home pay had increased dramatically because we were catching up with parity and because both in 1978 and in 1979 there were very high percentage levels of settlement in the United Kingdom of the order of 50%. By late 1978 or late 1979 the acquisitive power of the ordinary man in the street had increased to an unheard of amount in a very short period of time. I think we are beginning now, Mr Speaker, to take some steps to redress the situation whereby people were jumping from one tax bracket to another very rapidly.

Since 1981 inflation has, in fact, outpaced the increase in net take-home pay even though inflation has been extremely low, and this has been an instance where parity of wages with the United Kingdom, because of the policies of the UK Government has, in fact, worked very much to the benefit of the private sector, because the public sector has set the norm and the private sector, in a situation in which they were going through very difficult times, were able to benefit from very low annual wage increases. Again, parity has been of benefit on both occasions because the boom of 1978 and 1979 lead to considerable expenditure in consumer goods within Gibraltar and the difficult years, the extent of the difficulties have been attenuated by the way that parity has worked during the time of the Conservative Government.

I think, Mr Speaker, that the reduction in the level of personal taxation may lead to some extent to increased expenditure in Spain, but on the other hand I don't think that this

leakage is likely to be as high in the lower income groups where the effect of fiscal drag have been more harshly felt. But there is, of course, another important benefit to the economy of Gibraltar by the reduction in taxation, and that is the promotion of Gibraltar's aspirations as a financial centre.

As I think Hon Members may know, other financial centres already are enjoying much lower levels of personal and corporation tax, and with this in mind that was the reason for our finally considering and agreeing to reduce corporation tax to the same level as in the UK. If it was ever to be lowered, Mr Speaker, this was the year to do it. I don't think it will be a particularly popular measure in Town Range, but it may be less unpopular this year than what it would have been otherwise, but it is consistent with the Government's fiscal strategy of shifting from taxes on income to taxes on expenditure at a relatively low cost to the Exchequer.

I come now, Mr Speaker, to the rates issue about which there has been much controversy. I think it has to be accepted that rates are an important and growing source of Government revenue. The year 1985 witnessed a general revaluation of all business premises but after a lapse of seven years. Formal objections, verbal representations were made of general complaints about the increases which affected mainly owner occupiers and leaseholders who were on ground rents which were well below market levels. And the main reason for the substantial increase was in fact due to the fact that it had been deferred on two occasions and it had been deferred because the Government was in sympathy with the difficulties that the trade was generally experiencing but because it is required by law that the Government should take existing market levels into account in a revaluation then the revaluation led to increases in rates that were fairly dramatic in many instances. But the pace had been set by the increases in rent in the private sector round about 1982 and 1983, and I myself as Minister for Trade complained about that. In the days when there were indications that the frontier was going to open in the wake of the Lisbon Agreement, rents went up very, very sharply in the private sector and the Government continued to be a very good landlord and continued to try to keep the rents of the commercial premises which it rents at a reasonable level but it was this factor that really fuelled the increases in rates. As the House knows, we have agreed to a certain level of relief which is being given legislative effect in connection with this Budget. But I would say, Mr Speaker, if the controversy is going to continue, that the Hayfield Report which has been commissioned by the United Kingdom Government, in fact does recommend that business premises should continue to be assessed on the basis of their annual rental reviews

and we are also, in the Government, of this view. Mr Speaker, the Government is fully apprised and aware of the role, which is going to become an increasingly important one, which the private sector has to play in the economy of Gibraltar, and it has been very encouraging, in the last few months, to see the rate at which development is on the increase. The House may therefore be sure that as part of our overall strategy we are going to continue with further fiscal incentives as we are now doing with home ownership, not only to ensure that momentum isn't lost but, in fact, in order to maximise the rate of economic growth. The second part of my address, Mr Speaker, is going to be devoted to, in fact, outlining developments in the private sector and the impact that that is likely to have on revenues and on the economy.

I think at this juncture I could do well to deal with one or two points that I wanted to answer which the Leader of the Opposition had brought up. Again, on the question of figures he queried what the Financial and Development Secretary had said about the fact that the level of earnings in Gibrepair had contributed to the higher figure of earnings for the private sector. There hasn't been a pay increase in Gibrepair since November, 1983, but is it not a fact, Mr Speaker, that in the non-binding arbitration that the union and GSL agreed to, the findings of the arbitrator have been that at least for 1985 there is no case for an increase in basic wages because basic wages in the yard were, in 1985, appreciably higher than in the rest of the private sector. And if that is true then, obviously, that fact, in spite of there having been no increase since November, 1983, that fact has worked its way through and is reflected in the latest Employment Survey available to us. This must be a fact of life.

Yes, I will give way to the Hon Member.

HON J BOSSANO:

The Hon Member has asked if that is true, the answer is no, it isn't true.

HON A J CANEPA:

It is not true, what is not true?

HON J BOSSANO:

What the Hon Member has just said, that the arbitrator came to the conclusion that earnings in GSL were appreciably higher than in the rest of the private sector. What the arbitrator accepted, Mr Speaker, was that the commercial yard was right in comparing a Grade B in the yard with a Band 2 labourer in

the Government whereas the union was arguing that a Grade B in the yard who was required to drive a crane, who is required to operate a computer should more properly be equated to a Band 6 in the Government who is a driver, and depending who you compare it with he is either overpaid or underpaid but there was no comparison with anybody in the private sector at all.

HON A J CANEPA:

I am grateful for that information, Mr Speaker. I hope that the media will take note because the Hon the Leader of the Opposition has got inside information on this matter which I don't and I just go by what the media says. I am sorry that I have been misled.

The Leader of the Opposition spoke about the reduction in the water charges. The reduction in the water charges, and I think the Financial and Development Secretary mentioned a figure of about £4m, that figure is closely related to the estimated savings as a result of the use of waste heat by the boilers in the desalination plant, the waste heat from the Generating Station. At the moment, as far as the indications are, that is going to be slightly less than that, in fact, but is going to be roughly the order of savings. And therefore regardless of what happens about sales to the MOD, our reductions are not linked to that but to the question of the waste heat. I think it is an important point that has to be made because one swallow doesn't announce the arrival of summer.

The time lapse in the implementation of Government policies. This is very much a feature of the Government bureaucracy and the machinery. For instance, I can mention a case in point, the question of home ownership. What happens is that with the tremendous interest and momentum in development in the private sector in the last year, the Director of Crown Lands and the other people in Crown Lands, are completely snowed under with work on development and, therefore, unless one creates a separate unit to deal with home ownership you cannot expect the same people to be doing that work. And the situation is going to get worse. The situation is going to get worse because some of the key civil servants, some of our most able people are going to leave the civil service. There is going to be a lot of poaching by the private sector which was a feature twenty years ago. That is going to happen again. And the Director of Crown Lands probably feels that if he is having to work till seven or eight in the evening on Government work and not being remunerated for that, if he works those extra hours for himself he is going to be making much more money. That is a feature. The other feature is that sometimes decisions are taken and implementation can be blocked by the Trade Unions and Staff Associations because

they don't see eye to eye with Government. There may be a dispute about a job description. We want to employ people in the home ownership unit, there is a dispute about the job description so we cannot employ them. If we cannot employ them we cannot sell the houses, if we don't sell the houses the revenue doesn't come in. Another case in point, we need more graduates in the civil service. If the GCCA doesn't agree they block you and the thing drags and you don't employ the graduates. And if you don't employ the graduates, in a civil service that has been expanding and that requires, with the complexity of life today, people who have proved that they have got the brains and, hopefully, the confidence to do certain jobs, well they just don't come into the service. These are realities of life. Sometimes you can find a way around it by reaching an amicable settlement, but sometimes matters can be delayed for months on end. It is that, added to the inherent inertia in the system that obviously makes for difficulties.

Mr Speaker, the Hon the Leader of the Opposition will recall that a few years ago, I think it must have been in 1982, I said during the Budget debate that I was a frustrated Minister for Economic Development and that was because the projects were all on the drawing board but I just couldn't get them off the ground. I think he may remember that Major Peliza made fun of me on that occasion and went on to attack me for lacking imagination and so on. I don't know what I have done now to bring all these projects to realisation: what has happened? The main thing is that I just plodded on with these projects, continued to do my best, the economic climate has changed dramatically, it has improved and all that I did to bring that about, of course, was to stick my neck out together with my colleagues when we agreed to the Brussels Agreement because that meant that we gained the momentum of ten months or otherwise the development that we now see beginning to get off the ground all around us would have been delayed. That is all that one has done. Conditions have changed and now they are conducive to the actual implementation of these development schemes. For instance, the old Revenue Stores at Waterport. They have recently been demolished to make way for a substantial development Marina waterfront. This development was awarded for a tender of £300,000; it is £300,000 revenue on a once and for all basis, but it is very welcome. It will consist of 135 apartments in three blocks with a commercial podium at ground and first floor level. The project is estimated at £5m, it is an injection of £5m into the economy over a period of two and a half years. A short distance away, across Waterport Basin can already be seen the rapid progress on the second phase of the Marina Bay, something which was in abeyance for five years because there was no incentive, no inducement. Now, again, under new ownership, it is becoming a reality. Again a mixed

development - apartments, offices and commercial accommodation. And once phase two is completed later this year there is going to be further reclamation to the south to see the culmination of this important touristic complex in a few years time. In fact, I think it is no exaggeration to say that together with Sheppard's Marina, who are commencing the second phase of their development and whose pioneering efforts were the first to recognise Gibraltar's unique position as a yachting centre, Waterport Basin, taken as a whole, is today recognised as one of the most important yacht marinas in the Mediterranean. And I say that not because Bayside Marina can compare, say, with Banus, no, but because that Marina, together with Sheppard's Marina provides for the real yacht owner. Sheppard's Marina provides a requirement, a need for people who live on yachts, not who own luxury yachts on which they spend some time occasionally but who live and who make of yachting a way of life, and Sheppard's Marina is geared to this kind of people and that is why it is very popular and it has got very good services provided and a very good shop as well. Taken together, Waterport Basin is a very, very important element in the development of the yachting business and naturally further developments to come at Queensway. And, hopefully, the East side reclamation will also contribute in this respect.

Another project, Mr Speaker, which is also worth about £5m of capital investment is the controversial Casemates Multi-Storey Car Park. I think it will go some way towards alleviating the serious parking problems but it is also going to provide a centre for shopping and business activity at the very doorstep of Main Street. But perhaps the most important touristic complex which we have recently awarded by tender is Queensway, the Queensway development.

In the case of Queensway, Mr Speaker, we are talking of an estimated development of about £30m. Already the tender sum, £1.5m for the land, again it is more revenue for the Government and this development is intended to consist of a five star international hotel; it will incorporate conference facilities, a casino; a 350 berth marina; 143 luxury apartments; recreational and sporting facilities; a quayside pedestrian shopping area which will incorporate shops, boutiques, cafes and restaurants; and also parking for about 300 cars. Two years ago Major Pelizza would have stood up and said: 'It is all pie in the sky', but having regard to what one sees around Gibraltar today, I think the prospects of something like this happening are today very, very real. The scheme, Sir, is also being very sensitively treated from an architectural point of view. It is going to be an impressive tourist amenity adjacent to our waterfront that Gibraltar can be justly proud of and will merge very well with the traditional style of architecture that one sees, particularly, in the south district, Naval Hospital,

South Barracks and so on. I don't know whether this will be a little bit of a sop, Mr Speaker, to the conservationist lobby, I hope it will. It is an impressive development and one that will help to mould Gibraltar into a first class touristic centre of unique character.

Related to this one, Mr Speaker, because it was part of the Dockyard commercialisation package, is the Rosia Bay development. The position there is that two parties who were originally interested in tendering got together, they have made a joint submission which has not yet met with our full approval, and it is now going to be the subject of a six month option. A crucial part from the Government's point of view for this development is that they should provide a hotel on Engineer Battery. If this is found acceptable the company will be allowed to proceed with the development, which will be a 150 bedroom hotel and 155 apartments at Rosia Parade, with a 60 bedroom aparthotel on the escarpment of Parson's Lodge Battery. I have no doubt that the conservationist lobby will really go to town on this one. But what we are trying to do, Mr Speaker, is to, on the one hand we know that there are extreme conservationists, there are also extreme Philistines on the other, but we are interested in the future and in the welfare of the average man in the street. That is what we are ultimately concerned about, to ensure that people have got jobs, to ensure that people have got houses to live in: the well being and the quality of life of people. We are very conscious of the need to do this, and, therefore, the need is for a balance, to strike a correct balance in the public interest.

The rapid growth, Mr Speaker, that I mentioned earlier in the Finance Centre activities is, of course, creating a demand for more office accommodation and there are a number of important redevelopment projects which have already received planning approval and some others are under consideration. There is one clearly now getting off the ground, and that is the old Christian Brothers School at Line Wall Road. Mr Speaker, it is with this philosophy in mind that we are shortly going to be considering tenders that have been received in the last two weeks for the Command Education Centre. This particular development is intended to consist of a mix of shops, offices and residential accommodation. We very much hope that it will revitalise the area by providing a high class shopping arcade near to Main Street. I think it should serve to draw the daily visitors off Main Street into the side streets, improve trade in these secondary areas where the Chamber of Commerce keeps on complaining that people are not doing as well as in Main Street. I think, Mr Speaker, that these projects together are going to attract further investment of even greater magnitude.

We have recently received a feasibility study on the East side reclamation project and there are indications that that can now become a reality. A revised scheme is going to be shortly considered by the Development and Planning Commission and the difficulty, at one time, Mr Speaker, was that with the situation on land, scarcity being such, the danger was that it was going to be so costly to reclaim 38 acres that it might have been too costly to develop. But now land values have increased to such an extent that we are more confident that the high cost of reclamation can, in fact, be absorbed within a development of that magnitude. If this development were to get off the ground I estimate, Mr Speaker, that the total capital investment over the next few years could be a staggering figure of about £200m, between the East side reclamation and the other development. If it doesn't get off the ground the other developments together could amount to the not inconsiderable figure of about £100m. I sound almost like television on a certain channel, Mr Speaker. I feel embarrassed speaking about so many millions.

Mr Speaker, I have so far concentrated on the major development projects but, of course, much closer to home and closer to one's heart is the Vineyard Housing Scheme which has now commenced and will soon be providing reasonably priced accommodation for young Gibraltarian families. The interest in this has been staggering and I think it will make a very considerable contribution towards ameliorating the very serious problem there is, housing. The lack of public funds have constrained the Government's ability to build more houses, but I think if all the millions that I am talking about begin to find their way in the recycling process into the Government coffers I am sure that the Government should be able itself to fund a reasonable modicum of public housing for many years to come.

In conclusion, Mr Speaker, the message from this year's Budget, as far as I can see, is to the effect that the economy has now turned a corner. Whilst we are not experiencing a boom, we are certainly experiencing growth, and the prospects of continuing growth. I think these prospects appear to be genuinely good. The foundations have been laid for sound, realistic, economic planning, something very close to the heart of the Hon Mr Bossano, to be seen as a permanent and an assured feature of Gibraltar politics.

MR SPEAKER:

Perhaps we shall recess now until tomorrow morning at 10.30.

The House recessed at 7.28 pm.

FRIDAY THE 18TH APRIL, 1986

The House resumed at 10.40 am.

MR SPEAKER:

I will remind Members that we are on the debate of the Second Reading of the general principles and merits of the Finance Bill. Last night Mr Canepa finished his contribution.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I will be making a short contribution on the Finance Bill. My main contribution will be on the Appropriation Bill.

On prescription charges, Mr Speaker, the Government are increasing it by 20%. Can they confirm, since their explanation is that they need to do this as a result of the continuing increase in the cost of drugs and pharmaceutical supplies, that the cost has actually gone up by 20% this year? If this is not the case then, obviously, Mr Speaker, the Government will be burdening those people who are ill by making them pay a bigger proportion. It seems strange, Mr Speaker, that they should decide to penalise the older people who are, in fact, those who will be requiring more prescriptions, some of whom are on very low incomes.

Also, Mr Speaker, we cannot understand when already they are having so much pressure from the Diabetic Association to do away with prescription charges for chronic patients, that they should put a further burden on them. I find it unfair, Mr Speaker, in a Budget where they haven't increased anything, in fact, there are tax cuts, that the Government should have introduced this measure. I think, therefore, that an explanation is warranted from the Government on this.

HON J L BALDACHINO:

Mr Speaker, touching upon a few comments on the Budget speech of the Hon Financial Secretary, the Hon and Learned Chief Minister and some reference of what Mr Canepa had to say, I will be speaking exclusively on housing and how I think the measures will affect the housing situation in Gibraltar as a whole. If I may, first, make a few comments on what the Hon Member had to say on the question of amortisation on certain projects on the housing side Mr Speaker.

I am glad to see that the Government has now departed from their past policy of amortising certain projects for a 60 year period. I am referring to other things than this.

Even though this is more in our way of thinking and which we have previously brought in other Budgets to the House, we still think that it doesn't go far enough. I would like to have an explanation, Mr Speaker, how they arrive, for the different periods in years, to amortise different things like painting and the repairs of properties and things like that. How do they arrive at the years, because we still think that the true cost, which is the whole essence of the exercise, is to have a truer cost reflected in the Housing Fund. I would like to have an explanation on that one, Mr Speaker.

The other question, Mr Speaker, of the Hon and Learned Chief Minister, on the question of where they have increased the tax relief for first-time home owner-buyers, we don't think that this will create any major incentive, even though we will be voting in favour of it. Mr Speaker, we don't think that this will create any incentive because this is in isolation and the way that we see how the housing problem should be tackled should be by a comprehensive policy as a whole and not just in isolation, because no way will you ever get a solution to the problem in that way. It is all very well to have, Mr Speaker, or to create incentives, and this is where I am going to comment on what Mr Canepa said, Mr Canepa mentioned - and I am glad for the Hon Member that he is no longer a frustrated Minister for Development - because he said that probably there will be, and he mentioned the figure £100m, on development in Gibraltar as a whole, but the true fact of it, Mr Speaker, is that there will still be frustrated Gibraltarians who are in need of housing because very little of that £100m that are floating about will go to build more housing for Gibraltarians.

He also mentioned - and keeping to the private sector and the incentive of the Government - he mentioned the Vineyard Housing Project. The way I saw that he was trying to put it across, Mr Speaker, was that everything was going very smoothly. The truth of the matter, Mr Speaker, is that the contrary is happening. If we look at the opposition that the future buyers of the Vineyard Project are having with the developers, and if we start off by the letter that the solicitors for the developers sent to the buyers, and I quote, Mr Speaker: "We enclose an agreement for your approval. We would be grateful if the agreement would be returned duly approved as soon as possible since our client wishes our exchange of contract to take place prior to the end of this month". This was dated the 9th April. And the second paragraph, Mr Speaker, of that letter is very important, I think: 'If the exchange does not take place prior to the said date we reserve the rights of our clients to withdraw the same', Mr Speaker, in essence, in 1984 when the Government brought to this House and announced what they intended to do in the Vineyard Project, and which we supported, Mr Speaker, we did not support it in the spirit that it is now

taking place between the developers and the future buyers. Because if we look also at the contract, Mr Speaker, that has been sent to the future buyers, there are a lot of things that could go well with what the Hon Mr Canepa said for the Queensway Project, for the Water Gardens and luxury flats, in effect, but not to try to impose this on people who are buying a house because of the failure of the Government to provide houses in Gibraltar, Mr Speaker. In actual fact what is happening is that these buyers are doing them a favour and not the other way round. What is happening in the Vineyard Project, Mr Speaker, that it has become a business operation like any other and this was not in the spirit that we supported it at the time of the announcement of the Vineyard Project.

If we look at the agreement, Mr Speaker, first of all, the developers or the lessors will get a 150 year lease but in turn, Mr Speaker, the future buyers will only get 99 years, and if this is a housing project for people who would normally get a house and who cannot afford it and it is already a financial constraint on them why should the advantage be given solely and exclusively to the developers and not share that advantage with the ones who are going to buy the houses? I am only going to touch on a few points on what the agreement really says, Mr Speaker, but there are many more and I think that the Government should look at them once I point out what I think are important issues in that contract. One of the things is, Mr Speaker, if the purchaser does not pay the instalments within fourteen days of the payment date he is charged by the company an interest rate at the base rate of Barclays Bank. That is to say, it could well be 90% above what the instalment is, whilst if the company does not fulfil its commitment, Mr Speaker, they only pay 1% of whatever the purchaser has paid. I think equally the two things should go together. If the purchaser has to pay 3% above the basic rate, if the company does not fulfil its commitment it should also be the same, or the other way round; the company should pay 1% and the purchaser should pay 1%.

An important issue on the agreement, Mr Speaker, is the Management Company, a Management Company which will be set up by the developers and solely they will have the discretion of what has to be done. Mr Speaker, in this case they will not be like buyers but more like tenants in their own homes, in a home which they have to buy. And on top of that, Mr Speaker, whatever maintenance is carried out, at the sole discretion of the developers, they will have to pay 10% above that maintenance charge. This is a business for life, Mr Speaker, for the developers. Also in that contract, Mr Speaker, on the maintenance the developers can ask the buyers to pay an advance payment of the maintenance; that is to say, that they can ask for payment before any maintenance. One

could look at it and say: 'But there is nothing wrong with that if at the end of the year the money is returned'. Mr Speaker, this is another business because the developers can ask for an advance payment, put it in the bank, leave it there and collect the interest, at the end of the year carry out a maintenance, and even if there is any money back, any money that had to go back to the owners of the house, will go back without the interest. How can Government start creating incentives for home ownership and have these things included in an agreement? Agree to it, Mr Speaker, without having any say whatsoever? And apart from that, Mr Speaker, the developers got the ground, I think it was for £100, and you know what they are doing in that agreement, Mr Speaker, they are charging £10 per year per unit for the first fourteen years. That is, they are making money on ground that the Government has given nearly, we can say, for a peppercorn fee, they are making money on that and taking away the whole spirit of what this announcement and what the Vineyard Project should have been. And after the fourteen years it will then be revised, and ten years thereafter, in other words, every ten years after the fourteen years it will be revised: something that the Government has given free or almost free to the developers. Putting a burden again on the buyers.

There is also a service charge of £6.5 per week up to £85 per metre, in some cases it could even reach to the £500 mark a year. Also eligibility to buy, Mr Speaker. The eligibility to buy is solely that the person has to be in the Housing Waiting List or eligible for Government housing. It does not stop anybody who already owns a house of buying a house and then renting it out to other people who are in need of housing. I think that should also be looked into, Mr Speaker. In this way, Mr Speaker, I think that the Government really should have a say on what should be the agreement between the developers and the purchasers because this will be a model for future home ownership buyers. It does not protect a first-time buyer because of what I have said that anybody who is eligible can buy a house and then rent it out, that for a start, and then all the constraints there are in the agreement - I have only gone through a few but there are more - will not create the incentive that was in the spirit of the original announcement by the Hon and Learned Chief Minister in 1984. In this way the Government will not create an incentive. If this gets around Gibraltar very quickly, whatever idea they have to sell to sitting tenants, and if that is anything to go by they will not have any major impact and now, Mr Speaker, I understand why the Shorthorn Estate tenants or their solicitors put so much pressure or would not agree with the Government on the leases because if this is anything to go by then I am in favour of whatever their solicitors had to say because I am sure that the solicitors of the Shorthorn Estate tenants would not have agreed. As I said,

Mr Speaker, these conditions or these agreements are all very well for luxury flats but that is not the essence in this case. I hope that the Government realises this and take a more positive position and have talks with the developers so that they can reach an agreement which should be beneficial to both the developers and also take into consideration those who are going to buy. In any case, if we had known this at the time, Mr Speaker, we would most certainly not have supported this because as far as we know, as it stands now, it is another Landlord and Tenant Ordinance. On the question of Government financing housing, Mr Speaker, as a matter of fact there is very little provision in the Estimates to provide any Government development for housing and therefore for renting to people. The Government are not going to get any money whatsoever from ODA for housing and therefore if we look at the Estimates all the reserve votes which are there will not become a reality and we are talking about the Laguna Estate additional storeys, that will not be done because that was in the expectation that ODA money was going to be given. If I can just take a quick look at the Estimates because there are others. There is the Castle Ramp/Road to the Lines Phase II, there will be nothing done because that was also a reserve vote, there will be no external painting of pre-war buildings because that was a reserve vote and the Laguna Estate additional storeys. That was the only thing that one could consider could have any major impact on housing in Gibraltar which is the Laguna Estate project and when I say 'major' it is compared to what they have been building through the years and this will now not take place because it was a reserve vote and they are not going to get any money from ODA. Even though they have nearly £4m by borrowing and it is shown as reserves in the Consolidated Fund, it has been the normal practice and I think I criticised it before, Mr Speaker, when they borrowed £2m, I think it was in 1985, that borrowed money should go to development and I think that the priority is that development and borrowed money should go into the Improvement and Development Fund and that priority should be given to housing but they are not doing this. In answer to Question No.112 of 1985 the Hon Minister for Housing said that at least 700 units were needed and they have provided very little in this Budget to go anywhere near that figure especially after the ODA decision. I think that instead of having borrowed money shown in the Consolidated Fund it should go into the Improvement and Development Fund and at least they could build some housing. Last year, Mr Speaker, if you go by the statistics available, only 25 houses were built and according to the expert advice they have had, at least 50 houses have to be built yearly to maintain the present position. To maintain the chronic situation that we have in housing today, at least 50 houses have to be built yearly and they only built 25 last year.

Apart from the £4½m borrowed they have already sold a number of properties, Mr Speaker, which is not going to housing and the essence of selling properties and selling the houses was that the money should go into the Housing Fund to build more houses but they are not doing that. We would like them to explain that. My Hon Colleague, the Leader of the Opposition, touched on the need to provide housing in Gibraltar today. It is no longer a question, Mr Speaker, of having adequate housing, we have gone beyond that, it is a question that Gibraltar does not become with all these projects of Queensway, the Water Gardens, etc a retirement paradise for outsiders whilst the Gibraltarians have to go and live in Spain and with the passage of time and lack of housing this could very well happen and then we will have Gibraltarians commuting to work in Gibraltar when everybody else enjoys our little piece of land. Housing, as I said, Mr Speaker, has become more than just providing adequate accommodation. It is essential if we are to keep the community together so that we can preserve our identity. I am in a good position to see how many people cross the frontier daily because I see them and they are much more than the figures shown in the Employment Survey. I think that they should look at this very closely because this will be a political danger in the future especially with the thinking of what Gibraltar should be by the Government at the moment which nearly coincides to our way of thinking. I criticised them last year and I said that they didn't have a basic policy. The Minister said they had a policy and the policy was to build more houses. Well, they have the money now. If they have the money now why don't they start building houses? Why don't the Estimates show that they are going to build more houses? The Government is now in a position, Mr Speaker, because they have the funds, to put their money where their mouth is and start delivering the 450 units that the Hon Mr Canepa said that they were going to build unless it is no longer their policy to build houses, unless they have gone back to the 1981 policy that the Hon and Learned Chief Minister put to the House of Commons Foreign Affairs Committee which was that there was nothing wrong with Gibraltarians living in Spain because that would be one of the solutions to the housing problem, don't do anything with the expectation that Gibraltarians will go and live in Spain and therefore find a solution in that way. If that is their solution then I think the Government should come up clearly and say that that is the way they intend to find a solution to the housing problem in Gibraltar today.

HON M A FEETHAM:

Mr Speaker, both the Hon Minister for Economic Development and previously the Hon Mr Perez in a television broadcast gave some indication that the Government had an economic plan for Gibraltar and, in fact, said that the two pillars of the economy

on which they went to the last election was the commercial yard and tourism but now they had other things which they wanted to bring to the fore which they couldn't before for a variety of reasons. When one listens to statements made by Ministers in the House on the Budget, one gets the distinct impression that we are listening to the hopes of the Ministers for the economic wellbeing of Gibraltar but yet when one looks at the stark realities of what is presented to us in the Budget, one sees clearly that Government continue to make the same classical mistake that they have been making in the past because the Hon the Chief Minister in his statement on page 2 said: 'Today's Budget has been partly formulated in an attempt to recognise and strengthen this background of the past and proposes to give a lead for the future. Today the Government can see and can exercise greater scope in using its fiscal policies to give a sense of direction to the economy'. What I ask in looking at these Estimates is, where is this lead for the future and where is this sense of direction? Because it is precisely in that particular sentence where we begin to see whether, in fact, if there is a lead and if there is a sense of direction for the future. On the other hand, the Hon Minister for Economic Development admits that Government has an economic plan which would suggest that they intend to do a number of things. One of the things which the Hon the Chief Minister said in his statement is: 'Our aim is to shift the burden of taxation, not by a straight switch from direct to indirect tax levels, but by tapping and developing a wider revenue base to an extent which allows a shift in the burden of personal income tax'. What do the Estimates project? What does this Budget project? In fact, it projects nothing new. The Government are borrowing and this is nothing new, they have been doing so for the last few years. Where is this wider revenue base that Government intends to tap? For example, in the Estimates we see that new cars registered in Gibraltar in 1985 went up by 100% but yet where is this reflected in the licence revenue accumulated? I ask, is it being underestimated? Is this the wider revenue base that the Government are saying they will tap? Where is this wider revenue base, I would ask? Can Government give us an indication in this Budget of where is this wider revenue base? The Minister for Economic Development has talked in the past about thousands of jobs. I ask the Ministers opposite, how many jobs are expected as a result of this Budget? Is job creation still the policy of the Government? That is what needs to be answered. Where in this Budget is reflected that they intend to do something about the few jobs that are required in terms of training and education, where? Where in this Budget does it say that they intend to promote training and apprenticeships with the different sectors that today are gaining in terms of financial improvement to their particular growth? Where in this Budget does it say that Government intends to do something about it? Because now is

the time, in this Budget, now is the time that you ought to be starting talking and doing something positive about this. But, of course, that is not their policy. The unfortunate policy of the Government is that they continue to do things piecemeal and resolve things as the problem occurs. What is now happening is that they are actually encouraging hump employment and hump employment for those who may not know what it is means that you are actually pushing in an awful lot of workers into different industries in Gibraltar, particularly in the construction industry in a mad rush to get development off the ground where lots of people are going to make a lot of money and where the taxpayer in the end pays because we are going to be faced with a great deal of cost in the social security benefits which the working class are going to pay for at the end of the day. That is the sort of Budget that the Government is presenting. It is a Budget which can be welcomed by a very few people who are going to be making a lot of money in Gibraltar. But then we get the Hon Financial Secretary talking about self sufficiency and self reliance. Well, let me tell the Hon Member opposite that that is something that I have continuously for many, many years spoken in favour of. Gibraltar needs to be self sufficient, it is nothing new, it is a policy which has been there for many, many years and if we go back to the time of Lord Beeching coming to Gibraltar, Lord Beeching at the time when the Spanish labour was withdrawn, let us recall the event because it is very good to recall the question of the general strike and that it was prudent at the time to have so much reserves so therefore workers couldn't get more than a 60p offer. Let us also recall, Mr Speaker, that at the time of the Spanish labour withdrawal the Transport and General Workers Union said: 'Let us not bring into Gibraltar large numbers of employees and talk in terms of increasing productivity by submitting a claim of 30% increase in productivity and have less workers coming into Gibraltar' and Lord Beeching as one of his recommendations actually formulated a policy to work towards self reliance and self sufficiency in labour. It is nothing new because that was a segment of a policy in a wider policy for Gibraltar's economic benefit. Of course, it simply shows that that was not the case because there were other considerations as far as the British Government was concerned and because we were faced with the defence economy in Gibraltar but it is nothing new to talk about self sufficiency and, in fact, that is one of the reasons why we set up a Productivity and Management Services Department. That is one of the reasons why that Department was set up, precisely to look at that. It turned itself into a semi negotiating department for Government employees but the purpose of that was to look at all the wider issues and that is why we set up the Manpower Planning Committee as another part of that policy. We find that all that the Government is doing is rushing about and not thinking things out, that is what Government is doing. Let us be clear about one

thing and it is a statement of fact, it is nothing new, that a sound economy is an economy which creates full employment for the resident population and we are facing in Gibraltar today a situation of 40% to 50% of the industrial labour force being imported. That is a problem that in terms of cash is a costly situation in the long term, effectively in the narrow base that we will have in Gibraltar long-term. It is only a policy that you can survive for as long as the non-resident labour subsidises the resident labour and we cannot accept that situation if at the end of the day non-resident labour are going to subsidise resident labour to make a few people very rich in Gibraltar and making us pay in the long-term. That is a bankrupt policy, Mr Speaker. What will happen is that the non-resident labour will become a liability, unfortunately, with the consequent weather flowing in the other direction far greater perhaps in the long-term than the short-term consequences of the partial opening of the frontier. That is what they have got to be careful about. And yet, Mr Speaker, talking about other things which are referred in this Budget, we find that as regards the changes in the income tax, the reduction from 40% to 35% in corporation tax has not been explained by the Government either in terms of an incentive to encourage businesses nor has Government said what is the revenue loss arising out of this change. It needs to be said, we need to know. We can only assume it is included in the £2.4m but we would like to know how much is accounted by this change and we also need to know in future in the estimates of revenue, in this new wealth climate that we are building for Gibraltar, we want to know how much yield comes from personal income tax and how much yield comes from company tax so that we know the true picture and we will know who is paying for Gibraltar's upkeep. We will want to know that in separate subheads so that we know how much each respective contributor is making for Gibraltar. In terms of trade, Mr Speaker, again we have conflicting viewpoints. We have had the Chamber submitting proposals to Government and let us put to one side the normal opportunism which is so inherent in Mr Serruya's political history, let us put to one side the question of the income tax submission by the Chamber, that is not an initiative of the Chamber that is an initiative of the TGWU, let us forget that bit. But let us look at the things which the Chamber is an expert in the area of trade. They are saying that the EEC is making Gibraltar less competitive, they are saying this now, and it needed a change in the leadership of the Chamber for that sort of statement to come out. Previously, with Mr Risso everything was OK, everything that the Government said was OK. As far as I am concerned that reflected that there was a link between the past President of the Chamber and the Government and it is a natural thing, he may well agree with the Government, it is his prerogative, but there is a distinct policy change on the part of the Chamber and it is again something which has to be reflected in this Budget because if the Government is serious talking about laying the base for the future now is the time for

this to be reflected. We have been saying since 1980 that EEC membership unless we do something about it will work towards the detriment of trade in Gibraltar and this was reflected in the EEC Committee and we said so all along. It doesn't take an intelligent person to recognise that Spain's trade has followed a protectionist policy, they have protected their own trade. That trade is wide open now but it is not only wide open to competition, it is also wide open to imports of European goods which we import in Gibraltar as well. What the Chamber is saying is that they are already faced with competition, that they are already having problems or will have problems and what we are saying on this side is that from medium to long-term there is going to be more problems in the trading community. Spain today, from the statistics, is our biggest trading partner and I ask myself, the moment they get their hands on British goods how much of an incentive will Gibraltar be when, in the long-term, as the Hon Financial Secretary said, we are trying to develop Gibraltar as an international shopping centre. Does Government agree with the Chamber or does it not agree with the Chamber? That is what we need to know today if you are laying those foundations that you are talking about. We need to know today where we are going and I think that side of the House needs to say something about that.' The Government has just announced that the value of a project to qualify for development aid is being increased from £75,000 to £150,000. In the 1984 Budget the Government announced the opposite, they reduced it from £150,000 to £75,000. Very little was said then and very little has been said now to justify this policy. This does not encourage us to believe that they have got any fiscal policy in this respect or at least any clearcut policy in this respect. Perhaps they can explain how many projects of £75,000 to £150,000 have been approved in the last two years so that we can judge the implications of this policy change. Mr Speaker, on matters of development, as far as we are concerned, against the scenario which the Hon Minister for Economic Development very ably put over when he explained the question of MOD expenditure in capital investment in Gibraltar and at the same time explained the private sector investment, in explaining that one recalls, Mr Speaker, that at one stage in a previous debate the same Minister was talking in terms of overheating in the economy, that is the word he used I believe, 'overheating' in the economy. We would like to know, Mr Speaker, what is Government intending to spend against this background? Not what other people are doing, what is Government intending to spend against this background which can, at best, be explained as an overheating situation. What we want to know on this side is what is the desirable level in the Improvement and Development Fund that Government considers to be prudent. What Government is saying is that the amount in the Improvement and Development Fund, Mr Speaker, is the minimum expenditure because the aid talks have not been finalised with the UK. What we want to

know, Mr Speaker, is what is the desirable level to have in the Improvement and Development Fund for the next twelve months? The answers to these things and the answers to what I have said about the sort of picture which is emerging, will clearly allow us to judge in real terms, not just us but the people of Gibraltar what is the real lead and the real sense of direction that the Government is giving to the economy in this Budget, Mr Speaker.

HON J E PILCHER:

Mr Speaker, in tackling the Finance Bill I will be tackling not only the Finance Bill but more specifically the contributions made particularly in the two areas which I shadow. I would like to start off, Mr Speaker, by looking at the contribution of the Financial and Development Secretary for last year when he referred to Gibraltar Shiprepair Limited. As the Hon Leader of the Opposition said, this year the Hon Financial and Development Secretary has not tackled GSL. This is a point that we welcome because I think it is about time that the Government decided to take Ministerial responsibility for Gibraltar Shiprepair Limited and therefore I reckon that it is about time that the matters related to GSL were tackled by the Government and not by the technical side of the Government which is the Financial and Development Secretary. However, in so doing I would like to read from the contribution of the Financial and Development Secretary last year. He was referring to the employment by Gibraltar Shiprepair Limited which currently employed - I am talking about March/April, 1985 - around 600 employees. 'Of these some 450 are Gibraltarians and approximately 400 were previously employed by the Ministry of Defence'. I would also like to read, Mr Speaker, my contribution at the time where I said: 'But in some instances a lot of people from the public sector actually moved into areas which are non-specialist, non-specialist in the field that they were accustomed to. They moved into the Police and they moved into the Security Police, etc. Nevertheless, we don't have 600 or 700 workers being made redundant by the Naval Base to actually employ in the Gibraltar Shiprepair Ltd'. So obviously the option that we are saying then - and what I was referring to was to the elections - Mr Speaker, the option that we were referring to then is that we should be able to curtail expenditure of the £28m, create a smaller shiprepair yard and use the rest of the money to create the badly needed infrastructure that Gibraltar needed for the new situation. Mr Speaker, looking at the figures of employment in GSL this year, we see that although the Financial and Development Secretary then said: 'The company expects to build up to around 850 employees by the middle of the year increasing to over 1,000 by mid-1986', these figures have not materialised and they have not materialised specifically because of what I said last year. The base is not there, the people who have been made redundant,

in fact, are not looking for employment in GSL but are looking for employment elsewhere and the reality is that they cannot reach the figure of 1,000 employees and even if they had, Mr Speaker, this would have produced an even worse scenario for GSL in their losses because if they employ 800 workers and they cannot meet their commitment, with 1,000 workers it would certainly be even worse. The second point that I would like to make is the point that surfaced yesterday, although we already knew about it, that Gibrepair is going to get £2.4m extra. This has to be seen, Mr Speaker, against the picture painted by the AACR during the election campaign of a very generous package of £28m, the most that could be obtained from the British Government at the time. This was the way that the AACR painted the issue at the time. Well, it wasn't such a generous offer, it wasn't such a generous package because today we have had to go back and ask for an extra £2.4m. Today, Mr Speaker, and because the £2.4m is being given from the aid granted to Gibraltar, we can no longer say that the £28m that the Gibraltar Shiprepair Limited is getting is UK money. Today we have to say that those £2.4m is Gibraltarian money and I think we have to stop pumping money into GSL and start looking and taking Ministerial responsibility into GSL to see exactly what is happening inside GSL. The third point is the breakdown of the increase, from 600 employees to roughly about 800 this year. We are putting £2.4m extra over and above the £28m and are we realising exactly what we are doing? There have been 200 extra posts created in GSL but the reality is that the turnover in GSL, a turnover which normally would be between 2% or 5% in an ordinary company, is as high as about 60% to 70% in Gibraltar Shiprepair Ltd. I have a letter here of an appointment, obviously, I will not mention any names, of a person who has craft papers as a latrine attendant. We have people employed as drivers, we have people employed as labourers, not that there is anything wrong with being a latrine attendant or a driver or a labourer, it is as honest employment as anything else but to see a craftsman leaving his craft and going to work in the non-specialist field certainly is a highlight of the type of situation that we have in GSL at the moment. A situation where obviously the treatment that the Gibraltarians are getting in GSL is certainly something which the Government should look into.

HON A J CANEPA:

If the Hon Member will give way. Could he clarify, a turnover of 60% or 70% of the labour force. In other words, there is only about 30% or 40% of the labour force left there who were there at the beginning.

HON J E PILCHER:

We have from January to October, those are the latest figures that we have, somewhere in the region of 300 people left and something in the region of 400 people were employed. The 300 that left were, in fact, the people that Gibrepair Ltd was initially created for, that is, the Dockyard redundant workers. As the days go by there are less and less Dockyard redundant workers in GSL and more and more immigrant workers. Do we want to continue to ask for money from ODA to pump it into a GSL which is not employing Gibraltarian workers? I think this is a point that the Government should tackle and should look at unless, of course, the Government want to say otherwise, that the £2.4m is part of the aid given to Gibraltar in general. In March, for example, 14 people left and 17 were employed. The 14 people that left were Gibraltarians, of the 17 people that were employed only 3 or 4 were Gibraltarians. If that is the pattern we will certainly find that by the end of this year the percentage of Gibraltarians in GSL might be 5% or 10%. Should we continue to ask ODA for money to pump it into a shiprepair that is employing Englishmen, Portuguese, Spanish and all nationalities except Gibraltarians? Is that money not better spent elsewhere in the Gibraltar economy? The Financial and Development Secretary said last year: 'This, of course' - and he was referring to the difficulty in getting labour - 'reflects the structural nature of the employment problem created by the conversion from the naval to the commercial shiprepair work'. I think today the Hon Financial and Development Secretary must realise that what he said then was a load of nonsense. The reality is that people do not want to work in Gibraltar Shiprepair Ltd, the conditions are such and the problems are such that people just don't want to know. They prefer to give up their craft grade and do labouring works because it is just absolutely impossible to work in Gibraltar Shiprepair Ltd. I would like to look at the contribution this year of the Hon and Learned Chief Minister in his reference particularly to GSL and what certainly surfaces in everything, in every area of Government, is their verbosity: 'The yard's potential in market terms, though never assured, is good'. I am quite prepared to sit down and have the Hon and Learned Chief Minister explain to me what that means: 'The yard's potential in market terms, though never assured, is good'. Fine, the reality is that the yard's potential in realistic terms, though never assured, is bad, that is the reality and if the AACR Government is not aware of this then they are cocooned, they have this syndrome of putting their head in a hole because everybody in Gibraltar, particularly the workers there, could tell the Gibraltar Government that the potential is not good. The potential as regards ships passing by might be good but the reality is that the potential is going from bad to worse because the potential of the yard is the work

that the yard can do and the work that the yard can do is reflected in the relationship between the management and the workforce which is what produces the goods. The Chief Minister is talking about the relations between management and the workers - 'Unfortunately, the last six months, in particular, have seen a deterioration in the industrial climate in the yard. I do not intend to apportion blame or label responsibility', I am very happy to hear that statement because it is in direct contrast to a statement made on television by a Member of the Government but I accept that this is the position of the Government officially as is being voiced here in the House of Assembly. It shows the complete divorce of the AACR with reality. Even as the Chief Minister was speaking here in the House of Assembly, Gibrepair were issuing a letter to the TGWU informing them that they were taking away payroll deductions from their employees, union subscriptions, so as the Chief Minister was saying here: 'That has to be put right and we have impressed this upon the company's Chairman and its Board'. As the Hon and Learned Chief Minister was saying this here, Gibraltar Shiprepair was issuing a letter to the TGWU removing union subscriptions. Is this conducive to good industrial relations?

HON CHIEF MINISTER:

Did they give any reason for that?

HON J E PILCHER:

Yes, the reason is, as you well know.

HON CHIEF MINISTER:

No, I don't.

HON J E PILCHER:

Well, the reason is that obviously they have an impending claim and in pursuance of that claim they have removed flexibility and what the company is saying is because they now have to pay cash, this is the problem of having to pay cash instead of paying by cheque, as a result of having to pay cash they are withdrawing the payroll subscriptions but, of course, the Hon and Learned Chief Minister will understand and know that one thing has nothing to do with the other.

HON A J CANEPA:

I don't know, I am not very certain, doesn't the Government pay its industrial employees in cash and doesn't it have payroll deductions?

HON J E PILCHER:

Yes, Mr Speaker, so does everybody else, virtually 100% of the public sector have cash payments and deduct subscriptions because the reality is, Mr Speaker, that the taking away of subscriptions of the trade union has nothing to do with cash or cheque payment. That is something that is done by a computer and at the end you get a result, a computer that works because GSL doesn't have a computer that works. The reality is that this is only a move to hit back at the Trade Union Movement and certainly a move that is not conducive to what the Chief Minister was saying, good industrial relations. It is all very well for the Hon and Learned Chief Minister as in some cases the Hon Financial and Development Secretary, to get up here in the House to try to appease the Trade Union Movement and try to bring them together and then to be smacked in the face by Mr Abbott or Gibrepair because he is doing something completely different. It is particularly interesting to find that payroll deductions and the negotiations between the TGWU and Gibrepair came as a result of the Hon and Learned Chief Minister's speech in the 1984 Budget when he particularly asked for the two sides to join together and to try to work out their relations which they did and shortly after his speech in trying to create even better relationship this is the answer. This is intolerable and completely and utterly unacceptable and obviously the Trade Union Movement today will react to that and this will be made even worse. Coming back to the ODA's grant to GSL, we have here: 'Despite the significant contribution committed by Her Majesty's Government towards this project, the company has had to cope with unforeseen problems posed by a neglected infrastructure and the inevitable re-programming of naval work consequent on the operational requirements of the Fleet'. Well, the neglected infrastructure, Mr Speaker, GSL had months and months to look at the infrastructure, they put in tender proposals, they said everything that was needed and certainly the infrastructure in the yard is far in excess of anything that Gibrepair might need now or in the future. I think they have gone overboard but be that as it may, the infrastructure is owned by the Gibraltar Government and therefore, I suppose, it is in their interest that this is being done. The re-programming of naval work is something that we cannot comment on because throughout 1985 we tried to get information from the Government to try and get how many RFA ships were going to be repaired in the yard to see what type of money was going to be given by the MOD in the subvention of the yard through naval work and we didn't get any answers. We didn't get any answers because I think they didn't even know themselves so this re-programming of naval work I don't think that even they know what a re-programming of naval work means. It is a very good excuse but we want to know what the £2.4m is for, whether it is for capital projects which will be owned by the Gibraltar

Government, whether it is for running the expenses of the yard. We want to know what it is for and we want to know whether it is for the re-programming of naval work, we want to know what the shortfall was in naval work for last year. I suppose the Government can run to Mr Abbott and ask him to get that information because I am sure they don't have the information but I may be wrong. There are two points on Gibraltar Shiprepair Ltd, one again shows the complete and utter unrealistic position of the Government. 'Fantasy', the Hon Mr Canepa calls our economic development programme yesterday, fantasy is the position of the Gibraltar Government and Gibraltar Shiprepair Ltd: 'If Gibraltar Shiprepair Limited as Gibraltar's largest private commercial employer is to continue making an important contribution to the stability and development of our economy'. I know these are high falutin words that sound very nice but in fact, GSL is today our most unstable element in the economy because it could collapse tomorrow because they are nearly bankrupt, because we are having to ask for more money, because if ODA had said no to us GSL would have collapsed. What is stable in that? That is unstable. Development would be an appropriate word if we were moving towards a situation of profit-making by Gibrepair but there is no sign of that happening so I cannot let the Hon and Learned Chief Minister's words go without making a comment because I do not agree that Gibrepair is stable or is moving towards development. It is ticking over and ticking over badly. I think there is one point, only in passing, because I would like to get a feedback perhaps in the contributions by the Hon Financial and Development Secretary and the Hon and Learned Chief Minister. The point is the role of Gibraltar as a centre for shipping and this brought to my mind the fact that under Port on the revenue side, page 11, berthing fees where approved estimates for last year was £165,000, revised estimate was £190,000, berthing fees for 1986/87 is £165,000. It seems to me that we are now berthing many more ships than we were before. Are the ships berthed inside Gibraltar Shiprepair Limited, is that money going to the Gibraltar Shiprepair Limited because that has nothing to do with Gibrepair. When the Cunard liners come in who is actually getting the money, is the Gibraltar Government getting the money, the ships that have been repaired by GSL are allowed to sit by the South Mole are obviously paying berthing fees, is that money going to the GSL or is it going to the Government and if it is going to the Government under what subhead is the money being shown because there must be a massive increase because working in the Naval Base as I do, I see the amount of ships just berthed there. The quay belongs to the Gibraltar Government as part of the land so if anybody is getting that money it should be the Gibraltar Government, if not it is another subsidy that we are giving GSL and we would like to assess the viability accurately of the Gibrepair side. I will leave the Gibraltar Shiprepair Limited alone for a moment, Mr Speaker, and I would like to tackle the other side of the area that I shadow which is tourism. I heard the contribution of the Hon Financial Secretary and was

awaiting the contribution of the Hon and Learned Chief Minister in his exposition of what the Government is going to do about tourism, the second pillar of their economy. Up to this time the second pillar of their economy because they have come up with a third. The second pillar of their economy was tourism. There hasn't been a single mention of tourism in the whole of the exposition of this year's Budget. I looked at last year's Budget speech by the Chief Minister where he said: 'Last year's decisions on tourism policies were taken in the context of a partially closed frontier', etc, - 'those decisions therefore stand and much valuable preparatory work has been done by the Tourism Committees and the Tourism Consultative Board. The present position is that the Department will shortly be putting to the Government proposals based on the work of the Committees and the Board. Methods of financing will be considered and final decisions for action will be taken. I accordingly assure the House that it is our firm intention to pursue our declared tourism policies in order to consolidate and maintain the progress made so far'. I don't know what the progress made so far was but this seems to show that the Hon and Learned Chief Minister was saying last year that they would spend the whole of the financial year in giving tourism that main boost and yet we know that of late the ideas by the Consultative Board has been put to the Council of Ministers so I was expecting in the contribution by the Hon and Learned Chief Minister or by any Member of the Government, to show what exactly the Council of Ministers were doing and what was the direction that tourism was going to be given in 1986/87 because irrespective of what the Chief Minister said at the time, no direction was given in 1984 or 1985 or, in fact, for the month that we are running in 1986. I sat through his whole contribution and it was not there, it was a complete omission.

HON A J CANEPA:

Mr Speaker, isn't the Hon Member aware of the fact that there is another debate on the Appropriation Bill and that tourism has to do with the appropriation of funds?

MR SPEAKER:

Order. With respect, tourism is, most certainly, a revenue raising measure which must be dealt with in the Finance Bill.

HON A J CANEPA:

I realise that, Mr Speaker, but to talk about giving tourism a direction, you give tourism a direction and you reflect that, for instance, in the expenditure that you provide for. If the

Government is going to spend £5m on tourism that will be shown in the estimates of expenditure, nothing to do with the Finance Bill.

MR SPEAKER:

Order. I entirely and utterly agree with you but I think it is also accepted that the £5m or whatever could be spent on the expenditure side would create revenue and could have been dealt under the Finance Bill.

HON J E PILCHER:

Mr Speaker, I am not giving way to the Hon Member.

MR SPEAKER:

I have got the floor now, with respect, and I will let you reply.

HON A J CANEPA:

But in that case, Mr Speaker, it is not correct for the Hon Member to say that the Government benches have not spoken about tourism because I did yesterday, and many of the things that I spoke about are tourist related projects.

MR SPEAKER:

That is another matter, with respect. We will continue with the debate, I will most certainly call the attention of the Hon Member that when the Appropriation Bill comes along I will not allow him to repeat himself, that is another matter.

HON J E PILCHER:

Mr Speaker, what I am talking about: If you remember correctly, Mr Speaker, the Hon the Leader of the Opposition yesterday welcomed, to a point, the gearing of the Government's contribution towards the Finance Bill, to some kind of overall economic programme. At least they seemed to be saying: "This is where we are going to", and if their two pillars are GSL and tourism, they mentioned GSL and tourism, they mentioned GSL but they didn't mention tourism.

HON A J CANEPA:

Of course I mentioned it, Mr Speaker.

HON J E PILCHER:

Mr Speaker, I am talking about the contribution of the Hon and Learned the Chief Minister. I know that the Hon Mr Canepa read it and he might have confused himself between the two.

HON A J CANEPA:

I didn't get confused, I don't get confused, he might get confused.

MR SPEAKER:

Order, order.

HON J E PILCHER:

Be that as it may, Mr Speaker, I think I have every right to comment on the lack of any comment about what the Government were going to do, and I am quite happy that this is not the case, and I will, therefore; in the Appropriation Bill, wait until the Hon Minister for Tourism makes his contribution on tourism so that he can explain to me what exactly has been done, since he didn't explain to me publicly on television, what has been done to give tourism, the second pillar of the economy, this boost. But there is nothing in the fiscal measures of Government, there is nothing in the way that the Government are moving ahead, that shows that there is a policy on tourism. I know that tourists will continue to come, despite the Government, but that is not a tourist geared policy.

Mr Speaker, I have tackled the two pillars because, unfortunately, my party gave me the mission of shadowing the two pillars of the economy and I felt like Samson trying to push down these pillars.

HON CHIEF MINISTER:

I must say that we cannot follow any of yours because you never say what it is.

MR SPEAKER:

Order, you will not speak across the House and you will address yourselves to me.

HON J E PILCHER:

I am glad to see, Mr Speaker, that now out of the sky has suddenly appeared a third pillar, which my Hon Colleague, Mr Feetham, is now shadowing. Of course, this third pillar has

suddenly appeared after it has succeeded, but be that as it may.

HON A J CANEPA:

Again, I said something about that yesterday, didn't I?

HON J E PILCHER:

I will, in fact, now tackle the contribution by the Hon Mr Canepa. Since he feels so left out of my contribution, I will now tackle it. He said we were talking about last year's Budget. No, we are not. He said yesterday that the Hon the Leader of the Opposition was talking about last year's Budget. We are not. We are obviously referring to last year's Budget because we don't think that we can take a single Budget in isolation, we have to see the pattern created by the Government. And we were talking mainly, when we were talking about last year, about the underestimation in last year's Budget, which we consider is very important. Because I certainly think that it is a political manoeuvre by the Government. The underestimation is a political manoeuvre by the Government to get us to be the prophets of doom, because it is how you present the thing that you get a reaction from people. If I were to say to somebody: 'I have just had an electricity bill for £30 and I only have £15', the person would have every right in the world to say: 'Well, he cannot afford the electricity bill'. But if then I say two months later: 'No, I certainly had £30 extra in the bank', then obviously the scenario has changed and this is what the Government are doing year after year and I will give you an example, not in the import duty because in the import duty, I accept that last year was an area which I certainly think was completely underestimated, but the excuses of Government can, if anything, be that. Let us look at income tax, Mr Speaker, for 1983/84 the Government raised £20,044,000 for income tax which was nearly £1m more than they estimated for. In 1984/85 they estimated for £19½m and they got £20½m. In 1985/86 they estimated for £21½m and they got £22½m. And I am sure, Mr Speaker, that the income tax is being completely underestimated year after year after year. This is the kind of underestimation that we mean, and this is when we say that it is a political manoeuvre. It is a political manoeuvre because we can only react to the figures they put in front of us. If I can take the breakdown of this year's figures, and I am referring to the argument that the Hon Mr Canepa put when he was talking about the reserves. He turned the argument on its head. He wasn't answering what we had asked him to answer, he was saying about the argument being £3.7m. We were saying, why is it necessary to borrow £2.8m if even if you don't borrow the money at the end you are going to have a surplus of more than £5m? That was

the argument.

If we look at the new page 5 and we deduct the borrowing from the figures, we see two things: first of all, the revised estimates for 1985/86 would not show as £7.3m, they would show as £5m, because that has a £2.3m loan in it, which would mean that we would then have to change the figures again. We would then come to the revised estimates in the Consolidated Fund, the balance as at 31st March, 1986, would be £7m instead of £9.3m. If you look at the estimates for 1986/87, Mr Speaker, which is what we are supposed to be answering here, certainly in the Finance Bill, we would see that if we take away completely the £6m and the £4m being paid back in the borrowing, we would find that at the end of 1986/87 the Government would have a deficit of £1.3m, that is not taking into account, obviously, the £1.5m which they are going to contribute to the Improvement and Development Fund. So without borrowing the Government would arrive at next year with a deficit of £1.3m. If I am given that figure, and I am asked to comment on it, I have to be a prophet of doom, Mr Speaker. I would say to the Government: 'You are going to slowly eat away at the reserves, because if you have £1.3m deficit this year and again and again, you will eventually eat up the reserves'. That is the kind of answer that I have to look at. Perhaps the Hon Financial and Development Secretary will tell me whether if we had not borrowed the money we would then end up the year with £6.7m in reserves - without having had to borrow money - instead of £8.4m. Perhaps the Hon Financial and Development Secretary could tell me and the rest of the people of Gibraltar why we are borrowing £2.8m in order to give tax cuts when it is not necessary, when what the Hon Mr Baldachino said, why not use those £2.8m to put in the I&D Fund to build more houses? That is something that has to be answered. No explanation has been given and no answer, so I am looking towards the Hon Financial and Development Secretary to answer that. It is all very well to lower income tax and to lower water and it is something that we didn't react to because we have already reacted to that. As the Hon Leader of the Opposition said, we have issued a press release not two weeks ago where we said that we would support lowering of income tax, where we support lowering of water. We would not do it the same way, we would perhaps restructure the thing but there is no question of the GSLP arguing against cut backs in income tax. It is something in fact which the Chief Minister himself said yesterday, it is something which the House has been looking forward to, and I think both sides of the House have been looking forward to that, but we have to explain why we are borrowing to do it when there is no need to borrow. Of course, if we hadn't borrowed, which is the second point, it wouldn't have shown such a good picture of the Government finances because it would have shown a deficit for 1986/87. Based on that, based on the fact that I am sure that not even

the Government believes that these figures are accurate, there is complete underestimation in these figures, and we will point to that next year, when the Government comes next year, because it is a complete underestimation of these figures. This is an electioneering Budget. Whatever the Hon and Learned Chief Minister says, it is an electioneering Budget. In Gibraltar we live the four year terms of the AACR. The first year we tighten our belts; the second year we tighten our belts further; the third year we relax our belts; and the fourth year just before the election we take our belts off, only to put it on back again the first year and the second year, and this has been the pattern of AACR Governments for many, many years.

There is only one point I want to answer of the, I think, Government inactivity. I think the Hon Mr Canepa took that to heart and said: 'No, it is not Government inactivity. Sometimes it is that there is so much work to be done that we cannot get to it. Second it is the blocking by the Trade Union Movement'. The third time it is absolute inactivity by the Government that produces the not doing of many things, and I think on tourism and, certainly, on the Gibraltar Shiprepair Limited, you cannot even blame too much work of the blocking by Trade Unions, it is absolute inactivity by the Government. I was certainly very disappointed - I look forward to the contribution by the Hon Mr Canepa every year but certainly this year I was very, very disappointed in his contribution. I have still to see the way forward. I hear what is being said, I see that there is the voicing of economic plans now. I think, it is something that everybody is doing now although we have been ridiculed, or tried to be ridiculed by our economic plan, and people saying it is all fantasy. Everybody now is talking of economic plans, the Chamber, the AACR, so, I mean, if we don't believe that we have it, it must be the in thing because everybody is doing it now.

I think there are two final points that I would like to make. One is, I think, the Government needs to answer on the charge for the prescriptions. We have lowered the water, we have lowered income tax, and we have put prescriptions up. It seems to be nonsensical. We are hitting at an area where people have, unfortunately, especially those people like, I think, the Hon Miss Montegriffo mentioned, the diabetics, persons who are forever having to go to the Health Centre because it is part of their condition. I think the Government has to answer why in a Budget where they are cutting away nearly £2.4m through cut-backs in water, why we are having to raise 20p, nearly 20%, to the most affected group in Gibraltar, the sick. If anything we should have lowered the prescription charges as well.

I think the other point, a point certainly unanswered, is a point

I think touched on by the Hon Mr Baldachino, but which I would like to emphasise: that is the point which followed from the contribution of the Hon and Learned the Chief Minister when he said: "We also continue to place a high priority on tackling the housing problem despite our limited capital resources with an increasing emphasis on home ownership schemes and the incentives necessary to promote these". It is a sort of rhetorical question. What kind of priority is being placed on tackling the housing problem is completely left in the open. But I think I want to make a point. The point is that when the Government announced, and I think the Hon Mr Baldachino has tackled it but I just want to highlight it, when the Government announced the home ownership scheme, I think they defended that here in the House and publicly, I remember in a programme in GBC, by saying that the money obtained from the sale of these houses would go towards building more houses. I cannot see that, I have got the receipts of the Improvement and Development Fund which are supposed to be estimated for 1986/87 as £645,000. I look at the estimates of the Improvement and Development Fund and all I see about a new project, the creation of more housing, is the additional storeys at Laguna Estate, which is reserved, as the Hon Mr Baldachino said, but that doesn't mean that it won't be done, it might mean that the Government hasn't taken a decision yet, but of the £645,000 only £115,000 is shown as devoted to create extra housing, the other new votes are for painting of Estates, lifts at Alameda, rehabilitation of North Pavilion, these are the only new votes in the Improvement and Development Fund, Head 101 on Housing. I think, if the Government said that all the money they obtained was going to go towards building houses they have to explain why it is not the case and why the money is going into painting and putting lifts etc. I think that is a point that has to be answered by the Government.

Mr Speaker, I will end my contribution. When the Hon and Learned Chief Minister began his contribution yesterday, and I saw an inkling of an economic plan, or supposedly an economic plan, which obviously has to be put into action, I remembered the words which were highlighted by the press when we had an interchange of epitaphs and I said: 'The epitaph of Sir Joshua will be 'Here lies Sir Joshua Hassan who never knew what an economic plan was'. I take that back, Mr Speaker, he seems to know what an economic plan is although the epitaph might still read: 'But never was able to implement one'.

Thank you, Mr Speaker.

HON J C PEREZ:

Mr Speaker, I am not going to make a major contribution in the

Finance Bill because being the Shadow Minister for Government Services it is more appropriate that I should do it in the Appropriation Bill. But there is something which is puzzling me since yesterday which I feel I would like to point out to the Government so that perhaps they can clarify it in their own contribution, Mr Speaker, and that is the decision to lower duty on car seat covers from 30% to 12%. One can understand that they should do it on safety belts because it is compulsory by law, but I would like some explanation in which of the three pillars does this measure lie? No.1, No.2 or the new No.3, because it has been puzzling me since yesterday what this measure means.

That is all I have to say, Mr Speaker.

MR SPEAKER:

Are there any other contributors?

I will then call on the Hon and Learned the Chief Minister to exercise his right to reply.

HON CHIEF MINISTER:

In the first place, Mr Speaker, I crave the indulgence of the House, and though much better than yesterday, I am still not completely myself in voice power. Otherwise I remain exactly the same.

It is fortunate that this year the Leader of the Opposition's contribution has been so short because it shortens, to some extent, what I have to say, and the agony of having to speak without mastering one's voice is shortened accordingly. But if I have the time and the ability, and I am not sheltering behind that, perhaps later on I might do it when I read the text of both of them that there is an element of inconsistency in what the Leader of the Opposition has said and what his Deputy has said in certain aspects of the Budget. First of all, let me say that I have never, in my many years in the AACR, considered the very clever plan that has been described to us about our Budget. It may be that we do things by instinct and they come out well, but we haven't got a plan for taxing people the first year and then bringing their tax down in the second, and then starting to release them. But we do say that, in fact, we could this year not have gone as far as we have and have had more for next year, and then we would have been accused of saying: "Ah, you are not giving enough this year, you are leaving it for the year before the election". That certainly was a thought but that is not the way we make decisions. The decisions are that the money appeared to be there, that the people have gone through a very difficult time,

and it is about time that they were given relief. I hope that we will be able to give away next year as much as we have this year or more. That would be a good sign for everybody, but it has not been designed in that way. If it had been designed like that we would instead of making it £3.4m in the full year, we would have made it £2.1m and then have had more money next year to give away. That is not the way we deal with it despite the fact that it may be difficult for Members opposite to believe it. And it may be difficult to believe because they have never been in Government. And because they have never been in Government they make great mistakes which I understand to be real honest mistakes.

Let me tell Hon Members that Ministers never, and I repeat, never interfere with estimates of revenue: They never interfere with that. These are prepared on the basis of analyses made by Departments. They are produced and we never reduce them or increase them. They are provided by the Treasury and we accept them as good. That is a fact which, some day if Hon Members do achieve office they will realise that that is how things happen, certainly when you deal with responsible Treasury officials and others who give you the best information and the best advice that they can give you in the circumstances. Of course, it is prudent to be cautious and not to overstate your expectations, because if in fact you underestimate your revenue it is a bonus that you can give people the following year. But if you underestimate the wrong way, that is to say, if you underestimate them because they are overstated and you go wrong because you achieve less than you had provided for, then, of course, it is disaster. It is difficult.

Let me tell Members that in our initial stages in this House, in the 1950's, the Financial Secretary of the time refused to let us even see what the estimated revenue figures were going to be until we created a hell of a row about it. In fact, just quoting from one very small thing. There was what was called The Standing Finance and General Purposes Committee which dealt with matters which are now dealt by Ministers when Ministers had no responsibility, and he didn't even want to keep minutes of the meeting. We have gone a long way, as my colleague, Mr Canepa, said yesterday in other respects into the decisions that are taken. But of all the advance that has been made it would not have been an advance to have played about with estimates provided by the Treasury insofar as the future was concerned, because it would be disastrous if we went wrong.

I was listening to the Leader of the Opposition yesterday and I think it is the fifth time that he has quoted what I said at the Foreign Affairs Committee and at Chatham House. I am very glad that he revigorises himself by reading my speeches so many times but I think that that happens because he has nothing else to say.

And when he has nothing else to say he can always quote something I said years ago, which may not be exactly the same as it is today. But one has been at the job for so many years that things change, as well as one's age, and that is that different circumstances require different treatment. And, of course, last year we were much more cautious than we can afford to be this year. That is why I am glad that I did not mention this year 'caution', which the Leader of the Opposition said I always mention. Of course I didn't mention the word caution because it was not a Budget on which caution was really required because we have been cautious so much over so many years that we were able to let our hair down for a change. There isn't really very much argument on that point.

I think that Members opposite who have spoken appear to have been uncertain or undermined by the fact that we have always had a development aid economic plan, but the economic plan that one has when you are in Government is liable to adjustment as things happen because you have an ongoing situation of management and factors which are outside your province or your ability to control. And it is no use Mr Bossano saying that our economic planning is bad because we rely on tourism and shiprepair and that this can alter. I would like to know what area of Government in any country today can be said to have all its economic planning and all its economic resources untouched by events which are not within their province. Two years ago the tourist trade in the Costa del Sol suffered considerably as a result of a few bombs and a few people around with pistols and so on. Already the Spaniards are very concerned about how American tourism is going to affect Spain, and Spain relies on tourism as a big part of their economy. And of course, the point is that if a big country has the choice of sources for their economic development, smaller territories like ours are limited in their choices. We are limited in our choices and we want to make GSL work. I am not saying that some of the things that the Hon Mr Feetham said are not true and the desire to make it work, I think, was even admitted by Members opposite. They hoped it would work. They have a judgement but they hoped it would work. My colleague, Mr Canepa, from afar was telling me: have we not been spending three hours last night, despite the evening, on the eve of a Board meeting that is being held today, dealing with these matters, most of which have been mentioned by the Hon Member Mr Pilcher, and others that have not been mentioned. So to say that we have no concern about the yard is really not fair. We are very concerned. We are very concerned to hear this morning, whether it is right or wrong, I don't care, but if it is something that is hostile to the union to send out a letter at the time we are meeting here and discussing matters of which that is an important factor, to say the least it is unwise and that is an understatement. I would like to call it something else but I will refrain from doing that. I will tell

the people concerned that. Everything must be looked at from a different angle. I have a note here, because my friend took the point of raising the matter that has been mentioned by Mr Pilcher, and I am told that employees at GSL are now refusing to collect wages by cheque. This increases costs at GSL in the overtime, etc in the payment of wages in cash: so where do we stand on that? If they refuse to collect by cheque and they want to be paid by cash, and that as far as overtime, whether it is right or wrong not to collect the funds due, it is obviously a measure of retaliation. I think these are things that are very petty, both work and the other if I may say so. And that it should be happening at the time when we are meeting here!

HON J E PILCHER:

If the Hon Member will give way. It is the legal right of any employee to be paid in cash.

HON CHIEF MINISTER:

Of course, but what I am saying is that action by the men has changed the situation and has made them go into paying cash and working overtime to do so, and increasing the cost in order to do that. It is the kind of animosity between employer and employee that one would hope could be avoided. There are enough other differences which you have to sort out, and serious ones, rather than this kind of petty thing, one way or the other. Before I knew this you were seeing how honest I was being in the approach, but there you are. It is the bickering that does nobody any good. One of the things that cannot be denied by Hon Members opposite is that today, and thank God for that, and I think I noticed a remark made in another place by the Leader of the Opposition that somebody had ~~missed~~ the only Budget where we had had cuts in taxation.

Perhaps this might be a good opportunity for us all to join in sending our regular Clerk of the House our best wishes for his recovery. I am reminded of this by the remark I made.

Therefore it is a good Budget. And, of course, when the Government presents a good Budget it makes it difficult for the Opposition, very difficult, it's clear. It is difficult for the Opposition because people will not be concerned in one detail or the other, people will be concerned that fortunately, as a result of the opening of the frontier, which Hon Members opposite opposed so strongly because it was tied to the Brussels Agreement, we are today in a position to review taxation and give away £5m to our taxpayers who have been mulcted for so very long, unfortunately, but it has been the essence of our recovery. It has been punitive and it has been difficult to live with, but without that we would not be in

the position we are today, we would have sunk in the middle of our difficulties with the frontier closed, and particularly the partial opening of the frontier.

References about what I said about people living in Spain, either rightly or wrongly, in the 1980's when we were suffering under the grievance that a great discrimination was being exercised against us are different to the situation today. The situation today, in a way, is more dangerous and we have to be more cautious against that, I agree. But my remark then was that we could not interfere with the liberty of the individual. And though it is not encouraged, we didn't discourage people to do what they wanted. I think, and I am not trying to minimise the problem, the problem long-term is big and it can only be answered by more housing here, but I think that if you take into account the people who have got two homes, even working people who have got two homes, the number of people who have been compelled to go and give up living in Gibraltar because of our housing difficulty are not that many. Not because there would not be more if they wanted to but because they are reluctant to do this and they don't like to live abroad and they feel much more secure here. That is what I think, and I am not minimising that in the long-term, but in the short-term I think it is being exaggerated.

The Financial and Development Secretary will be answering the points which have been repeated so many times by all the speakers about the need for borrowing if we have a surplus. I think my colleague, the Minister for Economic Development and Trade, gave you a pretty accurate picture of the growth, to the extent to which Ministers now are more able to shape the Budget. And let me say that one factor in that is also the extent to which Financial Secretaries want to run the show completely as old Colonial masters and they want to collaborate with Ministers as a quasi-fellow Minister. And in this respect I would like to pay tribute to the present Financial and Development Secretary who has made it not only possible, because perhaps we might have insisted just the same, but who has made it easy for this slow transition, once the reality of the financial position is put to Ministers, to go along with Ministers in decisions that are taken. I think that is a very important factor, that is a reality and that is reflected in this. I don't like to repeat, but the Leader of the Opposition does repeat himself quite often, I would perhaps repeat something I have said before, and that is what is currently being said now of the Leader of the Labour Party in England, one of the difficulties for his succession to the premiership of England is the fact that he hasn't had any Ministerial experience. And that is something that the Hon Member has very openly admitted. As a matter of fact that is true. I am sorry, I have prevented him from doing that for so long but I shall try to continue to do so!

My speech was attempting to give a new slant to the approach to the matter at a time when we had material with which to deal with. Up to now we have been really cornered by other circumstances, and that is why one can look with caution, in fact, but more confidently in the future than has been the case before. I got a note yesterday. I did not speak of less uncertainties, as the Hon Member said, but of a new challenge where the position is now clear. Perhaps one could always speak about other uncertainties, I did not speak of uncertainty. But I could not, dealing with the question of tourism, I could not deal with all aspects of the economy in my speech. When Hon Members get to the Appropriation Bill, Hon Members will see the extent to which we are making contributions thus improving the product. The Minister responsible, of course, will have to answer for it. I was looking much more at the broad aspects of finance rather than that.

There is just one more point, and I am sure, perhaps, my colleague the Financial Secretary will give a better answer, but the idea of reducing the corporation tax is because on present form corporation tax is 5% higher than in England, and it is certainly of no attraction to people who come here to ask about the tax situation. It is bad enough on the higher personal taxation if in addition you tell them that corporate tax is higher than in England. It is now 35% in England and that is why we have reduced it here.

There is one final point. Nothing that I have said today shows that we have accepted Ministerial responsibility for GSL anymore than we have done already, but concern and close observation, close without involvement to some extent, because it is obvious and I explained this to someone who came from abroad who fully understood the situation in this area, to the extent to which we were concerned but not directly involved in the day-to-day problems. I am glad that whatever was said of my voice it has survived my remarks. Thank you.

MR SPEAKER:

I will now call on the Financial and Development Secretary to wind up the debate.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker, Where by custom and convention I would simply provide answers for the various points raised in debate by Hon Members of a factual nature, if I may leave the comments by the Leader of the Opposition and other Hon Members on borrowing till the end, I will start therefore with the query by the Hon Maria Isabel Montegriffo, the Minister for Health and Housing will be replying to her point about the increase

in the cost of drugs relative to the increase in prescription charges during his contribution on the Appropriation Bill. The Hon Mr Baldachino asked.....

HON J BOSSANO:

If the Hon Member will give way. The only point is that, of course, the House has to vote on this. Is it included in the Finance Bill or we don't have to take any decision?

MR SPEAKER:

You will have to vote now on the general principles and merits of the Bill.

HON J BOSSANO:

The question of the prescription charges doesn't enter into the Finance Bill, I take it, then?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it doesn't that is subject to separate regulation, Mr Speaker.

The Hon Mr Baldachino asked for some further information about amortization. I think I can only give him examples. For example, painting of external buildings we amortize over ten years; major repair it is normally twenty years. For example, as at Head 101 - Housing on page 104 of the Estimates, subheads 1 and 8; provision of new lifts, for example, at subhead 16, that is over twenty years. I can only say that the period which is chosen for amortization is essentially a matter of judgement, and I think that is a point I have made on previous occasions. I wouldn't try and defend this as being a precise time.

The Hon Mr Feetham's query about the extent to which the new registration of cars is reflected in revenue for vehicle licences: well, of course, it does not necessarily follow that an increase in new vehicle registrations is a net increase.

HON J BOSSANO:

Mr Speaker, it may not necessarily follow but it does follow the statistics we were provided with two days' ago. The Government statistics show not only that 2,000 vehicles were newly registered as opposed to 1,000 the previous year, but that the total number of vehicles has gone up very substantially. If I can just find the figure, I think it goes up, private vehicles from 8,000 to 10,000. In fact, the Government statistics show that more are

registered and the total numbers under the registration group. I would have expected that to be shown in licences being given.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, perhaps I should have gone on. The Hon Member interrupted me halfway through what I said although I did in fact invite him to intervene. The answer is in two parts. First of all, it does not necessarily follow that all new registrations mean a net increase in vehicles. A more reliable indication of Government's revenue is, of course, in the import duty figure, but he is quite right in saying that there has been an increase in vehicles. The increase is reflected, for reasons which I must confess before I came to this meeting I was not entirely familiar with, in a different subhead in the revenue receipts, namely Head 6, subhead 59; that is to say, Motor Vehicle Test Centre. Some of the income, in fact, in 1985/86 the difference between the approved estimates and the revised estimates.....

MR SPEAKER:

Which page of the Estimates?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am talking about page 12 of the Estimates, Mr Speaker. I gather there has been an element of virements here. It is something I would like to look into further but that is the explanation I have been given. The explanation being that the Motor Vehicle Test Centre is not open for private registration and for some reason which I am not entirely clear about now, the income shown there is in respect of the first registration of vehicles. I would like to look into that particular point further, Mr Speaker, to find out why it has been so entered in that particular Head.

HON J BOSSANO:

Looking at the tactful answer we have been given, what we are being told, Mr Speaker, is that although the Approved Estimate show £550,000 from licences on motor vehicles being revised downwards to £540,000, in spite of the fact that in 1985 we have 13,000 vehicles registered as opposed to 10,600, the increase in licences from a 30% increase in the number of vehicles registered has been shown as income for the Motor Vehicle Test Centre. Is that the answer we have been given?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, that is correct, Mr Speaker, that is the answer that is

the answer I have been given myself, and obviously I would like to look into that and find out why.

I think it was the Hon Mr Feetham who asked me for further information about the extent of the revenue loss following the reduction in corporation tax from 40% to 35%. When I spoke on the Budget earlier in the House, I mentioned a figure representing the combination of loss of revenue from personal and corporate tax as being £2.4m in 1986/87, and £3.3m in a full year. The breakdown as between personal taxation, that is to say, income tax and corporation is as follows: In 1986/87 it is £2.3m in respect of personal taxation and about £100,000 in respect of corporation tax; in the following year it is £3,050,000 in respect of personal taxation and about £250,000 in respect of corporate taxation.

One Hon Member, I am not quite sure who it was, asked me for information about the number of projects qualifying for development aid licences which fell between the limits of £75,000 and £150,000, I think it was the Hon Mr Feetham. The figure during 1985/86 that fell between that particular range was four out of a total of thirteen.

I think it was the Hon Mr Pilcher who asked for information about the £2.4m GSL orientated aid. That £2.4m is entirely for capital services, that is to say, either civil works or equipment overrun.

As regards berthing fees, I must confess I was rather surprised on studying the Estimates on these myself after my attention had been drawn to them again by the Hon Member. I would like to look into that particular aspect but I can let him know that the berthing fees at the South Mole, that is to say, the non-MOD part of the Mole, at present accrue to GSL.

That brings me to my final point really, Mr Speaker, about the level of the reserves, borrowing and, indeed, the increase in the level of the reserves shown in the Estimates at the end of the previous financial year compared with the former forecast. As the Hon Leader of the Opposition and other Members have pointed out, the figure of reserves is about £1m more than we estimated. His point was that we should have known this, or it is rather high or something, to suggest that we were trying to mislead Hon Members. That is certainly not the case, I think it is important to keep this particular figure in context, Mr Speaker. One is talking here perhaps about £1m compared with a relatively small figure in the Consolidated Fund Balance, that is to say, £1m is relative to £5m or £6m, but in terms of the totality of Government revenue plus expenditure, which is a figure of £65m or £130m obviously £1m is relatively small. In the UK where the Government spending is about, from memory,

£230 or £240 billion annually, it is not uncommon for estimating errors, if one wishes to call it by that name, of £3 billion to be made at a late stage in the financial year. In this particular instance I think we were surprised by the small extent of the underspending by Departments. It was relatively small, about £200,000. In previous years there has been larger underspending. On the other hand, this particular year there was an underestimating of tax receipts as has already been pointed out, largely due to the unexpected increase in income tax and, of course, the high figure of duty collected at the end of the previous financial year.

I have, as the Hon Leader of the Opposition will know, made arrangements to provide him throughout the year with figures of income tax and import duty collected quarterly in the same basis as I provide Government Ministers.

I really don't know what to say in answer to the question: What is a prudent level of reserves? I don't really think there is a simple answer to this question. I am not used to, in my official career, to a situation in which a Government institution has reserves of this nature. There are official currency reserves in the United Kingdom for a specific purpose but no reserves of this nature. If the Treasury is short of money in the UK it used to print it. I think, possibly, this is the answer I would like to give you. If you want to do it in an inflationary way you issue more Treasury bills, if you want to do it in a deflationary way, reduce the money supply then you do it by selling gilts to the non-bank public. I find the Gibraltar situation a new one and, therefore, I am intellectually unable to answer the Hon Member's question.

But I would like to say something about borrowing because here I think, I would like to, if I can, persuade him to think in terms of the economic effects rather than simply, what I might call, the budgetary or the housekeeping aspect. First of all, I should perhaps say that of the £2.5m which were borrowed, £1m of this was in a sense refinancing because there was a maturing issue of Government debentures in December last year and, in effect, most of those whose debentures were maturing were very glad to take advantage of the new issue which was then available.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. It isn't really refinancing because the debenture that matured was already provided for through a Sinking Fund. Refinancing is when you have to raise the money to pay it back. The fact that he took the opportunity to borrow the money doesn't mean he needed the money to repay.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I accept the point. I think the existence of the Sinking Fund is something else with which I have a fairly limited experience and I am sometimes surprised that our financial policies are so conservative at that, but I take his point. But I think the real point I would like to make, and it is my very last point, Mr Speaker, is that normally when one raises money one increases the public sector borrowing requirement, that is to say, it needs a higher annual cost of servicing the national debt. That is something which is important, or is something which the Government has to bear in mind, but equally, and I think, perhaps even more important as an indication of economic health, is the level of tax as a proportion of the national income, the domestic product. That on the one hand and then, secondly, Government spending itself. And the economic effect of borrowing which is to reduce tax, is, of course, rather different from the economic effect of borrowing which is to increase Government spending. I think that is an important consideration. I am merely saying that the two have a different economic effect. For me to say which is desirable would be a political comment and, therefore, I shall not be drawn into making it.

HON J BOSSANO:

Which is the one that the Government is doing, Mr Speaker?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, what the Government is doing is, in fact, to reduce the amount of public spending and to reduce the amount of tax as a proportion of the total. I think that is a reasonable assumption based on what has been done. And at the same time we have not increased the burden of national debt. So I think that is a reasonable package looking at it in terms of the economic management and financial prudence, with which for me to conclude my speech, Mr Speaker.

HON J E PILCHER:

Mr Speaker, if the Hon Member could just give way momentarily before he sits down. It is just a very quick point because I think the Hon and Learned Chief Minister was not paying attention to the Hon Financial and Development Secretary when he said, when I mentioned the berthing fees everybody was saying no to the fact that the berthing fees were actually being accrued to GSL. I hope that they have heard that they are and it is certainly unacceptable to this side because we think that the South Mole and the assets of GSL belong to the Gibraltar Government and it is something which is not within the confines of actual shiprepairing. The extra money should come to the

Gibraltar Government. I hope that the Government takes this point into account. Thank you.

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

The House recessed at 12.57 pm.

The House resumed at 3.25 pm.

SECOND READING OF THE APPROPRIATION (1986/87) ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Appropriation (1986/87) Ordinance, 1986, be read a second time. My hesitation on this, Mr Speaker, is because as the House will know we have the convention whereby most of what the Financial Secretary has to say in presenting the Government's Budget both as regards the revenue measures and indeed the Government Estimates of Expenditure is included in his, or rather, my opening remarks on what is in effect the Finance Bill, and by convention I don't say a great deal on the introduction of the Appropriation Bill, this being a matter on which Ministers with responsibility for particular Departments normally speak. And, indeed, I think that follows from what the Chief Minister himself said this morning about the function of the Financial Secretary. I hope that these comments were not intended to leave, I am sure they weren't intended, but I hope they won't leave Hon Members under any impression that the Financial Secretary has gone soft during the past three years, but certainly I think that the changes which we have introduced to our monitoring and control of expenditure have helped Ministers and have certainly helped me with the process of controlling expenditure during the year and providing periodic monitoring statements.

With those very few words, Mr Speaker, I commend the Bill to the House.

HON CHIEF MINISTER:

I am not going to add very much more to the remarks by the Financial Secretary. I certainly wasn't intending to say that he had become soft, I don't think he would if he could and he can't.

I did pay tribute to his Department in my intervention, in the way in which now we are able to monitor expenditure and help Departments to keep within their votes, and certainly a much clearer picture is taken throughout the year of the develop-

ment of the expenditure. I have nothing else to add. I think I said what I had to say generally. The Finance Bill reflects the outcome of the Expenditure Bill in a way and the Ministers will no doubt speak to their particular Departments. I will be happy to answer in Committee any question that is directed to me and is not the responsibility of any Minister.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, let me first say that perhaps the absence of Shakespeare in a contribution of the Hon the Financial and Development Secretary has to do with the fact that he has been too busy with the Estimates and that that is why he has earned the congratulations of the Hon and Learned the Chief Minister in his presentation of accounts. Perhaps that is why we have been able to get confirmation from the Hon and Learned the Chief Minister that, in fact, the Hon Financial and Development Secretary is not leaving in 1986.

Quite apart from that I feel I ought to answer a point raised by the Hon the Chief Minister generally this morning. He said that the GSLP were opposed to the opening of the frontier because it was part of the Brussels Agreement, and I think that to put the position clear, we were opposed to the conditions of the Brussels Agreement because of the repercussions that they might bring. But we were never opposed to the opening of the frontier. I think that that needs to be made clear.

Generally, Mr Speaker, on the Budget itself, I shall make a few points before going in detail into the Appropriation Bill, and that is that perhaps, because as my colleague the Leader of the Opposition said, the Government seems to have adopted the philosophy of spelling out the economic policy for the year at Budget time, although the Government seem to be adopting a philosophy they do not perhaps seem to be applying that philosophy very well which is one point that my colleague, the Leader of the Opposition, highlighted. One of the things where it actually comes out, Mr Speaker, is in the question I raised earlier today about the reduction of import duty on seat covers. Because whereas I did get an explanation privately that this was due to the fact that there were seat covers which were not used for cars which had a lower duty and it was a policy of aligning all seat covers so that they all paid the same duty, I think it is ridiculous that the Government should have brought that in isolation. I think they should

have perhaps done a complete in-depth study of many other items which could fall in that category and bring a more detailed thing to the House of Assembly, because frankly speaking there are many, many examples of items such as this which could have been restructured, and perhaps this reflects, Mr Speaker, that whereas the Government have adopted the philosophy, in practice they are not very sure how to adopt the practical side of an economic plan which they always want to hear about from this side of the House. Perhaps since we explained a philosophy and they have adopted it, what they want to do is that we should reveal our plan and they should adopt it as well.

Also generally on the Budget let me say that although, as explained by my colleagues on this side of the House, we would have done a complete restructure of the tax system, at long last there have been income tax cuts: perhaps belated by the admission of the Government since they have been trying to do this since 1979. And had they perhaps adopted this philosophy prior to 1979 when they came to have tax cuts in 1981 these would have been more substantial than what they were and we would find ourselves in a position where we would be giving back to the taxpayer a bigger chunk of what they have been paying throughout the year.

Mr Speaker, coming now to the details of the Appropriation Bill.

In my contribution to the Appropriation Bill in 1984, I suggested that the £700,000 vote as part of the Public Works expenditure on maintenance of public buildings should be broken down so that each department should bear the costs of maintenance of its own buildings. The argument being that in the same way as other departments charge the Government for services which they render, the Public Works should do the same by allocating their works programme for the year at Budget time, thus also giving the House an opportunity to judge whether the vote was allocated fairly in respect of which departments were being given priority.

Last year, Mr Speaker, it seemed as if the Government had accepted the general argument of what I said in that out of a total vote of £711,500 it allocated to different departments £262,500 with the result that each of these departments showed their costs more accurately.

This year, however, we find that although this is still true, in that part of what used to be that vote is now shown under Minor Works in each Head, the vote for the maintenance of Government buildings has risen to £618,100. I said in 1984 that £700,000 was too big a vote to be allocated in this way giving complete freedom on how that money should be spent.

Last year I said that £449,500 was still too big a vote to be allocated in this manner. This year, Mr Speaker, since the vote has risen by some 20%, which is more than just an adjustment to take into account inflation, I find that I need to be even more critical.

Whilst I accept that the department needs to retain some flexibility to meet the demand placed on it for works which crop up unexpectedly during the year, I believe this is too big a vote for this purpose. There must be more accountability to this House on where that money should be spent by having a comprehensive works programme for the year and allocating a larger part of that vote to each department. Surely, Mr Speaker, if the vote has risen considerably since last year, notwithstanding the allocation of funds to each department under sub-head Minor Works, it is because the Public Works have projected a bigger maintenance programme for public buildings and thus the Government should be in a position to state what this programme is at budget time.

I now come to a theme which other of my colleagues have touched upon, which is that the Government is including in the Improvement and Development Fund things like painting, which could be recurrent expenditure as capital investment.

The Government used to have two separate votes for the Public Works to distinguish between annually recurrent maintenance and that which was not annually recurrent. Government decided several years ago that non-recurrent expenditure should more properly be treated as capital expenditure and be dealt with through the Improvement and Development Fund and financed by long term borrowing. The situation today, Mr Speaker, is that they are using long term borrowing to finance recurrent expenditure and on top of that they are moving things to the Improvement and Development Fund which is more properly recurrent expenditure.

One example is the vote for the external painting of pre-war buildings shown as part of the expenditure of the Improvement and Development Fund which in my view should be recurrent. The standard laid down by other bodies with a similar function to the Public Works Department, namely the PSA/DOE, is that buildings should be painted every five years. Were this policy to be adopted by the Government, what should happen is that there ought to be an annually recurrent head for painting with a planned programme of 20% of Government buildings to be painted every year.

As it happens, they are treating this as capital expenditure and still borrowing money to meet recurrent expenditure, thus showing a false picture of the true position of the reserves.

This is completely unacceptable to the Opposition.

I would now like to turn to the subvention of £200,000 being granted to the Gibraltar Quarry Company under Head 25, Treasury. In his speech yesterday the Hon Financial and Development Secretary said that this subvention was to pay off the existing overdraft and provide a margin capital for company operation in 1986/87. This explanation is about how the company intends to use the money but it does not explain, however, why it has become Government policy to produce a subsidy. It is odd that this kind of explanation has been given because the day to day management of the company is something which the Government do not answer questions on in this House.

As far as we are concerned, Mr Speaker, the issue of principle is whether the subvention is because Government feel that they should subsidise sand from local sources and if so, to what extent, or whether they are subsidising a Government-owned company because it has operating losses.

If the latter is true, Mr Speaker, this creates a dangerous precedent whereby their other company, The Gibraltar Ship-repair Limited, notwithstanding that they seem to have no power to interfere with the decisions of management at GSL, in contrast to the Quarry Company where they used that power to include the sale of cement, to the detriment of the Company.

By granting the £200,000 by way of a subvention under Treasury, it would indicate that this is to be an annually recurrent exercise and I feel that a fuller explanation is warranted.

On the expenditure for the Electricity Undertaking, Mr Speaker, I would ask the Government to state whether the wages of the Ancillary Section are included in sub head 2 - Kings Bastion - Wages, or they have been spread out between both Stations. If the former is the case I would ask them to explain why they have allocated this expenditure in this manner when the Ancillary Section is responsible for the maintenance of both Stations and could the Minister perhaps give me a breakdown of the budget for each.

Mr Speaker, at question time in this meeting, I asked the Minister how much had been saved in the cost of fuel and whether this had all been passed to the consumer through the operation of the fuel cost adjustment formula. Whereas the Minister said that the actual expenditure will be approximately £2,465,500 in contrast to the estimated £3,130,500, Mr Speaker, the revised estimate for the year shows the figure of £2,527,000 for both Stations. If the revised estimate is correct as opposed to the figure announced by the Minister, then either

the sum of £655,000 has been passed on to the consumer incorrectly, since it exceeds the amount shown in the revised estimate by £61,500, or the revised estimate is wrong.

Coming back to the point I raised on the Ancillary Service, and on a more general basis, Mr Speaker, I feel that it would be a good exercise for the presentation of accounts to include a wages sub-head in every department as is done for personal emoluments. Apart from giving a precise figure for the wages cost in each department, it would have the result in some instances of doing away with other sub-heads which are composed of a wages element in their minority. Perhaps, the Hon Financial and Development Secretary, might consider introducing this at the next budget.

Coming now to the Telephone Department, Mr Speaker, I must point out to the Government a substantial amount of complaints that have come our way over the length of time that some people are waiting to get their telephones connected. The Department has a responsibility to give a better service in this respect, even if they have to employ more people. It is inexplicable that there should be a big waiting list for telephone connections and that the Government should have rejected a proposal from the workforce for a productivity scheme.

I would also like to clearly spell out the position of my Party with regard to the resumption of telephone communications with Spain.

Mr Speaker, we are completely against that Gibraltar should be treated as part of the province of Cadiz for the purposes of communications with Spain. This, it would seem, does not only apply for calls to and from Spain, but for some incoming international calls where it is possible for any person to call Gibraltar through the Spanish code.

This will result in other countries considering Gibraltar as an extension of the Spanish network for telephone communications and is completely unacceptable politically.

What is incomprehensible is that the same Government that only a few weeks ago joined the Opposition in taking a firm stand over the airfield in respect of passengers in flights from Spain being considered as coming to Spain and thus posing a threat to our territorial integrity, should not apply the same philosophy over telephone communications when it is infringing our independence in that field.

HON A J CANEPA:

Rubbish.

MR SPEAKER:

Order.

HON J C PEREZ:

I am sure the Hon Member will have a right to reply to the comments.

MR SPEAKER:

Order, you will speak to the Chair and not across the floor. You will continue speaking and you are entitled to speak without being interrupted.

HON J C PEREZ:

Mr Speaker, just to add that I am sure that Hon Members will have a right to comment on it. That is the position of the GSLP and I don't think that the Hon Member should take it so lightly because it does pose a threat to how other countries see us. Of course it does.

In looking at Postal Services, Mr Speaker, I will repeat once more the view of the Opposition that the Post Office should charge each Department for postage and that this should appear as part of the expenditure of each Department. The argument in favour of this has been put previously and is similar to that outlined by me today when commenting over the Public Works Vote for the maintenance of public buildings.

The Financial and Development Secretary has argued that to do this would involve administrative hurdles and the Government is not prepared to do so now. However, Mr Speaker, similar arguments were put by the Hon Member when we suggested that buildings occupied by the Funded Services should be charged for rates and yet they have now found it practical to do this, after having said it was impossible.

I hope, therefore, that the Hon Member will suffer another change of heart and move in this direction next year.

On the presentation of accounts for the Post Office Savings Bank, Mr Speaker, I think that it would be better that this should be done in precisely the same manner as the other Funded Services. It is already a special fund in law as shown in the Auditor's Report where a final figure for 1984/85

is shown. However, we don't have a figure for 1985/86 or a projection for 1986/87 which would be the case if it were treated in the same manner as the other Funded Services. In the case of the latter, we also feel that an additional column should be included to show the final results for the previous year, which in this case, is 1984/85. We are aware that this can be extracted from the body of the estimates and is included in the Audited Accounts, but with the limited period of time available in which to study the Estimates, it would be more practical if this is shown as an additional column.

I would like now to refer to the MOT Test Centre, Mr Speaker, and I would remind the Hon the Minister responsible for Traffic, that he promised us Estimates of Revenue and Expenditure for the MOT and these have not been forthcoming, notwithstanding the recent announcement that, at long last, he expects it to become fully operational in July. I think that these estimates should cover the period since the Test Centre was completed in September 1983, so that we are able to establish how much it has cost the community and whether the judgement of the Government was a sound one or not.

Finally, on the Fire Service, Mr Speaker, and following on the question I put to the Hon Member opposite at this meeting, I am anxious at the fact that there is no provision for the creation of a marine section which could adequately give fire cover to any vessel at the Detached Mole or at the North Mole from the sea. This is particularly worrying because the Admiralty Fire Service did away with their marine craft and now use MOD tugs as a back-up, whereas the City Fire Brigade has no immediate facilities available other than those which the MOD might decide to lend at any given time.

If it is still the Government's policy to promote shipping and attract yachts to Gibraltar, I think that they should make sure they can provide adequate fire cover for these vessels whilst in Gibraltar and I would therefore hope that the initial preparations for this are done during this year and that next year's Estimates should include expenditure for this purpose.

Thank you, Mr Speaker.

HON G MASCARENHAS:

Mr Speaker, before I speak on the policies of the Government as they are reflected in the Estimates of Expenditure and Revenue, namely, my Departments, Education, Sport and Postal Services, I would like to speak generally on this Budget which, in my opinion, has been positive, optimistic and which clearly reflects the change, the new economic face of Gibraltar. The improvement of the quality of life of all Gibraltarians as the

result of the full border opening last year, which I mentioned last year and several Members on the opposite side queried or ridiculed, I am glad to say today that people are generally happier throughout all sectors of the community. The road that the Government has started with the reductions in income tax and potable water this year, should not, in the Government's view, be a long road. The burden of high taxation which the people of Gibraltar have suffered for so long should and will in the future be redressed to a balance of direct taxation with indirect taxation. Mr Bossano said yesterday that we live in an uncertain world and I think we all agree with him on that. Undoubtedly any major change, or even a minor change, which could have a detrimental effect to the economy of Gibraltar, be it on exchange rates, be it on tourism, of course will have an effect on Gibraltar. But I think that barring any detrimental effect in the future, I think that the Gibraltar economy can look forward to a bright and prosperous future. If we look around us at the number of developments which are taking place, the expansion of the Finance Centre which most certainly has been accelerated through the border opening, the tourist figures which speak for themselves, investment in Gibraltar is increasing, wealth is being created and this expanding wealth has to permeate to all sectors of the community. Yes, we all want a strong private sector but the private sector must also share in its contribution to the welfare of the community generally. It is important that the tax base is enlarged. The larger this is the better for all of us so that instead of 11,600 taxpayers we were to have 13,000 or 14,000 or even 15,000 in employment. I think that the general consensus must be that the people of Gibraltar would have to pay less for their services. Instead of a tax giveaway of £3.3m I am sure that the Government could do a lot better. Whether that will happen in the short-term, of course, that is a different matter altogether. The new developments that are coming on stream will take time, but as they come on stream I think that we shall see a vast improvement in the employment situation and the direct bearing that that will have on the tax base.

I said last year that the commercial expertise of the Gibraltarians could place Gibraltar on a solid base for the future. I don't think that I was wrong. In no way have we been swamped and overtaken by foreigners, be they Europeans or Spaniards, but the fear always in Gibraltar is from the Spaniards rather than the Europeans. Gibraltar has indeed got a sense of direction today. I think we shall meet the new challenge that we face and we shall overcome it for the benefit of everybody. I don't doubt that we will succeed and that Gibraltar and the Gibraltarians will all benefit from the increased economic benefits, and certainly social standards, education standards will improve.

Mr Speaker, I now wish to turn to Education and outline the policies which are reflected in the Estimates of Expenditure. I intend to start with that part of these Estimates which reflect personal emoluments and which clearly are the single biggest resource, and that is, teachers. We have resolved four outstanding problems in the Department regarding staffing. I should really say three, one of them of course is the event of the year as far as teachers are concerned and that is the increase and settlement in their salaries. The salary increase for the teaching grades will be 6.9% between the 1st July, 1985, and 30th March, 1986, and a further 1.6% as from the 31st March making a total of 8.5% increase at all levels. As Members will obviously be aware the negotiations in UK took a long period. Fortunately these are now virtually over, I say virtually over because there are still some unions in the United Kingdom who are resisting, but in Gibraltar we are implementing the new increase of 8.5% overall.

There are two items in the personal emoluments which I think I should single out, one is the post of General Education Adviser, which was established in 1983. We have placed this now on a professional scale of Headteacher Group 7, this is to bring it in line with accepted practice in the UK. More importantly this post is occupied by a Gibraltarian and the steps for putting it on a higher scale will ensure that the salary is commensurate with the level of responsibility. It can also attract senior teachers within the schools who have the school management experience and teaching experience, a combination of both. The other one is the Educational Psychologist. We now have a Gibraltarian, who completed his two-year course in September, 1985. He has been placed now and I think we can look forward to a long period of stability in this area of very special and vital support. He is also a Registered Member of the British Psychological Society.

The other very important part of the staffing problems that we have resolved this year is the longstanding grievance felt by the unqualified teachers. Thirty-one unqualified teachers are in the process of completing an intensive professional course. This commenced on the 20th January of this year and it has been taught by a group of twelve experienced local senior teachers. Successful completion of this course will place the unqualified teacher on scale C of the Burnham unqualified teacher salary scale, this is the highest possible. In money terms it will represent an extra £658 per annum over and above the salary increase of £530 as a result of the 8.5% review. I should say that both the tutors and the unqualified teachers have worked extremely hard during out of school time thus ensuring 100% success of the exercise. It also goes without saying that our children will also gain from the new impetus given to a group of very experienced and dedicated teachers.

I would now like to go on, Mr Speaker, on the language courses which have been offered. The Department noted a very high demand of courses in English. Last year we set up the first course which was held during July and August and affirmed the conviction that Gibraltar can establish itself as a language centre if we ensure, of course, the high standards and the professional approach. Eight graduate language specialists under a Course Administrator tutored eight classes of Spanish students during four weeks on the summer vacation. The courses were geared for beginners and intermediate levels and these have appeared to have met demand. I think we have been successful because out of all the ones who took part in the course last year twenty-six immediately enrolled for this year. We have included a further advanced level for this summer to take into account the ones who came last year and who should have a little more grey matter as regards English and this is on the same model. We will see four weeks offered in July and four weeks offered in August. These courses are, of course, administered and organised outside the Adult Education Programme which is run by the College. The advantage which I mentioned last year as regards running these courses apart from the revenue that accrues to the Government, of course, we have an element of well over 100 students taking part and, of course, it is always a spin-off to the economy.

Turning now to the Youth and Careers Office. I should mention International Youth Year which finished in December, 1985. I must say that without the support of the professional staff at the Youth and Careers Office I doubt whether the Youth Year would have been the success that it was. A total of £15,000 was raised for the Youth Sub-Fund and this has been invested by the patrons for the promotion of youth activities and youth developments in Gibraltar.

This year also saw the start of organised youth exchanges and three exchanges took place between our youth and Morocco, with the Arnsdale Youth Center in Wandsworth, and one exchange with the youth from the province of Cadiz. The Government will continue to support the policy of youth exchange visits for the coming year and there is provision in the Estimates for this.

A total of 500 youngsters experienced the world of work through the Department's work experience scheme which places students in their last year of school with firms and Government Departments for a two week period. Great emphasis is being placed on career advice. There is a need for the private sector to get more involved in training at all levels and for parents to gauge and react to the new career opportunities in Gibraltar such as Finance Centre activities and services.

I am happy to say that as a result of a meeting with the

President of the Chamber of Commerce two weeks ago he has pledged the Chamber's support for training at the College and courses are being assessed for shop assistants and courses of a nature which might help the private sector considerably. Up till now, unfortunately, we find that the private sector has not contributed very largely to training of staff which I think is essential if we are to compete with our neighbours.

That brings me to the College of Further Education which has now been operating for a period of six months as a College of Further Education taking the start of the September term. We are now catering for 102 full-time students and 173 part-time students together with 500 enrolments in the Adult Education Programme. The number of employers who are sending apprentices and who are taking advantage of our courses is 14. That is a very low number and I would hope that in the future we will see that number increase. The Business and Commercial Study Department and the General Study Department are promoting new courses in economics, word processing, audio typing, background for business, receptionist and telephonist skills, clerical procedures, institute of bankers and language for the office.

I think the Honourable Members will note that we are all geared on a commercial basis for the Finance Centre particularly and also for general office skills. We have also started seven classes in computer studies. The Head of the Business and Commercial Studies was sent on a three week attachment to Essex College and the Betch Headquarters during the spring term of 1985 and a UK Betch Chief Examiner was brought to Gibraltar to assess potential for locally offered new courses in technology and business studies. We are also seconding on a one year course one of our lecturers to update his skills in craft, design and technology.

Mr Speaker, I would like to dedicate a few minutes to an important area where the Government has made a considerable input, financial input, and that is computers and the new technology. Technology, of course, is the in thing. There was one pupil who knew exactly what to do with the computer and he answered a written question, 'if I were given a computer, I could make money with it, I would sell it'. The Government decided to introduce computers into all its primary schools in 1984. Secondary schools were provided with a substantial number a few years ago. The Department feels that it is important to give our youngsters the experience they will need with the technology of their future working. The introduction of computers in primary schools was aimed at improving current teaching and learning methods, to introduce new teaching and learning methods and to give pupils an appreciation and awareness of computers. A total of 44 computer units, each

unit consisting of one BBC computer, a disc drive and colour monitor, were introduced in two phases; the first one in the last Financial Year when 25 units were introduced, and the phase 2 is this Financial Year when the remaining 19 units will be introduced. This is extra provision for the schools, over and above the normal capitation allowance. It may be that some schools will supplement this minimum entitlement. Some of them do as a result taking up their own resources, tuck shop profits etc, but in addition to the hardware that we are providing, the Teachers' Centre will have a bank of software for all the schools to use. In recognition of the need for in-service training for teachers, so that this new technology is adequately used in the classroom, the Department entered into an agreement with the University of Hull, and this is following the BA Ed ceremony, to offer the Advanced Diploma in the classroom use of computers. Forty eight teachers have registered for the course, which will take place during school vacations over the next 18 months. The first session actually took place this Easter. The fact that teachers are giving up vacations in order to follow a course on professional development is a reflection of our teacher professionalism and concern for the education of children. Essentially it will mean that the Government is taking steps to ensure that the children today, who will be the adults of the future, are well equipped for their future role in a society where computers, no doubt, will feature very prominently, certainly judging from present trends.

Mr Speaker, with your indulgence I would like now to turn to the upheaval in education history, certainly in the last twenty years, and that is the General Certificate of Secondary Education, the GCSE. In September of this year secondary schools will commence courses leading to the new examination of the GCSE and candidates will sit for these exams in the summer of 1988 for the very first time. The GCSE will be radically different to GCE 'O' level and CSE's, since it represents a fundamental shift in emphasis in how subjects will be taught and assessed. GCSE will make great demands from our teaching profession, much time and effort and understanding is required for just the new assessment techniques and the consequent new approaches to teaching. Teachers require support and the Department has already provided secondary teachers and several education lecturers with a two day course followed by business computers to schools run by the southern examining group, led by a leading UK figure in GCSE matters. The department has already sent three local teachers to attend basic courses in UK and will be arranging other visits for junior staff. The teachers will require time, they need time to assimilate the new information, time to learn new techniques, time to plan work schemes work and assessment procedures. The department

recognises the need for this extra time and we will close both secondary schools during the last week of term to enable teachers to get down to this. Of the whole the GCSE places a big and important responsibility on the shoulders of teachers who are, may I say, already busy. The success or otherwise of the new examinations entirely rests with our hard working professionals at the present moment. Our schools will also require new material resources so that the new mode of learning can take place. In this respect, the department, Government, is providing about £20,000 to cover the extra costs for our third year pupils and that is over and above the normal capitation fee. This may I say, is substantially more than the UK Government is providing for their own schools. I can safely say that the GCSE is well in hand. Our Government is conscious of the need to help our teachers face one of the biggest upheavals ever to occur in public examinations and is endeavouring to provide the support the teachers need.

Mr Speaker, I have a lot of information available. I don't know whether the Honourable Member who is responsible for education on the opposite benches would like this. I have a lot of information here in my briefcase, I can pass it on to him and I think perhaps it will save time in the future in question time particularly. It is complicated. I have a few notes here made for the benefit of the House in case there is a reshuffle on that side and this is what the GCSE really is all about. All the GCSE examinations can conform with the national criteria. For the first time ever the syllabus content, the assessment procedures and everything else to do with the exam will comply with the set of nationally agreed guidelines. There are not all the different examining groups that there used to be in the past. Those will be shortened to I think five or six. There will be one general national criteria and this will set the ground rules for the conduct of the exam, ie, the eligibility, the layout of the syllabus, etc, and the second one is the subject criteria, and this defines the subject, the aim, the assessment objective and gives weighting to the different components of the course and describes gradings from A, T and M. This also specifies the essential competence, the skills which must be included and the attitudes that have to be promoted. For those subjects where no subject criteria exists, the syllabus in those subjects must comply with the general criteria. The coursework, the skills and knowledge that are totally important cannot be assessed in a final written exam. Sometimes the nature of a product for assessment depends on the spot marking and this, for example, in Home Economics, the cake which is made on the day will be spot marked there and then. In the past I think the cake had been marked two or three days later, and of course by then the quality has already disappeared.

The national criteria recognises that the best way to assess these new skills is by the teachers in the class, the laboratory or the field. For example, experimental skills in science, oral skills in language and certain mathematical skills, research skills in history and so on, can only be assessed in situ by teachers and not by a written exam. We must make important what can easily be assessed rather than the GCE O'level and the CSE used to do. The GCSE is basically more vocational in nature.

MR SPEAKER:

You are going into details.

HON G MASCARENHAS:

That is why I offered to pass on those details. Up to the next paragraph is a general detail on what the GCSE is. I said earlier that it will help in the future, at least with the Hansard for the Honourable Member who shadows education. It will be helpful, and we can cut time in the future and there might be questions.....

MR SPEAKER:

It is not a question of cutting time, it is a question of what is relevant to the debate we are having.

HON G MASCARENHAS:

Well, I am nearly finished. The GCSE is basically more vocational in nature as well requiring the academic rigour of GCE 'O' level and CSE. 15% of marking are allocated for social and environmental, cultural and technological subjects. The usage for mathematics stressed speaking a language is as important as being able to write it, in my opinion, even more important sometimes. Geographical enquiry is now stressed, understanding as well as knowledge recall is demanded. Students will have to work in ways which are similar, for example.....

MR SPEAKER:

With respect, you are continuing in the same trend and I have asked you not to.

HON G MASCARENHAS:

It is only two more lines, Mr Speaker. Students will have to work in ways which are similar to scientists, historians, geographers, mathematicians, for example, experimental work important in science, collaborating in team work is also

important in science, and an approach using and questioning so called facts is envisaged. Geographical enquiries, graphic and mapping skills are as important as geographical matters, and that is as far as I will go on GCSE.

Mr Speaker, now I want to turn to in-service training, to which the Government, and the Department, attach a lot of importance. This is for the professional development of teachers. During the last Financial Year, a total of 30 teachers attended short courses in UK, ranging from courses on the management of schools, curriculum, Phase I training for GCSE. A total of 10 UK teachers came to Gibraltar to discuss the GCSE examination as well as its administration. The department is providing the funds to meet as much of the in-service needs as it can. The teaching profession must be commended for giving up so much of their own time to attend these courses and any follow-up arising.

On the question of scholarships, provision has again been made this year for a total number of 45.

Finally, I would like to say that St Mary's First School, will be a thing of the past by this summer, and we are earmarking the start of the autumn term in September of this year and, thereby, the Government will have the availability of three buildings which at present is made up of St Mary's First School.

We have also made provision for four temporary classrooms in St Joseph's Middle. This is as a result of the increasing number of people taking up residence in the south district. The school has been placed in an impossible situation and the four extra classrooms will greatly alleviate the situation at St Joseph's Middle School. This is not of course a permanent solution. The four classrooms will be made available in Knight's Court for the boys and certainly not a permanent solution to the problem at St Joseph's Middle. But of course the Government is looking at different alternatives: either the complete rebuilding of the school somewhere else or an extension to the school where it can be made.

Mr Speaker, now I would like to turn to another of my responsibilities, Sport. We have increased the grant available to Sporting Societies from £10,000 to £15,000. This is the major item in the Sport Fund. We have also increased the sports equipment, which has been at a very steady level over the past three years, and we have brought it up to £5,000, obviously because it is required for equipment, which has now seen better days and requires replacement.

The minor works programme has been extended by £15,000 to a total of £25,000 this year. We are also making a provision of £4,000 for the floodlighting at the Stadium to maintain the impetus that we started two years and ensure that the floodlighting is essential, as far as we are concerned, because if that were to be defective in any way, the number of users for the Stadium will fall considerably. You cannot allow that to happen in any way.

The perimeter fence at Hargraves will be repaired this year and we have made £2,000 available for this. Hargraves, although not covered, does provide an important site for sport; five-a-side football particularly, for training purposes, and I am convinced that we have to retain that court for games although it is not in a perfect condition and we have a lot of complaints from the neighbours, who live around there and, unfortunately, we even face situations when we would have to not allow anybody to use it. We have made £2,000 available and that will continue to be used.

We have also made provision, in Personal Emoluments under wages for the sport management to have flexibility in opening on certain Bank Holidays when the Stadium has been closed, and certainly when special events require it. For example, I think that Mr Pons is intending to hold a band concert in aid of handicapped persons in the middle of May. He would want to start at 9 O'clock in the evening and of course we don't have the provision for things like that. GFA in the past have complained that they cannot hold football matches at a later time in the evening, when more people would turn out, because we didn't have the money available for overtime, and we have made provision for a certain number of days. If this is enough, I don't know, it depends on the demand.

I would like to take this opportunity to explain how the Gibraltar Sport Committee works. We have reconstituted this and since I have noticed at least one mention in the press regarding funding of Gibraltarian teams participating abroad, I think I will answer that here in this House and say that the Sport Committee is there to consider and advise the Minister for Sport on how to give out the money to applicants. By applicants, I mean actual governing bodies of sports in Gibraltar and not clubs. The money is voted here in this House once a year. The Committee meets as soon as possible after the Budget in order to consider applications, which means that at the end of March, there is actually no money left in that vote. Therefore no Minister, no one, until it comes to this House and the money is voted can give an assurance to any team or any participants of Gibraltar wishing to participate abroad, who happens to travel in April or May. It cannot be done. There is no way I can give a commitment and pre-empt the authority of

this House. What I can do, and what I have done in the case of volleyball, which I have to highlight, and I told them on repeated occasions that they would have Government support. How much that support would be, I just do not know until the Committee sits down to meet but they will have to take it from me, clearly spelt out on many many occasions. On the times I have been stopped in the street and in my private office, I have told them on many occasions at the different offices of their association, and yet I was criticised for not having helped sooner.

The Sports Committee has been re-constituted and has been reduced in number. The old Committee used to number eleven, and I have reduced that now to seven. I think it is a more manageable number and hopefully we might now get down to work, serious work, and the procedures have been redone. Financial assistance will only be made now to associations for specific commitments.

The Government has also been meeting with the Gibraltar Squash Racquet Club on a few occasions, with a view to the construction of two squash courts at the Victoria Stadium. Further details will be made available as soon as we have reached an agreement. The important thing is that if we reach an agreement, we will increase the number of squash courts from one to three and generally, there was a belief in Gibraltar that when the border opened the number of sporting activities would be greatly reduced. Well, I am happy to report that this has not been the case. On the contrary, the usage of Government facilities has been on the increase, but there has been a shift from weekend use to mid-week use. We are coping with it for the time being. Without the Naval Ground it would be impossible. We have suffered some trouble with the Naval Ground as a result of the MOD insisting that the Associations should insure themselves for quite ridiculous amounts. The Stadium has helped most Associations, particularly the Gibraltar Junior Football League, and they are now using the Victoria Stadium. I am happy to say that they are quite happy with it at the moment.

Mr Speaker, there is one major event this year which I have to report on and that is of course, Gibraltar's participation in the Commonwealth Games in July this year in Edinburgh. This is something again where the Government has not pledged actual financial support yet because the Sports Committee has not met and the money has not been voted, but we shall be doing this. And I think it is worthy that a Gibraltar team representation in Edinburgh is essential and we will be supporting that.

The Gibraltar Cricket Association will also be participating

in International Cricket Club, and again I have pledged support for that event.

I would like to go on record, Mr Speaker, as a result of the occurrences in Spain regarding two sports, possibly three, where there have been political interference on the field of play, or before the games have actually started, and I would like to go on record, categorically, that there are five Gibraltar Associations, who are members of International Bodies, and, therefore, have as much right as the Spanish participants or anybody else to be present; and those are Hockey, Rowing, Athletics, Volleyball and Swimming. There are three more, who this year will join the World Bodies after they have been locked by Spanish attempts over a period, certainly, for one of them, over a period of 10 years. Finally, they will be recognised in June of this year.

As regards to the swimming pool, arising out of discussions that were held with GASA in November last year, GASA have undertaken to present to Government details on technical proposals for the construction of a swimming pool at their premises. I believe that they are now virtually ready and they will be forthcoming in the next few weeks. Until they do that, I am afraid that I cannot say much more. Again it remains a Government aim of policy and as the Honourable Miss Montegriffo, Mr Speaker, will know we will have a lot of opposition from another sport when that day arrives, if it arrives. One hopes that it will. Certainly, it is our intention that it should do.

Mr Speaker, I would now like to come to my final department, which is the Post Office, and report that the postage stamp sales continues to increase. We have exceeded our estimated sales for last year and the projection is for a slight increase for the coming year. We have now made arrangements with the Spanish Post Office for the exchange of mail at the border and that will greatly improve the surface mail to Gibraltar. As a result of the Water Gardens project we moved the parcel post about 50 metres down the road. I don't know if the Honourable Member has visited it, but I have visited the old parcel post and I have visited the new one and the improvement is quite noticeable. Certainly the staff are working in a much better environment.

The counter at the Main Post Office has continued to remain open through the lunch hour, Mondays to Fridays and we continue to open on Saturday mornings, thereby providing continued improved service to the many tourists who visit us. We have also got facilities now for the cashing of post cheques by tourists. The European nations which are participating are the United Kingdom, Luxembourg, Norway, Denmark and the Netherlands. The additional PO Boxes that were constructed

have been taken up, or are being taken up very fast, by the expanding Finance Centre. I think that at the time that we made a decision to build them we have been proved right. My only fear is that if we continue this way, we shall have to build an extra three hundred very very soon.

The world recession on philatelic sales has continued and has affected the sale of philatelic items. However the Philatelic Bureau locally has increased slightly and there appears to be a slight upper trend which augures for the future.

Finally, Mr Speaker, I would like to say a few words on Calpex 86, which was the celebration of the centenary of the first Gibraltar stamp, and that has gone very well. It was a hectic week and I think that the number of Gibraltar Study Circle and the Gibraltar philatelic members from abroad who visited us certainly filled up the hotels for my colleague the Honourable Minister for Tourism and Gibraltar stamps continue to be respected.

I reiterated in my speech at the City Hall, that we would continue to be a conservative administration and I think in the long term that will produce the result for us, rather than go for a big chunk one year and then see that our revenues would be diminished considerably in the future.

The only thing I would like to say Mr Speaker, is that if the Honourable Miss Montegriffo has any questions, I will gladly answer these at the Committee Stage or Mr Mor's questions. Thank you.

HON MISS M I MONTEGRIFFO:

Mr Speaker, first I would like to deal with my responsibility in the Opposition for Medical and Health Services, and I will start by saying that the GSLP would have wanted to see the coming year as one of a turn for the better in view of the many problems we have encountered within the Health Service. However, having analysed Government Estimate of Expenditure for the Medical Vote, we see that this will hardly be possible, because once again the Government intends to maintain present standards. We see no real improvement in the resources already being provided. The criticisms of the state of the Medical Department, Mr Speaker, have been voiced by the GSLP in this House due to certain events which have coincided since we have been in Opposition. Moreover the complaints that we have highlighted have come from the patients and from the nursing and medical profession. We believe that the task of an Opposition is to objectively assess given situations and we act by making the Government aware of those areas which require attention, and we have kept doing this consistently in every

meeting of the House. Unfortunately, words and repeated intentions from the Minister during the last twelve months in respect to these areas have not yet been translated in practical solutions and actions.

In previous budgets, Mr Speaker, I have made reference to the decline of our medical services and of the strain on our already overstretched resources an open frontier could constitute. We have also kept warning the Government of certain consequences and liabilities as a result of Spain's accession to the EEC. Some of them, Mr Speaker, have already come to light. Because of lost time on the part of the Government, we believe they could now well find the task so much more exacerbated by the simple reason that Spain will now need to give her consent on any EEC matters related to Gibraltar. This is the reason why, Mr Speaker, since 1984, in every House of Assembly Meeting, we have been pointing out to the Government the question of the Gibraltar nursing qualifications, which are not recognised anywhere outside Gibraltar. In fact, there is an EEC directive on training standards for the mutual recognition of qualification by all Member States since June 1977. Today, Mr Speaker, we still find ourselves in a situation where Gibraltar is obliged to recognise qualifications from all EEC countries, and no-where in the EEC, including the United Kingdom, are ours accepted. After having spent three years in Gibraltar to qualify as a Gibraltar registered nurse, our nurses still need to go for three month's training in the UK, before they can qualify as a state registered nurse. The Government, Mr Speaker, has known about this state of affairs since 1977, when attention was drawn to it by the staff inspectors. And since 1978, when there has been an outstanding claim from the nursing union which led to the bringing of Miss Briggs to give expert advice on the subject. Certain changes in our tutorial standards were considered necessary. The Minister, in answer to a question last year, said that the matter had been left pending because the tutor, who had been sent to a course in the United Kingdom, had abandoned it and it had been difficult to find a replacement. Mr Speaker, we fail to understand the difficulty. Neither, Mr Speaker, can we understand why, after repeated assurances from the Minister in meetings of the House that steps were being taken to implement the necessary changes, we were told very recently, that the Government needs to bring a team of experts for another review. We would therefore, Mr Speaker, like the Minister to explain what has been the reason for the Government change of policy, since in June 1985, in answer to my question on the matter, he said the following: 'Various details were approved and will be implemented in the coming months. These will lead to acceptance by the UK of Gibraltar qualifications'.

Also, Mr Speaker, up to the present time, the Government, have been unable to tell us when this team from the UK is due to arrive. Perhaps, today, Mr Speaker, the Minister can give us a definite date.

There is another area, Mr Speaker, on which we have been given very unsatisfactory replies, and that is on the question of the Spanish pensioners and their right to medical treatment under EEC law. We think, Mr Speaker, that the Government were unaware, until we told them, that under Gibraltar law, anybody not receiving a full pension is exempted to the payment of contributions to the GPMS and that this, therefore, meant that 3,900 Spanish pensioners automatically qualify for medical treatment at Gibraltar's expense. It also meant, Mr Speaker, and the Minister confirmed it in the House, that the letter sent to them by the DHSS in the UK on behalf of the Gibraltar Government, must have been incorrectly worded. Since then Mr Speaker, we have made certain enquiries, and we were told that in order to qualify for free treatment in Spain, these pensioners, as indeed frontier workers and their dependents, would need to present an EEC form E121. During question time on this House, Mr Speaker, I asked the Government whether this form was available at the Health Centre. The Government knew nothing about it and it seems peculiar to us because the information was given to us by the very same UK department that has been handling the administrative work on behalf of the Gibraltar Government in connection with the Spanish pensioners. Also during question time, we then proceeded to ask the Government a related question. How is the Gibraltar Government going to settle the bill for those Spanish pensioners, frontier workers and their dependents receiving treatment in Spain at Gibraltar's expense? The answer given to us was the following: 'In accordance with normal practice comparisons of costs between Member nations takes place annually and costs incurred on behalf of Gibraltar will be incorporated in those incurred on behalf of the United Kingdom, who will represent Gibraltar at these meetings. These meetings will establish whether or not there is in fact a requirement for any reimbursement. Should that be the case, it would have to be allocated to an item of expenditure under the Medical and Health Vote'. However, Mr Speaker, to our knowledge, both Britain and Spain will be talking about settling bills for tourists visiting each others countries. How then, if there is a balance in the part of the UK, is it going to be determined what out of that balance relates to the frontier workers and the pensioners, especially now, Mr Speaker, when we know that they are not being provided in Gibraltar with the relevant EEC form. Clearly, Mr Speaker, to us it is quite an impossible situation. The Government couldn't tell us how the system would work and they have no idea at all how much it is going to cost them eventually.

There is one further point we would like to have a clarification on. Last week, Mr Speaker, in a local newspaper, there was a report on a meeting that the President of the Chamber of Commerce recently held with the Minister for Health. The last paragraph reads as follows: 'The Minister indicated that the main problem facing the Health Service in Gibraltar was the shortage of nursing staff'. Mr Speaker, we will now quote to the House what the Minister replied to my question in June last year, when I asked for confirmation that there were serious shortages of nursing staff in the Medical and Health Department. The Minister said: 'There are no serious shortages of nursing staff in the Medical Department. A selection board was held on the 20th June when nine nurses were recommended for employment'. When I asked him further whether the nine nurses were not being taken as additional staff, that they were only filling up vacant posts, he replied. 'Yes, they will fill up posts which are already vacant'. In fact he went on to say that the suggestion that as many as twenty nurses were required had only been put forward by the nursing union, and I quote him again: 'the Establishment and Management Consultant Services are looking at it at the moment. I would not agree there is definitely a shortage'. Can the Minister therefore confirm, Mr Speaker, whether he indicated to the Chambers President that the main problem facing the Health Service was a shortage of nursing staff, and if so, what has made him change his mind since June, when he said the very opposite by denying that shortages existed? Of course, if he now accepts the shortages, is he intending to create new posts and by how many.

To finish on Medical Services, therefore Mr Speaker, I would stress that with so many complaints and uncertainties, and without a move on the part of the Government towards an expansion in our present resources as reflected in the Estimates, we are sure that if the services are working in any way, Mr Speaker it must be due to the efforts and the dedication of the people who work within his department.

Mr Speaker, on a different matter, but one that also comes under the responsibilities of the Medical and Health Services, could the Minister give a policy statement as to what the Government are doing on the question of the Hawkers Licenses and the new concept of competitive tendering for certain designated sites. We are already, Mr Speaker, receiving complaints from people with licences who claim to be experiencing difficulties.

I would like now to turn to Sport, another of my responsibilities. As in all our budgets, Mr Speaker, I would like to remind the Government that the construction of the swimming pool for CASA is in fact a commitment they announced two elections ago. In the last one it was in their manifesto. We hope, Mr Speaker,

that their contribution this time will not be debris for reclamation purposes, something which the Minister initially reported was being given to GASA and that there will be something quite more substantial than the material assistance they have been receiving from the Public Works vote, otherwise, Mr Speaker, at this rate the pool will never get to see the light of day. GASA, Mr Speaker, have recently stated that they are having to go to Spain for training purposes and that it is costing them a considerable amount of money. I think Mr Speaker, that having celebrated their fortieth anniversary last week, GASA could well be the oldest swimming association to have existed without a pool.

Mr Speaker, we have been informed by the Gibraltar Amateur Athletic Association, that they are encountering difficulties in acquiring training sessions at the Victoria Stadium. In the first two weeks in June, which is a critical period for them, before their participation in the Commonwealth Games, the Association has been told that they will not be able to use the track, due to the conversion period and the Queen's Birthday Parade. So you see Mr Speaker, they might have to go to Spain to train at a cost. Will the Government please ensure that they can do something to solve the problem. The last thing we want Mr Speaker, is to see an increase of sports associations going to Spain because of lack of facilities in Gibraltar.

On Hockey now Mr Speaker, could the Government say whether they have any plans to help the Gibraltar Hockey Association in getting an astro turf for the stadium hockey pitch. The Association has said that apart from the advantage of spending less money on maintenance and having the pitch available for playing more frequently, this kind of turf is now obligatory to be able to stage European events in Gibraltar. The recent one held in Cardiff where Grammarians beat Austria by four goals to one giving them first place in the European Cup Division could have been held in Gibraltar. Mr Speaker, Hockey participation in Europe is high and the benefits of Gibraltar staging European events would no doubt, in the near future, offset the initial cost of the turf.

On volleyball, Mr Speaker, even though we would have wanted the Government to financially assist the Volleyball Association much sooner, we hope that the Sport Committee will decide that they should be reimbursed with the amount of money that they originally asked for.

We also believe, Mr Speaker, that there should be a system whereby teams who leave Gibraltar to participate in Europe should be able to get a grant before they leave and not after.

Finally, Mr Speaker, on culture, I would like to mention two points. On the first, perhaps, the Minister concerned can tell the House what is the situation regarding the Ince's Hall. The other relates to the restoration of our ancient monuments. I am sure that the Government is aware that in an answer to a question in the Commons recently, the British Government stated, that under the Gibraltar Museum Antiquities Ordinance of 1982, their maintenance, repair and public display are matters for the Gibraltar Government. We asked the question in this House, Mr Speaker, and the Minister for Tourism said that the sum of £9,000 had been allocated for maintenance and repair purposes. We would like the Minister to give more details as to the substantial sum that he also said had been allocated for restoration of historical buildings, because we cannot see where this is included in the Estimates of Expenditure.

Mr Speaker, when the Government are placing so much emphasis on tourism as one of the pillars of the economy, this means that they should be spending more money in improving the product, and certainly historical sites are an important attraction for tourists.

To round off my contribution, Mr Speaker, I would like to point out to the fact that the Government now claims to be working to an economic plan and that this plan is progressing successfully. However, Mr Speaker, we the Opposition, feel the benefit of this success are certainly not reflected in improvement to basic services which the Government have an obligation to provide the people with.

Thank you Mr Speaker.

HON M K FEATHERSTONE:

Mr Speaker, I said last year - everybody refers to last year - we had a budget of cautious optimism. These words were fulfilled. Our caution was justified. We did not rush last year, heading into give-away till we knew we could fund them. Our optimism has been realised. This year, we have had some goodies to give away, and we hope to give even more next year. Not because it's a run up to an election, but because our policy is to give back to the people as much as we can prudently afford.

This year, on income tax, we have given back to the married couple, something between £5 to £10 per week. I hope they don't spend it all in Spain. This year we have reduced the price of water. Once again this has been done prudently because the waste heat has eventually come on stream and we are saving approximately £200,000 with the use of the waste heat.

Development has been booming, tourism has been doing well, and even Gibshipprepair has done more than they had scheduled. The Finance Centre is increasing daily. We now have a new bank, one of the big five in Britain, Lloyds, and the demand for office space is becoming unprecedented. We are seeing new office space going up in the old Line Wall Christian Brothers School, in the multi-storey car park, in the Water Gardens. I am sure this will all be needed and even more will be wanted. All in all, perhaps we can say we have turned the corner and we are moving towards a more successful era.

Now I would like to turn to the specific departments I have. Housing expenditure is much the same pattern as last year. One innovation of course, is the sum set aside for the cost of the new Rent Tribunal. This we hope will be working shortly and will give good service to those people who feel they need it. Over £1.5m is being spent in Housing Maintenance. There are many houses which are in a poor state of repair and the maintenance is most essential to put them back into a reasonable state. Also a certain amount of money is put aside every year to improve the quality of housing by putting bathrooms in where it can possibly be done. The PWD has been and will continue to tackle these problems with determination and energy.

Now, Sir, much has been said about what are we doing with regard to new buildings. At the moment we have two projects which are new to this year: that is a number of bedsitters in the Alameda Estate and the beginning of a scheme to put an extra storey on the houses at Laguna Estate. The Laguna Estate is gradually getting to the situation that the roofs are in need of repair and rather than just repair the roofs it has been decided that an extra storey should be put on and a pitched roof put on top of that. This is earmarked for this year, it has an 'R' against it, but I am sure it will not be a reserved matter, it will be something that we will push ahead with. Altogether on housing, £1.8m is going to be spent. Some of it is going to be the third phase of the Tower Blocks and this to some extent is the renovation of housing which will keep the Tower Blocks available to us for the next thirty years. If we had not done this renovation they might have deteriorated to a stage in which in ten years time, they would no longer be of very much use to us, and then we would have a real problem on our hands.

With regard to rent relief, we had the suggestion put forward last year, by I think the Honourable Mr Mor, that we should look into the question of giving rent relief to people living in furnished accommodation. We did look into this and the Committee came to the conclusion that it would be better that the persons who were in difficulties with paying their rent

in furnished accommodation could apply for supplementary benefits to the Department of Labour and Social Security, rather than make the general Rent Relief Scheme applicable to all.

One thing that is being done this year is the provision of a new lorry for the Housing Department, the present lorry is in very bad state. It is almost irreparable and it is essential to buy a new lorry this year.

I would not like to leave the Housing Department without giving every credit to the staff of the Department who do an exacting job under very trying circumstances. They have customers who are, in many occasions, very abusive; won't take no for an answer. I can sympathise with many of these people, but the staff are not there to be abused. We had one gentleman who actually climbed through the window to get to the staff, because he felt he wasn't getting the house he thought he should be given. I would also at the same time mention the Housing Allocation Committee, who also do a good job. They cannot please all the people all the time, but they have one house to give and ten people want it. Nine, obviously have to be disappointed. It is a very trying duty, they do it completely unremunerated and I think we should give them all our thanks and all our praise for the good work that they do.

Turning to the Medical Department Sir, the Medical Department takes 10% of the total budget expenditure. I would say we give an exemplary service, although in certain areas it does fall short. I know we do not give everything that the Diabetic Society would like us to give them. Perhaps in future days we can look at this, but at the moment we do not have the money to give them free drugs, free medicines, which is something that they claim is given in England.

On the question of Personal Emoluments, Sir, we have increased the figures for overtime very considerably. This is because we came last year for a big supplementary to cover overtime and this overtime is a two-fold matter. It is expected because there are a lot of nurses doing a considerable amount of overtime, and this could be interpreted as a shortage of nurses. When I said in June last year, there is no shortage of nurses, the situation was that there is no shortage to cover the actual work, but if you wish to take the overtime away and complement the staff by an increased number of nurses, then you could say there is a shortage. This situation is something we are living with at the moment until the team comes out from the UK. I regret that I do not know yet when this team is coming out. This team that is coming out will look into the situation of how our nursing staff can become qualified in Gibraltar up to EEC standard. I accept, and I am not happy, but we have to

accept EEC nurses and our nurses are not accepted by the EEC. That is the situation, it is a fact of life, but until we get our standards improved, we will not be acceptable to the EEC standards.

Already in this year's estimates, we have put in expenditure to allow for some of the improvements that are required. For example, a cordex system which is going to be installed this year. As I have said, I do not know exactly when the team is coming, but we hope they will be here before the end of June.

The expenditure for Visiting Consultants is up this year, because we are getting more consultants coming out to Gibraltar to see to our patients here on the spot. I feel I have to say a little about the situation with regards to sending patients to the United Kingdom. We send patients to the United Kingdom whenever our own consultants feel that they cannot deal adequately with the situation themselves. But, it very often happens that when the patient goes to the United Kingdom, the United Kingdom doctor deals with the patient and says almost automatically, I would like to see you in six months time. This being seen in six months time is to see how the situation has regressed or progressed, and in many instances, that can be done by the doctor or the consultant in Gibraltar. It is only the initial diagnosis that is necessary in England, the continuing follow up can be done by the consultants in Gibraltar. But many people feel that because the doctor in England has said, 'I would like to see you in six months time', it is absolutely essential that they must be sent to the United Kingdom. To send somebody to the United Kingdom is a very heavy expense on the medical services, so I would put it to the House that whenever somebody comes back from the United Kingdom having been seen by the consultant there and the consultants in Gibraltar feel that they can continue the follow-up service adequately, then it should not be necessary to return the person to the United Kingdom. If the consultant here feels that it is preferential that the person goes back to the UK for further investigation, then of course this is always done. I would also mention that with regard to sending patients outside of Gibraltar for treatment, we have been offered facilities from Spain for certain types of treatment and we are looking into these. In fact, we are already taking them up in certain circumstances. We had one gentleman, who we couldn't send to the United Kingdom, because he had to go three times a week to be dealt with. He would have had to be based in the United Kingdom permanently so that he could be treated. But he can be sent to La Linea, to the hospital there, where they can treat him in what he needs, that is kidney dialysis. He is being sent at the moment on a three times a week basis. We are also able to do brain scanning in Malaga. We sent one or two people to have a scan in

Malaga and the visiting consultant from the United Kingdom saw the scan and found that they were absolutely excellent. So that this once again is a facility which we can use within local needs rather than go to the greater expense of sending patients to the UK.

Now in the Health Centre, we have provided less for the cost of drugs for this year, and as the Honourable Financial and Development Secretary promised, I said I would explain how the 20p increase in drugs is worked out. The average cost of a prescription used to be around £3.50, and of that £3.50, £1 was paid by the patient and £2.50 was paid by the Government. Over the last year this average cost has gone up from £3.50 to £4.00, an increase of 50p, and Government felt it would not be unjustified that this increase should be shared between the patient and the Government: the patient paying an extra 20p and the Government paying an extra 30p. I assessed the 20p on £1 as a 20% increase, but had it been 20p on 20p it would have been 100% increase. I think percentages are not always the best way to look at it. The situation is that it is a 20p increase out of a total of 50p. Government has previously taken the major amount of the increase and I think it is only right that the patient should suffer some of the increase himself.

One thing about the cost of drugs this year that we hope to do is to get the doctors and the chemists to start using what are called generic drugs. A generic drug is, for example, there is a drug called paracetamol, which is the same substance as panadol and various other types of names. Panadol costs about £1.00 for 60 tablets, whereas paracetamol costs about £1 for a 1000. They are exactly the same medicine, it is simply that the trade name has in the beginning of the drug been used and now the trade name has fallen into the period that it is no longer a patent in name and this generic drug can be given instead. And it is hoped that the public will accept generic drugs. It may be that you have been used to being given a little yellow tablet and now you will get a white tablet, but it will do just the same amount of good and it will cost considerably less. This is something we hope to start using during this year.

Our surgeons have done excellent work in spite of the great number of extra operations they have had to do due to the incidence of motor cycle accidents, which I am afraid have been going up in Gibraltar very considerable. We have an excellent orthopaedic surgeon and he has done wonderful work.

Departmental earnings have increased over 1984/85, by some £180,000. This year we have estimated the same figure of 85/86, although we are hoping that it will be a greater amount as more persons come to our private corridor from the Costa

lel Sol and make use of our medical facilities. The great influx of EEC persons who were going to flood our medical centre has not materialised, although we do treat any person who falls ill in Gibraltar as an emergency. There was one I saw a couple of weeks ago, a Spaniard was taken ill in Main Street with a heart condition, he was taken to the hospital and after three days, he was taken by ambulance back to Madrid. I am very happy to say that he is much recovered and he has sent us a very nice letter of appreciation for the good services that Gibraltar rendered to him. For a Spaniard, I must say he did well, he said 'long live Gibraltar'.

The question of Spanish pensioners, I think I have explained before. If they have any pension rights for any work done in Spain or elsewhere in the EEC then they cannot claim against Gibraltar. I am afraid I still haven't found out what form 121 is. Perhaps the Honourable Member who shadows me would be good enough to enlighten me sometime. The situation of the costs of the Spanish workers families, who are seen in Spain and who eventually will get their bills sent to the United Kingdom for onward transmission to Gibraltar is something which is very difficult to quantify. I would think they would take eighteen months to two years before the first batch of bills actually comes through, and until that happens, knowing the way the civil service works very quickly in all these things, it is very difficult for us to quantify how much would be the amount that it is going to cost us. It may be that it doesn't cost us anything, it may be that the reciprocal arrangements between Britain and Spain balance each other off, but when that amount does come through, it will show up in the estimate, possibly in 1988/89. I am afraid that it will be envidious to put any amount in at the moment.

The other points that were mentioned by the Honourable Miss Montegriffo, was the question of Hawkers Licenses. They are basically two types of licenses, an A licence and a D licence. I think the A licence carries with it the right to a certain area where you may actually set up and do your hawking of goods. I know a specific problem which she has brought to my attention, and we are looking into it, but I am not sure exactly what is the position with an A licence, whether you can be there on a permanent basis or whether you should be there for certain periods of time and then move off to somewhere else.

HON MISS M I MONTEGRIFFO:

What I was referring to really is this new concept that the Government seems to have now by designating certain areas for competitive tendering.

HON M K FEATHERSTONE:

I haven't seen that the 'A licences' have been put out to competitive tender, I believe.....

HON MISS M I MONTEGRIFFO:

The site.

HON M K FEATHERSTONE:

The site, I don't think they were put to competitive tender, I think they were asked for and they were given to the persons concerned in order of priority.

As I have said before, I think the Medical Services in Gibraltar are exemplary and I think we should be very grateful to all our medical staff and nurses for the high standard which are given.

In answer to the Honourable Mr Perez, the Motor Vehicle Testing Centre was estimated in 1985/86 to give £95,000 collected at the centre and this for 1986/87 has been estimated at £100,000. And this is in respect of driving tests fee, first issue of driving licenses, examination of goods vehicles, public service vehicles, and registration of vehicles. The provision for the Vehicle Testing Centre made in 1986/87 has been offset by a possible reduction in the new motor vehicle registration as there were 244 new private vehicle registrations compared to 900 in 1984.

Also speaking to Mr Perez, the question of the subvention to the Gibraltar Quarry Company, this I think should not be taken as a precedent, but the situation was that the high overheads of the interest on the overdraft were making it impossible for the Quarry Company ever to become viable. It is now hoped with the subvention that the Quarry Company in the ensuing two years will make itself a viable proposition. Thank you.

MR SPEAKER:

We will now have a very short recess for tea.

The House recessed at 5.15 pm.

The House resumed at 5.40 pm.

HON J L BALDACHINO:

Mr Speaker, seeing that the Honourable Member, the Minister for Housing has already exhausted his contribution.

I would be willing to give way if he thinks necessary to ask for anything during my contribution.

The Honourable Member mentioned the allocation of funds for the Rent Tribunal. The impression I got was that the Rent Tribunal had still not been implemented and he still has not given any date for its implementation. Seeing that the Landlord and Tenants Ordinance is now in operation Mr Speaker, and the Rent Tribunal is part of the Landlord and Tenants Ordinance doesn't that contravene the law by not having a Rent Tribunal set up. I think that we should have a date on which the Rent Tribunal will come into existence, as indeed the implementation and the measures that they are going to carry out for the Reserve Fund which is also included in the Landlords and Tenants.

During the year, Mr Speaker, something became a controversial thing, and I am talking about the way that the bedsitters were allocated, and seeing that we have in the Estimates that they are now going to build more bedsitters than before, apart from Knights Court and St John's Court, with a revote from last year. We also have now Alameda House and we wonder what is the policy, Mr Speaker, for bedsitters. Is it going to be the same policy as they used in the Laguna. And I am saying this Mr Speaker, because, during the controversial days of the way the bedsitters were allocated at Laguna, I was quoted in the Chronicle as having said that this was a new Government policy. This was answered by the Honourable Minister by saying that they had done this before with the Prince Edward's Road bedsitters. I then wrote to the Honourable Member, and this was about a year ago, asking him where and by whom it was announced, and I still haven't had an answer even though I wrote him a second letter. I still haven't had an answer. If we take it, like what the Honourable Member has said during a question of mine, that they consider that the Housing Allocation Scheme is sacrosanct except when they use it for things like they did for the Laguna. The Housing Allocation Scheme is a responsibility, if anything has to be changed in that allocation scheme under the Housing (Special Powers) Ordinance, he has to come to this House, because it is the responsibility of this House by resolution. And the Honourable Member can check this if he wants to. But I am not too much worried about that Mr Speaker. The thing is that the Government declared it as historical, even though we were not in agreement, not with what they had done with the bedsitters, but the way they were implemented. But the funny thing about it, that half way, Mr Speaker, they have changed their policy. And I am saying this because people that were supposed to be allocated a bedsitter in Laguna, because they were in the bedsitter housing list, and during this controversial thing and the Government using the bedsitters for something else, they were then, when Tank Ramp remodernisation was carried out, were given a two bed-

room flat. In other words, the musical chairs policy was undermined and also the Housing Waiting List was no longer sacrosanct, even though I understand they had eleven refusals. But if they had eleven refusals, I am sure there were more than eleven people waiting for a two-bedroom flat. I am not in disagreement that they shouldn't have been allocated, but the way the Government implement its policy, it declares its policy and then they do something else, this is the point I am trying to make. If they declare a policy, I think that they should stick to it. And if they don't want to stick to it, at least they should come to this House and say why they are not sticking to that policy.

The Honourable Member mentioned that they are going to spend £1.5m in maintenance I would like the Government to say if any of the money that they have got from selling properties and the sale of Government housing is going to be used for that. Because originally I thought that the idea behind it was that the money was going to be used for building more houses which this Head does not show. Because the difference between one and the other does not show that it is the money that they have recovered from the sale of property and Government Housing does not compare to what they are spending.

Up to the 31st March 1986, the Government have got from these types of sales £942,500, and if you consider what they are going to spend on new buildings, and I am talking about new and not buildings that were there and they are remodernised, I am talking about new projects, they are going to spend, if we consider that they are going to spend the £150,000 on the Laguna, which the Honourable Member mentioned, they are only going to spend £240,000. The difference is great and does not compare to what they say they have. And also, Mr Speaker, the extra storeys at Laguna Estate will not be completed this year, because they have a balance to complete this. Therefore, it is not that we will be getting new houses this year for the extra stories at the Laguna. Also as the Honourable Member mentioned, the 'R', the reserved vote, I understood it that the things that they had on the Estimates, an 'R' was an expectation that they will get ODA money for such a project. I would also like to know, even if they don't get ODA money for such a project, are they really going to use their own funds to finance those projects.

I would also like to know, Mr Speaker, what is the policy of Government on housing, because to me it is still not very clear. The Honourable Member said last year in reply to one of my questions, that to his knowledge, 700 houses were required in order to find a solution to the housing problem in Gibraltar. Now that they have the money, that is not reflected in the project that they want to carry out. I would like to know, if

now that they have the money, why are they not carrying out the policy that the Honourable Member mentioned.

Also, Mr Speaker, the problem buildings, and the Honourable Member mentioned that they were going to build toilets; I would like to know how many of the 788 Government council tenements they intend to fit with bathrooms and toilets.

HON M K FEATHERSTONE:

By problem buildings, we mean buildings like St Jago's, which is an area where sooner or later everybody will be evacuated and the building itself will be dealt with.

HON J L BALDACHINO:

Also Mr Speaker, because it is an important part, I think, of any policy, not being too sure that is the policy of the Government on housing, then one is very limited on how one could put ideas across to the other side. Also the housing scheme, Mr Speaker, we have had no feedback on what they intend to do with the scheme, because it depends on what your policy is, what kind of scheme you have. If we consider that the scheme, the revised scheme of 1980, is under review, and it has been under review for six years now, have the Government got the intention of changing the scheme? And if they have, what is their policy and how are they going to change it and what do they reckon needs any change.

On the whole Mr Speaker, I cannot extend myself a lot on housing, because as I have said before, one has to know what is the policy to give ideas or to give advice to the Government if they want to take it, on which way they ought to go. By how much do they intend to reduce the housing waiting list, one cannot arrive to anything from what the Honourable Member has said or by what is reflected in the Estimates. I think that the Government should consider allocating more money for building more Government housing, because there is a need and a social problem that Gibraltar can ill afford.

HON R MOR:

Mr Speaker, you may recall that last year at budget time I told the House about what a friend of mine had told me just before coming up, and that the first thing he had said to me was that he had just seen Brian Traynor with his hands in his pockets for a change. It was last year. Well quite by coincidence, I met him again this morning, and because I remembered what he had said last year, I asked him: have you seen Brian Traynor this year? And his reply was, 'No, but I have just seen someone who looks like him carrying a massive pile of car seat covers'. We are quite mystified, Mr Speaker, about this

budgetary measure of lowering the duty on car seat covers. We could have perhaps understood that Colonel Gadiffi T-Shirts could have had the duty lowered so that we would have exported his shirts to Spain as they are so overjoyed about him. Any way we carried on talking about the budget and about the Financial and Development Secretary. I do have a lot of respect and admiration for the Honourable Member and I did mention during the course of the conversation that I thought that the Honourable Member was a very clever person. And he said, yes, very clever, but sometimes I get the impression that his brains go to his head.

Anyway Mr Speaker, if I may now refer to the Department of Labour and Social Security. In his 'speechless' intervention, Mr Speaker, the Honourable and Learned the Chief Minister yesterday morning referred to ODA. I can appreciate Mr Speaker, that the question of ODA is a matter of particular concern to the Government and indeed it is a matter of particular concern to the Opposition. What is perhaps relevant to this issue is the question of Spanish pensions. Now I can remember at a meeting of the European Movement, when we had Doctor Peters giving us a very interesting lecture on the EEC, a very agitated or perhaps I should say excited Minister for Economic Development and Trade, the Honourable Mr Adolfo Canepa.

HON A J CANEPA:

I was not excited, why should he say I was excited.

HON R MOR:

That is what it appeared to me.

HON A J CANEPA:

A journalist for AREA said the other day that I was always very 'tranquilo'.

HON R MOR:

Well, like I say it is a matter of opinion.

At the time he expressed his concern that the question of Spanish pensions would influence the amount of ODA funds which would be made available to Gibraltar and that what in effect this would mean is that we the Gibraltarians would end up paying for these pensions. Mr Speaker, what the Honourable Mr Canepa, said at the time, is in fact now a reality.

HON A J CANEPA:

I didn't say we were going to end up paying for it. I refuse to believe that I said that. I didn't say that. That might be your recollection, that is how you wish to construe what I said. I didn't say that the people of Gibraltar were going to end up paying for the pensions.

HON R MOR:

With due respect, Mr Speaker, I remember perfectly that that is what the Honourable Member said.

HON A J CANEPA:

I deny that categorically.

HON R MOR:

The Government has made a bid to ODA for £40m we understand, and as we learned yesterday, £8.4m has been made available, out of which.....

HON A J CANEPA:

What are you talking about. The Honourable Member, Mr Speaker, doesn't know what he is talking about. Has he taken leave of his senses this afternoon? Has something happened to him from last year. He doesn't know what he is talking about. He is uttering utter tripe this afternoon. We did not make a bid for £40m. Where did he get that information from?

HON R MOR:

Right, Mr Speaker, he is utterly correct, the sum of that figure was altered later, but originally it was £40m.

HON A J CANEPA:

We put together a development programme worth nearly £40m. We didn't ask the ODA for £40m. That is a nonsense.

HON R MOR:

£8.4m has been made available, out of which £2.4m is for GSL. That I understand is what you said yesterday. And of course, Mr Speaker, as we know £16.5m has been made available by the British Government to meet the cost of the Spanish pensions. And this was thought to be a particularly satisfactory deal by the Government of Gibraltar. It is quite obvious, Mr Speaker, that the way the British Government will look at this, is that

£16½m and £8.4m, that would be £24.9m, and that that together with the amount already spent on the commercialisation of the Dockyard is more than ample for Gibraltar. Yes, Mr Speaker, £6m would be available to us for investment in Gibraltar and for development, and it would, therefore, be of interest to this side of the House to learn what the Government intends to do about it. The only other point that I would like to raise on the Department of Labour and Social Security is that this side of the House would like an idea of the amount of administrative expense that is being currently put up by the Government to meet the payment of Spanish pensions.

If I may now go to Education. The Minister for Education has given us a good picture of the performance that has been undertaken lately by the Education Department, and comments will be made in due course of that, but there is the question of the scholarships. The Government still intends to award 45 scholarships this year, and as you know, Mr Speaker, as I have made clear in this House on previous occasions, the question of scholarships is of particular concern to this side of the House. In the estimates presented before us, there is of course no indication of an improvement in the awards of scholarships. The Government is still adamant in maintaining the pointage system. Now, what we feel is basically wrong with the system is that the acceptance of a candidate at a University should be a matter of criteria to the University concerned to set this standard of entry or acceptance, and we feel that it should not be the Government of Gibraltar who should do this through the point system. Mr Speaker, I think there is a contradiction in Government policy on education: on the one hand, they accept the comprehensive system as opposed to the old 11+ system. Why? Because, quite obviously the comprehensive system allows a better opportunity for students to make the most of the educational services. The comprehensive system does not allow for the condemnation of students at any age which is what happened with the 11+ system. The 11+ system as we all know, used to condemn children at the age of 11 and what it achieved was that they practically acted as a factory machine which seemed to wish to eliminate the rejects of society. In other words, Mr Speaker, at the ripe old age of 11, the powers that be decided on whether a child was going to be a success or fit for further education in later life or not.

So what is the position now, Mr Speaker. The position is that the Government of Gibraltar does not now condemn children at 11 but it does so at 17. With the pointage system the Government is in fact inflicting the same damage to the students potential and opportunity as the 11+ used to do. I, therefore, feel Mr Speaker, that having the comprehensive system and at the same time having the present scholarship awards pointage system is contradictory. And what I feel is that the Appropriation

Bill should reflect an increase on the money needed for scholarships, so as to enable every student who can obtain a place at a University because of his qualifications, to be granted a scholarship.

If I may refer to the presentation of the expenses of the Education Department, Mr Speaker, it is not very clear, as regards the expenses in connection with the College of Further Education, what we would like to see in future is having the College of Further Education put separately in the accounts so that we can then monitor whether the expenses are higher or lower. As it is at the moment, there is no way of telling whether it was better or it was cheaper when it was being run by the Royal Navy or whether it is cheaper now. I also understand, and this follows from the questions which were asked some time ago in the House, that part of the buildings which are within the complex of the College of Further Education are in a very bad state of disrepair, and there is nothing showing in the accounts for this year which indicates that this will be put right. I think that completes my contribution. Thank you.

MR SPEAKER:

I think that this will be a proper time to recess. The Honourable Dr Valarino is going to have a five minute contribution.

HON DR R G VALARINO:

Mr Speaker, Members will have noticed from the Employment Survey Report for October 1985, which I tabled at an earlier stage in the proceedings, the total number of persons in employment rose from 11,115 in October 1984 to 11,626 in October 1985, ie an increase of 511. The main employment trends shown by the Report are that employment in the Commercial Shiprepair Yard has increased by some 150 between April and October 1985. The employment in the Private Sector as a whole rose by about 350 since April 1985. It is estimated in the Report that between 350 and 450 Private Sector jobs are being created excluding those in the Shiprepair Yard between October 1984 and October 1985. Even more encouraging are the results shown on the return of Insurance Cards at the end of 1985, which gives a more accurate picture of persons in insurable employment. The figure for the end of 1985 and there are still a number of cards which have to be returned, in fact which have not been returned, is 12,533 as against 11,794, at the end of 1984, ie an increase of 739. In my view, the most significant increases have been in the retail trade, 112, and in the field of banking, insurance legal and accounting etc, plus 99, when many of the new jobs will have been filled by Gibraltarians. In any event an increase of 739 jobs is a clear

sign of the rising trends in the economic activity in Gibraltar.

I would like to say that similarly in the return of employment cards, employees in hotels, restaurants and cafes have increased by 151, but the majority of these will not be Gibraltarians; I suppose the ones which I have already stated.

Now the frontier opening and the accession of Spain to the European Community has added considerably to the workload of the Department. The resumption of payment of pensions to the Spanish pensioners has more than doubled the number of payments made by the Department, and it has been necessary to introduce new procedures to deal with questions such as family allowances, unemployment benefits, medical benefits, etc, for frontier workers. This has involved the employment of additional staff. I am pleased to say that the Department is coping adequately with the extra burden, due, in no small measure, to the enthusiasm and cooperation shown by the staff in meeting this new challenge. Now, here, in answer to a question from the Honourable Mr Mor, I would like to say that I cannot at this moment quantify precisely the cost to the department of dealing with enquiries, applications and payment of pensions, but I will let the Honourable Gentleman know the figure as soon as possible. The Inspectorate Section is kept particularly busy by the influx of frontier workers. Over thirty cases of illegal employment have been detected and reported to the Attorney General's Chambers since September 1985, and an even larger number of cases, whose employers have not been established in Gibraltar, have been reported to the Immigration authorities for appropriate action. There have been sixteen convictions and corresponding fines in the Magistrates Court on cases of illegal labour.

It is proposed to acquire a micro-computer during the course of the coming year which will enable the Department to improve its labour records and maintain up-to-date and more detailed information in this respect. In the longer term it is hoped to computerise the Social Security records by making use of the Government's main computer as soon as priorities permit. Both these measures should go a long way towards improving the efficiency of the Department. Members will have noted that the scheme for granting credits to the over-60's has recently been publicised in the press and on television. This publicity has been designed to elicit a more positive response from the public to enable the Department to re-assess the scheme and consider whether any improvements can be introduced.

As far as training is concerned, it is proposed to continue with the Youth Training Scheme which comprises a one-year course of basic skills in the Construction Industry. However, before

deciding whether the accelerated course for craftsmen and employer-based scheme should be continued next year in the present form, I have asked the Youth Employment and Welfare Council to carry out an in-depth study of training needs, and I am expecting a report with the recommendations shortly. Once the report is received, and before any final decisions are taken, I also propose to seek the views of the Industrial Training Board, which has recently been reconstituted with a new Chairman, which has not yet met pending the receipt of the report by the Youth Employment and Welfare Council.

Finally, Mr Speaker, as I mentioned at the last meeting, the representations recently made in respect of one-parent families are currently under consideration by the Department and I hope to be in a position to report back to the House on this matter at its next meeting.

Thank you Sir,

MR SPEAKER:

We will now recess until Monday morning at 10.30 am.

The House recessed at 6.10 pm.

MONDAY THE 21ST APRIL, 1986

The House resumed at 10.40 am.

MR SPEAKER:

I will remind the House that we are still in the Second Reading of the Appropriation Bill and I will invite any contributor to have his say.

HON J B PEREZ:

I would like, Mr Speaker, to deal mainly with those departments for which I am responsible, and in doing so I will try and outline the work that each department has carried out throughout the last year, and also the work which will be carried out in the following year in connection with the Appropriation Bill before the House. At the same time during my contribution I will, of course deal with a number of points which have in fact been raised by the Members opposite, in particular the points raised by the Honourable Mr Juan Carlos Perez who is the spokesman on behalf of the GSLP for Government Services.

Mr Speaker, the departments which I am responsible for are the Prison, the City Fire Brigade, the Electricity Department and the Telephone Department.

As far as the Prison and the City Fire Brigade are concerned, these are departments which have been working extremely well throughout the year. They are departments which I think really work behind the scenes and really provide an essential service to the community, and it is only when something in fact drastic happens, that people become more aware of the importance of these departments. I say that in particular of the excellent work carried out by the City Fire Brigade following the collapse of the wall in Cooperage Lane. It is unfortunately when these incidents happen in Gibraltar that you see the performance of these particular departments. The Honourable Mr Perez asked whether we were contemplating purchasing a rapid intervention vessel in connection with the City Fire Brigade. Well I am sure the Honourable Member will see that the Government policy is to continue to provide the service of the City Fire Brigade. You can see that in the Estimates of Expenditure for the year 86/87. But it is also the Government's policy to strengthen the service that the City Fire Brigade provides. You will see in the item of Special Expenditure that we are spending quite a large sum of money in connection with equipment for the City Fire Brigade for the year 86/87. Now the question of the rapid intervention vessel is something, Mr Speaker, that one has to consider very carefully, because you have to consider whether something is essential, desirable, or whether it is a nice thing to have. It is not just a question of the capital cost of a rapid intervention vessel. Let me say, Mr Speaker, straight away, that we are talking about the sum of about £50,000. This is what a good rapid intervention vessel costs. You can't just buy any old type of vessel which you are going to use for the City Fire Brigade. But it is not just the capital expenditure, we have to consider the expense of maintenance. We know from the Police how much it costs to maintain a vessel. And also of course, one has to consider manpower, because I think that if you have a rapid intervention vessel, you may have to set up a marine section. You may require or necessitate the employment of further people. But let me assure the House that the Government is not standing idle on this. We have a very straightforward policy on this matter, which we intend to carry out during a period of time. Primarily, what we intend to do first of all is to consider the shore to ship approach, because my information is that most fires aboard vessels should, in fact, be fought primarily from land. This is the information that I have. For example, if you have a fire in the North Mole, the fire would of course be tackled from land. In the Detached Mole, similar cases apply. And in connection with the Marinas, let me add that our policy has always been on fire prevention. The City Fire Brigade would advise Marina owners of certain appliances that they ought to have available. But of course, one is conscious of the fact that a rapid intervention vessel will have to be purchased sooner or later. The thing is one has to await, look at the thing properly, set it

all out and yes, with the Marinas being set up in Gibraltar with the different developments, a rapid intervention vessel will obviously have to be purchased. Now whether it is purchased during this financial year or the next is another matter, but of course, the Government has already looked at this and has already set a target of things it wants to do for the Brigade.

Coming to the Prison, I said in answer to a question in this same meeting of the House, that we are in fact considering the resiting of the Prison. The idea being that the Moorish Castle would be a welcome site, by I am sure the Minister of Tourism, because I think it would be an added attraction for our tourists, not only to see St Michael's Cave and the Upper Galleries, but to have the Moorish Castle available. But again this is a matter which would involve considerable capital expenditure and the matter is only at present at the drawing board stage.

On the Electricity Department, Mr Speaker, I would like to first of all give the information requested by the Honourable Member opposite, and that was in connection with the ancillary services. He asked whether the wages of these employees came under Sub-head 2 solely, or whether they also came under Subhead 6. Well, the answer is that they come under both. They come under Sub-head 2 which goes on to the King's Bastion, and Subhead 6 which is the vote for Waterport. The breakdown requested by the Honourable Member is as follows: Perhaps I ought to say, Mr Speaker, first of all that the ancillary services works to both stations, but that the bulk of the skilled employees are in fact based in King's Bastion. I am of course referring to the painters, carpenters and masons. Now, those based at King's Bastion, are seventeen in number. We have budgetted under Subhead 2 a total sum of £100,000, and for Waterport, where we have mainly the non-skilled, we have seven in number and we have budgetted for £40,000. That is the breakdown on both subheads requested by the Honourable Member.

HON J C PEREZ:

If the Hon Member would give way. The point that was made was that the cost should perhaps have been shown equally on both, rather than where the men were stationed, because you yourself have said that, although there are seventeen in King's Bastion that doesn't mean that the seventeen are employed fully in King's Bastion.

HON J B PEREZ:

Yes, that is precisely correct. The point is taken, Mr Speaker, it is just that the answer I have given is really in connection with a question that the Honourable Member put, but that is the

way it has been done for years, except that of course, Waterport has only been in existence for the last two years. Yes the point is taken, perhaps we ought to consider in future years whether in fact one may be able to strike a better balance. The bulk of the sum is put under Subhead 2 precisely because the workshops are in fact in King's Bastion.

Now coming to the Electricity Department on which I am, I would like to deal with a number of policy matters, which are primarily aimed at looking at the present and the future needs of the consumer. This applies not only, Mr Speaker, in technical matters, but also in connection when finance is in fact considered. I will refer primarily to the FCA the fuel cost adjustment legislation. Now the Government's policy, Mr Speaker, through this legislation is aimed at recuperating from consumers the fuel related cost of production. With regard to fuel prices it follows that flexibility is required in our tariff to accommodate changes in fuel prices which of course depend on market conditions. In fact, in the last twelve months the surcharge has decreased by about 2p per unit resulting in a cost reduction of about £5 per month to the average family. If we did not have the FCA legislation, which I say is a Government policy, then of course, what would have happened is quite simply that we would all have had to pay an extra £5 a month in connection with our electricity bills. I can also tell the House, Mr Speaker, that the total amount which the Government have in fact passed to consumers, is £665,000. Of this sum, £300,000 is in respect of domestic consumers, the balance of £365,000 has been passed on to those which are commercial and industrial.

Now let me again reply to the question put by the Honourable Member opposite, and that is, that the answer I gave to him during this meeting of the House was in fact correct. The correct one is the answer I gave, the figures appearing in the Revised Estimates are in fact incorrect. The reason for that is quite simply that departments are asked to submit any variations during the year, the Electricity Department submitted one in November, it submitted one in February, but of course there wasn't enough time to change the Revised Estimates. But the answer I gave, is in fact the correct one.

The other point I ask the House to note, Mr Speaker, is that it is expected that the fuel prices will in fact drop further in the next few months. That is the forecast that we have at present. Now the other point that I wish to make quite clearly, is that it is in fact extremely difficult to be able to reduce the cost of electricity in Gibraltar. Primarily for two reasons, the main cost are borne by wages and the second element is the question of the cost of fuel. The only way one can do that, which is not Government policy, is by further contributions from the Consolidated Fund. Personally I would love to be able to say

to the House that, yes, in the foreseeable future the cost of electricity will come down for the consumer but that simply cannot be the case, unless as I say, the only way out is to have a further contribution to the Consolidated Fund. Because for simple reasons, if you have a shift, if you look at the employment side, if you have a shift for four or five men, the fact is that you cannot cut down further to what the present complement of the shift is. So even if you have in certain sectors of the Electricity Department where there could be a natural wastage or redundancies or what have you, the cost to the consumer of the electricity would be nominal. It is only really the cost of fuel that could have a very strong varying on the cost of electricity to Gibraltarians.

Another point of the Department which ought to be borne in mind is that we recently purchased a third generator set for Waterport Station, another five megawatts engine, at a total cost of around £3m. This engine, Mr Speaker, has now successfully completed its trial run at the manufacturers works and is currently awaiting shipment. In fact, I am informed that the engine is due to arrive in Gibraltar at the end of this month and I would hope that it would be fully operational to cope with the ever increasing load expected in the coming winter months.

Once again, Mr Speaker, this is a partial fulfilment of the policy of gradually reducing generation at King's Bastion, which is in the centre of the city, and centralising all plants at Waterport. The aim behind this is of course to provide up-to-date facilities for meeting increased demand for electric energy whilst at the same time providing a healthier environment in our city leading in due course to the release of a prime site for development. It is also the Government's intention to continue with this policy, and I have already stated publicly that it is our intention to purchase a fourth generating set for Waterport. The purchase of this set is a matter which is still under consideration.

Mr Speaker, the frontier has now been opened for a full year, and without allowing for differences in the weather over the two previous winters, sales of energy have actually increased by a figure in the order of 4%. Since this last winter, the first with a fully opened frontier had less severe extremes in temperature, I feel that the real increase is well in excess of the 4% recorded. For this reason also the increased economic activity was not reflected in a higher peak demand, but the full effect would be apparent once the many development projects at present either under construction or at a planning stage are completed and connected to the system. Then, and only then, would the full impact of this activity be reflected on power demand, and as I have already said the

object of all forward planning is to cope with the situation for the benefit of all consumers and of course to the economy as a whole.

the
Mr Speaker, coming now to the four Departments for which I am responsible, the Telephone Department. This Financial Year, 85/86, has proved to be a highly successful one for the department. The estimated deficit of £427,100 has been reduced to £166,000 during this last year, and as you have heard the Financial and Development Secretary say in his contribution on the Finance Bill, it is expected that the fund will be in surplus by the end of this forthcoming Financial Year. I think the Department has laid the foundations as far as Telecommunications is concerned, because I feel that it is an area of growth and it is an area which plays an important part in an expanding economy like ours. Amongst the major achievements of the Telephone Department last year was the successful renegotiation of international rates with Cable and Wireless for a higher share of the incoming traffic. The negotiations which commenced in December 1984, were finally settled in May of 1985, and were in fact back-dated to the 1st January 1985. Negotiations with the Spanish Telephone Company 'Telefonica' on the apportionment of shares were also held during the course of the year, both in Gibraltar and in Madrid. The agreement which was established on a 'sender keep' basis conformed to CCIPP recommendations and was concluded successfully in March of 1986. The Department was, therefore, able to maintain the reduced charges for direct dialling calls to Spain as envisaged in 1982.

A major part of the year was spent on the evaluation of proposals submitted by both Cable and Wireless and British Telecom for the involvement in Gibraltar's International Telecommunications Services when the Cable and Wireless franchise terminates at the end of 1987. Intensive discussions were held with Cable and Wireless and British Telecom, both here in Gibraltar and London. Both proposals have now been evaluated and the matter is shortly to be considered by Council of Ministers for a decision. Let me assure the House, Mr Speaker, of two things. First of all that the interest of the present employees of Cable and Wireless will be fully protected, and, secondly, that there will be full consultation with all concerned.

During the course of the year, Mr Speaker, the department's operating switchboard came under stress due to a 40% increase in manual operator traffic which occurred on the opening of the border. The department was able to recruit two temporary operators who helped out over the peak period when serious difficulties were being encountered. As soon as it was known that there would be a three month's delay in the connection of the land line with Spain, the department, in close co-

operation with Cable and Wireless, was able to provide direct dialling facilities with Spain, using the satellite route to Spain via London. Eight circuits were opened exclusively on this route and arrangements have been made to transfer these normal outgoing routes as soon as possible. The department was also able to finalise the land connection with Spain for direct dialling, and the service was opened on the 23 March under live field trial conditions. No technical problem have been encountered and it is expected that the service will be inaugurated officially in the not too distant future.

This leaves me, Mr Speaker, to now deal with the points made by the Honourable J C Perez, in which he said that his party was opposed to the arrangements for direct dialling with Spain. I think, Mr Speaker, that this is regrettable of the stand which has been taken, because quite honestly, Mr Speaker, it shows a complete and total lack of knowledge and understanding by the Honourable Member opposite of how in fact international telephone communications really work. If not, if he knows how it works, then I can only describe his attitude as an irresponsible one. I will give him the benefit of the doubt and go to the former. His comparison with the airfield I think is ridiculous and absurd to say the least. I think, Mr Speaker, we all know that the policy of this Government is very clear. We are very clear on the matter, and that is that Gibraltar should not be dependent on Spain for our essential services, be it electricity, be it water, or be it international telephone communications. The policy is quite clear. Now let me assure the Honourable Member, and Members opposite, that the arrangements for direct dialling with Spain in no way, in no way, does it affect the policy which I have just outlined, which has been the Government policy for years. This has not changed and has not been affected in any way. Let me say, Mr Speaker, that Gibraltar is not in any way dependent on Spain for its international telephone communications. In this sense, Gibraltar is not considered as an extension of the Spanish network, either by Spain or by other countries, and that is quite clear, Mr Speaker. You cannot call the United Kingdom via Spain. Neither can a Spanish national phone the United Kingdom via Gibraltar. Gibraltar has its own international country code, 350, which not only appears in telephone directories around the world, but is the recognized code by also administrations, including Spain. Even in neighbouring Spain, our international country code is 7. The only difference is that calls from Spain to Gibraltar and Gibraltar to Spain are made via a land line and not via satellite, although nothing prevents us or the Spaniards from doing so. You can phone Spain via the satellite and pay 70p a minute if you so wish, that is quite clear. Furthermore, Spain itself considers calls to Gibraltar as international calls and vice versa. In fact, both administrations, both the Gibraltar administration and Telefonica monitor all these calls for

accounting purposes. Furthermore, each administration, both Telefonica and Gibraltar, is free to charge its own subscriber whatever it wants for those calls. Spain leases Gibraltar's national circuit and Gibraltar leases Spain's national circuit, either way. In introducing direct dialling with Spain, Mr Speaker, there were two options, one via satellite, which is what was done in December of last year, the second option was via landline. Via satellite means that a call would have to go from Gibraltar to London, London Madrid - and if you were phoning La Linea then it would go to La Linea. And what happens there.....

HON J BOSSANO:

We are not questioning the desirability of using the landline as opposed to using the satellite, we are questioning the desirability of using the national code. Is he saying that on the landline you cannot use the national code, is that what he is saying?

HON J B PEREZ:

What I am saying, Mr Speaker, is the policy is quite clear. We do not wish to be dependent on Spain for any of our services. The points made by the Honourable Mr Perez in his contribution, because he referred to the airfield, not me.....

HON J BOSSANO:

But Mr Speaker, I am asking the Honourable Member a question.

HON J B PEREZ:

Yes, I am answering the question. What I am saying is, we are not in any way dependent on Spain for international telecommunications. The arrangement made, even by Spain, they don't consider in the international sense, Gibraltar as part of the Spanish network, so why should the Opposition say so. Even Spain don't say that. We have our own international country code, 350.

HON J BOSSANO:

Is the Honourable Member saying that the international country code of 350 can be used on the landline?

HON J B PEREZ:

No, not on the landline, of course you cannot use it on the landline. What I am saying to the Hon Member is to explain why we are not in any way dependent on Spain, is that if any

person wishes to phone Spain he has an option: he can either go via satellite and pay 70p a minute, or go via the landline and pay 20p, to phone Spain. What you cannot do, this is why we are not dependent, is that to phone the UK, you cannot phone through the landline with Spain, you phone direct by satellite. So in no way can Gibraltar be dependent on Spain. That is the point I wish to make and the point made by the Honourable Member opposite was to try and pretend that we were dependent of Spain, and I am saying quite clearly, we are not.

Now, coming back to the question of the satellite, I said if you wanted to phone La Linea, it would be Gibraltar/London, London/Madrid, Madrid/La Linea, and there are four people who participate in the collection of fees: the Gibraltar administration, Cable and Wireless, British Telecom and Telefonica. So the payment is divided between four. Via the landline, it is just an arrangement and a collection between the Gibraltar Administration and Telefonica. Now, why was Cadiz chosen, well quite simply it was chosen because of proximity. That is all. But Gibraltar continues to have even via the landline, its own country code, which is 7. And as I said calls made from Gibraltar to Spain are considered as international calls by Telefonica and vice versa.

I think, Mr Speaker, what has been done is the normal, logical and the most internationally accepted arrangement that was available. It is covered completely by international regulations, namely the CCIPP. Again I reiterate that the Gibraltar Administration is paying for all such calls and vice versa. The arrangement conforms 100% with all international regulations and is similar to other countries having a common frontier and using a landline, namely between towns in Italy and Switzerland and Spain and Portugal. So what we are doing is what everybody else has been doing for years, without in any way making ourselves dependent on Spain. I don't see why the Hon Member is laughing. I am giving them the benefit of the doubt that they didn't know this before the Honourable Mr Perez made his assumptions, and if they are going to laugh, I think perhaps I am wasting my time. I am trying to explain and to at least satisfy them that Mr Perez is wrong in what he says. Let me say, Mr Speaker, that we are considering, and we hope to do so, the same arrangements with Morocco in the near future. It makes sense for all concerned.

Mr Speaker, the department also faced during the year an increase in the number of connections and installations of sophisticated apparatus for the business community. The three technical sections have been under pressure throughout the Financial Year and this is expected to continue into the current year. The external plant network which consists of the installation and cable sections were extremely busy. The installation section was moved to refurbished accommodation at Town Range and the

depot is now able to cater more adequately for the departmental training needs and at the same time offer better accommodation to the staff who have been under very poor and cramped conditions at the old depot in Line Wall Road for many years. The installation section was responsible for the connection of 534 new telephones. They performed 402 new works and completed 864 wirings during the course of the year. Other miscellaneous work, such as the net connection of 24 telex machines, internal alterations, etc, were in fact carried out. The waiting list at the end of the year stood at 357, showing an increase of 123% over the previous year, and clearly reflects the very very high application rate for the year of 740 applications.

And now I come to another point raised by the Honourable Member opposite, in which he said that he had received a number of complaints of delays in the installation of telephones. Well let me assure the Member that I get the complaints as well, but it is something that of course, because of the number of applications coming in the department at the moment has been unable to instal at a faster rate. That is quite clear. And in fact the department is now having to look at the whole question of staffing needs. But let me in answer to the Honourable Member, because he said, 'and therefore I cannot understand how it is that the Government rejected a productivity scheme put forward by the men'. Well my information is, Mr Speaker, that the men didn't really put in for a productivity scheme. What the men asked was for a lead-in payment. There is no question of the men asking, as my understanding goes, they didn't ask for a productivity scheme, they wanted productivity and a lead-in payment. But let me tell the Honourable Member that this matter is being looked at because of course it is also in the department's interest to try and instal as many telephones as possible because it is good for the economy. But I am also informed that the department in the past, or a number of years ago, in fact had a so called productivity scheme which unfortunately didn't work. That is what I am told. And the way we have done it this year, it is not just the case of the men just finishing at 5 o'clock and thats it, we have done it by way of overtime, because I am sure the Honourable Member will understand that you can do it in one of three ways. Either you increase staff, you give overtime, or you work out a productivity scheme with the men. What we opted for last year was the question of overtime. As far as I am concerned, I think the performance of the men has been good with the overtime, it has worked well. The number of phones connected and the work done has been quite good. But as I say, due to the number of applications that we are having and due to the increase in workload, what we are now looking at is whether it is preferable to look at the productivity scheme. The department is definately not lying idle on that, because we see

the work that comes in and of course it is in the interest of all of us to provide as good a service as we can.

Mr Speaker, the installation section also completed new installations for the special services section. The cable section concentrated its effort to effect an improvement in the underground and distribution section and a start was made to renew the distribution side of the network, which needs a lot of work doing. The Catalan Bay area, was completely reorganised and the new distribution cables were laid to allow for the transfer of these circuits to a more reliable cable. Work also commenced on the Humphreys Estate area and it is expected that work will intensify during the course of this Financial Year, which we have budgetted money for. The Special Services Section was also very busy with the connection of apparatus for the business community. A total of sixteen medium to large PABX's were installed and 37 smaller ones. Over sixty micro-processor control payphones were installed. Other work involved the connection of answering and recording machines, internal extensions and upgrading of the GSL installations by 64 extensions. The Main Exchange Section was working almost throughout the year at full stretch. Provision was made to the connection of reuter services and this new service is now available in Gibraltar. The exchange team was busy with the provisioning of satellite and cable routes into and from Spain and was responsible for opening the new satellite circuit to the United States and Canada. The department is now set for the improvement and expansion of the local network and is looking into the provision of new telecommunication services which will be demanded by the business community in the near future. Amongst the new services being looked into are package switching, mobile radio and automaticThese facilities are being seen in line with the development of Gibraltar's requirements for the successful running of the Finance Centre activities.

Finally Mr Speaker, let me say that the preparation for the replacement of the 1982 Telephone Directory have been made. The idea is that we are putting the printing and the publishing out to tender and I sincerely hope that we will have a new directory before the end of the year.

On a final note Mr Speaker, I would like to record the help and the work carried out by the Senior Management of the Telephone Department, and the work and help given to the Department by the Financial and Development Secretary and his staff during the negotiations we have had during the last year with both Cable and Wireless, British Telecom and of course Telefonica.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

Mr Speaker, if nobody else from the Government is going to speak then I will sum up for the Opposition.

MR SPEAKER:

There is only the Honourable Leader of the Opposition and Mr Pilcher, is that right, who are entitled to speak for the Opposition on the Appropriation Bill.

HON H J ZAMMITT:

Mr Speaker, Sir, I am of course going to speak about the Tourist Department, and it is at this time of the year that one is able to attempt to inform the House of the achievements or otherwise of one's department. It is, I think, appropriate to commence by saying that the betterment in the Gibraltar economy that one has seen this year is without doubt as a result of the tourist impetus mainly that has contributed to an improved financial situation. I do not wish to be contentious, Mr Speaker, but I think, that it may be appropriate to inform the House generally that the value of tourism must not and should not be underestimated, and it is at this time of year that I was reminded by the Honourable Leader of the Opposition - I think it was in October of 1984 - when he did not show much faith or belief in tourism, that he in fact asked me to return to the House and give some statistics of the possible value of tourism. In fact, quoting the Honourable Mr Bossano on pages 75/76 of Hansard of the 30th October 1984, Mr Bossano said, and I quote: 'in the long term Mr Speaker, perhaps tourism will produce, but not only do we not have no guarantee of that at all, the figures that we have had since 1972 onwards, do not show that this will be the case'. He went on to say that this was why they abstained on the actual figure. But then at the end, Mr Speaker, Mr Bossano again said: 'that the Minister for Tourism has to accept that this is the case, unless he prove it otherwise at the next budget or when he produces analysis and the statistics for the Tourist Report of 1985'. Well, Mr Speaker after over one year of a full opening of the frontier, we see, as mentioned by the Financial and Development Secretary in the Finance Bill, that tourism has injected something like £20m into our economy. And this compares very favourably to the £11m or £12m that was previously obtained from the tourist product. I would like to commence at this stage, Mr Speaker, by saying that I am not totally satisfied that our product in Gibraltar is far from being correct, and therefore, one of the things that we have to do in the future is to ensure that our product receives what

it deserves. There are very good established facts that substantiate a further encouragement to everyone in the tourist trade to improve that product and to offer the service that we have been called upon today to do. We have, Mr. Speaker, we know since the frontier opened, we have received almost 3 million excursionists. A figure which I think was very much questioned at the time, particularly by the Opposition, but of course we did have in fairness to them advance information that that was the kind of figure that we could derive from the southern part of Spain. I think I should also mention that the Spaniards themselves accept today quite openly that Gibraltar is an asset to the tourist potential of southern Spain. And this I think is being seen today.

Mr Speaker, I do not want to be repetitive, but we do know that since the CSLP came into the House in 1984 they have not shown much credence to the establishment of tourism. The previous opposition, and in fact the IWPB, had their economy based on MOD spend, did in fact have some belief that tourism had some potential. I think it has been established, certainly since 1972, that tourism has contributed a trickle towards our economy, and I think quite honestly, that I would not be exaggerating to suggest that, possibly, in the long run, tourism could well be the main pillar of our economy. And I am saying that, Mr Speaker, because despite the fact that Gibraltar could do well, I have, and certain other people have, certain qualms about it. But tourism is here to stay, and of course, something was mentioned in this meeting, Mr Speaker, of our third pillar of our economy, the Finance Centre.

Mr Speaker, it seemed as if the Finance Centre, had grown over the last month or established over the 9 months. I think it's true to say that it certainly developed very much over the last 9 months or a year. But the Finance Centre policy of the AACR Government has been very much in the fore. It goes all the way back to I think the Exchange Control Regulations, which go back very many years, and it was always something that we did have as a pillar of our economy, if not the substantial pillar. But I would say one thing, Mr Speaker, that a Finance Centre, as good as it may be, and no doubt it is, is something which we do not have total control over. Something can happen in the next fifteen or twenty years. For example a monetary arrangement with the EEC and, therefore, possibly the Finance Centre would die. But the economy, and the industry, we certainly have control over that and what we can certainly enlarge upon is, and must be accepted and acknowledged, tourism. It is today, Mr Speaker, the world's second major economy. And even the first economy, which was fuel, we have seen in the last few weeks how that has been affected through outside powers. Tourism is something which we must not ever forget we can totally take advantage of because we

have a tremendous geographical position that we can take advantage of in its totality.

Mr Speaker, the potential today of Gibraltar as a tourist resort is as it has never been before. We have the large tour operators which previously did not want to know us, now showing tremendous interest in the two and three-centre holidays that Gibraltar can offer. We see this, Mr Speaker, in what has occurred in the hotel occupancy figures and we know that even the figures that we are presented with are not entirely - although I am not saying they are not correct - they are not entirely satisfactory. For instance you find 51% occupancy figures. Well that should be bed occupancy which includes room occupancy. But of course it could mean that an awful lot of the hotel rooms that we have in Gibraltar, a great majority of them are in fact, double rooms or twin rooms, and when of course there is one individual occupying one bed in that room then of course that room could not be let out - or shall I say should not be let out - to another unknown person. So, therefore, it inhibits the sale of further beds.

Mr Speaker, we have also seen the tremendous improvement in air communications. We will in summer be having something like 16 flights from Gatwick, and may I say, it is expected that this might well be increased. We have as from the 2 May two more additional schedule flights coming from Manchester, and of course we have the two MOD flights coming from Luton. So at this stage we will be having something like 20 flights coming in scheduled per week. It is of course an accepted fact, Mr Speaker, that a tremendous amount of the seat occupancy on aircraft is being taken up by people using Gibraltar as a transit airport, and does not contribute directly to the hotel occupancy. And it is one fear that I certainly have, because even to this day, with the increased amount of flights, there is still difficulty in obtaining a seat to come to Gibraltar, particularly by the tour operators. Again it has its logic, the hotels find it much more viable to be able to offer a walk-in rate as to a contractual rate with the tour operators. I think we will probably find that the two scheduled flights from Manchester, which incidentally are already totally booked for the ensuing months ahead, there is a great possibility that that route could well be increased to a third flight as opposed to two flights.

It was sad, Mr Speaker, that we lost the ferry boat that went to Tangier, particularly because we had spent an awful lot of money in advertising this in our brochure which of course today has to be rectified. It has as Members know, been substituted by a fast jet catamaran, but of course it does not offer a car ferry service.

Mr Speaker, my mission is to talk about the future, and in particular, may I remind the House, that I have to talk about

the very much advanced future and not just of 1986, but should I say 1987, because the planning of tourism obviously takes a year to permeate and get results. So whatever our estimates account for in this year, of course is really geared at obtaining results in 1987. In fact after the budget of 1987 we will see the result of this.

Mr Speaker, we have for the past two years, and indeed we intend this year, to once again attend the World Travel Market in London. We are supported very gratefully by all the tour operators, travel agents, coach operators and every association within the tourist trade that make their presence there. We have as you know, Mr Speaker, attended FITUR in Madrid on two occasions, and again we consider that very important because of course the attendance there on an international basis and in particular the Spanish tour operators is of course very attractive to us, and has already produced satisfactory results. We are of course placing particular emphasis in Trade Fairs throughout the United Kingdom and of course we will be attending a number of Trade Fairs, such as Hostel Sur in Jerez or anything taking part in Costa del Sol that we can of course take advantage of. We hope to attend, and we will of course give particular impetus once again to Morocco.

We have been able, Mr Speaker, over the last year to have made great contact with the Royal British Legion in Great Britain, which has something like 4½ million members, and in conjunction with the tour operators, it appears that we will be able to secure a weekly flight to Gibraltar by this association. Indeed there is an annual conference in Blackpool that is being held in May and I have been invited to attend to try and encourage them all to come over and take part in this thing.

Mr Speaker, I mentioned earlier on the question of the product which requires particular impetus and although there are certain things mentioned in my Estimates towards that improvement, I would of course, in anticipation to my Honourable colleague the Minister of Public Works, Major Dellipiani, mention that Government has made substantial provisions in the Public Works Department for the improvement of very many items, which at the end of the day of course improve Gibraltar, and also the tourist product. I refer to the items of highway and more staff for cleaning and public toilets, upkeep of buildings, beautification and upkeep of gardens and of course our beaches which will be opened up for longer than they have been in the past so as to accommodate the tourist influx.

We have recently, Mr Speaker, just been able to conclude a staff inspection, and, therefore, my department now will in the next few weeks I hope be totally staffed and, therefore, hopefully be able to render a much more efficient service. I should

mention also, Mr Speaker, that as a result of the various attempts at the attendance of the Trade Fairs we have mentioned that already we have a two-centre working from Canada which is very encouraging. They are coming about twice a month and using Gibraltar as a two-centre holiday.

We had, as members no doubt may have heard, an extremely good coverage in Britain last month on a programme called BBC Holiday 1986, in which Gibraltar was portrayed, possibly for the first time ever, as a tourist resort. This is a programme which I am told is available to about 30 million British viewers and we had extremely good coverage there Mr Speaker.

We are also making attempts to get into the Conference Market, although to this day we have not as yet conference facilities. But in conjunction with the development of Queensway and other major projects we are beginning to inform people that we will in the future be able to afford conference facilities, which is a market of particular interest to us, because they invariably take place during the shoulder months.

Mr Speaker, the Honourable Miss Montegriffo asked earlier in the meeting as to a reply to Question No. 87 of some money which I have said had been provided for the upkeep of certain monuments. I would like to mention, Mr Speaker, that this money has been provided under several items: Item 10, £9,000 have been made available for the maintenance of historic sites; Item 17 another £9,000 for repairs of historic sites; Item 18 painting and removal of eyesores, again there is some money provided there, much more than £19,000 by this time I should add; and of course sandblasting £20,000, which include the Post Office and other smaller projects.

Mr Speaker, we have had meetings as a result of the recently established new impetus of the Chamber of Commerce and we are working together to bring in some of the requests that they are making which do not involve substantial changes, but mainly aim at providing a more sympathetic trading approach, a more educated retail trade, and attempting to afford some encouragement towards the trade generally to improve their standards. We have as you know, Mr Speaker, recently carried out certain little projects: for instance the drawbridge, through the Museum Committee and the Royal Engineers to whom one is most grateful, most thankful for their constant help, and that has been some part of history revived. We have seen the improvement in some hotels, in particular refurbishment, restaurants and in fact the cable car for instance, which is another matter of the product.

Now, Mr Speaker, all in all, there appears to be a general acceptance that we have something there. I don't want to refer

to it as a gold mine as Major Peliza was never able to point out, but there is an acceptance, I think, by the community of the value of tourism, and I ask the Opposition to please accept this. I think that there are facts today to convince anybody that this is an industry which we can and we must protect. I do not want to throw things back, Mr Speaker, because I think that possibly they would not give the sufficient time to look at, but it is a fact of life that this situation is on the increase and is expanding. It is to me a matter of great regret that ODA have not found it possible to offer a penny towards this industry. I think that they find rather less difficulty in finding money for projects which they have initiated for themselves, and nothing at all to a product which they know can very much help towards helping us in finding our economic independence. Although I have not been given the chance to comment totally on this, because as members know this came in only a few days before this meeting, an awful lot of time was wasted with members of ODA showing them all around Gibraltar, trying to convince them, and in fact almost accepting the value, and then we find that nothing is taken further than nothing. I regret very much this approach. I would like to go no further at this stage, Mr Speaker, because I don't know if something will be rehashed, but constantly we are being told in Government that ODA would be sympathetic towards assistance in projects which would be revenue raising or job creative, and tourism, according to ODA, appears to be something which they have thrown out of a window totally. I just can't understand it. Not when one has the results which we are able to afford.

Mr Speaker, the determination of the Government to bring forth the Lisbon Agreement or the Brussels Agreement has without any doubt produced the results that we see today, and I hope that everybody, without trying to score points makes a determined effort in Gibraltar to have that attitude of mind towards this industry which we can control without the need of outside forces. Of course I know that our friend Mr Gadiffi can stop Americans or frighten Americans from travelling, but on the whole it is one industry that we have almost total control over, with which Gibraltar can continue to improve its standard of living and its economy generally.

Mr Speaker, I do not intend to go through Item by Item as no doubt later on Members opposite might want to have clarification on some of the changes that have been, particularly with regards to advertising in UK and other markets, and whichever other item that I am sure Members opposite might like to take up.

Mr Speaker, for once, I think, as Minister for Tourism, after the struggle that we have had, in particular since 1969 to this day, although not entirely happy, I am somewhat content and I

think that, given the support that the Government gives to tourism, I think if all Gibraltar were to join behind this impetus then I think we are in for even better days ahead.

Thank you Sir.

HON F J DELLIPIANI:

Mr Speaker, before we discuss what we are discussing, the Revenue and Expenditure Estimates, I don't think it is of any use to us to talk about the nitty gritty things of every day life in Gibraltar, without having in mind the world situation and how it affects Gibraltar. We cannot be in a position of isolation. Everything that happens around the world affects Gibraltar and I would like, Mr Speaker, Hon Members to recall that four years ago this very month the Argentinians were in the Falklands. And one of those reasons that the Argentinians attacked the Falklands was because the Falklands did not have a credible defence. I do not think that Gibraltar has a credible defence. We had, at one time, a Governor who was an Admiral and we lost our guardship; we now have an Air Marshal and we have lost the three Jaguars; in less than three years time we will be having an Army Governor: are we going to lose the resident battalion?

I think what is happening today in Gibraltar shows the weaknesses of the defences of Gibraltar as otherwise they wouldn't have brought all this equipment now. And let me tell the Defence Forces in Gibraltar and in the United Kingdom that we are not going to have a 'madman' next time warning us of what he is going to do. The equipment must be in Gibraltar, to be deployed from Gibraltar, because our airport is extremely vulnerable and there is no way they are going to replace or improve the defences of Gibraltar through that runway.

I would like now to quote, Sir, from a person who is now very much in the news: 'My people have the right to liquidate opponents inside and outside the country even under broad daylight' - Colonel Gadaffi. Roughly one-third of all victims of terrorism have been US Nationals. I don't blame Reagan for doing what he has done. I might have done it another way, but I certainly don't blame him.

Coming to the question of the pensions from Gibraltar which are paid to nationals in Spain. It is amazing how they recognise our Pension Fund but they don't recognise our flag. Some people are worried about osmosis. I am not, when we have the Spaniards doing reverse osmosis. Because every time they do something against Gibraltar it just makes us more determined not to come under their sovereignty. And I think that Government for the problems that they caused our friend Angel Baidachino in the

athletics meeting; the referee in Austria is doing a fine job for us, both of them. May they continue to apply reverse osmosis for many, many years.

But what I am most annoyed about the pensions is not with Spain, it is with Great Britain. Because the pensions that we are supposed to pay, and we haven't paid with our money yet, and I hope we never will, represents roughly 12% of our budget. If you translate that into terms of the UK budget that represents the whole of the defence budget for the United Kingdom, it is actually 11.7%. Can you imagine Britain, if they had had 50% of their labour withdrawn and after sixteen years have to pay for that labour and that represented 12% of their budget, how would they have negotiated with Spain? They would have said: 'Hey you, you are not coming in, we are not going to pay you that 12% of our budget', but they haven't thought of that. As far as I am concerned, Great Britain has only thought: 'A bigger market for our goods, what is there in it for us', and they haven't given us a thought. And whether we like it or not the size of the ODA budget which has been allocated to Gibraltar has been influenced by the fact that they have been made to pay for our pensions.

I don't blame Spain. I would have acted the same way as Spain. Every country does what is best for its own. But we are not represented at the talks when Spanish entry was being negotiated by Britain on our behalf. We have behaved very well with Britain because we went along so as not to embarrass the Spaniards into being forced to do anything because of the EEC. We went along with it because we know the Spanish pride, we know what could have happened, they could have reacted in another way, so we have gone along and helped Britain to help Spain come into the EEC without any embarrassment. And this is how they pay us.

I would like, Mr Speaker, to touch various items which do not come under my Department but because I have been shoved around so many Departments I know a little bit about them.

I would like, first of all, to place on record the people who have shown faith in Gibraltar like Taylor Woodrow in their development of Hadfield building at a time when no one wanted to develop in Gibraltar. I think that is most praiseworthy. I didn't attend their social functions and all the rest because I don't like that but that doesn't mean that I am not appreciative of the development they have done. Other people are now developing but, of course, they can see the light at the end of the tunnel. At that particular time things were very bad because we only had the frontier open for pedestrians. So I am very grateful to the company of Taylor Woodrow for their faith in Gibraltar.

I would like to take on the Hon Leader of the Opposition on the Electricity Department when, because the Hon Mr Feetham and the Hon Juan Carlos Perez were away distributing The People, he did a bit of waffling over productivity on the Electricity. He said something like: 'If you have a machine which can only produce 5.2 megawatts no amount of productivity will make it produce anymore'. And he is right. But if you have a total, say, of machines which can produce 22 or 23 megawatts then the productivity can be measured, because what productivity should be is that all those machines should be on power at any one time during the year as much as possible to meet all our demands. That is different. The difference between one machine and making sure, through a programme of both the engineers and the lowest labour in the Department, to ensure that by programming the available power is there, is something that can be achieved because in the summer months we don't reach the same peak as in winter. The whole thing can be spread about so that when the peak demands are there the power will be there on top.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I believe he is misquoting what I said a year ago in the Budget, I take it. He is talking about last year and what I said last year. I can tell him that what I said last year was that, for example, in Waterport Power Station we have got two engines and three men. That is to say, there is a switchboard attendant, a plant operator and a plant assistant, and I don't see how you can - in fact, the Hon Mr Perez today has confirmed that in an area like that you cannot do the work with less than three men and you cannot use more than two engines because you have only got two engines. So the relationship between men and machines is determined by the requirement of the consumers and that is already happening. I mean, he has not said anything about last year that I didn't know already.

HON MAJOR F J DELLIPIANI:

No, in fact, it was this year. You did a bit of waffling, fillibustering.

HON J BOSSANO:

Mr Speaker, I haven't spoken this year yet.

HON MAJOR F J DELLIPIANI:

Or last year, then. My point is still there. It doesn't matter whether he has three men or four men, productivity can only be

measured by the number of engines that are available at any one time. And obviously in winter we must be in a position to have more engines available than in summer because that is where the demand is.

In answer to all the claims being made by Mr Serruya in the Chamber of Commerce, I would like to remind Hon Members that the rates issue which was negotiated by my colleague the Minister for Economic Development with the help of Mr Brian Perez, those negotiations on the rates were conducted with Mr Risso and his team and not with Mr Serruya who seems to be taking the credit for everything. On the question of highways again Mr Seruya might be claiming that we are giving some emphasis to the highways and public leasing etc, etc. Let me assure this House that all that was done by the Government and my Department long before Mr Seruya came into the scene.

If I might come now to my own Department. The Government has recognised that we have neglected in the past the highways of Gibraltar and we are spending money on the highways. We are strengthening the highways division by extra men. We have a programme which I am prepared to give to Hon Member after we leave the House. We are also employing ten full-time lifeguards, though at the moment, because we have not agreed to terms with the union because we want flexibility over the period when the lifeguards are not in use, that is, in winter, we have not announced them as permanent. But this will be coming once we have worked out with the unions a considerable amount of flexibility, because it doesn't make sense to have ten lifeguards in the winter doing nothing. We have also increased the Public Works Department on the maintenance side, on the labour side, because there was an imbalance between craftsmen and labour which didn't make sense. You cannot have two plumbers working on the same job unless circumstances are different, people are ill, people are sick, people are on leave, but it doesn't make sense. So we have increased the establishment of the labour side to be able to have a proper balance. In all we have increased by something like 28 new posts which I am sure the Opposition and the unions will welcome. However, I am still very sad and it is beyond my comprehension. When everybody seems to be wanting to work for the Government - if we have one vacancy for a labourer we have 98 people applying, everybody wants to work for the Government. We seem to be the best employer yet we seem to have more industrial problems than anybody else. I cannot understand it, I really cannot. I think anybody who works for the Government of Gibraltar should be proud to work for the Government of Gibraltar and should give their very best because we offer something that none of the other Departments or the private sector does. We offer them security, and for that security we want loyalty and good work. We don't like what the MOD has

just done now, reduce 155 posts. My goodness if we did that they would slaughter us. So in return for that security we want hard work and loyalty. We want to reward people who do over and above a normal days work, but we also want to be able to tell people who don't do their normal day's work: 'You are no good, you will be given another chance, and another chance, and the third chance you are out', but we cannot do that.

On the question of water my Department will be looking at ways and means, both technically and by other means, to lower the water costs even further, but always bearing in mind that we will have self-sufficiency in Gibraltar. On the question of the cleansing of highways we have strengthened this by employing four extra sweepers and four flushers. This was done well before Mr Seruya came into the picture. May I, Mr Speaker, also mention - I don't think it has been mentioned here - my congratulations to the Gibraltar Broadcasting Corporation for their satellite news. I would like to thank all those concerned for a really magnificent job. The news has made a difference with this new satellite transmission.

On the question of GBC I realise that they have salesmen on a fixed salary. I don't think that makes sense, I think the salesmen should be on a fixed salary and on a commission basis, so that they can sell their products and have the incentive to sell their products. And once that money comes in to GBC it mustn't immediately be cancelled by the withdrawal of Government subsidy, because there must be a point where GBC must build up a fund for new equipment. We just cannot go on - and I know the Financial and Development Secretary will not agree with me - we just cannot go on subsidising them less because they increase their sales, because then they will say: 'Why increase the sales if they are going to reduce the subsidy?' There must be a fair balance.

Sir, in conclusion the most important thing that I have to say today - there is one other item, the Refuse Destructor. We have put in quite a considerable sum of money on a four year basis for the future to keep the Refuse Incinerator working for another four years, because it has reached the end of its lifetime and the replacement value of that Refuse Incinerator is £4m. So in four year's time, if we haven't got £4m, we are going to have refuse all over the Bay of Gibraltar and all over the Med, unless we find other alternative means of disposal.

In conclusion, Sir, I have a message for our friends in Spain, whom I admire a lot though my admiration has been lowered somewhat this week by the many times they have told Gadaffi they have had nothing to do with the crossings of the aircraft into Libya. I have thought of them always as a proud and brave

people. They might be proud but they are not so brave now. It is people that matter. The crucial meaning and purpose of democracy is to recognise the intrinsic work of every human being. There are no unimportant people in a truly democratic society.

Thank you, Mr Speaker.

HON J E PILCHER:

Mr Speaker, there are various comments made by various Members opposite that I would like to touch on briefly. My main contribution, obviously, will be directed towards the comments by the Hon Minister for Tourism. In fact, I have allowed him to speak before me, Mr Speaker, particularly because, as I said on the Finance Bill, I made my contribution on the Finance Bill on tourism because I wanted the Hon Minister to expose the Government's policy on tourism so that I could have a right to comment on it, since the Government's policy on tourism has been elusive for the past 20 years, Mr Speaker. But before I tackle that there are a couple of points that I would like to raise.

In the contribution of my Hon Colleague, Mr Mor, the Hon Mr Canepa lost his 'cool' which is nothing new although he says that one of the Spanish newspapers call him 'El tranquilo', but as far as my experience, that couldn't be further away from the truth. My colleague was referring to comments that the Hon Mr Canepa had made in the Holiday Inn when Dr Ivor Peters of the European Movement came to Gibraltar. I was also at that meeting, Mr Speaker, and I can vouch for what my Hon Colleague, Mr Mor, said. And, in fact, it was commented on in the Chronicle of the following day, Friday 10th May where Mr Canepa is quoted as having said: 'But even if Britain pays' he continued 'Gibraltar will suffer the consequences'. What Mr Canepa certainly meant at that stage was that even if the money was given by the British Government it would certainly be at the expense of the Government of Gibraltar.

MR SPEAKER:

In fairness, I think what Mr Mor said was that Mr Canepa had actually said that Gibraltar would pay. Let there be no misunderstanding on that. You are entitled to derive any opinion from what you have now read, but it is not what was said.

HON J E PILCHER:

I won't actually quote from what the Hon Mr Mor said but I think what the Hon Mr Mor said was that this was.....

MR SPEAKER:

Mr Mor said, and I am very clear in my mind, that Mr Canepa had said at that particular meeting that Gibraltar would have to ultimately pay. What you are deriving now, and let there be no argument, you can derive any consequences from that statement but the Chronicle does not confirm what Mr Mor has said. Let there be no nonsense about that.

HON J E PILCHER:

Well, Mr Speaker, it might not confirm or deny that in your mind but certainly it does in mine.

MR SPEAKER:

Fair enough, you are entitled to deduce.

HON J E PILCHER:

'Ultimately' is the key word, Mr Speaker. What Mr Canepa was referring to at that meeting, and, in fact, what has certainly been more than amply understood by, for example, the Hon and Gallant Major DelliPiani is that the £16m have been given by the British Government and ultimately is being paid by the people of Gibraltar in the answer to the ODA submission made by the Government of Gibraltar. I think this is only a minor point which obviously the Hon Mr Canepa will answer in his contribution, but certainly I can vouch that I was there at that meeting and this was what Mr Canepa was inferring. That irrespective of which way it was done the people of Gibraltar would ultimately pay, and certainly he has been proved correct, because the £6m awarded to the Government of Gibraltar certainly takes into account the £16m that was given to Gibraltar as part of the help to pay the Spanish pensions. And this leads me, I think, Mr Speaker, to the point made by the Hon Mr Mascarenhas when in his preamble he was talking about - because I think he was one of the Members last year who was saying that he was going to give out the goodies this year - he was talking about the umpteen developments, the tourist arrivals, and the fact that perhaps we could push the worker base from 11,000 to 15,000. I think, this is one of the dangers highlighted by my Hon Colleague, Mr Feetham, when he said that one thing that the Government has to bear in mind is this hump effect. If we get all the developments crowded together, and we do push up the worker base from 11,000 to 15,000, when the developments cease what we will have is 4,000 people in Gibraltar who will have a right to get all the social benefits that we have in Gibraltar. Because unlike the times when we employed Moroccan labour force, the Moroccan labour force on termination of their contract had thirteen

weeks unemployment and then if they did not find a job then they had to leave and go back to their country of origin. The Spanish labour force or even the Portuguese labour force, as part of the EEC would have a right to all our social insurance contributions. I think this is one of the points mentioned by the Hon Mr Feetham in, I think, the Finance Bill which certainly has not been tackled by any of the Members opposite.

The Hon Mr Featherstone: I think he plodded on irrespectively. I think perhaps one of the good points that can be said is that irrespective of what happens he plods on irrespectively. After my contribution on GSL on Friday of last week, I think it was more than clear that there are certain problems in GSL, and that it is not right to say that GSL will, in fact, produce all that it is meant to produce. I think the Hon Minister for Tourism has concurred with me that there are certain problems that had been highlighted. He nevertheless went on to say that everything was fine, GSL was working well and I think he plodded on irrespectively, although he didn't answer the points raised by my Hon Colleague, Miss Montegriffo: whether the fact that the Health Services are like they are is in reality because of shortage of nurses, as he is quoted to have said to Mr Seruya, or whether it is that there are more nurses needed or there are not, and whether there are more doctors or there are not, or what exactly it is that the Government intends to do to improve Health Services in Gibraltar. The only thing he said was that perhaps we can get more money out of the private wards, but be that as it may. Certainly the £1.20 that they have introduced, the 20p charge, the answer that he gave is not acceptable because all he said was that there had been an extra cost incurred and therefore he thinks the user should pay 20p out of the 50p. Using that as a percentage is not even 20%, it is a 40% increase. If we work as the Hon Member says not from the £1 but from the 50p then it is not a 20% increase but a 40% increase.

HON A J CANEPA:

You can do anything with figures.

HON J E PILCHER:

I can, yes. The Hon Minister for Tourism, I think, first of all, I would like to say that again he has misquoted the Hon Leader of the Opposition, and he has misquoted me on various occasions, when he talks about our policies and our reactions towards tourism. What the Hon Member must understand is that before 1985 we were always quoting and always referring to the Government's policy on tourism with a closed frontier. One must not forget, Mr Speaker, that the Hon Minister for Tourism

and, in fact, the Hon and Learned Chief Minister always said that they would have tourism as one of the pillars of Gibraltar despite a closed frontier. And the impetus given by Government in 1984 was, in fact, that they would make tourism the second pillar of the economy with a closed frontier. They never achieved that, Mr Speaker, and today they come and tell us what the impetus is on tourism with an open frontier. Well, it is two different things altogether. Because the only thing that has happened from the moment that the Hon and Learned Chief Minister made his statement on tourism - I think, it was one of the early meetings in 1984 after we had got into Opposition - the only thing that had happened had been the Brussels Agreement. And that is the only thing that has made tourists come to Gibraltar. It has not been any impetus given by the Government of Gibraltar, and if there has been an improved financial situation it is as a result of the Brussels Agreement. And the Brussels Agreement, certainly was, and I think I can concur with the Hon and Gallant Major Dellipiani, was a face saver for the British Government: to save them the embarrassment of having to say 'no' to the Spanish entry and they opened the frontier nine or ten months before so that they could lay the ground for the entry of Spain without any problems whatsoever. This is the only thing that has produced the tourists coming to Gibraltar. All the rest, Mr Speaker, is pie in the sky, the Government of Gibraltar has not done anything whatsoever to improve the tourist industry, or have not done anything that has worked. Because I remember the £300,000 which they laid aside for advertising etc, but that was money poured down the drain because that did not produce any tourists, as the 1985 Survey on Tourism spelt out clearly. The only thing that has changed the circumstances of tourism, and the only thing that has caused the Hon Minister for Tourism to stand up here today and tell us that this tourist impetus, the fact that £20m have been spent by tourists in Gibraltar. A fact that, by the way, we did not know because we don't have the Tourist Survey as yet for 1987. And the fact that there have been 3million excursionists coming to Gibraltar. Well that, Mr Speaker, is as a result of the frontier opening, not as the result of any policies adopted by the Gibraltar Government which have produced these 3million tourists.

HON H J ZAMMITT:

If the Hon Member will give way.

Surely, Mr Speaker, the fact that you have had 3million excursionists coming into Gibraltar between 1985 and 1986 was as a direct result of the Government alone having the courage to implement the Brussels Agreement. If we hadn't had the courage to do that then, of course, what is happening today

would not have occurred, and, therefore, the betterment of the economy is as a result of us going alone in the Brussels Agreement. And whether Hon Members opposite like it or not they have to accept that. And the other fact, Mr Speaker, if I may, is, OK, we are talking of £20m today of tourist input, but even with a closed frontier situation, tourism was generating £11.2m. Surely they have some value, and not for the Opposition to have had the attitude that they have had over the two years since they have been in the House Mr Bossano, I would give him that, ever since he has been on that side has never accepted tourism, but £11.2m to the Gibraltar economy is a substantial sum in whatever language you want to speak.

HON J E PILCHER:

Mr Speaker, the defence of the Brussels Agreement was not tourist orientated, the defence of the Brussels Agreement was the fact that the Brussels Agreement was necessary to produce a desired effect, but we weren't talking about tourism, and, yet, it would have happened nine months later. If the Brussels Agreement had not been implemented in February, 1985, it would have happened nine months later because Spain was committed to entering the EEC in January, 1986. But obviously we won't get back into argument of should it have been brought forward. The reality is, and I think the Hon Minister for Tourism does not know what he is talking about, because everybody accepted in 1984/85 that we had hit rock bottom with tourism in Gibraltar. All the surveys and everything proved - Hotel Occupancy Survey, Tourist Survey - all the Surveys proved that tourism in Gibraltar was on the rocks. I think the industry themselves was saying that tourism was on the rocks. We cannot accept that as the argument. The argument is, Mr Speaker, what has the Government done to produce these 5million tourists? And the answer to that is, nothing. The Brussels Agreement when the frontier was opened and the tourists flooded in: that is all that has happened, because I purposely tried to get the Minister to speak ahead of me in order to see what was the tourist policy now that the frontier is open for 1986/87, and the answer is nothing.

The Minister for Tourism talked about major tour operators now coming to Gibraltar; twenty flights a day; MOD flights; that is all true, but that is not as a result of the impetus by Government, that is as a result of the impetus given by the tour operators and by the industry in general, not by the impetus of the Government. He even said that two MOD flights come. Is that because the frontier is open? Is that because there is more impetus? The two MOD flights have been there forever, Mr Speaker. The reality is that what is happening has nothing to do with the impetus of the Gibraltar Government on tourism, it is just that tourists are flooding in, and, of course, the

Minister has every right to say; 'tourism is something that must be accounted for, and tourism must be something that is important'. What we have been saying for the past eight years, the Hon Leader of the Opposition has been saying, is, what is the Government doing to produce that? The Hon and Learned Chief Minister - I won't quote him because he doesn't like us quoting every year from that document that he read.....

HON CHIEF MINISTER:

I don't mind, I am delighted and I am honoured that my text should be so often quoted on the other side!

HON J E PILCHER:

Read, in fact, that he would create Gibraltar as a tourist centre with the frontier closed. And that did not happen, Mr Speaker. The Hon Minister said: 'Tourism is here to stay'. Perhaps he is right but if tourism is here to stay what is the Gibraltar Government doing to, for example, improve the product? Mr Speaker, I have got last year's Estimates and this year's Estimates in front of me. The criticism levied at the Government last year which culminated in two television programmes where I couldn't get the Minister to say what improvements or what policy, and he hasn't today either, because the Estimates for last year and the Estimates for this year are more or less the same. Of course, there is an increase in various things. He tried to say, Mr Speaker, that as this new way ahead in which he has now put his head together with the Chamber's President, Mr Solomon Seruya, there was more impetus on improvements of highways. This was contradicted by the Hon Major Dellipiani, who is sitting right beside him, when he said that this impetus had forever been there, that there is no new impetus, it is the same impetus that they had from year to year, and that the improvement is an improvement within Public Works and not as a result of the Tourist Department asking for any type of improvement. The reality is, Mr Speaker, that I can see nothing that shows me that the Gibraltar Government is in fact giving an impetus to tourism. The only one thing that the Gibraltar Government has done which supposedly would have given tourism a boost is their submission on the ODA. That is the only thing that the Gibraltar Government have in this year's Budget. Well, they haven't because it is not in this year's Budget but we all know that in the submission to ODA there were various tourist orientated projects that would have produced a better scenario for the tourists in Gibraltar. And the Hon Minister has just given us the understanding that all these projects have been turned down by ODA. If that is the case, if all the projects have been turned down by ODA and there is nothing here that shows that there is any major impetus financially on tourism, what is the Government's

policy on tourism? Even Mr Speaker, on the restoration of ancient monuments, for which the Minister said to my Honourable colleague that there was provisions, well the provisions in the expenditure are the same as the provisions that there were last year. Maintenance of the sites which is up this year, obviously because of the fact that more people visit the place and they need more maintenance; and painting of buildings and removal of eyesores. Well, last year it was £60,000, this year it is £30,000. So, I mean, I can't see that there is a major impetus to restore ancient monuments as they had promised the Museum Committee that they would. Sandblasting is a revote from last year. I cannot, Mr Speaker, see that the Government are doing anything to give tourism the impetus that they say. What the Government is certainly banking on is that the tour operators, the firms themselves that are selling Gibraltar, will be able to bring more tourists to Gibraltar and then the Government next year can say, well, now instead of 3 million, we now have 4 million. But I mean, Mr Speaker, that is not any kind of plan by the Government to produce more tourists, because if there were a plan then they would have, and this I think is the thinking of the CSLP although I know members opposite think this is a fantasy, that the economic plan must be, if you think that tourism is the second pillar of the economy then part of your expenditure must go towards improving and producing something new, so that the tourists will come, continue to come, and extra tourists will come. But there is nothing here that shows it and this is what the Government are banking on, the trade themselves. That is what the Government is banking on. The Minister ended by saying: the support Government gives to tourism. Well, I would like somebody, perhaps you know in the intervention by the Honourable and Learned Chief Minister he will tell us what is the support that Government gives to tourism, because, Mr Speaker, I can see nothing at all in this year's budget that produces any impetus at all on tourism and changes the criticism of this side of the House of the Government. They have done absolutely nothing. They have got no policy. They have not improved anything, because Gibraltar, if anything is worse and not better than it was, as regards cleanliness etc. So, Mr Speaker, there is nothing new in this budget that would make it worthwhile for the Minister to say that certainly that the criticism or the comments of this side of the House should be anything but what they have been in the past.

Thank you.

HON A J CANEPA:

I think it is very easy, Mr Speaker, to walk around Gibraltar and not see the improvements because we can only be too blind to our surroundings. The Government has for some years now had a policy of giving relief from income tax in respect of external decoration and repairs. That policy has had an enormous impact

and success in the centre of the city, in the main shopping area. Anyone who walks through Main Street, instead of looking at people, were to be able to look at the facades of buildings, would realize that. But sometimes we just walk around and we don't see. I myself did not realise until two days ago how attractive the facade of Barclays Bank in Irish Town opposite the Police Station is. It has recently been decorated. The wrought iron balconies have been repainted and it is full of character, of a unique character peculiar to Gibraltar. The same thing can be said for other parts of Irish Town, for Line Wall Road, for Governor's Street, where landlords are taking advantage of the incentive, where the Government uses the carrot and stick by serving Section 23 notices, the Development and Planning Commission requiring landlords to improve, paint and repair the facades of their buildings, but at the same time give relief from income tax in respect of their expenditure. I think it is becoming far too easy to say 'Gibraltar is dirty' and leave it at that. I think Gibraltar could be much cleaner. Some people could do very much more for the community at large in improving the situation, though I have never been one who has thought that the fact that the place is dirty is what keeps the tourists away.

I was shocked last January when I went to Rome for the first time to see how dirty Rome was, and how dreary a lot of the buildings looked. But people still flock to Rome, because Rome has a magic of its own. The streets in London in many respects look very dirty. I haven't been to New York, but I am told that it is awful. Nevertheless people go along. So I don't think that is the end all and the be all, I think a cleaner Gibraltar is required not just for the sake of the tourists, a cleaner Gibraltar is required because it has to do with improving the quality of life for those of us who are here, and we all have a great deal to do in that respect.

The Government itself has taken action in respect of the buildings that it owns by over the years a programme of modernisation of housing. We have retained the character of our city. One has only to see what has been done at Castle Road and Road to the Lines, which you see as you come into town, which is a tremendous improvement that keeps the character, but improves the living conditions of people and also give the lead to other landlords to follow.

The programme of rehabilitation and modernisation is a constant one, it still carries on, and as I say, people have only to look around with eyes that want to see and not just come up with destructive criticism. It is not just a point that I am making about the Honourable Mr Pilcher specifically. It is a point that has to be made generally.

Now Sir, we are dealing with the Appropriation Bill, we are more concerned with expenditure, with the appropriation of expenditure, and as Honourable members will have noticed from the financial statement which is attached to the Estimates of Expenditure for the coming Financial Year, the vast structural changes that have taken place in the Gibraltar economy in the last sixteen months have had very much of a positive impact on the overall financial position of the Government. But they have also, and quite naturally, had an impact on expenditure, for the opening of the border has meant that there has been an increase in the demand for some of the services which are provided by the Government, and this has in part created a need for additional staff in a number of key departments, namely the Police, Customs and Labour and Social Security. But reviewing the overall level of expenditure during the last financial year, 1985/1986, the House will know that in comparison to the original Estimates, the Revised Estimates reveal that total spending has been kept well under control. I think it has been the best year in that respect since 1979/80. There was very little variation between the Revised Estimates and the Approved Estimates. Indeed the increase in the Revised Estimates of £61.9 to £7m over the original Estimates £61.478m amount to only 0.7% of 1%. And this has been a very considerable factor in contributing in bringing about the increase in the overall level of reserves in the Consolidated Fund as at the end of March 1986.

So we have had some success in our endeavour to control the overall level of spending at the approved amount, but there can be no room for complacency. Services have to be provided and it is important that they be provided efficiently. And efficiency has got many aspects. In relation to the provision of services, I think it implies that the service provided must be on the one hand satisfactory and that the cost of providing it must also be kept within reason. And this has got to be a continuous policy aim and not just a once and for all attempt. The judicious control of expenditure, and I use this word in its wider complex, will give the taxpayer good value for money and will result in benefits for the economy as a whole. But the need for efficiency is something that has to permeate throughout the whole economy, and my colleague the Honourable Minister for Tourism had something to say about that in one specific respect, when he was referring to the retail trade. We must have efficiency, not just in the Public Sector, there must be efficiency in the Private Sector as well. Especially so in the current economic climate which has seen the Private Sector re-emerge as a creator of employment and wealth. Our visitors, who are contributing positively to our economic recovery, must obtain an efficient service from Gibraltar as a whole. And whilst not insinuating that the present level of service is grossly sub-standard, what is important is that

improvement should be continuously sought and put into effect. I think that it is this approach which is fundamental to our continuous economic recovery and at the risk of being repetitious, it is important that efficiency should prevail, in Government, in our tourist industry, and in our trading and commercial sectors.

I want to dedicate myself now, Mr Speaker, to dealing with the Development Programme in some detail: the performance in the last year and also the projects which figure in the next Development Programme. The issues which concern the current Development Programme centre on two main points: the running down of the current programme for 81/86 and the beginning of the next programme for 86/90; and I would like to review the progress that has been made over the past year.

The original estimates of the I & D Fund envisage a total of £8.603m for the past Financial Year. The Revised Estimate for the same period is £5.14m, resulting in an under expenditure of some £3.46m. The single main item accounting for this under-expenditure has in fact been the provision of the third engine at Waterport Power Station. This shows an under expenditure of £1.675m. Now, Sir, at the time that a decision was taken to proceed with No.3 engine, the project was planned on the basis of negotiating the new contract with the suppliers of Engines No.1 and No.2, but ODA, who are providing the funds for this project in the 81/86 programme, insisted that we had to retender. The tender procedures for a contract of this size are not something that can be complied with overnight, and as a result, there has been serious slippage. The signing of the contract was substantially delayed and this is the main reason for the under expenditure. But the project, I am happy to say, is progressing smoothly. The third engine should in fact be operational by October of this year. Savings, Mr Speaker, in the remainder of the more important projects which are covered by the I & D Fund have also accounted significantly for under expenditure. For instance, savings totalling some £200,000 have been realised in the housing project at Tank Ramp, the second phase of Rosia Dale, and the rehabilitation works being carried out to the Tower Blocks. The Castle Ramp/Road to the Lines scheme shows under expenditure of some £70,000. This is due to slow progress on the part of the contractor and in fact the Government is invoking the damages clause included in the contract. The project at Tank Ramp, after savings are considered, shows an under spending of about £60,000, but this mainly reflects the late submission for payment by the contractors. By contrast the actual works we have every reason to think has been quite satisfactory and indeed has been on schedule.

Turning now to education, Mr Speaker, the project at St Mary's

First School shows an under spending of £150,000. The tender for this project was delayed because the design for the structural steel work was in fact more complex than had originally been foreseen and required a longer lead time. There is also slippage of some £70,000 for the extension to the Bayside Comprehensive School. Unfortunately the contractor of this project went into voluntarily liquidation following the death of the proprietor and this has resulted in unavoidable delays in the work in hand. On the Port development side, the causeway project, at long last under way, nevertheless reveals an under expenditure of some £270,000, but this does not reveal the true underlying situation which is that in fact savings of some £150,000 in cost have been possible and are attributable to the opening of the border with the consequent availability of cheaper material. The balance of £120,000 just arises from the late presentation of bills by the contractor. As I said, earlier, what is encouraging is that physical projects of this importance is very satisfactory and on schedule.

Coming to Head 104 Miscellaneous Projects, Mr Speaker, the main item here has been under expenditure in Government offices. There was a project for the conversion of St Jago's School into office accommodation and the sum shows for 1985/86 was £350,000. This was intended to cover works at Loreto Convent. In the event the cost of converting St Jago's, which came out to be some £265,000 higher than it was originally envisaged, and so the project had to be postponed and now appears separately in this year's estimates. The remaining balance from the £350,000 voted last year was estimated at some £90,000, once certain minor works are completed at the old Loreto Convent. This will be used for much needed repairs and renovations at what is now known as the Treasury Building, the old Secretariat.

In the Potable Water Service, Mr Speaker, the desalination project shows an under spending of some £330,000. Of this a quarter of a million is accounted for by again a reduction in the overall cost of the project. The balance of £80,000 arises from an outstanding claim on behalf of the contractors, plus some spare parts which are on order but have not yet been received.

Similarly the project at Hesse's Pumping Station has been substantially delayed due to the late arrival of material on order and this accounts for some £160,000 of under expenditure.

But in general, Mr Speaker, I am fairly satisfied with progress over the last year, because apart from the delays on No. 3 Engine at the Power Station, which as I have indicated resulted from factors outside the Government control, most of the remainder of the under expenditure has arisen from the late arrival of essential materials on order and indeed the late

submission of bills by various contractors. Further though, there is something that I stress continuously which is to be welcomed, significant savings in construction costs on a number of projects, a situation partly reflecting the reduction on building costs due to cheaper basic materials which are now available.

Finally, Mr Speaker, on the current programme, the total of five project applications have more recently been submitted to ODA, in fact at the Budget Meeting, last year. They amount to a total of some £445,000. Approval for the projects has been received from ODA. They include repairs to the Refuse Incinerator; the provision of two incinerator units for the disposal of bulky waste; the package of spare parts for the second distiller; the widening of Winston Churchill Avenue, now reaching completion; and the programme of improvement to the sewage pumping station at Sandy Bay. Together these projects have taken up the balance of funds of the £13m ODA allocation for the development programme, all of which are now committed. These small scale projects were selected on the basis of necessary improvements to the infrastructure which as the House can appreciate is being subjected to ever increasing demands.

Dealing now, Mr Speaker, with the next development programme. As members are probably aware, the Development Programme Aid submission for 86/89 was submitted to ODA in July last year, and a reply was only received last week. So the Government has had considerable difficulty in preparing the estimates of the Improvement and Development Fund for the coming year. It is a factor that I think we have to take into account when we consider the expenditure that is provided for on new projects, I should say for 86/87. The submission that we sent to ODA, Mr Speaker.....

HON J BOSSANO:

May I interrupt. I don't want to stop his flow but I am a bit confused Mr Speaker. Wasn't the original programme submitted by the Government a five year one, because he has just said 86/89 and I thought it was 86/91, the original proposal.

HON A J CANEPA:

No, in fact we were planning on the basis of a five year programme, but when we reached the stage of the actual submission we cut it down to a four year programme because we received very firm indications that they would not contemplate a five year programme. But we were very hopeful that instead of getting the usual three-year programme that we would be able to persuade them to consider a four-year programme.

Now, Mr Speaker, the submission aimed at the projected total expenditure of £37m over the years 86/87 to 89/90. This is where I think the Honourable Mr Mor went wrong on Friday. The total expenditure of £37m, but it was never intended that the ODA - in fact we didn't ask them to fund the whole of the project, we were prepared ourselves to put a lot of money into the development programme, as indeed Gibraltar has been doing over the years. We have provided over the years in fact now more than half, slightly more than half of the expenditure under the Improvement and Development Fund. What we were hopeful that they would consider would be the same level of expenditure as in the past, but with the figures updated to the present reality. That would have in effect meant they are funding about half the programme. This is really what we were looking for. So £37m, Mr Speaker, over the life of the programme. But the programme is already suffering serious delay, because of the late reply. Once again we have the situation that we had in the last programme, that instead of the momentum being kept up in 80/81 81/82, Mr Speaker, we were spending at a rate of over £10m a year, £10½m coming to the House for supplementaries and we had a programme that was naturally going to dove tail into the other one. This was the strategy, again on this occasion, but we have lost the momentum already. Now, in spite of the fact that as the Chief Minister has explained the Government now has to consider the reply that we have received, the offer that has been made, and what our reaction is going to be, I think it would be valuable, Mr Speaker, if I were to give the House some idea of what our plans are, obviously having regard to the fact that Her Majesty's Government are only offering £8.4m, we have doubts as to whether we will be able to achieve everything that we have set ourselves to do, but at least I want to show that whatever the outcome, we haven't failed, neither in our forward planning effort or in our thinking and our approach to the programme.

The programme earmarked some £17.5m for expenditure on infrastructure. The need of course arises from necessary replacements and rationalisation of our existing infrastructural base and also from new projects to cope with increased demands given the improvement in the economic scenario. In the Electricity Service expenditure includes improvements to the distribution network; the continuing rationalisation programme seeking to concentrate generation supply at Waterport; and in fact the provision of a fourth new engine, thus enabling older, less cost effective plant to be phased out.

Funds for expenditure on water include the repairs to the water catchments; improvement to the fresh water pumping system; and upgrading of the salt water pumping facilities. Similarly a number of necessary improvements to our sewage system are planned.

The need to update, rationalise and otherwise improve and expand our infrastructural services to meet current conditions and anticipated future demands cannot be over stressed, Mr Speaker, otherwise we will not be able, the economy will not be able to benefit from the new opportunities. And we have a duty, the Government has a duty to meet the requirements of existing domestic, commercial and industrial consumers, but also the demands which are already being placed by new major private sector developments that will be taking place over the next years, Vineyard Housing Scheme, Queensway development in particular. Supporting services are required here, otherwise developments cannot take place; the income and employment opportunities that these projects represent will be lost.

Other infrastructures, Mr Speaker, other items include refuse disposal: improvements to our road network; and necessary investment in the Telephone Service cable network. They involve expenditure for either replacement of existing obsolete plant or improvements which are being made necessary by economic expansion. As such they are regarded as absolutely essential.

A further £6.9m is earmarked for various projects which will make a positive contribution to the expansion of income and employment. On tourism we have included a number of projects. They involve improvement and upgrading of existing tourist sites; the opening up of new areas of touristic interest; and the general embellishments and improvements which are necessary in central areas of the town. And I think it is a shame, Mr Speaker, that with tourism finally beginning to increase its contribution to the economic expansion, providing increased opportunities for income and employment, the reaction from ODA has been disappointing. In order to maintain impetus in this vital industry, investment in improving the quality and the variety of the product is an absolute must. And as a side effect of course, the people of Gibraltar will derive the benefit from an improved and a beautified Gibraltar.

Improvements, Mr Speaker, are also necessary to the port and this centres around the reclamation at Waterport. The intention has always been to provide a modern ferry and transhipment facility, areas where investment is needed if Gibraltar is to diversify the economic base. I personally must confess that at the moment I have a question mark against the need to provide modern ferry facilities. I think the demand has to be established before we actually spend the money on such a project. But transhipment of cargo is a growth area and we need to generate the space in the Port to take advantage. There is considerable interest being shown already in spite of the limitations.

Finally, Mr Speaker, we come to education and housing, which account for some £12m of the planned expenditure over the

programme period. In the case of education, the expenditure is intended to finalise the rationalisation of our educational system, which has in fact been taking place over the last few years. Particular emphasis is being placed on the middle schools and on the College of Further Education. The former is necessary to finalise improvements for the main stream educational system, whilst the latter will concentrate on providing the necessary facilities for training and re-training to meet Gibraltar's manpower skills requirement which have been brought out by the changes which we are witnessing in the economy. We need to develop the skills which we are going to need in the future, and the economic expansion depends just as much on adequate and appropriate manpower skills as it does on the physical facilities.

The programme for housing as far as the development programme is concerned reflects the dual approach to the problem that Government is facing. One aspect is the provision of sites and incentives for home ownership schemes which I have already mentioned. In the case of Vineyard, the Honourable Mr Baldachino made reference to the intention of the developers at Vineyard only to pass on a 99 year lease of the 150 year lease that the Government had indicated that it would give them. Now I know that the matter is under review, the Land Board has already announced its displeasure at this and there are indications that at a meeting later on this week we expect the developers to tell the Director of Crown Lands that they will pass on a much bigger chunk. It is normal for any developer to hang on to a couple of years to award say 148 or 147 years, but if the developers were not to do this then I think in any future project the Government would have to make it a condition that if we give 150 years then something very close to that must be passed on to the purchasers. And if the developers do not have a change of heart let me warn them that I am sure that the Land Board will invariably and inevitably be prejudiced against them in respect of any submission for any future tender that they may make.

But more important even, perhaps, is the construction of Government housing. A total of 420 units are planned for the programme period but these have been subject to the availability of funds and ODA do make it quite clear that they will not supply any funds for housing, so we are thrown back on our own resources, which mean mobilising funds either through borrowing, via a contribution from the Consolidated Fund, or by selling Government housing and using those funds for this purpose. Some hundred extra units are planned at Laguna Estate by providing one additional storey on selected blocks. This will provide extra units at a reasonable cost and we are making a start on this.

One is seriously worried about the social implications in respect of education, schooling, in respect of car parking, another reality in what is already a heavily congested area. Mr Speaker, to be able to provide housing units at half the cost, if not less than half the cost of providing them, say, at Engineer House, is something which at the present juncture we can hardly knock. One finds it very difficult to resist going ahead with that. So we are making a start on that this year. It is very much of a pilot scheme. I think it involves four of the blocks. Similarly, Mr Speaker, twenty extra units are to be provided at Glacis Estate by in-filling the existing voids, and a major development of 300 new units, finally, is planned for a reclamation project at Montagu Basin. We are only at the level of planning here. The ability of the Government in the present circumstances to carry out this project, I think, is at this stage speculative, but there has been some interest shown from private sector developers, and if the cost of the reclamation can be kept within reasonable proportions it could be a viable project.

With housing, Mr Speaker, Members will also notice that there is substantial provision for maintenance, for painting and for repairs to existing Government property. The work is absolutely necessary if the quality of our existing housing stock is not to deteriorate and this would have a domino effect on demand. So the need for proper upkeep must not be under-emphasised and again we are in a position today when we are able to seriously concentrate on doing this, because we were not able in the past to do so, and there has been under-provision in the past for maintenance of Government housing. The solution to our housing problem, Mr Speaker, is not just a question of building new houses. If our existing stock deteriorates it will become sub-standard and eventually it will create additional demand. I tremble, Mr Speaker, to think of what will happen the day that those Tower Blocks have to be demolished, not only re-providing 240 housing units, but the mammoth task of demolishing them and then disposing of that boggles the imagination. Let us just hope that it will be the next generation that will have to deal with that.

Similar considerations, Mr Speaker, apply to the remainder of the new projects in the Improvement and Development Fund for 1986/87 and, in general, what the projects reflect is what is planned under the Development Programme subject to the provisos that I have continuously referred to. I trust, Mr Speaker, that I haven't bored the House. I thought it was important that this should go on record. In the past a great deal of importance was attached to the Improvement and Development Fund because it certainly helped to keep the economy, the injection that the Government was making and ODA was making into the economy, through, primarily, expenditure on social

projects which were labour intensive and which had a very beneficial effect in the closed border situation, helped immeasurably to keep the economy ticking over. I trust Members will appreciate the difficulties which we have encountered in this respect, in preparing the Estimates for this year. It is difficult indeed, Mr Speaker, to fly in the face of financial uncertainty. Fortunately, there should be considerable expenditure in the private sector and if the Government can mobilise some of its resources to keep going an Improvement and Development Programme of reasonable size, then, I think, the prospects for the economy in the future are very much brighter.

Thank you, Mr Speaker.

MR SPEAKER:

We will recess now until this afternoon at 3.15 when, perhaps, Mr Bossano will wind up for the Opposition.

May I, perhaps before we recess, take this opportunity to wish Her Majesty, I think I should say our Queen, a most happy 60th Birthday and I am sure the House will wish to join me on conveying this message from the House to Her Majesty.

HON CHIEF MINISTER:

Mr Speaker, may I just say that I have unusually, because normally the normal message is done by the Governor. On this occasion the two releases have gone out at the same time, because it is her 60th Birthday and particular celebrations are taking place in Buckingham Palace this afternoon by children from the Commonwealth, to say that I did send a message saying: 'It gives me great pleasure on behalf of, Your Majesty's most loyal subjects in Gibraltar to offer you our warmest and most affectionate greetings on the occasion of Your Majesty's 60th Birthday. We wish Your Majesty many happy returns and pledge our continuing loyalty to the British Crown now and for the future'.

MR SPEAKER:

We will now recess until 3.15 this afternoon.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

HON J BOSSANO:

Mr Speaker, it is always hazardous to make one's contribution

after lunch, I think, when it is most difficult to keep Members awake.

MR SPEAKER:

I am sure you have never had trouble doing that.

HON J BOSSANO:

But I think I will have difficulty this year in competing with the contribution of the Hon Mr Featherstone, who certainly woke me up with a jerk on Friday with the things he had to say. I think it was the most electrifying speech in the whole Budget. Not only did he tell us that the economy was doing very well, that there were developments going up all over the place, that tourists were coming in, that GSL was prospering, not only that, Mr Speaker, which certainly made me turn my attention straightaway and see what he was going to produce in support of this long list of successes when, in fact, I suddenly realised that he was pulling all our legs and having a joke at the expense of the House. Because he then went on to tell us that the Public Works was tackling all the problems with determination and energy. And when he said that then I realised that he hadn't really meant any of the other things either, Mr Speaker. Because even though traditionally I have been among the supporters of the Public Works, even I would not dare say that there could be such determination or energy.

The Hon Member said that they had looked at the question of rent relief and that, in fact, it had been decided to deal with the matter through supplementary benefits. I hope we are going to get in the Committee Stage when we come to vote the money for supplementary benefits, an explanation on how this change is going to be brought about, Mr Speaker, because my understanding of the situation is that people who are in receipt of supplementary benefits automatically get rent relief, and if we are being told that the idea of extending rent relief has been shelved because it is going to be done through supplementary benefits, then one assumes that we shall be seeing that reflected in an improvement in supplementary benefits and that that will be explained when we come to vote that under the appropriate Head of Expenditure. I also hope, whilst on the subject of supplementary benefits, that we shall have explained to us why it is that this year we are having one subhead for supplementary benefits, which does not show a breakdown, Mr Speaker, of the amount that is being paid under the elderly persons pensions, and the retirement pensions which last year were shown as separate subheads. I am referring to page 55, Head 14 - Labour and Social Security. Mr Speaker, last year they were shown a separate subhead and when we asked the Minister for Labour to give us an explanation as to the

criteria that would be applied in order to entitle people to these payments, which clearly were not means tested as opposed to, shall we say, the under 65 supplementary benefits, which is means tested, the Hon Member got himself in a complete muddle and was not able to give us any answers. I hope, since I am putting him on notice on this occasion for when it comes to the Committee stage, he will be able to get somebody to brief him so that he can tell the House how the system is going to operate.

The Hon Member also said in relation to his responsibilities for the Medical Department, that there was provision in the Estimates for introducing the cardex system. All I can say is that the cardex system was recommended in 1979. I am astonished to find that it is only in 1986 that we are making provision for its introduction. No wonder we have been having difficulties in getting local qualifications recognised in UK, Mr Speaker. This was one of the recommendations that were made by the original report of Miss Briggs as to the changes that we needed to carry out to bring our qualifications into line with UK. It is incredible that this, which was the simplest part of all the recommendations, should only now be coming into effect. Certainly we are not satisfied that the Government, after having been studying this matter since 1977 when it was first brought to their attention by the Staff Inspectors, and in 1978 when it was first raised in the Medical Department with the machinery and tackling it with the importance that it required and the urgency that it required, given that we had not yet had an incident about the exercise of Community rights by Spanish nationals on the basis of Spanish qualifications. But it could happen at any time and we could find ourselves then really being faced with a situation where a case is taken to Court, like a case was taken recently on the importation of fruit and vegetables, and we find ourselves with an area which is a danger for Gibraltar and a danger for Gibraltarians, and we suddenly are unable to do anything about this because we have been incapable of taking preventive action. Just like the Hon Member talks about preventive medicines, well this is one area where we need preventive medicine. It is no good trying to rectify it after it has happened, Mr Speaker.

I also think that the explanation the Member gave for the prescription charges fails to answer the point made by my colleague, the Hon Miss Montegriffo, because what we were saying was if there has been a 20% increase in the cost of medicines then one could understand that as the logic behind the Government's decision to increase prescription charges by 20%. But to say that the average cost per prescription has gone up by 50p and therefore the Government is going to share that extra 50p, which incidentally was incorrectly reported in the media, is going to share the 50p, as to 30p the Government

and 20p the patient, does not answer the question. If the percentage increase in the cost of medicine is less than 20% then effectively the Government is reducing the subsidy. If that is what they are doing it is their right to do it but what they have got to do is say that it is their policy. Because one of the difficulties we face, Mr Speaker, in this as in other budgets is that the role of the Opposition is to take a critical, objective, view at Government policy. But we spend an inordinate amount of time trying to establish what Government policy is before we can either criticise it or praise it. And, therefore, if their policy is that they should reduce the contribution that Government makes to the cost of prescriptions, right, then they should stand up and say: 'That is our policy', and we may agree or we may disagree. But that appears to us to be what they are doing and the answer that we have been given doesn't make us change our mind.

Equally, Mr Speaker, the question of the EEC costs suggest to us that the Government has no idea of the implications, nor how those implications could materialise into a future liability.

HON M K FEATHERSTONE:

If the Hon Member will give way. I mentioned that it has gone up 50p in the last year. I am not sure what it went up in the year before, but the level of £1 was set in 1984, so the increase from 1984 to 1986 in the cost of medicines is probably a 20% increase anyway.

HON J BOSSANO:

But the explanation then, Mr Speaker, is a different explanation.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if I may help a little bit on that. The actual net cost of drugs, that is to say, in Government budgetting, if one might use that phrase, in 1984/85, after the increase in prescription charges to £1, which was in May of that year, was £605,000. This year, 1986/87, it was estimated that without the increase in prescription charges - that is to say, with a £1 charge - the cost would have been £742,000. So one is talking about an increase of £605,000 to £742,000 which is, in fact, just over 20%.

HON J BOSSANO:

Yes, Mr Speaker, but that doesn't tell us anything because that might be more volume, more medicines. The point is, are we talking about more medicines being consumed. If more

medicines are consumed the cost to the Government is higher, notwithstanding the fact that the proportion that the Government pays may be no higher.

HON M K FEATHERSTONE:

Not for the prescriptions.

HON J BOSSANO:

I don't mind sitting up and down all day if necessary but I am getting two different explanations. The explanation of the Hon Member opposite is that the increase in the cost per item, or in the cost per prescription, since it was last looked at, has gone up by the order of 20%, and, therefore, that is why they are increasing the contribution of the patient by 20%. Well, that is a sensible explanation for what they are doing. The explanation given by the Financial and Development Secretary is that the Government contribution has gone up by 20%. That has nothing to do with the cost per item.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It was the cost to the Government, what is provided in estimates for this particular item.

HON J BOSSANO:

I accept that. If we have an epidemic, Mr Speaker, and there are lots of people going ill then without the cost per unit of medicine going up the cost to the Government would go up because the Government is funding a part of each prescription. So the more prescriptions you issue the greater the amount of money Government has got to provide. Of course. And therefore the Financial Secretary's explanation has nothing to do with the other one and it is the other one that we were looking for. I am grateful that the Hon Member has given me that explanation because that, in fact, answers the point that was raised earlier, and I think we had not been given a satisfactory answer.

I was coming to the other point, Mr Speaker, when I gave way, which is that I think the Government still needs to do some homework on this question of the EEC cost because I don't think it is enough to say: 'Well, we may have to pay or we may not have to pay and we will have to see how the thing is worked', because what we don't want is to find ourselves being faced with a bill, a year hence or two years hence, for which we are totally unprepared, which we didn't expect to do and which catches us - if it is not true to say that the pensioners' bill caught us by surprise then certainly, I think the implica-

tions of the pensioners' bill has caught us by surprise, because I think that nobody really in Gibraltar expected that eventually we would be talking about a total liability of £100m. I don't think even the Government is looking at it as they have done, as they have said they have done since 1977, could have imagined that it would ever be a sum of this size.

I also think I need to come to the question of the Quarry Company, Mr Speaker, and the subvention that is being provided for the Quarry Company which was raised by my colleague, Mr Perez, and I don't think again, we have had a sufficiently good explanation from the Government, because the Government explanation seems to be about how the company will use the money. We are not questioning how the company will use the money. They may use it to reduce the overdraft, or they may use it to buy new equipment, or they may use it for working capital, but it is a matter of Government policy that the Government should provide a subvention or should not provide a subvention, and, therefore, this is something totally new. The only area where we have had the Government providing finance to an outside organisation has been in the question of GBC, where there is clearly a public responsibility, and in the question of Mount Alvernia where, again, there is clearly a Government responsibility to look after our elderly citizens. And if the money had not been left there by Mr Mackintosh then the Government would have had to find the money because you cannot just let senior citizens go into a corner and have nobody to look after them simply because they haven't got a family or the wherewithal to look after themselves. I think there is a community responsibility and that is the explanation as I see it, in those two areas. We are now talking about a Government owned company and whether it is intended to create a precedent on GSL or it is not intended to create a precedent on GSL, the reality is that the running losses of the Quarry Company are a grain of sand, Mr Speaker, if one may use the expression, compared to the running losses of GSL.

And GSL is in a situation where it claims to be in no position to meet wage increases.

It has claimed that for 1985 the wage increases were not merited, independent of whether it had the money or not, but that in any case it didn't have the money. It is still saying the same thing in 1986 and that is not the kind of climate where the commitment that was there at the beginning of the enterprise is likely to be revised, that is the reality of it. They have lost, in my judgement, and it is a matter of opinion, but I think they have lost 90% of the goodwill that was there in the first three or four months of the operation when people were relatively enthusiastic and willing to make allowances for all sorts of shortcomings. I think fifteen months after the

event the people that are still there - and there are not many of them - I think, as my colleague has mentioned, we have had a situation from the figures available to us that something like 400 people joined the company in 1985 and 300 people left and that in March this year, 17 people joined and 14 left. And that of the 17 who joined 12 were Spanish nationals, and out of the 14 who left 11 were Gibraltarians. The trends are there. The Government is in a better position, if anything, than the Opposition to get because that is information that they can demand as owners of the company. I would have thought it is a worrying trend if the skilled English speaking navy trained craftsmen, which were supposed to be the backbone of the enterprise - at the beginning we were told it is the geographical location, the navy skills and the reputation for navy skills, and English is the language of the shiprepairing world. English may be the language of the shiprepairing world but we are swiftly moving into a situation where we have Moroccans, Portuguese and Spaniards, and we are going to have to start beginning to employ translators, never mind about English being the language of the shiprepairing world, Mr Speaker. Therefore, it is against that background that we see the commitment to provide finance for the Quarry Company as one that required an explanation from the point of view of Government policy. There are many Governments of all political complexions all over the world, certainly in Western Europe, Mr Speaker, who in fact use public funds to cover losses even in private companies, never mind in public companies, because there are implications for the nation. Because it is an area of high unemployment or whatever and it is felt necessary and that may be a legitimate argument elsewhere, but it is hardly a legitimate argument in a situation where the Government, through its Labour Department, has issued 459 work permits for Spanish nationals in one year. That is what they did last year. I know the Minister, Mr Perez, said in his political broadcast that we were not being flooded by Spanish workers. I don't know. Again, when you use a word it depends on what you mean by being flooded. If we issued one permit in 1984 and 459 in 1985, if we are not being flooded then we are not being flooded. How many hundreds do we need to issue or thousands or millions? Certainly nobody expects that the 40 million Spaniards will set up employment in Gibraltar. We don't expect that, but where equally it is true is that in the leaflet that was put out by the party in Government during the Brussels Agreement saying 'there will not be a Spaniard in Gibraltar for the next seven years', certainly that is a long way from the truth.

HON CHIEF MINISTER:

Who said that?

HON J BOSSANO:

Mr Speaker, the AACR issued a leaflet, of which there were several prominent members downstairs in the Lobby on a Saturday morning giving them out, and of which we have still got copies although they may not, we keep the reputation, which said that we were trying to frighten people because there wouldn't be a Spanish worker in Gibraltar for the seven year transitional period. That is what the leaflet said. I will send the Hon and Learned Member a copy if he hasn't retained one himself, so that he can refresh his memory.

In assessing Government policy, I think, in looking at the contribution of Hon Members, because the contributions on the Finance Bill from the Financial and Development Secretary and the Hon and Learned the Chief Minister raised a number of questions from one side of the House which, in fact, have not yet been answered, Mr Speaker, and which I think require answering, because we are looking at two things. We are looking - are we assessing the state of the economy correctly ourselves, and in doing that we assume that the Government is better placed to assess it than we are because they have got access to information which is not just what is published, and which this year we have had particularly late, but in fact what is behind the figures that are published. If they actually go into these sort of things and study them, I don't know whether they do or they don't. We have to assume they do because that is what we would do if we were there. So we are making our own assessment of the state of the economy and we ask ourselves: 'Is the assessment that we have got the same assessment as the Government has got and are we both talking about the same thing? We are not very clear whether the assessments are the same. Secondly, given that the assessments are approximately the same, what are the Government policies to deal with this kind of economic situation in 1986, and would our policies coincide with theirs? Would we disagree with them? To what extent would we disagree? This is, we think, the kind of exercise that the budget of Gibraltar should be about, and in the contribution of the Hon and Learned Chief Minister this year, which has been more substantial than in the two preceding years, I mentioned that there was a greater reference to economic thinking but very little practical materialisation and translation of that into specific policies that we could point to. Therefore, Mr Speaker, I will be coming, in rounding up, to the specific areas which we feel still need answering in the contribution of the Hon and Learned Member and the Financial and Development Secretary. But before I do that, because I strayed away slightly from what I was saying earlier on in dealing with the contribution of the Minister for Medical Services, by moving over to the question of the Quarry Company, I got a bit sidetracked, and I would like to get back to items that have

been mentioned by other Members of the Government which we have not responded to because perhaps the person responsible on this side had already spoken.

I think on the question of the Telephone Department, Mr Speaker, the Minister mentioned the re-negotiation with Cable and Wireless, and the increased contribution to the Telephone Accounts because of it. And, of course, the situation is that the Telephone Accounts have operated at a profit for the last twelve months. The fact is that there was an accumulated loss and that loss is being eaten into. And it makes sense, of course, that if you have got an accumulated loss before you decide on any policy you should wait until at least you are breaking even. But I think in the light of the fact that the Government is now projecting finishing the year with a surplus, we need to know, since it is an unusual state of affairs for a Funded Service to be in surplus - the policy until now from when Funded Services were first created in 1978 was that the Government's objective was that it should break even, and we have had a situation where they have never broken even, they have always been showing a loss, and since this is the first time where we are projecting a surplus we need to ask the Government: is their policy still that they should break even or do they have a different policy now that they are facing the possibility of surplus? No statement of Government policy has been made on that and, therefore, that is something that ought to be explained. And I think whilst we are on the question of Cable and Wireless, Mr Speaker, we feel very strongly in this House that just like on matters of, shall we say, national security, like the airport, we should if we can see if both sides of the House are in agreement because that makes Gibraltar's position stronger. On areas which are important in the long-term, and particularly where a decision is being taken towards the end of the term of office of one Government, we felt equally strongly on this issue, if you will recall, Mr Speaker, on the question of the commercialisation of the Dockyard. It would have been very wrong, for example, in our view, for the Government to have started the commercialisation of the Dockyard on the terms proposed by Appledore in January and then gone to an election in February, and then perhaps they lose the election, and then somebody else comes in in March and is stuck with a situation for four years which they don't support and they don't agree with. We have said in this House that although we always thought that the Appledore proposals for the Dockyard's commercialisation were misguided and incorrect for a variety of reasons, and we never believed ourselves that the correct policy was to aim for a Dockyard that would eventually employ, 1,200 or 1,300 people and turned-down 165 ships and do £20m of work, because that is a ship docked every three or four days which is labour intensive work and which, therefore, puts a lot of pressure on the company to either have very low wage

rates or enormously high productivity in order to have unit costs that are competitive. The Government went to the election and won the election and they had a mandate and they have got the right to have introduced it and they have got a right to defend their view and to see if they can make it work. So we think that on the question of the future of telecommunications, which could play, we believe, a more important part, quite frankly, in the long-term in Gibraltar's economic development than GSL ever will, it should be desirable, if it is possible, to see whether both sides of the House could agree on what they would like to see happening in 1988. In which case, I think, it is a good thing from Gibraltar's point of view and a good thing from the prospective operator, that he knows that he doesn't have to worry about the election, because, really unless a third unknown element comes into the campaign, it would not be an election issue. If that is not acceptable to the Government then.....

HON J B PEREZ:

If the Hon Member will give way. I have already said in my contribution that there would be consultation with the other side.

HON J BOSSANO:

Fine, Mr Speaker. I am drawing attention to it because I think it is important that it should be seen that when it is possible to move in a direction like that, then we believe it ought to be tried. And if it isn't then, fine, the matter can be debated in the House and one can put one's argument for and against and at the end of the day the Government uses its majority.

I think on the question of the international calls and the franchise, which the Minister tried to defend the position, I don't think that the defence that he put up is one that satisfies our criticism because what essentially we are saying is that we find it undesirable, if we don't want to use a stronger word than that, that somebody should phone Gibraltar by phoning Spain - and that that can be done is not in question, it can be tested, Mr Speaker, by using the telephone in the Lobby of the House of Assembly and calling a Gibraltar number through Spain. Yes, it can be done because I have been told that it can be done and I have done it and I have tested it. And one can call, in fact, the regional code of Cadiz from Gibraltar and call a Gibraltar number. And just like one can do it from Gibraltar one can do it from anywhere else in the world. And nobody using that would know that Gibraltar was not in the province of Cadiz. That is the point that we were making. It may not be possible to phone out an international

call via the land line. That I don't know. But that it is possible to phone in is definitely the case, and that the Gibraltar code is not well known is also definitely the case because I can assure Members that when I was away recently I tried to telephone on a number of occasions directly and I wasn't able to do it, and I had to use the operators who had - I am talking about the United States obviously - who had a very hazy idea about in which part of the world we were situated, never mind whether we had a code at all.

HON A J CANEPA:

We hope they are better informed now.

HON J BOSSANO:

I hope they know better now, yes.

HON J B PEREZ:

I did say in my contribution that the connection was recently pre-arranged between Gibraltar, the United States and Canada. That is what I said in my contribution.

HON J BOSSANO:

The Hon Member mentioned also, I think, the question of the resiting of the prison being considered. This is not something that was mentioned by the Minister for Economic Development as part of the items in the Prison. The Minister mentioned that it was being considered but the Minister for Economic Development didn't make any reference to it in the items for the Improvement and Development Fund. There is nothing there because presumably there would be. I think the last time a question was asked in this House several years ago, the Hon and Gallant Member, Major Dellipiani, I think, gave a figure of something like £5m or £6m.

HON A J CANEPA:

For a new Prison, yes, but I think there has been a re-consideration of relatively modest proposals on a small matter of £1.4m. I think at the moment we can do something better with £1.4m, much as I support the creation of another asset for the tourist industry, but perhaps in a few years time we can get round to looking at that.

HON J BOSSANO:

I am grateful for that explanation, Mr Speaker. Having

mentioned the Hon and Gallant Major Dellipiani, perhaps I need to make some reference to his contribution. He was in a very military mood this morning when he spoke, I must say. I have always had a certain amount of scepticism about his military strategies when I have heard them before in the House, but he sounded quite convincing this morning.

HON MAJOR F J DELLIPIANI:

Have you got a Shadow there?

HON J BOSSANO:

No, we haven't got a Shadow Minister for Defence. We could never match his expertise on the subject. But I thought it certainly made some sense in saying that the sudden requirement to re-enforce the protection to the airfield and whatever, suggests that it cannot have been all that well protected before. That seems to be an obvious commonsense conclusion to come to and it certainly makes sense to say to oneself: 'Well, not everybody is going to issue advance warnings of what they intend to do', and, therefore, if shortcomings have been found then I am sure the Government will wish to impress on Her Majesty's Government that the lesson should be learned and that those shortcomings should be catered for without waiting for a crisis to occur. I take it that that was the point that the Hon and Gallant Member was making and we would certainly go along with the desirability of that situation.

I think also that the Hon Member made a number of references to the question of productivity in the Department which is consistent with what he said last year, and is something that has not been reflected in the contributions of other Members this year, whereas it was reflected last year. I don't know whether they all get very worried in the Government about productivity when they are predicting reserves of £3.7m and feel quite relaxed about it when they start predicting reserves of £6m or £7m or £8m or £9m. But there seems to be a correlation, Mr Speaker if one looks over the years at the state of Government finances and the state of preoccupation about productivity and output and work norms and whatnot. But to grant the Member his due, he clearly is totally oblivious to the state of the reserves because he said almost exactly the same thing this year as he did the last. But he stood out, I think, from the contribution of other Members in doing so. We would also support, Mr Speaker, the view he expressed about - obviously the Armed Forces know that I am praising the Hon and Gallant Member and they are putting up some obstructive noises to try and prevent me.

MR SPEAKER:

I will not call them to order.

HON J BOSSANO:

We also support, Mr Speaker, the view that he expressed that in the case of GBC, whom we feel has had to cope over recent years with a shortage of finance for re-equipping and obtaining new equipment, and from our knowledge of the situation there have been occasions when they have had to make do with very inadequate adaptations because of the inability to obtain the right spares and so forth for equipment which is totally out-of-date. The situation improves and all that the money that comes produces is a reduction in the Government subsidy then clearly the Corporation has got little incentive to improve sales and generate revenue if at the end of the day they are in exactly the same position whether they do it or not. It seems to us a very logical assessment of the disincentive effect of doing that and we would support the views that he expressed on that subject. I am sorry the Hon Member is not here because it is not very often that I say I agree with so many things that any one Government Minister has said. He is outside, ah, good.

I would like to come now, Mr Speaker, I think to the contribution of the Minister for Tourism which, I think, was more than adequately dealt with by my colleague in that we have not seen from him or from the Government where the relationship is between the Government's strategy and the Government's expenditure in the Appropriation Bill and the resulting income from tourism. And he quoted what I said in 1984 and, indeed, what I have said in many previous Budgets going back to 1973, when I asked the then Minister for Tourism, Mr Abraham Serfaty, to give me a cost benefit analysis of tourist expenditure. He looked at me with a blank look which suggested he thought I might have been using rude words, Mr Speaker. I am not sure that they have still got round to the message that we have been trying to put from this side of the House and, that is to say, if as the Minister for Economic Development has just said, for example, about the £1.4m for the Prison. He has, in fact, just said: 'If we have got £1.4m and we can use that for re-siting the Prison and that is going to mean that the Moorish Castle is going to be available as a tourist site and that improves the tourist product, I think at this stage, I can do better things with the £1.4m'. That pre-supposes that somebody is sitting down and saying: 'Well, I have got £1.4m and I can either do this or that with it', and there is a logic to why you do one thing as opposed to the other. Where in the tourist expenditure of the Government can we see that reflected? That kind of logic, that kind of analysis. We haven't seen it anywhere. The Hon

Member, I thought was going to give us the kind of statistics I am looking for when he quoted my request for statistics in 1984, but what did he do, he just mentioned the £20m which had already been mentioned by the Financial and Development Secretary in the Finance Bill, except that he doesn't seem to have read what the Financial and Development Secretary had to say in the Finance Bill. Therefore, Mr Speaker, with your indulgence, I will read what the Financial and Development Secretary had to say on the subject so that then perhaps the Minister for Tourism will see that the Financial and Development Secretary agrees with us and not with him. The Financial and Development Secretary mentioned the £20m figure and said that it had increased from an estimated figure of £12m in the previous year. He said: 'Total expenditure by visitors to Gibraltar during 1985 is estimated at about £20m compared with £12m in 1984. However, while there was a substantial inflow of tourists and visitors, there was also a substantial outflow of expenditure in Spain'. If he is using the extra £8m coming in as defence for having taken the right decision with 'Brussels' then he must surely deduct from it the outflow.

HON H J ZAMMITT:

Mr Speaker, if the Hon Member will give way. I think it is a very illogical assumption to come to and I think I was telling him, in fact, I must say this, Mr Speaker, which I probably omitted, I think every Member on this side of the House pays a lot of attention to what Mr Bossano says at Budget time and I think he is doing himself a disservice in trying to alienate one with the other. The fact that Gibraltarians go and spend £10m or £15m in Spain, surely, should not under-estimate the value of tourism coming into Gibraltar. That is not an analysis that I would give much credibility to.

HON J BOSSANO:

Mr Speaker, I will try and explain it again because he obviously hasn't understood a word I have said. If he is looking at the value of the frontier having opened in February instead of December, then in looking at what money that has brought into Gibraltar he cannot simply look at the money that has come in, he must also look at the money that has gone out, because, in fact, both things are the result of the frontier having opened nine months earlier and, therefore, the net effect of those nine months are not £8m, the net effect is the £3m minus the rest, and the minuses, Mr Speaker, clearly are not yet finished. The minuses are not yet finished because we have got a situation where we have just read in the paper that a ruling has been made by the Court about the importation of fresh fruit from across the way which we thought the Government had a policy on not allowing, which the Government may no longer be able to defend,

and, therefore, this is talking about the impact of the frontier opening. About the impact of the tourist as such, if the Hon Member is saying that, I am not sure, but he seemed to be saying that in fact tourism could become the main pillar of the economy, and we have had a situation where for three years consecutively, in 1983 in the Royal Institute of International Affairs; in the 1984 Budget, and in the 1985 Budget, the Government was talking about developing a strategy where there were two pillars to the economy, tourism and shiprepairing. For most people two pillars of the economy means that you have got an economic strategy which basically means that each of your two elements in that strategy are designed to account for 50/50 of the economic growth generated, or one might be 60 and one might be 40, but that is what you are talking about. If we are talking about three pillars then one would assume that they were 30/30/30, or roughly those figures. Again, there is no quantification of what the Government means, but certainly the GSL pillar is looking decidedly sick, and the tourist pillar, Mr Speaker, requires three million visitors to generate £8m gross income. And we still don't know what is the net effect of that income because the Financial and Development Secretary also points out, quite rightly, that a great deal of the consumption generated by this spending is the result of imports. He said: 'The high import content of sales, on the one hand, and on the other the high level of spending in Spain, meant that the increase in gross domestic product was rather less of a figure than two million tourists might suggest'. We have got a situation where because we have got what is called in economic terms 'leakage', that is to say, if you have got £1 coming in and 90p coming out then what your tourist is contributing to your economy is 10p. If you want to increase your national income by £1m then you have got to know how much of each pound that is coming in is actually staying in the economy of Gibraltar. Because if you are assuming that 90p are staying and only 10p are staying then your figures are going to come all wrong. And if the situation is that, in fact, we need three million people to generate £8m of gross income and, say, out of that £8m of gross income £1m is actually what is left behind and £7m goes out again, then that effectively means that for every £1m that we want of increase in our gross national product we need three million people and clearly we cannot talk about three million people this year, six million people next year, nine million people the following year. There is a physical limit to how many people we can handle. What we are talking about, it isn't that we are against tourism, Mr Speaker, it is that we are sceptical about whether mass tourism in a place like Gibraltar can produce the benefits that some people believe that it can, that is what we are talking about.

HON H J ZAMMITT:

If the Hon Member will give way.

MR SPEAKER:

With respect, I am going to allow you, don't worry, but I am sounding a word of warning. We are not going to have a ding-dong as I have always said, we are not going to because otherwise.....We have all had our chance. In any event, go ahead and say what you want to say.

HON H J ZAMMITT:

Mr Speaker, I think it is very important, with great respect, Sir, that one be allowed to explain these things because I don't think it is intended as a ding-dong. I myself said in my contribution this morning, that I certainly wasn't here to try and cast blows. I think enough is enough, we have had the past and we should look towards the future.

I think, Sir, where we are possibly not understanding ourselves is that the difference between the closed frontier situation and the open frontier situation was, and this was worked out by a statistician several years ago as to the value of resident tourists in Gibraltar, which, of course, is much higher than excursionists coming to Gibraltar and spending a day and buying and leaving. We knew, Sir, at that time when we were receiving 100,000 genuine bed occupiers in Gibraltar that that was providing Gibraltar - I am forgetting the small amount from Morocco - we were generating then about £11.2m, which meant that possibly £2½m to £3m gross. That, of course, is the important thing, but we only have 1800 beds at the moment, and, therefore, even if we had an 80%, which is 100% virtual capacity, the present situation of the value, the kind of economic value that the Hon Leader of the Opposition is trying to ascertain and, may I say, we haven't got this analysed as yet, I am told it requires a little more time for our statistics Department to be able to say: 'Right, for every person coming in and spending, for arguments sake, £20 that means £2.50 to the economy'. That is being worked out but there is a lot of value, obviously for the future, in the provision of additional hotel beds which is where Government and the whole economy broadly takes tremendous benefit from. That is the difference, I think, Sir.

HON J BOSSANO:

I am grateful, in fact, Mr Speaker, for that explanation from the Hon Member because this is what we feel we need. We need to see which way the Government is, in fact, focusing its attention and certainly the way that the Hon Member explains it,

which has a clear rationale, is not the way other people have explained it. For example, the Chamber of Commerce talks about turning Gibraltar into a shopping centre and clearly they are talking about people coming in doing their shopping and going. Which of the two strategies are being followed, because I think it is only proper that if the Government is not aiming for a shopping centre then it would be wrong for the Opposition to turn round and say; 'You are failing to achieve the shopping centre economy which is what you are doing when it is not what you are doing'. If you are aiming in another direction then clearly what we have got a right to do is, having established what they are aiming for and what their target is, then we question them on how much progress they are making towards that target, how close they are to achieving it. Independent of whether we would do it ourselves that way or not, I think there are two elements. One is the element where we say we ourselves would not be pursuing a situation where the important thing is to have more hotel beds, or we would, we don't know which we would do because I think, quite clearly, one of the important elements is to get the kind of information which the Hon Member says is not yet available and which we think needs to be available. We think that that is a primary consideration.

I think clearly the situation at the moment is that the benefits that have been reflected so far in the increase in import duty and so forth are the result of visitors from across the way and that clearly is the limit to what that can produce, presumably cannot be considered to be very far away, otherwise we shouldn't be having in the Estimates of Revenue an increase of £600,000 in import duty. If we were expecting six million people in the next twelve months then that should be reflected in revenue estimates. So, growth, presumably, lies not in that direction but in the direction of long staying tourists. I think then, Mr Speaker, this is the kind of policy statement that we believe is important to have so that we can then, when we follow, see what progress is being made in the achievement of that, once the Government has decided that that is the direction that they want to go. And therefore, essentially, my criticism was based on what I could deduce was the policy of the Government from, shall we say, circumstantial evidence and, therefore, I am glad that the Hon Member has interrupted me and given the explanation that he has because we can now see more clearly where the difference lies between what other people have been saying and what the Minister for Tourism has said.

I will then, Mr Speaker, draw the attention of the House to what the Minister for Economic Development had to say, and I think that there, and I am grateful, in fact, for the details that he gave the House of the proposed development programme and of the situation that there now is as a result of the response of Her Majesty's Government. I was planning to say, because I heard

him yesterday from outside get very upset about what my colleague, Mr Mor, had to say, and he said that a Spanish newspaper had described him as being 'tranquilo' and he couldn't understand why this..... in a very excited sort of voice. But today I cannot say what I intended to say, because I was going to say that he does get so excited it just shows you cannot trust the Spanish press, but, in fact, he was so 'tranquilo' today that I have had to forego the opportunity.

HON A J CANEPA:

I did point out to this journalist, who is not absent, that there was a different perception about it.

HON J BOSSANO:

I think, in looking at the Government's projection of the development programme, Mr Speaker, we necessarily come to the issues that we raised before in the question of the Finance Bill and in the question of the position as shown by page 5 and the state of the reserves because I think they are crucial in considering the amount in the Improvement and Development Fund and the capacity of the Government for spending money in the Improvement and Development Fund. The statements that have been made in this Budget are a total departure from everything that has been said since I arrived in this House since 1972 as regards reserves. Neither the Financial Secretary nor the Chief Minister have made an attempt to defend why they borrowed £2.3m in the last twelve months for recurrent expenditure.

No, Mr Speaker, the Financial Secretary tried to put a smoke screen across it by saying that £1m was needed for re-financing £1m of maturing loan when, in fact, the £1m of maturing loan was the subject of correspondence between us about the adequacy of the Sinking Fund and, in fact, the money to pay back that loan was already there. So he didn't need to borrow money to repay that loan. As I said before, it might have been a good opportunity to raise money, because if you are paying back somebody £1m it is a good trend to ask them whether they want to re-invest that money. I raised that point myself in 1972 when there was some maturing Government debentures, but that is not what I am talking about, I am talking about the use of the money. Because last year the Hon and Learned the Chief Minister was still concerned about the reserves, so the policy on reserves has changed this year. Until last year's Budget reserves were still considered important. 'Our reserves have been seriously depleted' - the Hon and Learned Member said - 'to the extent that we have decided for the first time ever to borrow £2m this year for recurrent expenditure'. It is perfectly legitimate to come back twelve months later and say: 'Your reserves have not been seriously depleted, so why did

they decide to borrow £3.2m which is more?' We need an answer on that and we haven't had an answer.

In judging this so-called prudential level of reserves, we have only got to go on what previous Financial Secretaries have said, but the Hon Member tells us this year that the whole idea of reserves is strange and that the Treasury in UK would simply print more money if they needed the money. Well, then all I can say is that the last four Financial Secretaries for the last twelve years have been talking total nonsense in this House in all the Budgets that I have been here. Clearly it means then that for the last twelve years, Mr Speaker, I have been right and all the Financial Secretaries have been wrong, when I have been critical of all their policies. We have to assume, unless we are told differently, therefore, that there has been a fundamental change in the Government's position on this matter as a matter of policy and that, therefore, the question of reserves will no longer resurface as an issue to justify Government policies as it has been doing consistently since 1972. And let me say, for the record, Mr Speaker, that the explanation given by the Hon Minister for Economic Development of how we were landed in a general strike in 1972 because the Financial Secretary, or the Treasury, at the time told the Government that there was no money for the pay review and, therefore, the reserves could not be touched. Just for the record, since that is what he said and that is in Hansard I invite his attention to the Principal Auditor's Report for 1971/72.

HON A J CANEPA:

He didn't read it!

HON J BOSSANO:

I did, you see, and I kept them! And, therefore, he will find that that came out belatedly in 1974, in fact, but that it reflected there what I had been arguing in October, 1972, which was the first meeting that we both attended in this House, when the Government decided to transfer £½m with retrospective effect from the Consolidated Fund, or the General Revenue Reserve, as it was then known, into the Improvement and Development Fund. And if that transfer had not taken place then the value of the Consolidated Fund in 1971/72, Mr Speaker, would have been £2m, and £2m, in fact, Mr Speaker, was in excess of the 33% which the Hon Mr Mackay said in my first Budget in March, 1973, was the prudential level of reserves. In fact, there was more money in the reserves in 1972 than was then considered the prudential level of 33%. And I am just doing that because that is what the record shows as far as the figures that I have got

and as far as the arguments that have been put before in the House. But, of course, if we are now, for the first time ever, in a totally new situation which, as I say, even as recently as 1985 and as 1984, the reserves still formed part of the Government's statement of policy at Budget time. In both last year's Budget and the year before, reference was made to the adequacy or inadequacy of the reserves. In 1984 the Hon and Learned the Chief Minister said: 'The reserve level for the end of this year will fall to just under £2½m. The Budget measures aim to restore this to nearer £4m'. So there were targets for reserves and what were considered desirable or minimum levels. Not only, in fact, were all the Hon Member's predecessors as Financial Secretaries wrong, but it would appear that he has been wrong in the last two Budgets in supporting that policy.

We have been looking at the question of the public debt for a number of years and when we get told, Mr Speaker, as we do, that the economy is now recovering, and as we were told last year that the battered ship of state under its captain was now coming out of the storm, we look at the storm that we have just come out from and what do we see? We see a storm that had in 1980/81 £9m of debt and £9m of reserves; that the debt went up from £9m to £20½m in 1982; £22½m in 1983, £26½m in 1984; and the last figures shown in this year's Estimates is almost £29m. We seem still to be floating on a debt mountain which is getting bigger all the time, and I think the reason why that needs to be there, independent of the fact that as we have made clear from the moment the Loans Empowering Ordinance was brought to the House, we are completely opposed to borrowing money for recurrent expenditure. We have got misgivings about borrowing money for long-term capital investment depending on the strength of the economy otherwise. There is nothing wrong with borrowing money when the economy is growing and when you are, in fact, able to project into the future how you are going to pay back what you are borrowing. We are glad that the Government have done the kind of re-financing exercise on the £4m loan of Midland Bank as we said. It was something we pointed out to the Hon Financial and Development Secretary two year's ago and he said he would look at it and obviously, having looked at it, he has come up with a good answer, because if he reduces debt servicing charges then that is a welcome piece of information since it gives the Government that little bit extra of breathing space with which to have money to do something more useful than paying back tax.

We are trying to assess ourselves, as I have been saying all along in my contribution today, Mr Speaker, the state of the economy which requires, it seems to me, quite often a lot of digging on our part because it is not explicitly set out by the Government on its own initiative when they make a statement, and

on this occasion there is more information than there has been in the two previous Budgets. But, of course, if we have now got a situation where the economy is better because the frontier opening has injected life and economic activity into some areas of the private sector which, in turn, have produced a multiplier effect and raised the level of economic activity, then we don't need to borrow for recurrent expenditure, because it was the absence of that economic activity that was a justification given twelve months ago. And, therefore, we would expect the £2.8m, that is to say, the £2.3m borrowed last year and the £½m borrowed this year - because even this year we are borrowing for recurrent expenditure. We are borrowing £2m and using £½m for capital investment. So we are borrowing £½m for recurrent expenditure. We would expect that £2.8m to go into the Improvement and Development Fund, and, therefore, we shall be moving an amendment in the Committee Stage of the Appropriation Bill, Mr Speaker, so that the figures shown in the appropriate Head, the Contribution to the Improvement and Development Fund, Head 27, what we propose then is to move an amendment to change that figure from £1½m to £4.3m which would be the total borrowing.

HON CHIEF MINISTER:

I can't think the Hon Member can do that.

HON J BOSSANO:

I believe, Mr Speaker, what I cannot do is propose.....

MR SPEAKER:

I think the Member can most certainly move amendments which relate to expenditure. There is no amendment to revenue raising measures.

HON J BOSSANO:

What we cannot do, Mr Speaker, is increase the total expenditure of the Government or propose anything that will increase the financing burden, but since in fact my amendment will simply reduce the amount in the Consolidated Fund and increase the amount in the Improvement and Development Fund, the financial position of the Government remains totally unchanged. So I believe I have got the right to do it. It depends on whether I can persuade Government to vote in favour, whether I can do it or not. But if they vote against they will have to explain to us why it is necessary to retain £2.8m in the Consolidated Fund when we are told that reserves is a very strange thing that we only have in Gibraltar, and when we are told that borrowing for recurrent expenditure is an undesirable thing

as we were told twelve months ago.

Of course, I now come, Mr Speaker, to what the Minister for Economic Development was telling us about the ability of the Government to spend money given the response that they have had from ODA. And, of course, that ability will be enhanced if they have that extra £2.8m in there instead of keeping it for recurrent expenditure. And we believe that it is right that it should be there because, in fact, let us analyse the whole relationship between the Improvement and Development Fund and the Consolidated Fund and the charges on the Consolidated Fund. Let us go back, Mr Speaker, to the point that was being made by my colleague, the Hon Mr Perez, about the Public Works Recurrent and the Public Works Non-Recurrent votes. What we are saying is the Government, I think it was when Mr Wallace was Financial and Development Secretary, came along with a proposal that said; 'well, we have got a situation where Public Works Non-Recurrent is really a capital works programme, and since we have got a capital works programme which is the Improvement and Development Fund why have two different capital works programme. So we will take the capital works programme out of the non-recurrent vote, do away with the non-recurrent vote and stick it in the Improvement and Development Fund'.

The whole basis of borrowing for capital works is that since the enjoyment of the asset is spread over a number of years, because it isn't an annually recurrent thing, the cost is spread over a number of years by charging it to debt servicing. But, of course, if what you are doing is - yes, Mr Speaker, that is it. The whole basis of debt financing, is on the assumption that if you buy a set for the Generating Station and you say: 'Well, since that is going to be something that has a useful life of ten years we then pass the cost to the consumer over ten years. Otherwise it would be very unfair to charge the consumer one year for something that has got nine years life left'. But, of course, if you are moving your non-recurrent capital programme from the Public Works to the Improvement and Development Fund, which you haven't done before, that was a change we did two or three years ago, and now you are using your loan capital for the Consolidated Fund you are distorting entirely the process of financing Government operations from the point of comparing today with anything that has happened two or three years ago. We had a situation where two or three years ago we were doing capital works non-recurrent from recurrent revenue. From that we have shifted to a situation where we are financing annually recurrent programmes from loan capital. That is a major change of Government policy. It may be, as the Hon Member said, we have all been too conservative in Gibraltar in our financial policies, I don't know. Perhaps when there is a crisis in the debtor nations of the world it might not have

been such a bad thing, but we certainly cannot be considered to be conservative anymore when we are talking about a national debt of £30m. We might have been considered conservative ten years ago when we had a national debt of £4m.

The Government has mentioned in its own submission the need to do something on housing, and the Minister talked about the 100 units to be built in the Laguna Estate by putting on an extra floor, and I think he said that four blocks were going to be tackled this year, although I was rather surprised that you could do four blocks with £100,000 in the first year. Is £4m the cost of four blocks? Are we talking about the average cost being £20,000 or £30,000 a unit, or even less than that?

HON CHIEF MINISTER:

Yes, we will have to spend £7,000 or £8,000 in the roofs anyhow.

HON J BOSSANO:

Because our own view, Mr Speaker, is that based on the consultancy that the Government obtained, and I would remind the Hon and Learned Member that in his Budget speech of something like four years ago he drew attention to the fact that the consultancy was going to be the basis upon which Government policy on housing would have to be looked at. That consultancy identified a requirement of something like 50 new dwellings a year simply as replacement for the stock of 5,000 dwellings. If you have got 5,000 or 5,500 dwellings then clearly they are not going to be there forever, so you need to have a figure which is the figures that you need just to replace the ones that are no longer repairable at reasonable cost and where it is cheaper eventually to knock the place down and have a new one. We have not had that kind of output because of the constraint that the Government has been operating with all the uncertainties of the Dockyard closure and whether the frontier was going to open and all the rest of it. But if we are now moving out of that phase then clearly the Government must have a target, in our view, of something in the region of 100 units a year to make any kind of progress at all. And even then it would take, we think, something like a minimum of ten years at 100 units a year to clear up the backlog of people on the waiting list, unless they have all gone to live in Spain by then.

If 100 units a year is reasonable, and if we look at the recent decline in building costs which the Hon Member has made reference to in the savings that there have been in the programmes, then we are talking about a requirement of something like £5m a year for housing in the Improvement and

Development Fund. That is the kind of money that is needed to make any impact on housing from the public housing point of view. That is the figures that we think are necessary, given the information we have got. If we have got our figures wrong and if the Government thinks that they can actually make a dent on the housing programme by building five flats a year or ten flats a year then they need to explain to us how they intend to do it because we cannot see how they can do it. And all the information we have got is the information they give or the information they publish. We go by the Abstract of Statistics. We go by the Consultancy on Housing. And based on those sort of figures this is the kind of conclusion that we come to. And this is what we mean about being in Government with a programme and a policy. The Government stands up and says: 'The programme of the Government is we might like to do 700 houses but we cannot, but what we are going to do is a moderate level of 100 flats a year, give or take! Perhaps one year they do 90. If we look in the past when there was a housing programme which was primarily financed by ODA, then that was the kind of level that we were doing in the 1970's and obviously it was relatively easy to do because, in fact, you didn't have to find the money, you just had to find the argument for the need and then you made a case to ODA. The position of ODA today clearly is, as the Hon and Learned the Chief Minister himself mentioned, I think, in last year's debate, that they will provide some money for infrastructure, and then if we want to do something about housing then it is up to us to do something about housing. I am not quite sure what it is they are providing money for anymore, quite frankly, because if they are not providing money for housing and they are not providing money for tourism and they are not providing money for the Generating Station and they won't provide money for the refuse destructor, I am not sure what it is apart from Brian Abbott, of course.

I think we ought to be paid for having Brian Abbott here quite frankly, Mr Speaker, but certainly I think it requires much more than £8m to make me want to keep him here. I think, Mr Speaker, therefore, that in drawing the Government's attention to the kind of policies we would expect them to come up with and which, regrettably, we have not seen, we are ourselves giving an indication of the way we would approach the problem and the way we would come up with the answers.

I think there is also an important element, aside from what I have said of borrowing, aside from what I have said of financing the development programme and the problems with ODA, which is related to the unknown, as yet, negative elements in the economy from the question of the relationship with Spain in the European Community. When we talk about it being negative, we have to talk about it being negative in the context that it will affect some people adversely. What we are not clear is whether

Government's policy - we have had a clearer statement from them than ever before on the osmosis question and that statement is one that coincides with our own political position on the issue - so anything that is required to resist osmosis the Government knows that it can count on us 100%. There is no question about it. But independent of whether one considers it to be osmosis or whether one considers it to be a normal trading relationship, the reality of the situation is that we have had already an area where I know the Government has got a copy of the letter that I received which is the area of ready mixed concrete where the people who bring in ready mixed concrete from Spain are able to undercut the local producer. Does Government have a policy on that? I think we need to forget whether it is good for ready mixed concrete because it is obvious that it is bad for them, and it is obvious that they are going to fight, so I think, the Government, having listened to somebody who is lobbying to defend his own private interest, has got to make a decision on whether from the point of view of Gibraltar as a whole, just like they have made a decision, again which we concur with, that it is not good for Gibraltar to depend on electricity from across the road, even though it might be cheaper, and it is not good for Gibraltar to depend on water from across the road even though it might be cheaper, and it is not good for Gibraltar to depend on bread from across the road even though it might be cheaper. Have they decided whether it is good or bad for Gibraltar to depend on ready mixed concrete from across the road? If, in fact, they are not able to do anything, because they might want to do something but they find that they are not able to do anything about ready mixed concrete, and it would appear from the decision that has been taken by the Court on the right to import fresh fruit and vegetables from any European Community country without any quantitative restrictions, that the policy that they have told us consistently a number of times in the past they were going to be carrying out they are not able to carry out anymore. The situation, as we understand it, is that until now the Government has maintained that they have got the right to put quantitative restrictions on imports of fruit and vegetables from Spain, not just for wholesalers who want to retail it but even for people who want to process it themselves. We have asked specific questions: does a restaurant or an hotel have the right to go into the market in La Linea and buy fruit and vegetables or not? And we were told, no, you can only buy it in quantities which are for domestic consumption. Well, if that is an element in the economic strategy of the Government, assuming they actually do these things and have economic strategies, how is that changed by a result of this decision? That is an important matter. We have to assume because of the answer that we have been given in the aftermath of the Brussels Agreement, and in the questions related to European Community legislation on trading matters, that the Government's

policy was in fact to protect indigenous sources or protect local manufacturers, or protect local importers from outside competition. And we questioned to what extent they would be able to do it once they were challenged under Community law. This is an important escape because, in fact, it seems to us to throw the whole thing open. If one cannot say to somebody: 'You cannot bring commercial quantities of potatoes without bringing a certain amount', if that is not permissible then presumably it is not permissible to say: 'You can only bring one loaf of bread'. I would have thought that the principle is identical. And then we cannot protect ready mixed concrete. But what else can we not protect? Because then we are in a situation where we have to start saying to ourselves: 'Well, wait a minute. If I have got three million people who are the daily visitors, and the three million people bringing to the economy £8m, and I have got £15m being spent already over there by consumers, and the ones who don't go over like me are going to have the supplier coming to his doorstep so that even if I don't go over there to buy the stuff I am going to have somebody trying to sell it to me here'. Then we need to do our sums very carefully, Mr Speaker, because otherwise the Government could be finding itself skating on very thin ice, and all their projections and all their hopes for an improving economic situation could go seriously astray. And I hope that the Government understands that in saying the things that I am saying I am saying them in the spirit in which, I have been in the GSLP and I myself have consistently brought up matters in this House of Assembly and not, I think, as there appears to have been some doubts generated in more recent times in Government's mind, with an idea of undermining them or wanting them to fail or wanting to bring the AACR down. It is total nonsense. Of what benefit can it be to any Gibraltarian to see a change of Government at the expense of the ruin of Gibraltar? That is too high a price to pay for any conscientious Gibraltarian. Nobody will want that, and certainly we don't want it, and I am not saying I want any of these things to happen. All I am saying is that it is questions we ask ourselves. We are entitled to find out whether the Government has asked themselves those questions and what the answers are. If we thought it was something that would serve them right then perhaps rather than point out the dangers the policy to follow would be, as my Hon Friend has pointed out, simply to say: 'Well, I will let you walk straight into it and then afterwards come out and say: 'It serves you right'. We are not trying to do that and we are not interested in doing that, we are interested in being reassured by Government, because it is an opportunity that they have, either that we are unnecessarily cautious about these implications, unnecessarily concerned, and that there is no need to worry because they know exactly what they are doing and how they are going to overcome these problems, or else an admission from Government

that those problems are real, that they are there and an indication that something is being done about it or some thought is being devoted to it. But it seems to us clearly that an opportune moment to assess this kind of unquantifiable element - and it is not that we are saying that the solutions are easy, we have argued in the past, Mr Speaker, that mistakes were being made, but what is clearly in nobody's interest and does no good to anybody is simply to say: 'You made a mistake last year'. Whatever and whoever made the mistake last year, last year is now twelve months behind us. We have got to look to the future of Gibraltar, to the security of Gibraltar and to a Gibraltar that survives an open frontier like it survived a closed one so that we finish up with a strong Gibraltarian identity and with the necessary resources to fulfil our right of self-determination because we are not subjected to pressures from other people. So in a way it is no bad thing if we can do without development aid, and it is no bad thing if we can do with less MOD presence. The only problem is that we must be able to do without it. Of course, that is the only problem, and it is on that basis and with that kind of spirit and with that approach that we look critically at the way the Government is proposing to handle the economy of Gibraltar over the next twelve months, and not with any sense of personal animosity or anything else.

Thank you, Mr Speaker.

MR SPEAKER:

I will then call on the Hon and Learned the Chief Minister to exercise his right of reply.

HON CHIEF MINISTER:

Mr Speaker, I shall attempt to forget that part of the intervention of the Leader of the Opposition which was the kind of economic lecture of simplicities where he tells us whether if you take away ten from five it will leave five, and if you use three back there then you have to put two there. We are quite used to that and we have to take it in our stride. I think, it is usual for him perhaps because he didn't have much to say in the Finance Bill because the budget was a good one. He has had us for just over an hour and a quarter some of which could well have been dispensed with because we have had that type of lecture from him in the past. But, nevertheless, it is always nice to hear him even though he repeats himself year after year.

I will deal with some of the points that have been raised by him simply and hopefully quite quickly leaving one or two matters for the Financial Secretary who has the right of the

last reply. I will take them in the order in which he has raised them and not in order of importance as we see it, but just in order to follow my notes on what he has said.

With regard to the contribution of the Quarry Company, I had thought that we could have a detailed discussion of that when we came to the Committee Stage, but, yes, the answer is we consider the Quarry Company certainly for the next two years should be given a chance. First of all, we consider the Quarry Company of interest to Gibraltar because it has already served a purpose in bringing down the price of sand when the sand had to be imported by sea. The situation may have changed slightly since the opening of the frontier but we still think that the existence of the Quarry Company is justified by keeping prices of aggregate and sand down. Of that we are satisfied and for that, having regard to the particulars that will be given in the Committee Stage, how the guarantee had to be paid in order to make it viable for the future, will be explained later.

With regard to the Telephone Department, the question of dealing with rates and so on was a bit too early. Things have developed in such a way with the telephone direct connection with Spain and the other matters, the review of our tariffs on the IDD, that it was a bit premature to be able to gauge a distinction in order to be able to assess the rates and where the benefits should go. In principle, of course, subject to making proper provision for replacements from proceeds, for the replacement of capital equipment and so on in the usual way. Very much the same as used to be run by the Municipal Services. I think the benefits of the profits must be given back to the people, either in time or in reduction of fees or more free calls or whatever. The point is we have had a number of years in which the Telephone Department has had a deficit. Because we knew the future was better we have not wanted to increase the rate of fees in order to cover the deficit. We knew that the money would be coming. It is not necessary to have a budget to come with proposals later on in the year to say that the fees can be reduced. There is no problem about it. I think on that question we are quite ad idem.

The question of the future of the contract. Yes, the Minister has rightly said that there would be an element of consultation in that. It is true that it is an on-going matter and the franchise will probably be for five or ten years. Of course, that is a matter that transcends the period of any Government and that could be a matter on which in broad principles there would be an element of consultation. There is no problem about that.

With regard to the question of the international calls with Spain and the lack of knowledge of our dialling code. I

remember three year's ago disembarking from a ship in Copenhagen and looking for an ordinary phone box to call my family and finding the Gibraltar international code in that phone box. It is perhaps too bad that it has taken so long to arrive in America and that it didn't get there in time for the Hon Member to have facilities to make a direct phone call.

I don't really think the point made by the Hon Mr Perez about the question of the connection with Spain has much importance, and it is, I think, ridiculous to compare it with the airport. I think the Hon Member in his own address said that it is undesirable. Well, I think the Minister in his intervention, whilst the Leader of the Opposition was speaking, was quite clear on the fact that these questions of areas happen all over the place. It happens for local telephone communications which are not via satellite and they have codes only for the sake of convenience. But you are still outside the province of Cadiz. We are still outside the province of Cadiz when you ring up because you have to ring up the code. If you are in La Linea you ring up somebody in the province of Cadiz without a code. If you are in Gibraltar you have to dial 956 to phone La Linea. If you want to go outside Cadiz then you put the area code of the other one, but if you are in La Linea, or in any part of the province of Cadiz, you don't have to put the Cadiz code within the area, that is obvious - the same as in Madrid you don't dial 91 if you are in the province of Madrid. But if you are in Gibraltar you have to dial 956, so you have to get into the system before you call. But I think that is really not as serious as it has been attempted to be made. It may be that it is necessarily hard in some cases to have had to deprive ourselves of the people who are doing the work on the telephones but that is really technology must overtake these matters so long as things are done in the proper way.

I will make no reference to the question of the deployment of forces which was mentioned by Major Dellipiani and referred to by the Leader of the Opposition. I don't think that has anything to do with the budget, certainly not with our budget, it is probably being paid with somebody else's.

The question of GBC I agree to some extent on what Major Dellipiani said which has been echoed by the Leader of the Opposition. We have helped GBC not to think that any advance they make on their income is necessarily a reduction in our contribution. Last year they had a surplus according to their books, and by normal procedures that would have had to come back. They were allowed to keep it for improvement, improvement to the security of the place, improvement for the entrance, improvement in other places, and we have also provided them with equipment. But, of course, when they come to us for that naturally, like all other departments, even though it is not a

department of Government they cannot have all they ask for as, indeed, Heads of Departments and Ministers have asked for expenditure and within the constraints and the parameters of the budget we made concessions. But we must encourage them to hopefully, not rely on the Government for funds. I always feel that that is good whenever that can be achieved because, though they have complete independence and, indeed, absolute power to deal the way they want to in running GBC, I think that it smacks a little of Government intervention to have to be subsidised although that has no effect or influence at all in the manner in which they run GBC.

A lot of reference has been made about the fact that there have been departures from previous budgets. Well, being a radical I hope the Hon Leader of the Opposition can also see that there has to be progress in presentation and progress in approach. I think that this is what we have done this year and we did last year. With a deficit like we had last year in other circumstances we might have had to squeeze taxes in order just to balance the books. But that is no longer the approach and I think that having made provision for it last year in the uncertainty was I think a wise move. I will leave the matter of the actual details of the re-borrowing to the Financial and Development Secretary because it is essentially a matter for him, but, of course, he carries our full support and the matter has been thrashed out in Council of Ministers and, therefore, that is why it is on the Estimates as presented.

The question of Spanish relations on the EEC is, of course, not an easy one and there are quite a number of uncertainties not only here, but in England and elsewhere. In fact, the Spaniards themselves are having certain difficulties. Only today at midday in the news the people from the Canary Islands were throwing thousands of kilos of tomatoes over the border because they could not get sufficient support in order to maintain them. These are the kind of things that have been created that create problems.

With regard to the particular decision that the Hon Leader of the Opposition has referred to, apart from the fact that no change will be made in the grant of a licence, I understand that this is purely a legal matter. The information we have supplied to the House on the question of quantities in imports has been on the basis of legal advice that the Government receives from its legal officers. The decision to which he referred to is the legal side of it. It is based on what is called obiter by the Judge of the High Court in another judgement. Obiter means that he didn't have to decide it, he just gave it as a present, obiter dictum. That appears to have impressed the Magistrate but my understanding is that so far as the question of the legal decision is concerned, the Attorney

General proposes to appeal against the finding of the Magistrate on that matter because he thinks that it is wrong in law, and he is perfectly entitled to do that. That is how the lawyers earn their money, by finding out where other lawyers have gone wrong! That, I think, deals with the difficulties about the question of the EEC which is the main problem that arises.

There are quite a number of other problems that arise with the EEC which are being currently studied. I have had quite a number of letters from the British residents in the Costa del Sol. I had one today, as an example, but I have had sufficient to make one worry about difficulties at the frontier found in taking over normal supply of groceries to Spain. In fact, in one case on which I had a letter today, goods worth £2.16 in Gibraltar, eventually even adding a little for IVA, for VAT, finished up with 300 pesetas payment of dues and a delay of about a quarter of an hour. Maybe it is one case but I have had a sufficient number of cases to know that there are being difficulties being found particularly with groceries at the Aduana. That, I think, is worrying and, of course, we will have to look at that and see how that can be justified within the context of the EEC.

Mr Speaker, the Budget this year is the most satisfactory that we have had for many years since the difficulties arose and I am very proud to support the motion.

MR SPEAKER:

I will then call on the Hon the Financial and Development Secretary to exercise his right of reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I had hoped that I would be able to get away with not replying to the debate on this occasion, because most of the issues have been explored fairly thoroughly in the contributions by Hon Members on both sides of the House, but I felt I ought to comment on two of the purely financial aspects of the Hon Leader of the Opposition's contribution, and also the Chief Minister, in effect, invited me to do so during the course of his own winding up.

I made some comments on borrowing in my winding up contribution to the Finance Bill. The Hon Leader of the Opposition referred again to the views of the last four Financial Secretaries, I think it was. Well, I didn't have the pleasure of being acquainted with three out of four of the last Financial Secretaries although I have been told some of the things which the Hon Leader of the Opposition said about them either in this

House or elsewhere. But one difference, I think, between the position of at least three of them and myself is that they were all here during the period of economic siege, and I think that the change in economic conditions does make an enormous difference to this very point we have been discussing, namely, borrowing. The Hon Leader of the Opposition has really raised the question of the need to borrow, why it is necessary. And in my comments during the Finance Bill, and again I would like to divert him from that approach, and again try to make the point that for a Government borrowing is not unhealthy. As I said, provided it doesn't have an inflationary impact, provided it is not used to expand Government spending beyond the capacity of the economy to sustain, provided it does not increase public debt charges, again, beyond the capacity of the economy to sustain, and provided that the capacity to lend is there, that is to say, the Government has access to finance, then it is healthy. Those four criteria that I have just mentioned are perhaps, in combination, an unusual combination. That is to say, one might find it difficult to conceive of an economy where all those four factors are pointing in the right direction. Either borrowing is inflationary or it is used to expand Government spending beyond the capacity of the economy to sustain, or it increases public debt charges to a dangerous level. If one looks around the world one can find many examples of economies where one or more of those conditions obtain. But none of those conditions obtain in Gibraltar and there is a capacity to lend, that is to say, there is, I think, a ready market in Gibraltar especially for Government debentures.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am reluctant to give way to the Hon Member, Mr Speaker, because I didn't interrupt him during his contribution and what I have to say is of a piece. I am making my concluding remarks and this, I think, I have a right to do. Between 1979/80 and 1983/84 conditions were very unfavourable. That is to say, one had a further twist in the economic siege conditions and there is no doubt that during that period, whilst Government expenditure was increasing the yield from taxation to Government revenue was not increasing at a comparable level. The situation has changed. One has now an increase in revenue and we have a situation in which Government expenditure is, I think, as the Minister for Economic Development and Trade has said during his contribution, under better control. In those circumstances I see no risk to the economy of Gibraltar from Government borrowing. While I take fully the Hon Member's point that he would prefer to see Government borrowing for purposes of capital

development only and not in aid of recurrent expenditure, I don't think that distinction is in the last resort one which other Governments throughout the world would necessarily accept. So much for public borrowing.

His other point on capital funding I think is a more technical one and I am not sure that I would agree with the point which I think I heard him say which was that we ought to provide a Public Works vote, we ought to make a separate vote for Public Works expenditure of a capital nature and depreciate this expenditure over a number of years. That is to say, we would allocate the various debt servicing charges over a period of ten - if I have incorrectly misheard the Hon Member I will gladly give way if he wishes to restate this point, Mr Speaker.

HON J BOSSANO:

Obviously, the Hon Member is prepared to give way when he doesn't think it is dangerous.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I was reluctant to give way on the previous occasion because he was interrupting any trend of thought.

HON J BOSSANO:

Well, now that I am up, Mr Speaker, I don't think he can control what I have got to say, so I am going to tell him that, in fact, what I said about the Public Works vote is not that I am proposing or suggesting any change. What I said on the Public Works vote was that previously, when the non-recurrent vote was done away with, it was done away with based on the argument, and if he looks back, and it is the same Government, Mr Speaker - he may be a new Financial Secretary but it is the same Government - it was defended in this House of Assembly on the basis that it didn't make sense to have in the general estimates in the Appropriation Bill a Non-recurrent Public Works vote. That if it was non-recurrent it was capital work, and that if it was capital work it should be in the Improvement and Development Fund and financed by loan capital. We accepted that at the time and we have said now that we seem to have gone one step further. First of all, you have taken the capital expenditure out of the recurrent revenue and put it into the capital fund, and now you are taking the loan capital out of the capital fund and putting it in the recurrent revenue. So you are compounding what you did before, that was the argument. Of course, the point that he has made is that it doesn't matter. Well, all I can tell him is that I wish he would tell me when he discovered that it didn't matter since March last year, because in March last year he was Financial Secretary,

not the three predecessors, he was here, and presumably he must have advised the Hon and Learned the Chief Minister to say that to have decided to borrow £2m this year for recurrent expenditure was because the reserves were so seriously depleted. I have made that point six times, if I have made it once, Mr Speaker, and I've yet not got an answer. Why have they changed their mind? What miracle has happened in the last twelve months to bring about a total reversal of Government economic and financial policy for as long as I have been in this House, and certainly for the two years that he has been there? He hasn't answered that, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I did answer it, Mr Speaker, by telling him that I didn't think his question was particularly relevant; and I don't want to go into great length again.

I think he has a point on the question of the Improvement and Development Fund. One of the problems here is that the present distinction between the capital element of the Government's budget and the recurrent element is imperfectly drawn and this is particularly so in the case of the capital expenditure which is made by or on behalf of the Funded Services, certainly as far as the electricity, water and telephone service are concerned. I am not so sure as regards housing because I think there is a difference between the electricity, water and telephone services, which are public utilities, and housing which is more of a social fund. I don't want to make an issue of that particular point. But one of the problems of the Government's accounts, and I can understand how this arose with the amalgamation and the consolidation more than a decade ago, is that the capital expenditure on behalf of these Services is shown in the Improvement and Development Fund rather than in the balance sheet of the particular Funded Services because they do not have a balance sheet, and yet the accounts of the Funded Services do show the annual charges, where annual charges are made. That is to say, the depreciation or the amortisation and the interest charges depending on the amount of capital which has been allocated. I think I have long felt that this particular division was an unfortunate one, this created problems in understanding, and increasingly, I think, with the opening of the frontier and the improvement to the economic conditions, and in the case of the Telephone Services, in particular, where the need to respond to, shall we say, a more commercial environment is pressing, there are certain strains in the framework of the Government's accounts. That is the particular point. So the Government and, indeed, the Hon Leader of the Opposition I think, raised a point which is relevant here, where he asked about Government's policy on surpluses in the Telephone Service. In the past there had not been a surplus and contributions being made for the deficit is being carried forward in the anticipation or the hope that a surplus would be made. He has asked: 'What would Government's policy now be with regard to the surplus?' I think, this brings me to my point, that we feel that there may be the need now to change the financial framework of the Telephone Service, and possibly the other Funded Services as well, it is more pressing and it is now being studied with the twin objective of removing the Telephone Service and the accounts of the Telephone Service

from those of the Consolidated Fund, having a much clearer arms-length relationship between the Treasury and the Telephone Service providing it with its own commercial accounts, that is to say, a balance sheet conducted in according with normal commercial practice. Not simply as an accounting exercise, I would emphasise this, but to make the accounts more meaningful to remove the Telephone Service from the face of Government Estimates so that the Service can respond more rapidly to the commercial environment and the demands that are made of it without, I should add, making any change in Ministerial responsibility or the status of the staff. I also think that this would provide an appropriate background, or certainly an improved background, for informed decisions by Ministers on such matters as tariff policy in the future. In the absence of, what I might call, a commercial accounting framework, I think it is very difficult. One is left with the need to make rather ad hoc decisions about what to do with the surplus, and the decision whether to lower charges or let the surplus to accumulate might be taken in the absence of a long-term view of the finances of the service concerned.

That is really all I have to say on technical matters, Mr Speaker. But the noises downstairs during this morning's meeting of the House, when the prizes were being declared for the Government's lottery, have reminded me of an obligation I felt for some time, as the Treasury does provide services for the Government lottery, to pay a tribute to the outgoing Chairman of the Lottery Committee, Mr Charles Danino. I am glad to have this opportunity of doing it. He recently resigned from the Committee and his place has been taken by Mr Leslie Cardona. I am sure I am speaking on behalf of the Government and, indeed, all Members of the House, in thanking the outgoing Chairman, wishing the new Chairman success, thanking them for their services which they provide willingly, and for the service to the public and to the Government, and to the people of Gibraltar, in what I regard as a very important and central part of our social and, indeed, financial amenity.

HON J BOSSANO:

Mr Speaker, just before the Hon Member sits down. What he has just told us about the Telephone Service seems to be different from what the Hon and Learned the Chief Minister said. Is this a statement of Government policy that we have just had at the end of his concluding speech or is he just airing some personal views?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I said, Mr Speaker, that the Government is studying this particular point with the objective I have mentioned.

HON J C PEREZ:

Mr Speaker, perhaps the Hon Member could have said it at the beginning and given us a chance to comment on it. I think it is an important revelation at the end of the Appropriation Bill and perhaps he would have been able to take into account our views.

MR SPEAKER:

You have the Committee Stage where the separate votes are discussed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, except that obviously, Mr Speaker, there is nothing to tell Hon Members until the studies which I have mentioned have been concluded. Obviously at that stage the Government's conclusion would be made known to the Opposition and indeed generally.

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

The House recessed at 5.25 pm.

The House resumed at 6.10 pm.

COMMITTEE STAGE

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the House should resolve itself into Committee to consider the Finance Bill, 1986, and the Appropriation (1986/87) Bill, 1986, clause by clause.

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

THE FINANCE BILL, 1986

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

Clauses 5 and 6

HON J BOSSANO:

Mr Chairman, I don't think we have been given a sufficiently compelling reason by the Government for increasing the amount of money which is required for development in order to qualify for development aid, it was reduced in the 1984 Budget, I think.

HON A J CAMERA:

Mr Chairman, we reduced it in the 1984 Budget to try and stimulate investment because it was a time when development was virtually at a standstill and that was the main point behind that measure. In fact, in the intervening two years there have been very few, if any, projects that I can recall here which have had a development aid licence expenditure between £75,000 and £150,000. Very, very few. What has been happening of late is that we are beginning to get, if not applications, enquiries, in respect of in some cases single housing units. Because even with building costs having gone down appreciably, the fact is that a substantial residential unit can still cost in excess of £75,000. That is not the

purpose for which the measure was intended, it hardly meets the criteria in respect of significant contributions to the economy, creating jobs and so on, to have to consider whether a licence should be granted in respect of one residential unit costing £80,000 or £85,000. So the requirement just isn't there and that is the reason why we are putting it back to the figure which it was previously.

HON J BOSSANO:

Mr Chairman, I think we were told by the Financial Secretary earlier on that there had been four projects which qualified at between £75,000 and £150,000, and I seem also to remember that last year we introduced an amendment, I think it was exempting from income tax loans which were made to people borrowing for development projects which was defended in the House. We were not very convinced but it was defended in the House on the basis that this was to help more developers.

HON A J CANEPA:

The trouble was that developers were not able to get short-term or medium-term financing. They couldn't get anything beyond less than seven years, that was the intention, but it is not related to the sum of the capital project.

HON J BOSSANO:

I think it is on record, Mr Chairman, that we raised the matter and eventually it was pinned down to the fact that this was to encourage people to be able to lend without being taxed on the interest, the thing was giving relief to the lender, and it was, in fact, said that it was so that people developing on a small scale, because it was admitted by the Financial and Development Secretary, Mr Chairman, that people doing major developments like Queensway or the Water Gardens or whatever, would have access to international finance, whereas small developers would be more dependent on the local sources of borrowing. I think if we go back we will find that that is the case.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't think so, Mr Chairman. I hesitate to challenge the Leader of the Opposition because his memory on such matters, compared with that of an elephant, is phenomenal, but the purpose of that measure was to open up other sources internationally yes in the sense that overseas institutions would be more likely to lend for long-term developments of a fairly substantial nature if there were no withholding tax and hence no tax on the interest which was charged. The same facility was extended. It was, of course, invidious to make a distinction between Gibraltar institutions and overseas institutions so the exemption was made general, but the purpose was for long-term developments of a fairly substantial nature not for small developments.

HON A J CANEPA:

Mr Chairman, the figure of £150,000 was first introduced with

the present Development Aid Ordinance in 1981. In the last five years, having regard to the level of increase in inflation, that figure should have been revised upwards quite considerably, so, in effect, by still even now keeping it at £150,000 we have reduced the ceiling in real terms over the last five years.

Clauses 5 to 8 were agreed to and stood part of the Bill.

Clauses 9 to 12

HON A J CANEPA:

On the question of car seat covers perhaps some explanation could be given. I received representations some months ago from a local agent importing car seat covers where he presented statistics, figures, showing how the sales of car seat covers locally, which are of rather, I am told by people who have purchased these, that they are of rather superior quality, they are a very good quality, and how the sales had dramatically dropped since the full opening of the frontier. There is a precedent for this measure in that some years ago the Government which at the time was drawing a distinction between the duty on transistor radios and car radios, brought car radios in line with the lower rate of import duty for other radios, instead of treating them, as had been the case previously, as car spares. That is what has been happening with car seat covers, that they have been treated as car spares and, therefore, the duty has been much higher than the duty that one would pay for a seat cover for an armchair, for a domestic armchair. We thought that there was a case for not discriminating and be at the same time trying to stimulate once again this small enterprise and see whether they can improve their sales vis-a-vis imports from Spain.

Clauses 9 to 12 were agreed to and stood part of the Bill.

Clauses 13 to 25

HON J BOSSANO:

On Clause 14, Mr Chairman, I think we have had sufficient explanation, apart from the explanatory memorandum at the end which says that it provides that the allowance for expenditure incurred in new plant, that just explains what is being done, it doesn't explain why it is being done, and it seems that if we have a situation where somebody comes in to carry out work in Gibraltar, providing a service from across the frontier, and they can then offset the cost of the plant entirely against the particular job and take the plant away with them, wouldn't that mean that they are in a position, in cases like that, effectively to ensure that they make no taxable income at all? Is that the implications or not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I am not aware of any connection between this and the circumstances which the Hon Member has mentioned. If there is that is knowledge from which I am at present unilluminated, but the position is really this, that normally an allowance equal to the amount expended on new plant and machinery is granted under the provisions of Section 18(2) of the Ordinance. The

Section as at presently drafted provides for the allowance to be granted in the year of assessment when such claims are being made. More appropriately the allowance should be granted in the basis period for the year of assessment, that is to say, purchases made after the close of the claimant's company's year of account should not be granted in the immediately following year of assessment. That is if the trading and the income tax years don't coincide, but in the following year of assessment which is the year in which the purchase is shown in the accounts submitted to the Commissioner so it is really a tidying up amendment.

HON J BOSSANO:

What are the implications of changing it this way? There has been no explanation other than the one that we have just been given about it being a tidying up. Reading it as a layman it seems to provide an opportunity basically to offsetting entire income against the cost of equipment when the equipment may be used for a very limited period in doing some work in Gibraltar. Is that possible as the thing stands?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly there is no intention to change the basic law as far as depreciation allowances, as they are generally referred to, there is no change in that. It is only a legal sort of tidying up administrative and indeed to give it some legal backing in the certain sense which I have described. There is no basic change in, what I might call, the provisions.

HON J BOSSANO:

The original provision, in any case, I think was introduced again at the time when the Government wanted to encourage economic activity and that is why they gave the opportunity for somebody to be able to write-off the capital cost in the first year instead of having to depreciate it, that is the effect is it not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That may have been the case in Gibraltar, Mr Chairman, but now, what I might call, 100% depreciation is fairly common which was introduced in the UK a long time ago. I don't know from memory when it was introduced in Gibraltar.

HON J BOSSANO:

What I am saying is if you have got a situation, for example, where somebody gets a sub-contract which is happening nowadays, and they bring in equipment to do that sub-contract, if they buy the equipment to carry out that sub-contract then for a period they will be the owners of the equipment. They can then finish that sub-contract, take the equipment away and they can say they have made no money at all on that sub-contract because they have used the entire money. I think, in the context of the situation that we have got today in Gibraltar, which is different

from the one we had three years ago, when three years ago the enterprise that brought the equipment in were being given an encouragement to bring in new capital equipment which then stayed here. We have now got a situation where people are, in fact, sub-contracting from the other side and bringing in equipment. That seems to me to open a loophole.

HON CHIEF MINISTER:

Let me say something which is not directly concerned but which is a matter which has come to my knowledge and that is that full duty is being paid by all these companies in bringing in even their used equipment and if they are returned they would get no comfort at all or return of duty.

HON J BOSSANO:

I take the point, but I think this has nothing to do with whether you are paying duty or not paying duty. What I am saying is, am I right in thinking that this can have that effect, and if it can, is the Government aware that it can and is happy with it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Obviously if the circumstances the Hon. Member has mentioned for which, as I have said, this particular section is not designed, we are talking about two different things, we are talking about an amendment here which is for the purposes I have described and then he has raised what I think is a separate issue, that is to say, anyone bringing in equipment and doing the job and therefore being taxed for income on earnings on that particular job under Gibraltar law would be able to take advantage of the existing provisions in the Ordinance which grant relief. Well, that is, obviously, something which will have to be discussed with the Commissioner of Income Tax, the amount which would be allowed in each individual case.

HON CHIEF MINISTER:

We are not allowing anything more than is allowed at present except for changing over for the year of assessment.

HON J BOSSANO:

Perhaps that may be the case, Mr Chairman. Obviously if the amendment hadn't come I wouldn't have looked at it in that light and maybe the point I am making applies equally to the current provision as it does to this one, but since we are in Committee Stage and we have got an opportunity to raise these things, it struck me when reading it, as a layman as I say,

that it appears to create an opportunity for somebody to be able to come in, bring in equipment, he can argue that he has bought the equipment to carry out his trade, business, profession or vocation, and that it belongs to him for some of the time during the year of assessment and he can then write it off. Whereas the original intention was that he would write it off for a business that is established in Gibraltar, he would write it off against the income for the whole year in Gibraltar, if we are applying the same criteria to somebody that is coming in to do a job that may last a month and he can write off the cost of the equipment against the income for that month then we may be creating a situation where effectively their income is assessable under one section of the Ordinance and there is a way of getting out of it under another section of the Ordinance.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But not, Mr Chairman, not under this particular section of the Ordinance. I don't think that that provides them with the means of getting out of it. He is assessable by the Commissioner of Income Tax. My understanding is that we have to discuss it with the Commissioner to be clear, because I am not an expert on the actual machinery or the administration tactic, but that if a company claims that it has bought a piece of machinery for this project, shall we say, and said: 'Therefore I want 100% depreciation', I would expect the Commissioner of Income Tax to say: 'You may have bought it for this project but I am not satisfied that it is not going to be of use on some other project, and so I will not allow you 100% against your earnings on this project'.

HON CHIEF MINISTER:

Given the text of the present one, the one which we are amending and the words that are being deleted and substituted are; the present law says: 'then for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there' - these are the words that are being taken away - 'shall be deducted from his income for that year of assessment the whole amount of that expenditure'.

HON J BOSSANO:

I wanted to raise the question of the company tax, Mr Chairman, Clause 23. This is the reduction of the figure from 40% to 35%, and I think it was in the 1979/80 Budget when it was brought in at 40%, Mr Chairman, and I have got here the Financial Secretary of the time's views on the subject which may have changed radically since then, of course, because we are in changing times nowadays. But then the Financial Secretary said: 'The first change is in the rate of company tax. As things are

now it is important to recognise that a company's taxable profits are subject to two distinct taxes, income tax and company tax. The rate of income tax charged is the standard rate of 30%, the rate of company tax is 7½%. The income tax which a company pays on its taxable profits is tax paid for the account of any tax for which shareholders may be liable on the income they receive when the profits are distributed and can be set off against the total tax for which they are personally liable. A company's liability for income tax undistinct from its liability for company tax, encourages the practice of distributing profits in full as directors' fees and thus restoring a nil trading profit and paying no tax at all'. He then went on to say that this was costing the revenue money, and since we are now having a proposal before the House which is the first time that it is being changed since that statement was made in 1979, I would like to know how that statement is changed by the proposal that the Government is putting forward. The first change of policy in company tax we have had since 1979?

HON CHIEF MINISTER:

I think the main reason behind this one, first of all, is the development of the Finance Centre. There are quite a number of companies that pay company tax and haven't got income tax assessment because the people are not directly assessable because they are not residents here. Company tax if it isn't an exempt company pays at 40%. The present corporation tax in England is 35% and it is a disincentive - I think, this arises as a result of representations by the Finance Centre Group - it is a disincentive for people who come here to find that the corporation tax is higher than it is in England. They are prepared to pay higher taxes if they live here, the higher rates of income tax that we have, but on corporation tax representations have been made several times and it loses attraction to Gibraltar to have corporation tax paid higher than it is in England. This is the standard rate in England.

HON J BOSSANO:

Mr Chairman, I thought exempt companies only paid £300 a year and didn't have to make a return of income.

HON CHIEF MINISTER:

Yes.

HON J BOSSANO:

Who are the companies then that we are talking about? Surely, if a company is trading here in Gibraltar it has nothing to do with the Finance Centre.

HON CHIEF MINISTER:

It affects local people, of course, taxes are deducted at 30% standard and then they make their own return.

HON J BOSSANO:

The point that I am making, Mr Chairman, is that the situation was that it was 37½% and the Government in 1979 moved to 40%. They gave us an explanation in 1979 of why they moved to 40%. I think the explanation that they are giving us now seems to have no relevance to the explanation they gave us then as to how company tax functions and, therefore, I think we are entitled to say: In the light of the 1979 explanation as to what the effect would be with people being able to offset it, what is the situation today? Is the 37% recoverable from the dividend that is paid to the shareholders or not?

HON CHIEF MINISTER:

From the dividends at 30%, this is corporation tax direct.

HON J BOSSANO:

Mr Chairman, in looking at this we are looking at it in the context of Government policy on company taxation and the explanation we were given the last time was that as the system used to be, it was possible to reduce your tax liability by distributing profits as directors' fees rather than showing it in the profit and loss account. If we are now moving from 40% to 35%, and we have not been given any explanation of what is the implications, for the explanation we were given the last time to justify moving from 37½% to 40%. This is why we were told the Government wanted to go to 40%. They said: 'When a company distributes profits as dividends to a shareholder assuming he is liable for tax at 40%, he would pay an additional 10% thus the company's profits would suffer 37½%. If, however, the company distributes the profits as directors' fees the maximum tax it will attract is 40%'. If we are now improving the bandings, as we are doing on personal taxation, looking at this proposal in the light of the widened banding structure and in the light of the explanation given in 1979, what we are doing now seems to run contrary to the argument that was put the last time. I think if it is a question of the Finance Centre, I would have thought that the companies that are taking advantage of the development of the Finance Centre are not companies that are trading in Gibraltar and I thought that because they were not trading in Gibraltar they just paid a flat £300, whether it is 35% or 40% is irrelevant.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Obviously, the tax exempt companies don't pay any tax, that is quite clear. When one talks about Financial Centre one is not talking simply about tax exempt companies. I don't want to mention companies by name but the ones we were thinking of and certainly institutional companies in Gibraltar with, what I might say, financial standing, and they will benefit from the reduction from 40% to 35%, eg the banks that pay tax will benefit.

Clauses 13 to 25 were agreed to and stood part of the Bill.

Clauses 26 to 28 were agreed to and stood part of the Bill.

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

THE APPROPRIATION (1986/87) BILL, 1986

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

Schedule

Part I - Consolidated Fund

Head 1 - Audit was agreed to.

Head 2 - Crown Lands was agreed to.

Head 3 - Customs

Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure

HON J BOSSANO:

Mr Chairman, on Special Expenditure, I think in the Police vote there is provision for the cost of the dogs that are used for drug detection and I think the Government knows that the Customs personnel feel very strongly that this is an area that should come within their province since they are responsible for the detection of smuggling into Gibraltar and I think there has been representations to the Government and, in particular, to the Financial and Development Secretary over a number of years on this issue. We tend to support that view and we would like an explanation from the Government why they choose to bring this under the ambit of the Police who have already got quite a lot of work on their hands if one looks at the Abstract of

Statistics and the number of prosecutions that there have been in the last year compared to the preceding year and I would have thought the people who are at points of entry responsible for the detection of any smuggling should be equipped to handle the situation whether it is drugs or anything else. We cannot see why it should be under the Police rather than under the Customs.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

My understanding is that the Police had actually asked for a new dog because the existing dog which they have is getting old and infirm and is no longer quite up to the demands being made on it, demands, I might say, of a purely operational nature, in view of its age. It is true that a need for a dog for use of the Customs authorities has also been identified and raised and this is still being considered along with the question of who should handle the dog and the staffing consequences and this point had not actually been resolved by the time the Estimates were prepared but I note the Hon Leader of the Opposition's point on this, Mr Chairman.

HON J BOSSANO:

Can I just ask what Fibre Optic is doing there? Is it to improve the eyesight of the dog?

HON M K FEATHERSTONE:

This is an instrument which the Customs can use to look inside the panels of cars without taking the panel off completely.

Special Expenditure was agreed to.

Head 3 - Customs was agreed to.

Head 4 - Education. (1) Education

Personal Emoluments was agreed to.

Other Charges

HON R MOR:

Mr Chairman, Subhead 8, College of Further Education, it shows that in 1984/85 when the Gibraltar Government was only paying for 50% of the running costs of the College, the bill amounted to over £98,000. How is it then that now that the Government is responsible for the full expenses of the running costs we now have an estimate of £50,000?

HON G MASCARENHAS:

Mr Chairman, up to last year the College of Further Education was treated on its own. What we have done this year is we have spread all the charges which are similar to other schools and institutions within the Education Department and because the College of Further Education is now an element within the Department of Education the personal emoluments are included under personal emoluments whereas before they are included in the actual subhead for the College. The telephone service, for example, the increase that you will note there includes the College of Further Education. We now know what consumption is so we can include it there. Books and equipment, there is an element for the College of Further Education, in fact, in most of the subheads there is provision for the College of Further Education. If the Hon Member wishes to know how much the Government is making available to the College of Further Education on its own, I am quite willing to supply him with the information. Last year it was in the region of £400,000, this year, I would imagine, is in the region of £450,000.

HON R MOR:

Yes, Mr Chairman, I would appreciate that information if that could be done in future. Subhead 18, Minor Works. As I said in my earlier contribution there is some work to be carried out at the College. Is this amount taking into account such work?

HON G MASCARENHAS:

Yes, Mr Chairman, the buildings of the College of Further Education are very high on the list of priorities as far as we are concerned.

HON J BOSSANO:

Could I just make a point? Apart from making the information available to us, is there any great difficulty in future in showing a separate thing like, for example, happens in other places. Education involves Sport and you have got Education and Sport separately and I think there is another Head where there is a division, for example, between the Philatelic Bureau and the Post Office. From our point of view it is important to be able to see over time how much resources are being devoted and what the cost is and what the benefit is of the College of Further Education. Obviously, if the Minister has offered us the information we are happy to have the information but is there any great difficulty in doing it for future in the Estimates?

HON G MASCARENHAS:

No, Mr Chairman, I don't know what the problems might be from an accountancy point of view in presenting the accounts. I think that the College of Further Education is now a full element within the Education system and therefore there is nothing to stop the Hon Member opposite from asking us next year to present the Bayside accounts or the Westside accounts or any of the Middle Schools, for example, and perhaps we could get a situation where each school would be listed on its own. I can supply the information and I can put it in writing to the Hon Member and I think that would suffice.

Other Charges was agreed to.

(2) Sport was agreed to.

Head 4 - Education was agreed to.

Head 5 - Electricity Undertaking

Personal Emoluments

HON J C PEREZ:

Mr Chairman, could the Government state whether they have made any provision under this Head for the productivity agreement which is due to come into effect in July?

HON J B PEREZ:

Yes, Mr Chairman. I take it he is referring to personal emoluments because on special expenditure there is also Consultancy Service - BEI. But, of course, on the emoluments side it is there.

Personal Emoluments was agreed to.

Other Charges

HON J C PEREZ:

Subhead 19 - Improvements to Offices and Buildings, we have raised it from £600 to £700. Could the Government explain what that is because I find it very odd that in one year we should incur £700 for improvements to offices and buildings which perhaps might be taken up by another subhead?

HON J B PEREZ:

It is such a small matter, Mr Chairman, the Hon Member will have

to bear with me. It is mainly office furniture and equipment.

HON J C PEREZ:

Mr Chairman, in Subhead 26 - Operation and Maintenance of Boilers, can the Hon Member explain when that started functioning.

HON J B PEREZ:

One boiler started operating this month.

HON J C PEREZ:

Can the Hon Member then explain why it is that during the last dispute with the workforce the Government were claiming that the blacking of the boiler was costing the taxpayer £1,000 a day? Does that mean that the non-operation of the boilers until one month ago has cost the taxpayer £1,000 a day notwithstanding that there wasn't a dispute?

HON J B PEREZ:

Mr Chairman, the point at the time was the cost of fuel on the Public Works side. The cost was basically the cost of fuel which was being spent in the desalination plant, in the distiller, next to Waterport.

HON J BOSSANO:

At the time the Government took what was a fairly tough decision and as we understood it a decision after a lot of heart searching on whether to take people off pay or not and they were influenced, at least that is how it appeared publicly, by the fact that they were saying that the action that was being taken by the men was costing them £1,000 a day in revenue. One would have expected that if that was a valid argument then when the blacking was lifted which I believe was in October, who is responsible since October for the cost of £1,000 a day?

HON J B PEREZ:

Mr Chairman, I think I know the answer to that. There were two things, one is the question of the training of the men and the second aspect that also arises is the fact that due to the non-operation of the boilers whilst the strike was on it required further maintenance so there was an extra added expense to the taxpayer as a result of the industrial action.

HON J BOSSANO:

It is £2,000 in a year on maintenance of boilers in 1985/86. We have got a revised estimate of £2,000 for 1985/86 on the maintenance of the boilers. The boilers haven't been used at all in 1985/86. For three months of those twelve months they were not being used, apparently, because of industrial action. For the other nine months they were not being used because they were not ready to be used. Is it not correct that the conclusions to which the Government jumped with the benefit of hindsight have not been justified.

HON J B PEREZ:

The extra money needed is not for maintenance to maintain it, it is a repairing job that had to be done. I can get the information for you. In other words, the basic reason why we couldn't operate the boilers after the end of the industrial action was, primarily, (1) we had to train people, we couldn't train them before, and (2) that the boilers had to be recommissioned again. I am certain that we came to the House in another subhead for the money we had to spend to recommission the boilers because we didn't operate them at the time and they had a problem of corrosion. I honestly don't remember which subhead the money comes under but the basic reason was training. As far as I was concerned, I would have loved to have seen the boilers working the next day.

HON J BOSSANO:

In fact, they couldn't have worked the next day and they couldn't have worked when he wanted them to work because apparently the people were not trained then.

HON J B PEREZ:

But the industrial action was going on for quite some time beforehand, it wasn't a question of the industrial action just lasting for a week. The problems were being encountered before as well.

HON J C PEREZ:

The Government was saying at the time of the industrial dispute that it was costing the taxpayers £1,000 a day whereas the Hon Member has already admitted that there weren't trained personnel to handle it anyway so it couldn't have been costing them £1,000 a day.

HON J B PEREZ:

We couldn't train the men because the industrial action was

on and we just couldn't do it. It is not a question of the Department dragging its feet, I can assure the House of that. I don't think it would be conducive to good industrial relations to start going back as to what happened. During my contribution I haven't mentioned that, I think things are fine as they are now, let us not go back now, Mr Chairman, and go over the whole dispute, I think the dispute is over and we should leave it at that.

HON CHIEF MINISTER:

I must justify a statement saying that we were losing and I think we are right because the whole thing was delayed and the saving in fuel could not be started when it should have started and what has not been mentioned very much is the fact that it was possible to make the reduction in water rates because we have now got one of these plants working and that saves fuel from the distiller and saves cost in the production of water.

HON J BOSSANO:

I am sorry the Hon and Learned Member brought that out because we were prepared to let go the explanation we were given before about the saving on fuel but if he is going to make a point of it, Mr Chairman, then I think we have to question whether the statement we were given is an accurate statement because how can the Government then explain that they haven't used the boilers at all in 1985/86 and they have got a surplus on the water account of £600,000. They are reducing the water charges by an amount which comes to £200,000 and in the Estimates we have got a surplus of £4m without the use of the boilers and what they are including here as the contribution on the boilers is the sum of £30,000 for the year. How can £30,000 for the year be the same as £1,000 a day which is £356,000 for the year? Is the saving £30,000 a year or £356,000 a year?

HON A J CANEPA:

£200,000-odd a year.

HON J BOSSANO:

How is it then, Mr Chairman, that they are distributing the savings between the water and the electricity accounts as to £30,000 in each according to their presentation of the Estimates here? If we look at the Funded Accounts at the back we find supply of waste heat by Electricity Undertaking £30,000, on page 118. If the Water Account is paying the Electricity Account £30,000 for the year's supply of waste heat, it must be because the year's supply of waste heat is worth £60,000

and it is being shared 50/50 between the two, £30,000 each. The point is that when the original decision was made, it was made on the basis that the people who should have started the boilers who apparently were not trained to start the boilers, had refused to do it for 100 days and that had cost £100,000. They then eventually reached an agreement with the Government and had to be trained - and this is in October and we are now in April. Is the Government then telling us that they spent it in October and April being trained and removing the rust?

HON A J CANEPA:

If the Hon Member will look at page 77, under the operation of Distillers, he will see that there is a considerable saving from one year to the other in the operation of the distillers.

HON J C PEREZ:

Most of that is because of the decrease in the price of fuel, not necessarily the waste heat.

HON A J CANEPA:

That I don't know.

HON MAJOR F J DELLIPIANI:

Mr Chairman, I am not going to blame anybody I am just going to state some facts. The fact that we had an industrial dispute with the people who were supposed to man the boilers for the distiller definitely damaged the boilers because there are special things which are put to prevent corrosion inside the boilers. Because there was no maintenance and the thing was not working for a very long time, the whole of the boiler system had to be repaired and I think it came under one of my votes, probably under the Improvement and Development Fund on the distillers. I am not blaming the staff, what I am saying is because we had to repair the boilers because they hadn't been used, the men couldn't be trained for that period of time because the boilers were out of commission. As soon as the boilers were recommissioned then we needed time to train the staff and to rate it for the best rating according to how much waste heat they could give us. This was a delay. It probably started at the beginning because there was industrial action. I am not saying now that we have lost money solely because of industrial action. I am saying that because of this industrial action the boilers were not being used. If you don't use machinery it tends to rust, it is as easy as that. It is just like a car, if you don't use the car for three years and you don't look after it properly it takes some time to start again. There was a delay, we have paid for the recommissioning of it and it came into stream at the beginning of this month which will provide us with a saving. At the same time the Electricity Department will charge us for producing that waste heat which is cheaper than fuel.

HON J BOSSANO:

We are not talking about £300,000 a year, we are talking about

£60,000 unless they have departed from the recommendation of the Coopers and Lybrand Study which was that the saving should be split 50/50 between the two.

HON CHIEF MINISTER:

But that is the cost of producing the heat which in any case is produced but the rest, when the boilers are not there then you have to provide the fuel in view of the boilers.

HON J BOSSANO:

No, the amount being charged by the Electricity Department to the Water Department is the equivalent as the saving of fuel, that is how the £1,000 a day was arrived at, and what we are showing now is that the saving of fuel in a year is £60,000 or else the figure we are being shown are wrong.

HON A J CANEPA:

These figures were drawn up some time ago and, in fact, the boilers had only been operational a very short time and it is only last week that the Department was able to, in our consideration of the revenue side, that they were able on the basis of one boiler to say: 'On the basis of the operation of one boiler for a period of time, we are estimating that there is going to be a saving in respect of waste heat in fuel of the order of £180,000 to £200,000'. But we only got that information a week ago, it just wasn't available prior to that. It certainly wasn't available when these Estimates were drawn up.

HON J BOSSANO:

But what we are showing is £30,000 for one year.

HON A J CANEPA:

That is what must have been agreed between the Public Works Department and the Electricity Department.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 5 - Electricity Undertaking was agreed to.

Head 6 - Establishment was agreed to.

Head 7 - Fire Service was agreed to.

Head 8 - General Division was agreed to.

Head 9 - Governor's Office was agreed to.

Head 10 - House of Assembly

Personal Emoluments

HON J BOSSANO:

Could I, Mr Chairman, perhaps raise a matter under House of Assembly, Personal Emoluments. Is any progress being made on the question of the grading of the Clerk because I think it is important, particularly to the Clerk.

MR SPEAKER:

Yes, I think it is up to me to report since we are in Committee. The matter is under review. I took the time when I was in London once to consult the House of Commons on the question of gradings and such like. I have placed a paper before the Establishment for consideration. The matter, I understand, is under consideration now and we will now, in due course, be getting an answer.

HON CHIEF MINISTER:

No, we have not had a report yet from the Establishment. I would like to say that the Speaker did make a very good case for the Clerk.

Personal Emoluments was agreed to.

Other Charges

HON J E PILCHER:

Mr Chairman, I note that under Other Charges there is no vote laid aside for the broadcasting of the proceedings of the House.

HON CHIEF MINISTER:

I don't know why the work hasn't been done but if the work hasn't been done and it was in the other one it will be a revote.

MR SPEAKER:

And in any event I think that was provided for, all the wiring has been done. I am not conversant with the item of expenditure but I do know, most certainly, that the matter is in hand. It should come, perhaps, under the Public Works Department.

HON J E PILCHER:

Mr Chairman, since we have brought it up, is there any idea of when the proceedings of the House will be broadcast? We raised it in 1984.

MR SPEAKER:

That is another matter, that is my responsibility. As I have reported on several occasions the question of privilege and copyright and such like, everything has been studied and the matters have been completely and utterly agreed upon. The needs of GBC to enable them to broadcast the proceedings have been looked into and the works to enable the broadcasting to be

effected are under way. I myself did say in a GBC interview that as far as I was concerned we should be able to be broadcasting before the end of this year. The necessary equipment is being bought by GBC already and the necessary works have been carried out to wire the place to enable the proceedings to be broadcast.

HON CHIEF MINISTER:

There has been no Government interference in this matter.

MR SPEAKER:

None at all.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 10 - House of Assembly was agreed to.

Head 11 - Housing

Personal Emoluments was agreed to.

Other Charges

HON J L BALDACHINO:

Mr Chairman, on Other Charges, Subhead 7, can the Government say why the estimate for 1986/87 on Maintenance of Government Housing, is less than in 1985/86?

HON M K FEATHERSTONE:

This is an estimate by the Public Works of the amount of work that they can do, it is marginally less than last year but there is also Subhead 12, which is a new subhead, which was included before which brings it up to almost the same figure.

HON J L BALDACHINO:

Mr Chairman, we are still about £21,000 down.

HON M K FEATHERSTONE:

Yes, it is about point nought something less.

HON J L BALDACHINO:

Are we saying that less maintenance will be carried out this year than what was done last year to Government Housing?

HON M K FEATHERSTONE:

Marginally less, yes.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 11 - Housing was agreed to.

Head 12 - Income Tax Office was agreed to.

Head 13 - Judicial was agreed to.

Head 14 - Labour and Social Security

Personal Emoluments

HON R MOR:

Mr Chairman, on Personal Emoluments, I did ask earlier on whether it would be possible to have the administrative cost of the payment of pensions to Spanish workers. Whether that was going to be made available to us?

HON DR R G VALARINO:

Yes, Mr Chairman. I have got the management cost of administering the Social Insurance Fund and we can work it out from that. I worked it out roughly between £55,000 to £60,000 but after this evening I think we ought to get together so that he can see how I have worked the actual sum of money.

Personal Emoluments was agreed to.

Other Charges

HON R MOR:

Mr Chairman, Subhead 13 - Special Education in the UK. Why is this Subhead under the Labour vote and not under Education?

HON DR R G VALARINO:

This is to provide special residential school for a 16-year old who is proving far too difficult to handle at the Edmund Rice Home and the advice of the Education Psychologist and the Department of Education is that he should go to UK for a year. He is a very disturbed child.

HON J BOSSANO:

On Subhead 12, has the Minister got an explanation for the Supplementary Benefits?

HON DR R G VALARINO:

The provision in the Estimates is shown as a single heading for the sake of neatness as all payments are now made under the Supplementary Benefits Scheme. The footnote, however, makes it clear that Elderly Persons Allowances and Retirement Allowances are now included in the Scheme. Would you like to know the criteria?

HON J BOSSANO:

Well, the criteria and also we would like to know the amounts because, in fact, last year we had Supplementary Benefits shown in the revised estimates as going down from £700,000 to £626,000, and we have got Elderly Persons Pensions. I think it is important in the two areas when we were discussing retirement pensions we were talking about a very small group of people who because of their age there was gradually less and less of them, it is impossible to tell that from a global vote.

HON DR R G VALARINO:

Mr Chairman, the breakdown of the total of £1,331,300 is as follows: Retirement Allowances - £52,300; Elderly Persons Allowances - £630,000; other Supplementary Benefits - £649,000.

HON J BOSSANO:

And we asked about the criteria which last year the Minister had, I think, some difficulty in giving us so he has had a year now to work on it.

HON DR R G VALARINO:

Mr Chairman, if I remember rightly I gave half the criteria myself and the other half was given by my colleague, Mr Canepa. The criteria for the payment of Elderly Persons Allowances and Retirement Allowances under the Supplementary Benefits Scheme are exactly the same as the provisions contained in the two relevant Ordinances which were repealed. The only difference is that because payments are now made under the Supplementary Benefits Scheme, only Gibraltarians and other British Subjects who are residing in Gibraltar continuously for not less than three years prior to the date of application, are eligible. In fact, the Department still uses the old Elderly Persons (Non-Contributory) Pensions Ordinance and the relevant Sections of the Non-Contributory Social Insurance (Benefits and Unemployment) Insurance Ordinance as guidelines for the application of these benefits. Retirement Pensions were payable on the 3rd October, 1960, as a transitional measure to British Subjects or other persons ordinarily resident in Gibraltar who were insured under the Social Insurance Scheme and the wives or widows of such persons and who failed to qualify for Old Age Pensions under the Social Insurance Contributory Scheme. The conditions for entitlement to Retirement Allowances are:- (1) the claimant must have attained the age of 65, 60 in the case of a woman; (2) he must have been over 65 years of age, 60 in the case of a woman on the 3rd October, 1965; (3) he must not be entitled to an Old Age Pension under the Social Insurance Scheme; (4) he must have retired from regular employment; (5) he must have a satisfactory employment record, ie an average of 40 weeks employment a year since the beginning of 1963. Notwithstanding the above conditions no person is entitled to Retirement Allowance unless:- (a) he was in receipt of such a pension at the 31st March, 1973; (b) at any time after that date he becomes entitled to such a pension by reason of having been in insurable employment including, in the case of a woman, by reason of her husband having

been in insurable employment in Gibraltar which commenced before that date. Persons who are Gibraltarians or other British Subjects who are 65 or over and have been ordinarily resident in Gibraltar for at least ten years out of the twenty preceding years may qualify for an Elderly Persons Allowance. If the applicant is in receipt of a pension or allowance under the Social Insurance Ordinance or any other law of any country including Gibraltar which provides for the payment of Old Age Pension or Benefit of a like nature as a pension for services rendered or other form of Supplementary Benefits, the rate of allowance will depend on the rate of pension or other allowance the applicant is receiving. The rate of Elderly Persons Allowance is £16.30 per week and the maximum rate of Retirement Allowance is £33,60 per week.

HON J BOSSANO:

Mr Chairman, I think the Minister was asked at some stage whether somebody who was in receipt of Elderly Persons Pension would continue to receive it if he ceases to reside in Gibraltar and he answered yes.

HON DR R G VALARINO:

Yes, Mr Chairman, if he has applied and has obtained the benefit before going over to Spain or anywhere else the answer is yes because it obviously conforms with the Ordinance. If he, however, resides somewhere else and then comes to Gibraltar he obviously does not get it because he has got the residential qualifications to adhere to.

HON A J CANEPA:

Unless he were to be in a position to apply for Supplementary Benefits and get, I think, it is the non-householders rate because he has no other income. Let us say that if somebody with no income takes up residence in another household in Gibraltar where there are wage earners, that person would be entitled under the Supplementary Benefits Scheme, if he is a Gibraltarian, to apply for the non-householders rate.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 14 - Labour and Social Security was agreed to.

Head 15 - Law Officers was agreed to.

Head 16 - Medical and Health Services

Personal Emoluments

HON MISS M I MONTEGRIFFO:

Mr Chairman, I would like to raise the question of the Dental Clinic Assistant which we have been mentioning for a number of years. There are two Dental Clinic Assistants working at the Health Centre but only one appears in the Estimates. Can the

Minister confirm whether a post has been created and whether the anomaly will now be corrected?

HON M K FEATHERSTONE:

I understand a paper to this end has just been circulated, it will probably be approved very shortly.

HON MISS M I MONTEGRIFFO:

Mr Chairman, the other point refers to the post of Dietician which again appears here with a token provision. We cannot understand, Mr Chairman, why the Minister is still undecided as to whether the post should be filled or not. The answer that he gave us in the House was that if the consultant coming in May could adequately look after the needs of the Diabetic Association then he did not think that the post would be required.

HON M K FEATHERSTONE:

I said that the Consultant coming in May would be able to look after the Diabetics insofar as the need for a Dietician was concerned but we would be advertising during the year for some student who perhaps would like to take up the post of Dietician.

HON MISS M I MONTEGRIFFO:

Mr Chairman, can the Minister say why there are two posts of Clerical Officer on a temporary basis this year?

HON M K FEATHERSTONE:

These are to work out the Form 121 and the Form 106 that are needed.

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

On Maintenance and Running Expenses of the Market, it is not a large amount of money but proportionately it shows quite a big increase and if we look it is double two years running, that is, it was £3,800 in 1984/85; £7,800 in 1985/86, and £15,700 in 1986/87. Is there a particular reason for this?

HON M K FEATHERSTONE:

I think this includes the maintenance of the market which has quite a lot of features that are needed to be done to it. The breakdown - dog food £1,200; dog disc £1,000; sundries £1,500; maintenance and repair of market £3,000; maintenance and repair of kennels £1,500; weights and scales £1,800; electronic fly-killers which need to be renewed £1,000; essential repairs to the cold room £3,000; installation of water heaters £1,000.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 16 - Medical and Health Services was agreed to.

Head 17 - Police

Personal Emoluments

HON J BOSSANO:

We did vote, I think, in a supplementary vote, the increase in the establishment during the year but I have noticed in the Abstract of Statistics and I think there was a mention in the Annual Report of the Department of a certain amount of concern about an increase in crime rate being experienced following the influx of people as a result of the normalisation at the frontier. I think this is an area which has always been of concern to people, generally, that there could be a deterioration in the very high standard that Gibraltar has got of having a very low crime rate. Does the Government feel that the provision that we have got will enable the Department to keep a check on this and, hopefully, bring it back to what it used to be from the level it is reaching?

HON ATTORNEY-GENERAL:

There has been an increase of twelve officers as well as the eleven civilians. I take it that the Commissioner of Police is satisfied with that twelve, if he had wanted more no doubt he would have asked for more and no doubt he will keep the position under review as to whether more officers are required.

HON CHIEF MINISTER:

Despite that the element of overtime is also heavy.

Personal Emoluments was agreed to.

Other Charges

HON J E PILCHER:

Mr Chairman, Subhead 10 - Traffic Control. Could I enquire what exactly the Hon Member means by Traffic Control?

HON ATTORNEY-GENERAL:

The removal of derelict vehicles.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 17 - Police was agreed to.

Head 18 - Port

Personal Emoluments

HON J BOSSANO:

In Personal Emoluments, Mr Chairman, when we asked the question, I think, in relation to the Shipping Registry we were given an answer at the time which doesn't seem to make much sense because I think we were told that if the Government showed how many we had there then we might have a situation where the Board of Trade might think we didn't have enough. In fact, we are showing how many people we have got there and what we were asking for at question time which has been reinforced in looking at the provision in the Estimates of Expenditure, is for an identification of the cost of the Shipping Registry, very much the same kind of philosophy that we keep on bringing up under other Heads of Expenditure. I think it is important for the Government and for the House to know how much money is being put into this so that we can judge what return we are getting for it. As it is, we are showing the manpower requirement and what I would like the Government to consider is whether in future they cannot have a breakdown of the Port with the normal Port expenditure and the Shipping Registry separating the cost of the two.

HON A J CANEPA:

Yes, obviously what there is there could be costed at around £35,000 a year. Let me say that when the Council of Ministers accepted the policy of setting up our own Marine Administration and trying to boost Shipping Registry business, we were not too concerned about how cost effective it would be insofar as the Government were concerned. We did not think that we would necessarily recoup in directly increased revenue to the cost of the expenditure but we saw that as the contribution that the Government would be making to the general economy elsewhere by way of increased business in the financial sector, by way of increased business in solicitors' firms and so on. In fact, it is curious to know that there is one particular legal firm whose entire work seems to be Shipping Registry business so it can be fairly lucrative. Having said that, however, I am very concerned at the moment about the future of the whole thing because subsequent to the Estimates being circulated to the House and, in fact, only last week we have received a letter from the Department of Transport in the United Kingdom where they are basing themselves on a certain ratio that they have. Apparently, for every six or seven ships on your Register you should be engaging the services of one surveyor and they are telling us already: 'Look, chum, you ought to have fifteen surveyors but because of rather peculiar reasons we think that if you were to employ ten it would be alright'. If this is the attitude which the Department of Transport is going to take I am afraid that we are not going to get anywhere because if they expect us to employ ten surveyors before they will extend the safety of the SOLAS Conventions to Gibraltar then I am afraid the whole thing is a non-starter. We cannot employ ten surveyors for the present seventy or so ships that we have on our Registry. It would put the cost up to over £100,000 which will make it totally cost ineffective for the Government. Where are we going to find people from, from overseas, no doubt. At the moment we know that the chances of employing two surveyors having regard to the

local market, as it were, there have been three applicants, one of them a local man living in the United Kingdom, another one a retired expatriate now resident in Gibraltar, and the third is somebody working on a yacht. That does not make any demands on our resources by way of housing. If we have to bring ten surveyors from outside Gibraltar where do we house them? If that is the attitude of the Department of Transport, I am afraid that we are in a pickle. We are in a pickle because there would be little point in amending the legislation, it won't be a meaningful thing and if we stay as we are we are in serious danger of being branded as a flag of convenience. This is something that has really been worrying me over the last week or so and I am going to be giving the matter my attention as soon as this meeting of the House is over to see where we take it from there. I know we shall be having to make representations no doubt to London but I am told that the Department of Transport are very, very difficult about these matters and here you have a Department of the British Government not giving us reasonable opportunities to develop an area of the economy that we could develop. We seem to be squeezed from all sides. I am sorry that I have gone at such length, Mr Chairman, but if I give those explanations the Hon Member, I think, will realise that there isn't a great deal of point in pressing much further on this at the moment.

HON J BOSSANO:

Mr Chairman, I am grateful to the Hon Member for the explanation, in fact, and perhaps he could keep us abreast of developments because he knows that is an area that we have thought had potential and of which we have had an interest over a number of years.

HON A J CANEPA:

Yes, I will do that, Mr Chairman.

HON J C PEREZ:

Mr Chairman, just to clarify one point. Is that the requirement that the Department of Transport is insisting on?

HON A J CANEPA:

They are insisting on that requirement before they will extend the SOLAS Conventions to Gibraltar.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 18 - Port was agreed to.

Head 19 - Post Office, Savings Bank and Philatelic Bureau

(1) Post Office and Savings Bank - Personal Emoluments

HON J C PEREZ:

Mr Chairman, complaints have come our way about the performance of the counter service because of the increase of sales, presumably because of the tourists, that it is almost impossible to go into the Post Office without having to queue up and in most instances there are only two counters available to buy normal postage stamps. Presumably, this is because there is not enough staff in the Department to have other counters working at the same time.

HON G MASCARENHAS:

Yes, Mr Chairman, I have had those complaints as well on a number of occasions. I cannot quite understand why I should get those complaints. It is very rarely that you only have two.

HON J C PEREZ:

For the postage stamps only.

HON G MASCARENHAS:

For the postage stamps, very rarely, usually it is three. The business has increased, obviously, you can see from our revenue that business is going up but I cannot understand because the peak is between 11 o'clock and 1 o'clock and as I stated yesterday, during my speech on the Appropriation Bill, we are maintaining the opening hours during the lunch hour and that should have made a difference. Unfortunately, people will go between 11 o'clock and 1 o'clock, at least local people. I can imagine that tourists don't have much choice because they are here more or less at that time but if you went to the Post Office at 10.30 in the morning you would have no problem. But I cannot quite understand that because when it is a public service people tend to complain, yet if you go to one of the major banks in Gibraltar you will see the queues three times the size of the Post Office queue and yet nobody will complain.

HON J C PEREZ:

I have received the same complaints about the banks but I make representations to the bank and not here because you are not responsible for the bank. I make representations to you because you are responsible for the Post Office.

HON G MASCARENHAS:

Mr Chairman, I think we have the machines out there and you will note under Special Expenditure that we are providing Stamp Vending Machines. These are not additional, these will replace the ones that we have there which are sometimes broken. I think it goes down to the peak times. From 11 o'clock to 1 o'clock in the morning you have a lot of people turning up at the Post Office but I don't think it is warranted to have extra people just for those two hours when the Post Office is open from 9 o'clock in the morning.

HON J L BALDCAHINO:

Mr Chairman, the vending machines will not help in any way what my Hon Colleague has brought up because the vending machines are only for a small amount and normally people who go to the Post Office are people who work in businesses and have to buy a larger number of stamps that they would normally get from the vending machines.

HON G MASCARENHAS:

This is the unfortunate thing, that you have many people queuing up at the counter for a 22p for London and they will stand in that queue instead of using the machines but sometimes when it is tourists they haven't got the right change.

Personal Emoluments was agreed to.

Other Charges was agreed to.

Special Expenditure was agreed to.

(2) Philatelic Bureau was agreed to.

Head 19 - Post Office, Savings Bank and Philatelic Bureau was agreed to.

Head 20 - Prison was agreed to.

Head 21 - Public Works

Personal Emoluments

HON J C PEREZ:

I wonder whether provision has been made under this Head to introduce the new Shift System in the Distillers?

HON MAJOR F J DELLIPIANI:

No, Mr Chairman, because the matter is under discussion.

HON J C PEREZ:

So the Government haven't yet made up their minds whether they will introduce the new Shift System in the Distillers or not?

HON MAJOR F J DELLIPIANI:

It is not a question of the Government, I know what I want. The matter is being handled by the Industrial Relations Office.

Personal Emoluments was agreed to.

Other Charges

HON J C PEREZ:

Mr Chairman, under Subhead 14 - Rock Safety Measures and Coastal

Protection, does that cover the cost of the coastal protection measures for the area where the asphalt plant is, above the asphalt plant in Catalan Bay? I remember in the House some time ago I suggested that perhaps a survey of the area would be something which the Government would consider and now even more so because since there is talk about the site where the Caravan Site used to be being developed perhaps it would be useful for some money to be spent in surveying the area because there are continuous complaints about rock falls in the area and I think we need to be sure that the area is safe, both for the development and for the residents in Catalan Bay obviously.

HON MAJOR R J DELLIPIANI:

Mr Chairman, this is a very complex matter. I am glad the Hon Member has brought it up. The fact is, Sir, that all the areas which the Department consider to be dangerous are monitored. They are physically monitored by looking at it through binoculars to see whether there is expansion, etc. The danger when you are dealing with this side, is that if you try and do any repairs or take away any prominent rockfalls that might appear to be in danger by the mere fact that you are working in the area you can cause more damage. What is intended and it is a long-term project, the area in question might just come under what we are thinking of, is the digging up of what we call a 'catch bench' area over the top of the water catchments so that if there is any rockfall, instead of rolling down the catchments straight down to the road below because we will be doing what we call a 'catch bench', this is where the sand quarry comes in, the rock will fall on the catch bench and fail to roll down but it is a very long term exercise. The only thing we can do is by physically looking at it and seeing where the potential dangers are but if we try to do anything physically on the cliffside we could cause greater problems than there exist at the moment. It really is a very delicate balance which our engineers are very concerned about.

HON J C PEREZ:

Mr Chairman, I can understand the constraints in this type of situation but, surely, if there are reports of rockfalls in a given area continuously throughout the year and the Department itself has a site beneath those areas where the people are continuously complaining about the rockfalls, surely the Department should at least consider resiting the places that they have there and leaving them empty before a nasty accident happens because we could have a situation where one of these stones falls on one of the Public Works Department workers and injures him badly.

HON MAJOR F J DELLIPIANI:

There are certain areas where there are rockfalls but it is something that one has to accept. People who have lived in Catalan Bay know that they live in an area which is prone to rockfalls. There is nothing we can do with nature. If you take it to that extreme we should really move the whole of the Catalan Bay Village somewhere else because by the very nature

of the formation of Gibraltar this is subject to rockfalls. It is a risk, I think that the men working there know that they are under such a risk and I think they are paid something for working under those conditions.

HON J C PEREZ:

Mr Chairman, under Subhead 24, Maintenance and Improvements of Highways, I notice that there is a separate vote for the improvement of highways in the Improvement and Development Fund and I would like the Hon Member to give me, if possible, now if not at a later stage, a breakdown of the works that are intended to be done in the year and a breakdown on which works are going to be paid by this vote and which works are going to be paid by the Improvement and Development vote. Still on the same subject, I would also like to know whether the resurfacing of Main Street which the Chamber of Commerce announced that the Government had told them they were going to do before June, is to go ahead and when is it intended to start?

HON MAJOR F J DELLIPIANI:

Quite a few questions, Mr Chairman. First of all, Mr Chairman, on the general question of the whole of the programme of highways under this vote and under the Improvement and Development Fund, I would prefer to give it to the Hon Member because it is quite extensive and, as the Hon Members know, I think I cooperate with the Hon Member on all matters. On the question of the Main Street resurfacing, we have been looking at this matter for some time. The Chamber of Commerce wanted, in fact, from the bottom of Engineer Lane to the top of City Mill Lane to be given priority and we would hope to have done it by June but in actual fact there are other areas of Main Street which really require resurfacing and, some structural work to be done which are in a far worse condition than this. Although we will try to do this one before June, we might have to go to other areas of Main Street which need it more. May I also add that because we haven't been doing resurfacing works for a long, long time, it is only through the Winston Churchill Avenue that our men have picked up the skills again and I think everybody will admit in this House that it is a fairly good job we have done. We want to use this experience and improve on it and do it in the Main Street area but I am not going to be conditioned by making the Main Street area, this particular area, precede the other area even though I would like to, I still have to look at the worse areas in Main Street which have structural faults and if I have to do that first and Mr Seruya will complain, it doesn't matter.

HON J C PEREZ:

Mr Chairman, just to point out to the Hon Member that if, in fact, his intention is to carry out the works before June, my own opinion of the matter is that his Department should get on with it very quickly because I cannot imagine a resurfacing of any part of Main Street being carried out with thousands of tourists coming and going. I think it is going to be awkward to do it in the peak tourist season. That is why I asked him whether he still intended to do it before June because I would have thought that this would be better done in the season where the amount of tourists coming in is less.

HON MAJOR F J DELLIPIANI:

I am not trying to be a tourist expert. I don't know really what the peak seasons are because last year most of the tourists came in the winter and I think there was a drop in summer. I think the priority should be in the Main Street area. Whether this has to be done in June or before June, we have to look whether there are possible dangers.

HON J C PEREZ:

Mr Chairman, on the vote of Maintenance of Buildings, the Hon Member did promise me privately that he would give me a breakdown of the £618,100 by Department.

HON MAJOR F J DELLIPIANI:

I will do so again.

HON J C PEREZ:

Is the Hon Member not in a position to give it to me now?

HON MAJOR F J DELLIPIANI:

No, I can give you half of it.

HON J C PEREZ:

Mr Chairman, let me make the point that I have been given to understand that all of that money has, in fact, been allocated to different Departments even though it is in the Public Works vote and the point I have made consistently is that if the money has been already allocated why isn't it charged to the Head to which it has already been allocated? The argument that has been put to me is that if there is so much for Education and then the Department decides that instead of repairing one school they want another one repaired, it would then be impossible to change this. But then this can be done under a statement of reallocation which is frequently done during the year. My point is why if the Department already has a programme and they have already allocated the £618,100 to different work projects which are for different Departments, why isn't this being charged to the different Heads and not put in the Public Works vote when, in fact, it is a vote similar to the one in Housing where it is charged to Housing but the Public Works does the work but it should be charged to the Public Works Department itself.

HON MAJOR F J DELLIPIANI:

May I, Mr Chairman, clarify a couple of points. The first one is that any works which are under £10,000 is not controlled by the Department. The other thing is that we have done a redeployment of labour so that we can tackle Government buildings and offices and, again, we are talking of six painters which we are employing to do this work. If the Hon Member will bear with me, when he comes to my office I will give him the figures, not only of the Departments which are under £10,000 but how we intend to use the remaining sum.

HON J C PEREZ:

I take the argument of the Hon Member. I am not insisting that he should tell me what the works programme for the year is now, I already asked him that in my main contribution and he has already said that he was prepared to give it to me in his office. What I am saying is that if the money has already been allocated to different works programme, why should it appear as an expenditure in the Public Works vote when it should appear as an expenditure in the Department where the maintenance is going to be carried out? When the Hon Mr Featherstone was Minister for Public Works, one of the arguments used was that the whole of the vote couldn't be allocated because the Department needed certain flexibility. In my contribution this year I have accepted that the Department should continue to have certain flexibility but that the vote itself is too large to be allocated in this manner without telling the House where the bulk of that money is going to be spent on.

HON MAJOR F J DELLIPIANI:

Mr Chairman, again I will say that, first of all, we have to deduct the different Departments where there are votes of less than \$10,000 from this vote. Then again I will say that there are so many areas.....

HON J C PEREZ:

Will the Hon Member excuse me. Is the Hon Member indicating that there could be a wages element in the \$618,000?

HON MAJOR F J DELLIPIANI:

It is always this element. Materials about 30%. If I don't have this money I cannot pay the men. The materials element here would be about 30%.

HON J C PEREZ:

I have made two points in bringing this point up on the three years that I have been in this House, Mr Chairman. One of the points was that we thought that the House of Assembly should have a bigger say in where the money should be spent and in that respect I would ask the Hon the Minister for Public Works to see if next year he could bring the breakdown of how the Department intends to use that money before we vote the money. But then I would make another point which is a new suggestion which perhaps the Hon the Financial and Development Secretary might be able to adopt and that is that at least perhaps once the money has been spent we could see this sum of money disappearing from the Public Works Head in the final figure of the account and appearing in each Head where the money has already been spent because I think that this money like the vote for Maintenance of Housing should be charged to the Head where the maintenance is being charged. Similarly, you could argue in defending this vote that the \$1,600,000 for Maintenance of Housing if that work is carried out by the Public Works, should be included in that vote as well.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly we will consider that.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 21 - Public Works was agreed to.

Head 22 - Telephone Service was agreed to.

Head 23 - Tourism

(1) Main Office - Personal Emoluments was agreed to.

Other Charges

HON J E PILCHER:

Subhead 3, Mr Chairman. I see that entertainment and travel has been increased by some £3,500.

HON H J ZAMMITT:

This is due to the increased volume of press visitors to Gibraltar, of visiting journalists.

HON J E PILCHER:

Subhead 9, Mr Chairman, Printing and Stationery, there is a substantial increase there of £15,500.

HON H J ZAMMITT:

Mr Chairman, more leaflets, of course, are today having to be provided due to the number of tourists coming in but I would like to mention here that despite the very substantial increase we have had something like £30,000 of literature sponsored by the Bank of Credit and Commerce that produced a very nice map of Gibraltar and other brand names that are taking up quite an amount. I should point out that today we are considering printing a particular brochure and we are talking of at least half a million copies of whatever we produce.

HON J E PILCHER:

Subhead 16, Mr Chairman, International Marketing. I note from the footnote that this was previously provided for under London Office 'Advertising and Field Sales'. Does this mean that the \$95,000 would be controlled for international marketing locally?

HON H J ZAMMITT:

Yes, Mr Chairman, the £300,000-odd that we had in the London Tourist Office as we were then directing our advertising campaign just in Great Britain, we have now divided that and this amount will be mainly for Spain and Morocco and other destinations excluding Britain.

HON J BOSSANO:

Mr Chairman, Tourist Surveys, the Government originally allocated in the approved estimates £2,500 and they only spent £500 and we are only putting in £1,000 this time. Wasn't that an important part of the recommendations that there should be Tourist Surveys?

HON H J ZAMMITT:

Yes, Mr Chairman, precisely because of that now, because we have a full complement of our own staff now we are now able to conduct our own Tourist Surveys so we are taking it up because we think it is very important to have the information that we are looking for.

HON J BOSSANO:

So the cost is shown somewhere else now? We seem to be spending less money, Mr Chairman, is it that the cost is shown somewhere else?

HON H J ZAMMITT:

No, Sir, it is due to the fact that our own people can do it as opposed to before when we used to have to employ students coming back from England and now our own staff absorb this very important task, Sir.

HON J E PILCHER:

Mr Chairman, on Subhead 17, Minor Works. I think the Hon Minister for Tourism did say to my colleague, Miss Montegriffo, that some of that money was going for the restoration of ancient monuments. Could we get a breakdown of the £21,000?

HON H J ZAMMITT:

Mr Chairman this morning Miss Montegriffo who was asking about the upkeep of our historic sites and monuments and in that item there is £9,000 for repairs to historic sites and embellishment of monuments.

Other Charges was agreed to.

Special Expenditure was agreed to.

(2) London Office - Personal Emoluments was agreed to.

Other Charges

HON J E PILCHER:

Mr Chairman, I see on Subhead 6 - Public Relations, an increase of £9,500. Can I get an explanation for that?

HON H J ZAMMITT:

Yes, Mr Chairman, last year we had no public relations despite the fact we had to make some additions and some payments for the previous year and we dispensed with our public relations people last year. It is highly recommended today that we do take up public relations and although we have not as yet employed anybody we are asking for representations to be made for a decision to be taken to take on public relations again.

HON J E PILCHER:

Mr Chairman, Subhead 9 - Advertising, £112,300. I know that this is not a new vote but again contained in the Advertising and Field Sales. This will all go in advertising Gibraltar in the UK?

HON H J ZAMMITT:

Yes, Sir, the London Office will all be in the UK. Of course, under this particular Head we do have the brochures which although they are printed in the UK they are distributed internationally. We have one main brochure. Although I should say, Mr Chairman, I suppose, within this that we have been able to agree with some tour operators to have a joint brochure which Members will be seeing within the next few weeks which, of course, will cut down costs because of the volume.

Other Charges was agreed to.

Special Expenditure was agreed to.

Head 23 - Tourism was agreed to.

Head 24 - Trading Standards and Consumer Protection was agreed to.

Head 25 - Treasury

Personal Emoluments

HON J BOSSANO:

Could I suggest to the Financial and Development Secretary, Mr Chairman, that he might borrow some money and restore the number of Economists that we have since he is now in the process of borrowing to meet recurrent expenditure? I think I was told at

the previous meeting of the House that we were not going to lose bodies in that area and I thought the Hon Member was nodding very vigorously at the time as if he agreed with me but yet I see that in the provisions that we are making we had under the Economic Planning and Statistics Office fourteen members of staff in last year's establishment and we have got twelve in this year's establishment, having lost the Assistant Economist and four Clerical Assistants. The regrading I thought would still be without any loss of numbers of people employed. We had one Economic Adviser, two Economists as SEO and one Assistant Economist. It means we have got one person less because the other two have been upgraded but we still have the same number of people.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The two next most senior people have been upgraded but we haven't lost anyone else because there was one supernumerary who has now been reclassified.

HON J BOSSANO:

According to this we had one Economic Adviser, two Economists and one Assistant Economist which is four and now we have got two Economic Advisers and one Assistant Economist so we are short of one person, are we not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is the Economic Adviser.

HON J BOSSANO:

And when, in fact, I asked previously in the House about the new appointment I then followed that up by saying I thought it was very odd that if more importance was going to be given to the question of economic planning, we should finish up with one person less.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, if I remember rightly, Mr Chairman, he said he was rather glad that more emphasis had been given to economic planning in the Chief Minister's Office.

HON J BOSSANO:

We were given to understand that one person was going to be retained supernumerary to maintain the same manning level and then I think that was corrected in the course of the exchanges to say that it was going to be made permanent and not supernumerary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But that is reflected here.

HON J BOSSANO:

No, it isn't reflected here because we are still short of one person which is the person that has moved to the Chief Minister's Office who is presumably no longer part of the Economic Planning and Statistics Office.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But he was never supernumerary.

HON J BOSSANO:

I know he was never supernumerary, Mr Chairman, that is why he ought to be replaced.

HON CHIEF MINISTER:

The numbers are the same.

HON J BOSSANO:

No, the numbers are not the same.

HON A J CANEPA:

What is happening is that there is a restructuring which is resulting in more Clerical Officers and the output of Clerical Officers is greater than Clerical Assistants.

HON J BOSSANO:

We are replacing four Clerical Assistants with three Clerical Officers but surely that doesn't compensate for the loss of one Economist from the Unit? If we do this then that doesn't say much for the Economist, Mr Chairman.

HON A J CANEPA:

We now have, Mr Chairman, two Economic Advisers who are expected between the two of them to cover the whole spectrum of the work that Mr Montado and the two Assistant Economic Advisers were covering previously and we had a young graduate who has now become an Assistant Economic Adviser and who is also beginning now to deliver the goods.

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

Could I just make a point? The rates refund, Subhead 23, Mr Chairman, of £400,000, does that mean, in fact, that the increase in rates for the whole of the commercial sector is £1m or is this based on the people who are known not to be in arrears and consequently that figure is limited to the people who would qualify by that criteria?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I wondered if the Hon Member was going to be sharp enough to pick up the fact that arithmetically 40% does not represent £400,000 of the amount which we would raise. Yes, there is an element here of assumption about the amount which we will recover which is not arithmetically consistent with 40% of the total amount of the increase to the commercial sector this year, there is an element of estimating approximation about this.

Other Charges was agreed to.

Subventions

HON J C PEREZ:

Mr Chairman, the Hon and Learned the Chief Minister in his contribution in rounding up in the Appropriation Bill said that the Hon the Minister responsible for Traffic would be giving a wider explanation about the subvention for the Gibraltar Quarry Company.

HON M K FEATHERSTONE:

Yes, Sir, the situation with the Quarry Company was to the extent that the losses over previous years had built the overdraft up to a rather high figure and a viability study was undertaken by the Company's Auditors to see whether the Company could ever become viable. The Auditors came to the conclusion that the possibilities of the Company's viability per se were reasonable within the next eighteen months but they could not see the Company becoming viable if they had to carry the burden of the high overdraft which was running at over £175,000 having been built up by losses since the inception of the Company. They therefore suggested that the Government might like to take a leaf out of the British Government's book where they gave a write-off amount to companies such as the Coal Board, etc and suggested that the Government might like to make a subvention to the Gibraltar Quarry Company to remove past losses and put the Company on to a firmer footing so that they

could go ahead without the burden of the heavy overdraft and this is the intention of the subvention at the moment.

HON J E PILCHER:

Subhead 30 - Contribution to Gibraltar Broadcasting Corporation, I see that the revised estimate for last year was £596,000 and the estimate for 1986/87 is back to £570,000 irrespective of the fact that an extra £26,000 were spent last year.

HON A J CANEPA:

The extra £26,000 in the revised estimate is accounted for by the pay review so you can expect that there will be a revised figure for 1986/87 which is likely to be, in the event, higher than £570,000. It comes under Head 29.

HON J BOSSANO:

Fair enough but presumably the wages have not gone down? If, in fact, it was £570,000 before it was known how much the pay review would cost, one would have expected like every other subhead of personal emoluments or whatever, that if we are not cutting down the subvention for GBC in 1986/87 then the figure there would be the same as the revised figure.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, in previous years, I think it has been the custom to increase the subvention because of GBC's financial difficulties. This year, of course, they have revenue from advertising to take into consideration so that that particular contingency is less likely to occur.

HON CHIEF MINISTER:

The subvention is normally or has been up to when the income of the Corporation was static was to make up the cost with a Government subvention and then also sometimes for extra equipment they would ask for £25,000 and having regard to the kind of cuts we were making to other departments we would say: 'No, you can only have £15,000 or £18,000'. The fact that they are doing better doesn't mean that every penny they get we give them less but they are able to expand a little and at the same time part of the income that is coming makes the need for the subvention to be less and this is negotiated with the Corporation every year and therefore it is part less subvention in the sense that they have much more money but it doesn't mean that the cut is all that they have had extra. There was going to be a surplus of some £15,000 which had it remained like that would have reduced this year's subvention. It didn't because, as I

mentioned before, they said: 'Can we use this money that we have got over from last year's subvention for these things that you haven't given us provided you don't take it into account in next year's subvention'. Therefore the subvention is not decreasing by every extra penny that they have except that it is true that as they get more income the subvention will be less and they will be providing for more things that they are not providing now.

HON J C PEREZ:

Mr Chairman, if I can turn back to the contribution of the Hon Mr Featherstone. Since he said that the views of the Auditors were arrived at after a viability study, could we perhaps be given a copy of that viability study so that we may see whether the judgement of the Government has been the correct one?

HON M K FEATHERSTONE:

Yes, Sir.

Subventions was agreed to.

Special Expenditure was agreed to.

Head 25 - Treasury was agreed to...

Head 26 - 1986 Pay Settlement

HON J BOSSANO:

Mr Chairman, I notice that last year the contribution for the pay review was reduced. Is it because there has been delay on settlement or is it that, in fact, the Government overestimated it last year because they are estimating even more this year?

HON A J CANEPA:

Teachers have got to be paid at the end of this month in respect of the 1985 pay review.

HON J BOSSANO:

So that, in fact, is included in the £1,300,000, that is why it is much higher than last year?

HON A J CANEPA:

Yes.

Head 26 - 1986 Pay Settlement was agreed to.

Head 27 - Contribution to Improvement and Development Fund

HON J BOSSANO:

Mr Chairman, I would like to raise again the matter which we raised on the general principles of the Bill because I don't think we have been given a satisfactory explanation by the

Government why they do not wish to provide a greater contribution to the Improvement and Development Fund than the £1½m that they are proposing. The position is that a policy had been introduced in this year's Budget which, quite frankly, is a major departure from everything that has been said in the House up to March last year and if we had not queried it there would have been no indication of it. That is to say, there was nothing in the opening statements by the Hon and Learned the Chief Minister and the Hon Financial and Development Secretary on the Finance Bill to indicate that all the thinking on financial prudence of the last fourteen years are now out of the window and we are in an entirely new ball game with new criteria where the determining factor for Government borrowing is not the requirements of its capital expenditure programme but, in fact, the presence of willing lenders, that seems to be the major thing. As long as there are people around willing to lend money to the Financial and Development Secretary he is happy to borrow. Having borrowed he doesn't know what to do with it because he is not spending it. He obtained the authority of this House against our vote for using that money for recurrent expenditure but he is not using it for recurrent expenditure. He certainly didn't obtain the authority of the House in the Loans Empowering Ordinance to finance tax cuts which was something that he almost let out at the Finance Bill and then quickly retracted but certainly that would not have been.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

Yes, Mr Chairman, because he said one could borrow either to finance expenditure or to finance tax cuts and I asked him which he was doing and he didn't give me an answer. In fact, he cannot say he is borrowing to finance tax cuts because the Loans Empowering Ordinance did not include that as one of the things that he could borrow for, it said he could borrow to meet recurrent expenditure. What is he borrowing for? He is borrowing to increase Government reserves having told us that there is no such thing as a prudential level of reserves. The only reason the Government can have for not wanting to provide this money to the Improvement and Development Fund is that there is no requirement to spend the money in the Improvement and Development Fund. It is questionable why they want to borrow money if they have got nothing to spend it on. But they cannot say they have got nothing to spend it on because they have told us there are a lot of things they would like to spend money on which they have not been able to spend money on because the ODA has not provided it and they have told us that they themselves are very conscious of the desirability and the need to give a greater impetus to Government housing and we have got a very limited amount of money in Government housing under Head 101 under the Improvement and Development Fund. In fact, we haven't even got enough money there being spent to use up the money from the sale of Government houses which was the whole justification for the sale of Government houses. The total amount being provided on the expenditure side falls short of the estimates on the revenue side but if on top of that they

are not using the money that they are borrowing then what is the use of saying that they want to spend in this development? What is the use of saying, for example, that they are giving emphasis to tourism by the money they are spending on it and we were told in the Finance Bill to wait for the Appropriation Bill and here we are, we are near the end of the Appropriation Bill, and we were told by the Hon Mr Zammit, the Minister for Tourism, of his disappointment that the ODA was not forthcoming with the provision of finance for the tourist projects he would like to see. The ODA is not behaving any better or any worse than the Financial and Development Secretary who has borrowed £2.8m and will not give it to the Minister for Housing for housing, will not give it to the Minister for Tourism for tourism, will not give it to the Hon Mr Canepa for infrastructure, so in fact the Financial Secretary is doing exactly the same with his borrowed money as the ODA is doing with their grant and consequently I don't see how the Government can on one hand be critical of the lack of provision of money for capital investment by ODA and be so reluctant themselves to spend the money they have borrowed.

HON CHIEF MINISTER:

I feel we are going round in circles with this. First of all, it would not have been prudent when these estimates were prepared and the Improvement and Development Fund estimates were prepared, nor would it have been possible to assess how much money would be given from the Consolidated Fund to the Improvement and Development Fund because there had been no response to the aid submission. So the estimates for the Improvement and Development Fund were modest and in any case we didn't know which projects would have priority. We knew we would be able to provide some funds for housing inevitably but we didn't know exactly what the response was going to be. The tax cuts bear no relation to this because if we had had to have tax cuts with borrowed money we wouldn't have done it. I think it would be dishonest apart from whether it would be prudent or not. I could come next year for £5m, give goodies to everybody and then go to the elections shortly after but it is just, from a political point of view, not tenable and therefore it doesn't arise and, in fact, the amount of money that we are giving in income tax is because we have sufficient after that to leave a comfortable surplus. About the money that has been borrowed and has not been repaid, so to speak, which is what the Hon Member said. First of all, if you have the new page 5, the revised estimate for 1985/86 of revenue is £64,912,700. That includes the £2.3m from last year. In the estimates for 1986/87 the recurrent revenue provides for £69,923,600. That provides £4m which come in and £4m which go out and £2m which come in. As a result of that we come to the position where after making the necessary provisions that will be done for the Funded Services, we will have a working capital, you call it surplus, you call it whatever it is but it is cash flow too. We are owed, as you see from the accounts of the Auditor's Report, we are owed a considerable amount of money in rent, in rates, electricity, water, this is the working capital. When we talk about what is a prudent reserve whether you have a reserve or not you must have working capital and I would have thought that the minimum of working capital is the maximum of

your cash flow requirements. We have the result of the ODA, we don't know how we will react, we don't know what our reaction will produce but having regard to that, now that we have at the end of the day £8½m in the kitty, so to speak, part of it is in assets due to us in uncollected bills, we can think again what is going to happen to the Improvement and Development Fund. We can come to the House whenever it is required, the money is there, the money has been funded for some things but can be allotted to something else and when we make a proper study of it we will say how much money we can afford. I am not saying that in that way we are going to eliminate the total amount of the loan into the Improvement and Development Fund, I don't think we can afford £4.3m in the Improvement and Development Fund, perhaps we cannot, we will see what the priorities are and what the requirements are. When we see that we will come to the House and ask for an extraordinary appropriation and that is to transfer whatever we consider is required from the Consolidated Fund to the Improvement and Development Fund when we know what we are going to use it for. It is no use putting it there now and leaving it blank, that is the answer.

HON J BOSSANO:

I am, of course, perfectly satisfied with that answer, Mr Chairman, which now takes us back to where we were in March, 1985, and for the last fourteen years then it means that the radical change announced by the Financial and Development Secretary is not taking place and it means that the last four Financial Secretaries were right and we are still pursuing a policy of looking at the money we have in the Consolidated Fund Balance which is the old general revenue reserve on the basis of the liquidity or the.....

HON CHIEF MINISTER:

No.

HON J BOSSANO:

Yes, that is the argument the Hon and Learned Chief Minister is expounding.

HON CHIEF MINISTER:

No, I was only putting a scenario of what the thing looked like, it doesn't affect the policy of the financial strategy at all, it is mere fact. The philosophy behind borrowing as part of the whole thing is still there if we want to use it. We borrowed it because that year we needed it in order to balance the budget, we knew that it had a good probability of not calling on, is fair to say, but we had to be prudent in case things did not materialise as we thought they were going to.

HON J BOSSANO:

I am saying, Mr Chairman, the explanation of the Hon and Learned Chief Minister is, as far as I am concerned, perfectly

acceptable. If the money has been put into the general revenue reserve at this stage and last year on the basis that it was wiser to have it there and wait the outcome of the ODA negotiations before deciding what to use it for and how much to use it for, is a perfectly reasonable argument and we accept it. If, in fact, it doesn't represent that and it represents a totally new approach to borrowing where you borrow for recurrent expenditure whether you need it or not or you borrow to put the money into your reserves whether you need it or not, then it is a major departure in policy and one that cannot just be slipped in like that and one which we feel very strongly about and one which we need to be convinced about because, quite frankly, I don't think you can tell the people of Gibraltar and the House of Assembly something for fourteen years in a row as the right way in which to conduct our finances and then suddenly say: 'What we have been saying for the last fourteen years doesn't mean anything. We are now adopting a totally new thing and for the last fourteen years we have been wrong all the time'. I am perfectly satisfied with the explanation of the Hon and Learned Member and therefore, as far as we are concerned, fine, if during the year they feel that the time has come to move some of that money and mobilise it and put it in the Improvement and Development Fund we will be happy to support the Government when the time comes.

HON CHIEF MINISTER:

But let me make it quite clear that that does not do away with the other option which the Financial Secretary has mentioned and it is not necessarily right and I am surprised from a person of the Left to feel that a change should not take place if it is for the better. The fact that we have been doing it thirteen years may or may not have been good, that doesn't matter. The point is whether what we are doing now is right or not because we may have been wrong all those years or may have been right then and we are right now because things change and the pattern of the economy has changed and the whole structure of the future is likely to change and therefore to changing circumstances you have changing attitudes.

HON J BOSSANO:

Mr Chairman, the point is that if we have been wrong for the last fourteen years and we are about to change, this is a major policy decision which I think the Government has got to come out into the open over and say: 'As from now we have changed totally our approach to borrowing money. We think that instead of doing what we have done in the past which is to borrow when we needed to borrow, we now believe in borrowing as long as there are willing lenders around the place and even if we have got no money in which to spend what we have borrowed, we will still borrow it because why not borrow if there are people willing to lend? And what is wrong with it when the rest of the world is up in its ears in debt, why shouldn't we be like the rest?' If that is the philosophy that has got to be brought to this House and defended publicly and we will then make a judgement on that. If that is not the philosophy and that was the philosophy that was being suggested before in the earlier contribution, then, and I think the Hansard will show as these things always

do, whether I am correct in what I am saying or not. Then, as I am saying, if the Hon and Learned Member checks what he is saying now and what was said before he will find that there is a fundamental point of principle at stake which he seems now to be saying: 'Well, that option is still there'. A few hours ago that wasn't being said, a few hours ago we were being told that, in fact, the way that we had approached the question of public borrowing before was totally wrong and the Financial Secretary's defence of the situation was that he was not answerable for what all his predecessors did and he couldn't explain why he was not answerable for what he did last year except to say that now we were in a new situation from last year. Last year the Hon and Learned the Chief Minister told the House he was borrowing £2.3m and the way that he phrased it could only mean one thing, that it was force majeure. He was saying: 'Because we are expecting to have a mere £1.7m in our reserves, we are going for the first time in our history to borrow £2m to put into reserves'. I think it is reasonable, I don't think it is asking too much, it is reasonable to say: 'Well, if you don't have £1.7m and you have much more then you don't have to do this undesirable thing that you were forced to do, so what is your reason for borrowing the £2.3m?' He has given a good explanation now, the reason for borrowing it is that they want to have it there and if they find that they need to use that money for the Improvement and Development Fund in the event of their final negotiations with ODA, then the money is available so they don't want to move it until they see that they need it. Well, that is fine, we certainly don't want to suggest anything to them that might prejudice them in their negotiations with ODA, far be it for us to suggest anything like that, but certainly the explanation we are getting now is different from the one we got before and the one that we are getting now is acceptable to us, that is the point I am making.

HON CHIEF MINISTER:

I still don't exclude the other one and it is not for me to speak for the Financial and Development Secretary, he has his own ideas about finance which we regard as being valuable and we may or may not follow them when the time comes according to the need. Obviously, we would not have gone for £2.3m in last year's loan if we hadn't had an expectancy of something better because otherwise we would have had to come this year. The point is that when you get a situation like that you won't get people to lend and people are willing to lend and we are also bringing money back into Gibraltar that was in bonds in the United Kingdom and it is a bigger commitment for the people to have it here and for us to have that money. It started that way because we had an expectancy. It has been useful to have it, it has now been proved useful to have money available and in reality we finish off with a net, if you want to call it that in that point of view, with a net consolidated bank balance of - if you take away £4.3m - £4m. But that doesn't prevent us from carrying on borrowing if we believe that it is in the interest of the Government.

Head 27 - Contribution to Improvement and Development Fund was agreed to.

New Head 28 - Contributions to Funded Services

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move the inclusion of a new Head of Expenditure, Head 28 - Contributions to Funded Services - in order to eliminate the projected deficits in the Electricity and Housing Funds. It is proposed to provide as follows:- Subhead 1, Electricity Undertaking Fund - £1,550,600; Subhead 2, Housing Fund - £1,552,100 making the total for this Head £3,102,700. The new figures in the last column, ie for the increase or decrease compared with the revised estimates, as my staff insist on calling them, or the forecast outturn as I would like to call them, for 1985/86 are: Electricity Undertaking Fund - an increase of £163,300; Housing Fund - a decrease of £1,414,200 and a decrease in the Head of £1,250,900 compared with the revised estimate for the forecast outturn for 1985/86.

Mr Speaker put the question which was resolved in the affirmative and New Head 28 was agreed to.

Part II - Improvement and Development Fund

Head 101 - Housing

HON J C PEREZ:

I notice that there is only £21,000 being estimated for the Police Barracks Walkways and the Hon the Minister for Public Works said that there had been two studies commissioned, one which was a major one and involved getting people out of the Barracks costing £300,000 and another one which would cost approximately in the region of £70,000 to £80,000 yet there is only £21,000 put into the projects for this year. Can the Government explain why this is so?

HON CHIEF MINISTER:

There was one point that I wasn't clear in my mind and I have just got it. I think it hasn't been dealt with sufficiently and that is the mention of the fact that there was no accounting of the money of the home ownership scheme.

HON J BOSSANO:

No, I was saying, if the amount of money being spent under Head 101 - Housing, is less than the amount of money being estimated to be raised by the home ownership scheme and therefore if the Government defended the policy of selling houses to owner occupiers and we asked whether the money would be used to build new homes and they said yes, we would expect that if they are budgetting to raise whatever it is in income, if they have got home ownership scheme estimated revenue £645,000, we would expect that there should be building of new houses estimated expenditure £645,000 because that is what the money is going to be for.

HON CHIEF MINISTER:

That is a good point but in reality what we have credited are the amounts that have been received like the £250,300 which is the sale of Shorthorn and the others. That is expected, it all depends when it becomes available and so on. Certainly when that money materialises we intend to use every penny out of home ownership into homes, there is no doubt about it.

HON J BOSSANO:

But it is not possible to tell that, Mr Chairman, from the estimates of revenue and expenditure because from the estimates of revenue and expenditure the Government has got home ownership scheme receipts estimated £902,300 and if we look at the estimates for the building of new homes there isn't an estimated £902,000.

HON CHIEF MINISTER:

Of course, because we don't know whether the amount estimated for this year will materialise or not.

HON J BOSSANO:

The point is we certainly wouldn't support the idea that one is selling existing Government property in order to finance painting pre-war properties.

HON CHIEF MINISTER:

No, we will not subscribe to that.

HON J C PEREZ:

Mr Chairman, I was querying why it was £21,000 because there were two estimates for the Police Barracks, one of £70,000 to £80,000 and the other one of £300,000 and why there is only £21,000 in the estimates.

HON MAJOR F J DELLIPIANI:

Mr Chairman, the £21,000 covers two different buildings which are Police Barracks because we have done it from design works and we have estimated that one will cost £7,000 which is the smaller one and the bigger one which is in the town area will cost £14,000. We will be able to do both of them for £21,000.

HON J C PEREZ:

Do you mean to say that the repairs that are going to be done are going to be done to both Police Barracks, the one in Scud Hill and the one up in Castle Road and that the cost of the whole of the repairs is going to be £21,000?

HON MAJOR F J DELLIPIANI:

Yes, because of what we call medium-term repairs which could last anything between ten to fifteen years for both of them will be £21,000.

HON J C PEREZ:

How is it, Mr Chairman, that the Hon Member had a study which said that the Police Barracks in the Castle Road alone, the minor works that needed to be done to the corridors cost in the region of £70,000 to £80,000 because for the major works the Hon Member gave a figure of £300,000 and you had to take people out of the houses and reallocate them with houses but the minor works for the repairs of the corridors of the Police Barracks of which I have been making representations in the House and in writing to the Hon Member, the cost of that project was in the region of £70,000 to £80,000.

HON MAJOR F J DELLIPIANI:

Yes, Mr Chairman, as I said, we have done a study of how to tackle it and we have been able to bring the cost down to £14,000 for one and £7,000 for the other. The cost of the major repairs to last, say, sixty years would have entailed the rehabilitation of all the people living there and that would have cost £300,000. The revised cost of temporary repairs which would last anything between ten and fifteen years has now because of the works carried out by the structural engineer and the quantity surveyor come down to this figure. All credit to the engineering expertise of the Department.

HON J C PEREZ:

Mr Chairman, there is no doubt that if credit needs to be given to the engineering section of the Department by all means I will be the first one to do it but I would rather wait to see the works completed and see what kind of works the Government is intending to do because however good the experts in the Public Works Department are, Mr Chairman, I cannot see that there should be such a big fluctuation for the programme of works in one Police Barracks only that was going to cost from £70,000 to £80,000 for those works to now cost £14,000 in one Barracks and £7,000 in the other. I would remind the Hon Member that he gave a commitment that it would be included in last year's estimates and then in writing he said that it hadn't been possible and that he was including it in this year's estimates but I would perhaps wait until the repairs are carried out and see to what extent the Government is repairing the dangerous conditions of the corridors because I am afraid that I am not convinced that such a costing should have been reduced considerably without the Department having given up certain works which were included in the other costing.

HON MAJOR F J DELLIPIANI:

Mr Chairman, I will do what I always do. I haven't got such a good memory for figures as other Members. I am willing for the Hon Member to come to my office to look at past figures, to look at the design work of my engineers and then he can vouch for himself.

HON J C PEREZ:

We have already arranged three meetings.

HON MAJOR F J DELLIPIANI:

We can do it all in one meeting. Mr Chairman, the Hon Member opposite knows that I am always very willing to meet him any time he wants.

HON J L BALDACHINO:

I have got a couple of things I would like to raise. If I may ask, I know that the Hon Member in his contribution on the Appropriation Bill gave an explanation. He said that those things that had an 'r' which is the reserve vote were going to be done. Why is it that they have a reserve vote for those things shown with the 'r' beside in the estimates and what was it subject to? Why reserve if they are going to do it anyway? That is one of the things, the other thing is, Mr Chairman, why is it that on Subhead 12 - 19 Willis's Passage - they have it down as a revote and other things which carry on extra amount and include a revote of so much because there is a difference between the estimated cost of the project in 1986/87 to what it was in 1985/86 of £30,000, why is it estimated as nearly double now than what it was in 1985/86? Will 19 Willis's Passage be going to the Housing Waiting List or what is it for?

HON MAJOR F J DELLIPIANI:

First of all, it was just going to be a problem of doing repairs because of a lot of dry rot termites, etc, in the building. We have carried a further study and we have been able, in fact, to do a programme of decanting the people in Willis's Passage and doing a modernisation programme which will provide a certain number of units which are in great demand by the Housing Department.

HON J L BALDACHINO:

I raised the other question, Mr Chairman. Why is there a reserve when the Hon Member said on the Appropriation Bill that it was going to be done again. I have reason to believe that this was subject to ODA funds but it appeared as the debate went that this was not the case, why a reserve vote on this?

HON A J CANEPA:

We may not want to make a start on all of them this year. What we didn't want to do was to come to the House, vote the funds and then leave it at that. We wanted to retain control, in other words, the matter has got to be referred back to Ministers before a start is made. If you just provide funds here without an 'r' the Public Works, as the agency for the Government, will go through the normal procedure of going out to tender and so on. Here before they actually do that they will have to refer the matter back to Ministers.

HON MAJOR F J DELLIPIANI:

I can answer about the Laguna Estate, Mr Chairman. The one that we have put an 'r' to the Laguna Estate additional storey, it is not only because we have to go back to Council of Ministers, it is because we are building in a high density area and what we want to do is to control the speed at which we build to be able to observe the impact on the social atmosphere or social consequences of increasing the density of that area, for example, car parks etc. This is why apart from the fact that things have got to go back to Council we want to see when we start building there the extra storeys what problems are going to be caused.

HON A J CANEPA:

The other thing is this, let it also be said that here we have three projects which are not going to be completed in 1986/87, there is a balance to complete. Once we make a start we have to provide the money to complete the projects and the difference between those three and the others is that the others are all going to be contained within 1986/87. We have this unknown regarding the ODA submission, now we have to look at the whole matter. We think that this is the best way to provide with the limited funds that there are, to provide a modicum of housing, this has been our thinking all along but we really want to consider the matter again, this is the thinking.

HON J BOSSANO:

I think our concern is that since we feel that so little is being done on new housing, apart from the Laguna Estate the rest is just bedsitters or backlog of maintenance or painting of pre-war houses, in fact, the only thing apart from bedsitters is the Laguna. If that goes there is nothing left.

HON A J CANEPA:

I share that view completely and I shall so be expressing it. I will be pushing very hard for us to go ahead with it. I think we have a political, a social, a moral commitment to this.

HON MAJOR F J DELLIPIANI:

Mr Chairman, the question of the Alameda Estate bedsitters, in fact, they are not really bedsitters they are something better,

they are a one bedroom flat though they are actually called bedsitters, it is only meant for couples. In fact, it is to tackle the overhousing situation within that area itself. I don't think you will ever find a cheaper way of building a one bedroom flat for £8,000 each and this is the study that the department has been doing through the year in Knight's Court and St John's Court. They have been value for money.

HON J L BALDACHINO:

If the Hon Member could explain because what the Hon Member has said and what the Hon and Learned the Chief Minister said in answer to a question from my Hon Colleague, the Leader of the Opposition, doesn't tally.

HON A J CANEPA:

We have to be careful with different people.

HON J L BALDACHINO:

The Hon Member was saying that the money they were going to get from the sale of Government houses and other things would go into housing therefore what the Hon Member said that they now have to look at it in another way in the light of what the ODA are going to give, really to me bears no relation because if we are going to allocate the money that we get from housing to housing why should we now look at.....

HON A J CANEPA:

If the Hon Member will give way. We are going to allocate the money that we get from housing for housing but we are making certain assumptions with regard to the sale of Government houses. The assumptions are that we can, in fact, effect in this financial year but what if we don't? What if we get caught up in legal niceties? It took three or four years to sell Shorthorn. Because of the experience that we gained there we think that we can sell much quicker but before the end of the month there is going to be a meeting with the people at Rosia Dale and if the response is good and the sales are effected quickly and there is no problem with mortgages, yes, we think we can get the whole thing through but let Hon Members also note that under revenue I hope that the item 'other sales' is not regarded by them as being housing, it isn't housing, it is income coming in in respect of other developments. For instance, Water Gardens I think is included in 'other sales'. And the revenue that we get from Water Gardens cannot go to housing because that is only going to reimburse the Government for having already spent £400,000 on re-providing the Ice Box at North Front.

HON J L BALDACHINO:

Just one last question, Mr Chairman, in case they do allocate the money. What Estates did they have down to carry out the painting on or if they are going to carry out the painting in Estates, which Estates?

HON A J CANEPA:

The maintenance and painting?

HON J L BALDACHINO:

Subhead 15 - Painting of Estates, which Estates do they intend to paint?

HON MAJOR F J DELLIPIANI:

One that comes to mind immediately is the Alameda Estate.

Head 101 - Housing was agreed to.

Head 102 - Schools was agreed to.

Head 103 - Port Development was agreed to.

Head 104 - Miscellaneous Projects

HON J C PEREZ:

Talking about the Ice Box could we have Subhead 7 explained - Lifts, Old Ice Box?

HON A J CANEPA:

This is to provide more room there for storage, provide a mezzanine floor because this is a transit shed now and more space is required because of the greater movement of cargo. To provide a second storey in the Ice Box which is now the Transit Shed.

HON J C PEREZ:

Surely the storey must have already been provided if you are now going to provide the lift or are we going to have the lift without having the second storey?

HON A J CANEPA:

Yes, vis-a-vis to enable us to get on the second floor.

Head 104 - Miscellaneous Projects was agreed to.

Head 105 - General Services was agreed to.

Head 106 - Potable Water Service

HON J C PEREZ:

Mr Chairman, Subhead 2, I would like if possible to know what the result has been to date on the drilling? Have we found oil now that it is cheap?

HON MAJOR F J DELLIPIANI:

This study has not yet been completed. All the data collected has to go to UK where the whole thing is computer analysed.

HON J C PEREZ:

Is the money that we are voting now already being spent on the study or the actual drilling?

HON MAJOR F J DELLIPIANI:

We are talking of £53,677 which is a revote.

HON J BOSSANO:

We have now used all the money, Mr Chairman, so what we are saying is, having spent a total of £355,000 drilling for something, have we come up with anything?

HON MAJOR F J DELLIPIANI:

We have come up with some areas where there is water. We don't know yet whether it would be worth spending the necessary money to extract it but the study is being carried out in the UK and they might want to come over again to do further tests in other areas.

HON J BOSSANO:

Mr Chairman, the Water Catchments which is a new item, because I remember when we had a number of years ago, I think we had Colonel Hoare as Minister for Public Works, there was a situation where in fact the Government told us that it was not worth spending money on restoring the Water Catchments and if we are now spending over £½m it must be because it is worth it presumably, could we have some explanation?

HON MAJOR F J DELLIPIANI:

There is a study by Wallace Evans on the Water Catchments and there are two conclusions. There is one which costs £x to remove the whole of the Water Catchments so that it doesn't constitute a danger and then doing replanting to be able to

hold all the sand, etc and it comes to £x. Then there is another one of repainting and renewing the whole area and it comes to £Y and it is almost the same as £X but you are left with the Water Catchment area so the obvious conclusion is that if one has the money one should go to reinstatement when you can get something rather than to take it off and do all the necessary exercises to stabilise the sand above. But this also includes what I was talking about which is the catch bench.

Head 106 - Potable Water Service was agreed.

Head 107 - Telephone Service was agreed to.

Head 108 - Public Lighting was agreed to.

Head 109 - Electricity Service was agreed to.

Head 110 - Crown Lands

HON J BOSSANO:

Mr Chairman, my colleague, the Hon Mr Baldachino, raised the question of Vineyard and I think we got some satisfaction from hearing the comments of the Minister for Economic Development on the question of the lease and the fact that the Land Board would make it known to the developers that they took a dim view of the development being resold on a 99-year lease which obviously would mean that people at the end of the 99 years would then have to presumably return their properties to the developer who would then sell them again for another 50 years. But I think there were a number of other issues raised and certainly we are not happy to vote this money for the Vineyard. We don't know what kind of control the Government has got over the original lease, that is to say, having given the lease they may only be able to use a certain amount of moral pressure and they may not be able to control the kind of terms upon which the Estate is being resold. However, if we are spending public money to provide them with water, sewage and electricity.....

HON A J CANEPA:

If the Hon Member will give way. The question of what we are spending. The development company is going to have to pay in respect of the provision of these services a certain amount. They are going to have to pay what is for their sole use. To the extent, however, that these services are also going to make it possible for other developments in the area to take advantage of the provision of these services which would otherwise, if the whole thing had started from scratch, would have been more costly, to that extent they won't have to pay

and I think that the position is that potable and salt water supplies they would be required to pay the whole amount. Sewage they are paying the whole amount. Telephones I think that they are paying the whole amount. And where the situation is different is in respect of the electricity sub-station which will also afford a sub-station for other developments in that area. Therefore, there is a proportion which is being worked out as to how much of that electricity sub-station is going to be for this development and that is the amount that we will expect these people to contribute. It is partly offset by revenue.

HON J BOSSANO:

I notice that there is a £70,000 contribution under receipts in Head 102 but the point I was making is that if we are talking about the degree to which pressure can be put then if the Government is in a position to have to make these connections then I would have thought it was in a position to put pressure and certainly our own concern is that the Government in looking at the development of land and the provision of land for the Vineyard project has done what we consider to be the correct thing, that is to say, in giving more importance to the social benefit to Gibraltar than to the economic benefit to Government revenue. They might have been able to get more money by letting it for commercial development with luxury flats beyond the reach of Gibraltarians and therefore we believe that is the right thing to do, if we don't want to finish up with a Gibraltar where none of us can afford to live, but if at the end of the day the development is then going to cream off that advantage then the Government has foregone a certain amount of revenue and the intended beneficiaries are not receiving it and I think that is a very serious situation from the Government's point of view and clearly we want to express our concern about this. I know that the Minister for Economic Development already in his own response indicated that he wasn't happy with that situation but there are a number of other issues and one got the impression, Mr Chairman, that in fact the Government may not be able to dictate terms to the developer in that respect. One of the issues, for example, mentioned by my colleague, Mr Baldachino, was this business of people being told that the contract that they have to sign - and I have seen a copy of it - is that they are required to agree to keep the place in a tenable condition. They have to agree to wallpaper the inside of the flat or paint it every seven years. These are the kind of conditions you find in a Government Tenancy Agreement. Even the Government apparently is not doing that to the people that it is selling the flats to as sitting tenants.

HON A J CANEPA:

First of all, these problems have not been brought to the Government's notice, I checked on that this morning. We had become aware of the question of the length of lease some time ago and four or six weeks ago the Land Board when it met took a view on that. But these other problems that have not been brought to the notice of the Government though I understand that there were meetings last week but the Director of Crown Lands has not been approached on the matter. Let me say from personal experience that these are details that can be thrashed out and ought to be thrashed out without involvement from the Government. I know that sometimes conditions are put before purchasers at the stage where an agreement to buy is reached which are totally unacceptable. I happen to know of an instance where conditions were going to be put which were the kind of conditions that the Government did not impose on its own tenants. For instance, if you buy a house and your daughter marries she cannot live with you because that constitutes a new family and she couldn't live with you. This is a nonsense, no one is going to buy a house and put up with that sort of condition but this is the normal-thing that was then sorted out between the legal representatives of the two sides. Quite honestly the advice that I would give to the people involved is that they have got to approach the developers, as I am sure they are doing, and these matters have got to be thrashed out. If they cannot make headway and unreasonable conditions are going to be placed before them, I would say that unless there are sound technical reasons why a room should be papered, to insist on papering is not reasonable because one may prefer to paint rather than to paper, unless there are technical reasons that require a certain type of wallpaper. If unreasonable demands are going to be made that is the stage, I think, at which the Government perhaps could be involved. But as I say, I don't know the details, I am aware of the fact that meetings were held last week, I am aware of the fact that Members of the Opposition attended part of a meeting but the Government has had no approach on the matter.

HON J L BALDACHINO:

I understand what the Hon Member said that a negotiation process could take place. The thing is that the letter from the legal advisers of the company is not giving that option to the purchasers, I have got a copy here. In the last paragraph, which I read on the Finance Bill....

HON A J CANEPA:

I wasn't here at the time, I just heard about it.

HON J L BALDACHINO:

I will read it for the Hon Member's benefit. It says: 'We enclose an agreement for your approval. We would be grateful if the agreement could be returned duly approved as soon as possible since our client wishes a change of contract to take place prior to the end of this month' - this was on the 9th April, he has now changed to mid-May. The second paragraph read: 'If a change does not take place prior to the said date, we reserve the right of our clients to withdraw the offer for sale' - in other words, what they were saying was: 'if you don't sign this agreement then we are going to withdraw the offer that we made to you' without giving the right of trying to negotiate.

HON A J CANEPA:

I think what it says is they reserve the right, that doesn't mean that they are going to do it.

HON J C PEREZ:

Mr Chairman, basically it is that there are some tenants which I know of anyway, who are prepared to lose their deposit because of the conditions attached to the contract and the Government should be concerned in the sense that it defeats the whole purpose of the project and the whole purpose of trying to get off the ground the home ownership scheme.

HON A J CANEPA:

What I am saying is I don't know other than what I have heard. With all due respect, the people concerned before they went to Members of the Opposition and got Members of the Opposition involved, should go to the Government. Let them go to the Director of Crown Lands first of all and then if the response from the Government is inadequate, that is the stage at which to go to the Opposition. We should not be discussing these matters here this evening when I, who had something to do with the launching of the project, know nothing about it other than what Hon Members have brought to this House. I don't think this is the way to proceed.

HON J BOSSANO:

Mr Chairman, the point is that the House is being asked to vote money for the Vineyard project and the connection of the Vineyard project and therefore it is right time to bring this to the attention of the Government and we are not sure whether the Government can do anything about it.

HON A J CANEPA:

Neither am I because I am not sure and because I do not know what the problems are.

HON J BOSSANO:

Certainly we will take the response of the Minister to what we have said and convey the message back to the people concerned that they should at least start off by approaching the Government and making the Government or the Director of Crown Lands aware of the terms of the contract because I think for many of these people this is a totally new thing like it is for us and therefore their reaction and, quite frankly, our reaction when we say it was that they felt because they know that the developer has got a waiting list, they were then caught in between two stools. They were saying to us: 'We are looking for advice. Suppose I say 'I don't agree with the terms' what is to stop, since there is a waiting list, the developers saying: 'Well, look if you are not interested, fine, I have got a queue waiting who want to buy'.

HON A J CANEPA:

Of course, I realise that but I hope Hon Members will agree that it is not a very satisfactory state of affairs when I have got to cause questions to be asked from a member of the staff of the Crown Lands Department who has a personal interest in the project that information be obtained from him because we have no other information officially.

MR SPEAKER:

I think the matter has been ventilated, I think it is clear now what the Opposition is saying.

Head 110 - Crown Lands was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move that the total of expenditure shown in Part I of the Schedule where the total of expenditure is shown, substituting the figures '£55,582,100' for the figures '£52,479,400'.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that the words 'fifty two million four hundred and seventy nine thousand four hundred pounds' be deleted and the word 'fifty five million five hundred and eighty two thousand one hundred pounds' be substituted therefor.

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

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in lines 2 and 3 of Clause 4, Subsection (1), the words 'fifty two million four hundred and seventy nine thousand four hundred pounds' be deleted and the words 'fifty five million five hundred and eight two thousand one hundred pounds' be substituted therefor.

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

Clause 5 was agreed to and stood part of the Bill.

The Long Title

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in The Long Title the words 'fifty nine million two hundred and five thousand and forty three pounds' be deleted and the words 'sixty two million three hundred and seven thousand seven hundred and forty three pounds' be substituted therefor.

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

The House resumed.

THIRD READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to report that the Finance Bill, 1986, and the Appropriation (1986/87) Bill, 1986, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

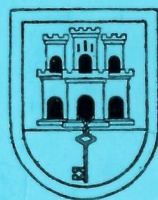
I beg to move that this House do adjourn sine die.

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

The adjournment of the House sine die was taken at 9.25 pm on Monday the 21st April, 1986.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

8 JULY, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The twelfth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 8th July 1986.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 24th March, 1986, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I am sure that all Members will be delighted to welcome back to the House our Clerk, Mr Garbarino, after his illness and wish him a very speedy recovery. As we can all see this recovery is already taking place.

DOCUMENTS LAID

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.7 of 1985/86).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.8 of 1985/86).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1986/87).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.3 of 1985/86).
- (5) Supplementary Estimates Consolidated Fund (No.1 of 1986/87).
- (6) Supplementary Estimates Improvement and Development Fund (No.1 of 1986/87).
- (7) Loan Agreement for a £4 million floating rate facility between Banque Indosuez and the Government of Gibraltar.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I move that the House do approve the giving by His Excellency the Governor of the notice which I think has been circulated to Hon Members. It is the Licensing and Fees (Amendment) Notice.

MR SPEAKER:

You crave the indulgence of the House not to have to read the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would crave the indulgence of the House as you have so generously suggested, Mr Speaker.

MR SPEAKER:

Which I am sure the House will grant you so you can go ahead and speak in favour of the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the amendments to the Licensing and Fees Ordinance are, in fact, proposed as a fairly routine matter because we normally follow the United Kingdom practice in such matters and notice was received from the Home Office that various fees for naturalisation and registration were to come into effect with effect from the 1st April, 1986. The various fees shown are, in fact, included in the Schedule to the Order which has, I believe, been circulated. Dependent territories have been asked to make local provision to charge similar fees and we were also advised that visa and other consular fees had been increased in the United Kingdom, that is also included in the Schedule to the Bill. I commend the motion to the House on that basis, Mr Speaker.

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

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

BILLS

FIRST AND SECOND READINGS

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) ORDINANCE, 1986.

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to make provision for the salaries and allowances to be paid to the holders of specified offices 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. This is the second Bill that has been brought to this House in this legislature. Under the provisions of Section 68 of the Constitution there shall be paid to the holders of the offices to which this Section applies such salaries and such allowances as may be prescribed by the Legislature. Subsection (5) says: 'This Section applies to the office of Governor, Chief Justice, Deputy Governor, Attorney-General, Financial and Development Secretary, Commissioner of Police and Principal Auditor'. I think the requirement is normally in overseas constitutions to ensure the independence of the Judiciary and that certain offices are decided not in caucus but by the Legislature and this refers to the 1985 Review and has taken a different shape to other years because on the parity basis on which some of the officers are analogued, they have now been put into three categories, three stages of their

salaries and in respect of the First Schedule it deals with the salaries already paid and we will be bringing another Bill for 1986 later on in the year. The Second Schedule has been done in that way because there may be officers who may have to go through the three stages. The bulk of the officers now in post are all at the top of the scale and would not require any amendments. 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 would like to say something on the general principles of this Bill and I would like to take the opportunity since this is the first Bill of making a statement regarding all the legislation that we are looking at, Mr Speaker, which is all down to be taken in this one meeting of the House. We have on a number of previous occasions objected to the fact that Bills are brought to the House and taken all in one session. Since 1984, Mr Speaker, I think the House has met less frequently than previous Houses of Assembly and there has been no pressure from us because we accept that the Hon and Learned Member, as Leader of the House, is entitled and it is his prerogative to hold meetings of the House when there is Government business to be dealt with which is the primary purpose of the House. However, the reason why we have an Opposition and the reason why we have a Parliament is because we are supposed to be here to scrutinise the decisions of the Government, the workings of the Executive and to exercise a role on behalf of the electorate in deciding whether we can support a Government measure or whether we shouldn't or whether we should try and influence the Government in changing its mind and in order to do that with a sense of responsibility we need to know what it is we are talking about and it isn't fair on the House of Assembly and it is not fair on the Opposition to put a lot of legislation in front of us, most of it very technical which requires time, we have got a week in which to do it, we deal with the general principles where we can raise some things and be given some explanation but we have no time to discuss it amongst ourselves or to deliberate on the arguments that are being put by the Government in support of that legislation or to sound out the opinion of Members and I think, quite frankly, it makes a farce of the Parliamentary process. If we just sit here and we say Amen to everything that comes in front of us without really understanding what it is we are voting for so that everything goes through in one meeting of the House, we are not doing our job properly and we are not prepared to be a party to that. Either we are going to do the job properly or the Government, when it comes to the Committee Stage, need not bother to give any explanation because we will just opt out of voting on all the legislation because how can we in conscience know whether we should be voting against or voting in favour? Some of them are very straightforward like this but when you come to something like the Imports and Exports Ordinance, for example, it is

a major exercise to try and find out what are the implications of the changes and, indeed, what the changes are because we couldn't even find the existing Ordinance in the volumes and we believe we ought to do a job, for which we are getting paid, conscientiously and to the best of our ability and I think the Government should want us to do it too because that is what makes for effective Government if we are trying to do a good job on our side of the House as well. It is a matter that I have raised, I think, before, the Government has responded by saying that, yes, they understand and they recognise it but then it keeps on happening and in the past I remember that it used to be the exception rather than the rule that we took all the stages at the same meeting and when there is a need for it the Opposition will be willing to cooperate. If the Government comes along and says: 'We have got a deadline to meet' or 'this legislation is urgent and needs to go through', if we need to vote it all in one day we will vote it all in one day, we are not being obstructionists but we really feel it has to be put on record that we take our job seriously and that the Government is not giving us a fair chance to do our job well. I think on the actual merits and general principles of the Bill to which the Hon and Learned Member has referred in relation to parity, I note, of course, that the size of the salary that we are paying, for example, the Hon and Learned Attorney-General and the Hon Financial and Development Secretary, of course, is a mere pittance compared to what we think the General Manager of the commercial dockyard is worth and I am wondering whether the Government can explain to us how they can administer the whole of Gibraltar with half a dozen people at £25,000 each and they need thirty-nine to administer a dockyard that employs 600 people?

HON CHIEF MINISTER:

That last point is really too rhetorical and too funny for words because I started by saying that Section 68 of the Constitution provides that a certain number of people come under this, God knows we have enough officials in the Government apart from those in this and are paid more or less on the same lines down the grade. The comparison of what people get in public service as what they get outside is, of course, a difficult one. I suppose the mere pleasure of being in the House is enough for the Hon Financial and Development Secretary to be prepared to work at such a low salary. Dealing with the more important aspect of this matter which is the point raised by the Hon Leader of the Opposition, I take the point and I have taken the point before and I am not unmindful of it. Let me tell the Hon Member that sometimes the pressure of work has been such for difficulties that I need not go into that at least I am now getting something that there wasn't before, I am getting the Bills published and we don't need to suspend Standing Orders to deal with any Bill. That has been an effort I can tell Hon Members. I can understand a Bill like the one on Imports and Exports requiring more time and, as Hon Members always know, when they say that and there is no particular reason I am quite prepared to leave that for the next meeting. But, first of all, Standing Orders do not prohibit dealing with Bills in one meeting so long as

they are not taken on the same day, the Second Reading and the Committee Stage. Secondly, and I don't mean this in any disrespectful way, the Hon Leader of the Opposition says that they are paid to do their work, well if they are paid to do their work and ordinary Members are paid half of what a Minister is paid, it is not too much to expect them to study Bills and do nothing else when they get them until the House of Assembly Meeting because in between the work of Members of the Opposition is considerably less than half of any Minister but, anyhow, that is only by the way.

HON J BOSSANO:

If the Hon Member will give way. What I am saying is, if we listen to the Government's arguments in the general principles of the Bill then there ought to be a gap between that and the Committee Stage; it is not just a question of a week. We can be presented with eight Bills eight days before we meet and we study a Bill a day and then we come here and then the first thing we have to do is to start asking for some explanations about some of the things that we have seen in those Bills and that is why the gap is important.

HON CHIEF MINISTER:

I accept that, I am making a general observation which applies both ways. The other thing, of course, is that what is inconvenient and what we perhaps may have to get used to, if that is the wish of the Opposition and I obtain the concurrence of my colleagues, is that perhaps we may meet within a fortnight within two meetings and then do the Committee Stage at the subsequent meeting. At this stage we are not in a position to do that, we are towards the end of the summer and I don't think it is convenient. Certainly I can give immediate assurance that there is no need to go through this voluminous Imports and Exports Bill or the Prison Bill or anything else that Hon Members think they are not ready for till the next meeting, as it happens it doesn't matter. When I come to that I will say why it is so formidable but there isn't that much study that is required but I agree that it is a matter of detail. I will make a confession now without fear of punishment that I haven't read the whole Bill, I have only read the head titles of the Schedule but if it comes out of the Attorney-General's Office it must be alright. I take the point and we can leave the Imports and Exports Bill and the Prison Bill for the next meeting and, hopefully, we can proceed with the rest of the business.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

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 MOTOR INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) ORDINANCE, 1986

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to make provisions against Third Party Risks arising out of the use of Motor Vehicles be read a first time.

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

SECOND READING

HON M K FEATHERSTONE:

Sir, I beg to move that the Bill be now read a second time. The principal object of this Bill is to update the law relating to the insurance of Third Party Risk arising out of the use of motor vehicles in Gibraltar and in doing so to implement certain obligations arising out of the European Communities Directive 72/166/EEC of 24 April, 1972, relating to insurance against civil liability in respect of the use of motor vehicles. Perhaps I should begin by explaining, Mr Speaker, that the directive calls upon Member States to refrain from making checks on insurance against civil liability in respect of vehicles normally based in the territory of another Member State. This will mean you will be able to cross the frontier without having a check on your insurance. Likewise Member States are to refrain from making such insurance checks on vehicles normally based in the territory of a third country entering their territory from the territory of another Member State. Random checks may however be carried out on such third country vehicles. In order to make possible such abolition of border checks, the directive requires each Member State to take appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance and that the contract of insurance also covers, according to the law in force in other Member States, any loss or injury which is caused in the territory of those States. This will mean, of course, that you will not get a licence issued to you until you have proved that you have got your vehicle adequately insured. The directive came into effect after an agreement was concluded between the national insurers' bureaux of Member States under the terms of which each national bureau guarantees the settlement, in accordance with the provisions of its own national law on compulsory insurance, of claims in respect of accidents occurring in its territory caused by vehicles normally based in the territory of another Member State, whether or not such vehicles are insured. However these arrangements were not extended to Gibraltar in 1972 when Britain joined the Community because of the closed

frontier and because Spain was not a party to them. I might add that the EC Commission in Brussels was aware of the situation.

With the opening of the land frontier with Spain and Spanish and Portuguese accession to the EEC the situation changed and as a result, from 1 June 1986, the Community's arrangements for the non-checking of insurance documents now apply to Gibraltar as well as to Spain and Portugal, Gibraltar coming under the auspices of the British Motor Insurers' Bureau for the purposes of the inter-bureaux agreements.

I should mention here that a number of non-EEC countries also participate in these arrangements. They are referred to as 'relevant foreign states' and include Austria, Czechoslovakia, Finland, the German Democratic Republic, Hungary, Norway and Switzerland. This will mean in effect that once you are insured you are insured for the whole of the EEC and for all these other countries as well.

The main benefit to motorists therefore is that they can travel throughout the Common Market and to these relevant foreign states without undergoing border checks for insurance. For local motorists the advantage mainly lies, of course, in being able to cross over to Spain and Portugal without having to produce a green card.

Given the extension of the arrangements to Gibraltar it became necessary to ensure that as from 1 June 1986 - the operative date decided by the Commission in Brussels - all motor policies issued in Gibraltar covered the compulsorily insurable liabilities in Member States automatically. This was achieved, pending the enactment of legislation, by means of a guarantee given by the British Motor Insurers' Bureau to the other Bureaux under which the British Bureau guarantees the settlement of relevant liabilities arising from accidents caused by vehicles normally based in Gibraltar.

It was also necessary to recognise for the purposes of the Insurance (Motor Vehicles) (Third Party Risks) Ordinance the evidence of insurance issued by insurers in Member States, and in relevant foreign states, in the case of vehicles normally based in those States and to ensure that non-EEC vehicles arriving in Gibraltar from outside the Community comply with Community motor insurance requirements. This was done by means of the European Community Motor Vehicle Insurance Rules enacted on 1 June, which, incidentally, will become redundant once the Bill now being introduced to the House becomes law. Before dealing with the Bill, Mr Speaker, there are two further points concerning the directive I have to dwell on.

The first is that the entire Community minimum insurance cover requirement applies to all vehicles compulsorily insurable under the laws of Member States and that no derogation from this is possible. In other words, it means you are going to pay more for your insurance. This means, for example, that buses, taxis or lorries require such cover whether or not they travel

outside the state or territory where they are normally based whether or not a vehicle is used for travel outside Gibraltar. If you have, like I have, a car which I do not normally take to Spain, I am going to have to pay an insurance covering the whole of the EEC and covering all these other states which are subscribing to the memorandum and I am not going to get anything for it but that is just one of the penalties we have in belonging to the EEC.

The second point is that Member States may exempt from the obligation to insure against civil liability certain natural or legal persons, public or private, provided they take appropriate measures to ensure that compensation is paid in respect of any loss or damage caused. Member States have made use of this to exempt Government and public bodies and whilst it is likewise intended to exempt Gibraltar Government vehicles and Ministry of Defence vehicles, as at present, it will continue to be the Government's policy to carry on insuring its vehicles as if the exemption did not apply. However, any of those vehicles if they should travel outside of Gibraltar they will need to be covered by an insurance. Mr Speaker, I now turn to the Bill itself which contains many re-enactments of provisions already found in the Statute Book. For example, Clause 3 of the Bill re-enacts the existing requirement that the use of motor vehicles in Gibraltar shall be covered by policies of insurance against third party risks. New elements being introduced in the Clause are that all passengers must be included in the cover and that those vehicles exempted from the compulsory insurance requirements must be covered by insurance when used outside Gibraltar. One thing that the cover does only cover and that is accidents to persons; if you hit another car and damage the car the insurance cover will not cover that, you will probably be liable for that separately.

Clause 4 of the Bill introduces the concept of approved motor vehicle insurers in relation to policies issued in Gibraltar. Formerly any insurer authorised under the Insurance Companies Ordinance or any person approved by the Governor could run motor vehicle third party risks business in Gibraltar.

To be an approved motor vehicle insurer, an insurer will now have to be authorised to carry on motor insurance business under the new Ordinance as well as a member of the Motor Insurers' Bureau of the United Kingdom, who operate the green card arrangements for Gibraltar and with whom the Government will shortly sign an agreement to enable compensation to be paid to victims of uninsured or untraced drivers on the lines of existing arrangements in the United Kingdom. This will mean that not every insurance company can do motor insurance, he will have to belong to the Motor Insurers' Bureau. This is in keeping with Article 14 of a second directive which requires each Member State to establish an organisation to provide a source of compensation for victims of uninsured and unidentified drivers in relation to liabilities compulsorily required to be covered by insurance.

Clause 4 also specifies the type of risks to be covered by insurance policies which are to be as at present, that is, against any liabilities that may be incurred in respect of the death or bodily injury to any person in Gibraltar. Account will have to be taken in the not too distant future of the second EEC Directive on motor insurance which requires and specifies a minimum compulsory insurance cover for damage to property by not later than 31 December 1988. However nothing is being done in this respect yet given a number of decisions that have to be taken in the United Kingdom with regard to the directive's implementation.

The Clause also extends the compulsory motor vehicle insurance cover in respect of vehicles normally based in Gibraltar to include liabilities arising out of their use in the territories of the Member States of the Community and requires vehicles based in the territories of member states and of certain other states to be insured whilst in Gibraltar against any liabilities which may be incurred in respect of the death or bodily injury to any person in Gibraltar.

Once again the strength of the insurance is on the death of any person or any personal injury, it does not cover the injury to your car. If a foreign car comes in and bumps into you and knocks a dent in your car you will have to claim separately for that repair not through the insurance if you can find the foreign car that has done it.

Clauses 5 and 6 of the Bill deal with the issue, delivery and surrender of certificates of insurance and are relatively straightforward.

Clause 7 requires insurers to notify the Licensing Authority under the Traffic Ordinance of policies which become ineffective otherwise than with the consent of the insured, the death of the insured or by the effluxion of time. This provision will enable the better enforcement of the Ordinance as it will bring to the notice of the Authorities vehicles which are not insured.

Clauses 8 and 9 re-enact with only slight changes the existing provisions in relation to the production of certificates of insurance to police officers and the reporting of accidents.

This will mean that as, at present, if you have an accident the Police Officer who is investigating the accident can ask to see your certificate of insurance and I think you have five days in which to produce it.

Clauses 10 and 11 deal with the evidence to be produced and information to be given for the purpose of Clauses 8 and 9 in respect of vehicles normally based in the territory of Member States of the Community and relevant foreign states.

Clause 10 is a re-enactment of Rule 5 of the European Community Motor Vehicles Insurance Rules 1986, and Clause 11 of Section 8 of the present Ordinance.

Clause 12 provides for the checking of the insurance cover of vehicles coming from non-member states of the Community or from the non-European territories of member states and authorises the detention of such vehicles if not adequately insured.

Clauses 13 to 16 are essentially re-enactment of existing provisions of the present Ordinance.

Clause 17 enacts that where an insured person becomes bankrupt, the bankruptcy shall not affect the liabilities to third parties required to be covered by a policy of insurance. That means that if you go bankrupt and you have an accident your insurance policy will continue to keep you covered.

Clause 18 is essentially a re-enactment of existing provisions in section 15 of the present Ordinance with the following additions to the conditions which have no effect as regards the liabilities required to be covered by a policy of insurance under Clause 4:

(a) any condition in a policy of insurance excepting the insurance of persons by reference to the holding of a valid certificate of competence or valid motor vehicle licence; and

(b) any antecedent agreements or undertakings entered into with regard to the carriage of passengers on insured vehicles.

Clause 19 requires approved motor vehicle insurers to keep certain records for a minimum period of 1 year from the date of expiration of policies.

Clause 20 makes it an offence for any person other than an approved motor vehicle insurer to issue or renew policies for the purposes of the Ordinance. That will mean that you have to be sure that the insurance company you go to is a proper company which may undertake motor insurance.

Clause 22 increases from £50 to £250 the penalty for breaches of the Ordinance unless they are specifically provided for.

Clause 24 recognises the validity of policies of insurance issued or renewed prior to the 31st October, 1986, by existing authorised insurers. In other words, if you have taken out an insurance in the last three or four months it will remain valid until the end of its life.

Finally, Mr Speaker, there are two other points I should like to expand on if I may.

The first concerns the insurance cover requirement for the entire Community. It should be noted that this refers only to the minimum legal requirements of Member States. All Member States include third party personal insurance for varying limits of indemnity. Some also require limited third party property damage. Policyholders who intend taking their vehicles into any Member State are most strongly advised to carry on extending their policies to include cover in excess of these minimum requirements to provide, for example, for such things as the balance of any court award for third party death or personal injury claim, and third party vehicle and property damage in full. That is, as I say, that the insurance policy does not cover damage to the vehicle and you are advised that in your own interest to see that you have a wider insurance which will cover you for damage to vehicles, etc.

The second point is that though green cards are no longer essential for travel between countries party to the arrangement mentioned, motorists are again most strongly advised to carry them as they provide internationally recognised evidence of insurance. This could be important in the event of an accident. It is not normal that a person carries his insurance policy with him so that if you should run into trouble you will have five days to provide evidence of your being insured and if you are in Western Germany you may not be able to provide the insurance in time so if you have a green card that will serve you instead and you are advised to have a green card. Thus policyholders can obtain the benefit of the international claims handling facilities of the green card system without any formality.

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 C PEREZ:

Mr Speaker, the Hon the Minister responsible for Traffic has successfully bored both sides of the House this afternoon with his probably brilliant and eloquent exposition of the finer details of the Bill. The problem is that I am afraid that his speech wasn't very audible and I was myself unable to grasp all the finer details of the Bill. But it does make the point, Mr Speaker, that if we were able to take the Committee Stage and Third Reading of this Bill at a later stage perhaps we might be able to study all the things that the Hon Member has

said and be in a better position to respond to it. I do notice that we are, in fact, effecting an EEC directive of 1972 or part of the Bill refers to that and the Hon Member has said that it has only become necessary to do so after the opening of the frontier something which I dispute because there were many Gibraltarians who used to ferry their cars across through Morocco and enter EEC countries even prior to Spain's accession. In fact, part of the Bill should have been brought to this House in 1972. I would just like to make the point that I believe that the Hon Member had clarified to me and that is that the substitution of the green card by some of the things contained in this Bill has the effect, as I understand it, that the automobiles are covered in another EEC country against risks of the minimum requirement that exists in that country, is that correct?

HON M R FEATHERSTONE:

Yes.

HON J C PEREZ:

What we are, in fact, being told is and perhaps the EEC has more to do with it than the Hon Member, but what we are being told in this Bill, Mr Speaker, is that we will have to pay more money for our insurance to cover ourselves for that but at the same time that it would be preferable to carry the green card to be able to be covered fully. Basically that is what it says. The effect of this Bill on car owners is that they will have to pay much more for their insurance policies nowadays and on top of that pay the green card if they want to be safely covered when they go to Spain, that is basically the effect of it. Mr Speaker, only to add that the Hon Member did mention as an example his own car and I am hopeful that if in October the MOT Test Centre legislation comes into effect his car will be taken off the road as quickly as possible.

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

HON M K FEATHERSTONE:

Sir, 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 5.30 pm.

The House resumed at 6.00 pm.

THE PRISON ORDINANCE, 1986

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance relating to the regulation of prisons and the custody of prisoners 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.

HON J B PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the main object of this Bill is to repeal the present Prison Ordinance of 1949 and I think the reason that this Bill has been brought to the House is primarily because it arose from the re-drafting of the laws of Gibraltar and although most of the Sections which are contained in this Bill are really re-enactments of the present Prison Ordinance, there nevertheless was one particular principle which is contained in this Bill which was not included in the present Prison Ordinance which was felt should be put before the House. I am, of course, referring to Section 19 of the Bill which deals with the objectives of training and the treatment of prisoners. I think I ought to say, Mr Speaker, that in reality, in practice, most of the Sections have been complied with in the past, that has been the practice which has been adopted and that is the penal theory behind the administration of the prison and for the treatment of the prisoners but nevertheless it was not in our legislation. Therefore Section 19 now provides for a statutory provision in order to highlight and to set out what the objectives and training and the treatment of prisoners should be. That is really the main, as I say, Mr Speaker, the primary purpose of bringing this Bill before the House otherwise I think it would have come in connection with other Bills which have come before this House on a package basis. That is really the primary purpose of the Bill, Sir, and 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, there are two points that I would like to seek clarification on. One is Clause 7, subsection (1) where it says: 'Every prison officer shall, upon termination of his employment, quit and deliver up vacant possession of any

official quarters which he or any other persons have occupied by virtue of such employment'. Basically, the point there which perhaps might be answered by the Hon Member at the next meeting of the House when we come to Committee Stage but I think it is useful that one should raise it at the general principles so that the Hon Member has time to look it up. Basically I would want to know whether there is an obligation on the part of the Government to re-house that prison officer or he just finds himself in the street without a house. The second and the more important point is the situation of the sentence of death which is included in the Bill, Mr Speaker. In the explanatory memorandum at the back it says: 'Clauses 57 to 65 deal with sentences of death and are obsolescent'. If they are obsolescent why are we re-enacting them in this Bill? And if we are re-enacting them for one reason or other I would seek an explanation from the Hon Member because civilised communities everywhere else in the world have done away with sentences of death and I would want to know what the legal position is in relation to this in Gibraltar.

HON J BOSSANO:

I want to say something, Mr Speaker, about the part mentioned by the Hon Member setting out the philosophy of the treatment of offenders in terms of their being reinserted into society rather than the concept of punishment for crime and I think it is a philosophy that we certainly subscribe to on this side and will support but I think the Government needs to take into account that in Gibraltar we are talking about something that is very real, it is not a theoretical problem, it is a real problem which particularly affects Gibraltarians rather than non-Gibraltarians and it is a problem that anybody dealing with employment is very conscious of in that because the community is so small and because a local person carries his life history with him in every job that he goes to, he is in fact at a disadvantage as compared to an outsider about whom nothing is known and we find this, in particular, for example, there have been a number of recent instances, in the MOD there was a recent case which the MOD eventually retracted on where somebody who in the 1974 parity battle had been arrested on a picket line outside the Dockyard was refused employment as a gardener in 1986 on the grounds that he had a criminal offence on his record. And, of course, when it was pointed out what was the nature of the criminal offence which was obstructing a policeman in the execution of his duty and the context and why it happened and when it happened because we were in a position to actually demonstrate it, they decided to change the policy. But I think it can show how this person who was, in fact, at the time a teenager, I think he was a 19 year old and we are not even sure, in fact, that the person concerned happened to be more than just in the way at the time and happened to get the blame for something he might not even have done but the record was there and somebody looking at the records decided: 'Well, he cannot be employed as an unskilled gardener', and this shows that effectively we are saying because of something that happened to a 19-year old when he is 25 he cannot get work then what we are saying is that he is unemployable for the rest of his life in Gibraltar. But, of course, the moment he leaves Gibraltar it

doesn't matter and we have a situation where there are several hundreds coming into Gibraltar everyday seeking employment about whom we know absolutely nothing and because we know nothing they don't get penalised. I think it is important that the Government itself should influence in its own employment practice and in places where it can exercise influence like in GSL where the Government is the owner, the need to give people an opportunity and a chance because it is no good having a law that says what we want to do is to give them training and prepare them for when they come out so that they play a full life in our society and then nobody will touch them with a bargepole. I am not sure whether we can do something in the law and I am not sure what the practice is in the United Kingdom or anywhere else but I know that there are in other places social work agencies that are there to help to rehabilitate people and get them back into society and get them acceptability in society and I think that is an essential part of the process of accepting that people make mistakes and that what you don't want is to encourage them because you give them no other option to keep on making the same mistake for the rest of their lives. We support entirely the general principles in the Bill but we feel that we need to do something in practice because it is a very real problem, it is not a theoretical problem.

MR SPEAKER:

Any other contributors to the debate? Does the Mover wish to reply?

HON J B PEREZ:

Yes, Mr Speaker. There are two points that have been raised by the Hon J C Perez. The first one is in connection with Section 7(1) and he asked whether, in fact, there was an obligation on the part of Government to re-house. I am not aware whether there is a statutory obligation or not, however, I am aware that the practice has always been, in these particular cases, to offer alternative accommodation to the officers concerned but, as I say, I don't think there is a statutory obligation but, in practice, this has been done. The second point he raised was the question of the death penalty. The answer to that is yes, under the Criminal Offences Ordinance treason is an offence punishable by death. It continues to be so both in England and here in Gibraltar and there could well be some other common law offences, I think, like piracy that is also punishable by death. In a way, the explanatory memorandum when it says 'Clauses 57 to 65 deal with sentences of death, and are obsolescent', in practice, yes but in theory they are not obsolescent because treason remains in our Statute Books as an offence punishable by death. But let me remind Hon Members that we are not saying in this Bill that treason is punishable by death, that is a matter which comes under the Criminal Offences Ordinance. This is only what one does, what the prison authority does when somebody has been found guilty of treason and has been sentenced to death, then you have all the relevant clauses of the things that one has to comply with. The point that was raised by the Hon Leader of the Opposition is a point that, of course, we have considered, we all live in Gibraltar and we are

quite well aware of the problems that confront people who serve even short periods of imprisonment here in Gibraltar but not only just those who serve prison sentences but also people who have even got suspended sentences or have been fined. It is unfortunate but Gibraltar being such a small place we all get to know what is going on. However, let me assure the Hon Member that we gave this matter quite a lot of thought and that he will find that in Section 19(g) we tried to have something to cover that in which we have put: 'from the beginning of a prisoner's sentence consideration shall be given, in consultation with any appropriate after-care organisation, to the prisoner's future and the assistance to be given or available to him on and after his release'. We also have provision as to educational facilities and for training the prisoners and I do know as a fact that in the past help has been given, there are a number of people who give of their own free time and, in fact, help to get jobs to those who have served prison sentences.

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

HON J B PEREZ:

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

THE EDUCATION (AMENDMENT) ORDINANCE, 1986

HON G MASCARENHAS:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Education Ordinance be read a first time.

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

SECOND READING

HON G MASCARENHAS:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this is a very simple matter to amend the Ordinance which has stood since 1974 when the now College of Further Education was under the Ministry of Defence. We are reducing the term of office of the members from three to two years because we feel that three years is a very long time and, secondly, we are appointing the Director of Education as the Chairman of the College Committee rather than the Principal as the Ordinance stood. The Principal will then be the Secretary of the Committee and will be answerable, obviously, to the Director of Education who would act as Chairman. In the old days under the MOD the Principal was always an MOD employee and he was the Chairman, now we are reversing that and we consider that the College of Further Education being so important from an economic point of view that the Director of Education is better placed to be able to implement Government policy in that respect. 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?

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

HON G MASCARENHAS:

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

This was agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance (Ordinance 1960 No.17) to make camping an offence in certain circumstances 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, the object of this Bill is to prohibit unauthorised camping. The proposed Section 165B in Clause 2 prohibits camping on Crown Land except by persons authorised to use the Governor's Lookout Scout Camp and the Mons Calpe Caravan and Camping Club Site except with the previous written permission of the Director of Crown Lands. The proposed Section 165C in Clause 2, prohibits camping on private land except with the previous permission of the owner or his agent. Any person who acts in contravention with the provisions of the Bill and commits an offence is liable to imprisonment for three months and to a fine of £100. Mr Speaker, there are saving provisions in respect of members of Her Majesty's Forces and the Police when on duty and in respect of permits granted under Rule 3 of the Seashore Rules. Mr Speaker, I suspect Members of the House may be a little concerned at the wide definition of camping included in the proposed Section 165A, particularly so, Mr Speaker, with (e) - 'camping includes sleeping in the open, whether in a sleeping-bag or otherwise'. Mr Speaker, in theory, this could catch any one of us having forty winks on a park bench or on the beach. I have discussed this particular Section with the Law Draftsman, Sir John Spry, and both of us feel that unless the provision is widely drawn the Bill would prove ineffective. I pointed out the particular provision to the Commissioner of Police and I have asked him to instruct his officers to see that they use their commonsense in implementing this provision and would add, Mr Speaker, that the Stipendiary

Magistrate and the lay Justices will also use their commonsense in considering cases. Mr Speaker, if the House approves this Bill, I am prepared to instruct the Police that no prosecution will be instituted for sleeping in the open, whether in a sleeping-bag or otherwise without my personal written consent. Sir, something has to be done in the interest of public health and to answer the many complaints of the Caletá Palace Hotel and Both Worlds and, indeed, complaints from the people who live in the vicinity of Parson's Lodge. The Police carried out a check last night and there were twelve people sleeping at Miami Beach and ten at Parson's Lodge. Mr Speaker, it is for these reasons that I commend the Bill to the House.

MR SPEAKER:

Before I put the question to the House, let it be said quite clearly that unconstitutionality will not prevent this House from passing whatever legislation they like. Could it not be challenged constitutionally that it affects the rights of anyone sleeping wherever he likes?

HON ATTORNEY-GENERAL:

I think the first part is where people are sleeping. The sleeping in the open air near to beaches, near to hotels, near to residential quarters. They have no sanitary facilities and they have no washing facilities and there is a very serious public health risk.

Also with the Law Draftsman we considered the constitutional aspects and we don't think it is a breach of them.

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 MAJOR F J DELLIPANI:

On a point of clarification. I notice on page 84 the definition of 'Crown Land' means cliffs, beaches, streets, roads, recreation and pleasure grounds. I have had personal experience where I live in Glacis Estate where I found half a dozen hitchhikers sleeping on my roof and it didn't scare me but it certainly scared a lot of the ladies who went to do their washing and I think the definition should be amplified by including public buildings or Crown buildings or Government buildings or whatever.

HON J BOSSANO:

We are opposing this Bill which seeks to deprive almost the entire population of their civil liberties. It seems to me the only people who are safe here are the insomniacs, Frank is obviously in a good position. I take the point that the Hon and Learned Attorney-General that commonsense is expected to be exercised but the point is that we are actually legislating and drafting the legislation what are we saying? That if a

Policeman arrives on the beach and the person is inside the sleeping-bag awake he is not committing an offence because he is not sleeping. If the person is not in the sleeping-bag but asleep then he is committing an offence and he may not be able to arrest him because he is asleep, he has to wake him up in order to arrest him and now he cannot arrest him because he is not sleeping anymore. On the other side we have got the problem with the caravans. Clearly the only way the caravan owners can stop themselves from becoming criminals is to have amphibious caravans because they are allowed to have the caravan on the specified camping site but they cannot get them there since in order to travel to the camping site either they have to parachute down or go on Crown Land which includes streets, roads, paths, lay-bys and everything else so you cannot get the caravan to the camping site without actually having a situation where you are, in fact, infringing - as we read it - Clause (b) which says 'bringing a caravan onto any land'. Therefore if you are bringing it onto any land and the definition of Crown land includes cliffs, beaches, foreshore, streets, roads, paths, lay-bys, there is no way. Either you float the caravan there or you parachute it. We think that there is a genuine problem that clearly the Government needs to tackle but we are not happy with having legislation which is drafted in a way which essentially is going to effectively create the possibility of committing a criminal offence independent of how sensible people may be in applying it, it creates on the Statute Book the possibility of a criminal offence which is almost impossible to avoid. Furthermore we are not just talking about people who are en passant through Gibraltar, presumably we are talking about homeless people also being treated as criminals for their homelessness and even since on the other legislation that we have just looked at, retired prison officers do not necessarily get re-accommodated because there is an understanding that this will happen but the Government is not sure if there is a statutory obligation, it means that the poor retired prison officer is committing an offence if he doesn't vacate his quarters and then if he vacates his quarters and he squats or goes into a derelict structure or sleeps on the beach he then becomes a criminal and finds himself back in prison but at the wrong side of the prison bars. What we would ask the Government to do is, in fact, to give more thought to this and to bring back the Bill at the Committee Stage for the next House of Assembly and try to produce something which achieves their purpose but is not as wideranging as this because even with the kind of reassurances that the Hon and Learned Attorney-General has given we don't think it is a good idea to have a Bill on the Statute Book that creates such a wide definition of what a criminal offence is.

HON J E PILCHER:

One other aspect that perhaps we would need clarification on and we have all heard the Hon Leader of the Opposition asking for the Bill to be taken away and brought back at the next meeting of the House, but it is as regards the difference between caravans, motor caravans or caravettes. The definition of caravans means any structure designed or adapted for human

habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer). A caravanette or a motor caravan has a caravan at the back of a motor vehicle and therefore a caravanette or a motor caravan is also a caravan in this legislation. There are 50 to 100 caravans already registered in Gibraltar. Are you saying to their owners that it is now illegal to have a caravan in Gibraltar? It is not illegal if you have permission from the Collector of Customs. Under this law since it cannot be on cliffs, beaches, etc, which is the point which the Hon Leader of the Opposition was making, you cannot bring it to its parking place which is all that the law asks at the moment because you would have to carry it through this Crown Land. This is another aspect which I think the Government should look at because in reality you have already accepted the licensing and certification of those caravans by the owners here in Gibraltar and you have been taking the licensing fee from them for the past fifteen years and at this stage some kind of exemption should be made for people who already have caravans registered and in Gibraltar itself.

HON J. L. BALDACHINO:

By passing this Bill will it also mean that any tourist coming in with a caravan or caravanette will be told at the frontier that they cannot enter Gibraltar? Will it be feasible to do that? Can we do that or will it be against EEC Regulations to stop anybody coming in with a caravan?

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, to deal, first of all, with my colleague, Major Dellipiani's point. I think the washing areas on top of Glacis Estate are covered by the definition of Crown land, it means all land other than private land and the building which is attached to the land forms part of the land and therefore camping in the washing areas of the Glacis blocks I think would fall within the ambit of this Bill. Bringing onto land, I would be prepared to argue that driving a caravan or a caravanette or one of these mobile homes from the frontier along the roads of Gibraltar is not bringing it onto land, it is using the roads of Gibraltar. What we are aiming to catch with this are these caravans which park in the lay-bys. You are standing waiting for a bus at a bus stop and then all of a sudden you see water pouring out of the caravan and you wonder what exactly this water is and you find that they are doing the washing up at the caravan and it drains into the lay-by or the parking space. Insofar as the entry of these caravans into Gibraltar are concerned they, indeed, are prohibited imports under the Imports and Exports Ordinance, I think they come under the Control regulations, but we are allowing them in because so many people are using these caravans for the purposes of their holiday, we are

allowing them in and telling them: 'You have got to leave within X number of hours'. Of course they can use their caravans to travel round Gibraltar and to see Gibraltar but to park them into lay-bys, again, without any sanitary facilities in many cases, throwing the washing-up water through the sink into the public streets and, indeed, on the public highway, this is the thing that we are trying to stop. The idea of a caravan being brought onto land, not travelling on the roads but coming actually onto land itself, taking your caravan or bringing your caravan onto a piece of land, onto a piece of road for the purposes other than passage or re-passage but to camp there, to reside in that caravan and to use it as a home and throw your rubbish into the streets and into the lay-bys, this is what we are trying to legislate. We say that bringing a caravan onto any land doesn't mean going over the roads but to take it onto a road and use it for purposes of living. It is bringing it onto the land, bringing it onto the land and travelling round the streets of Gibraltar is not bringing onto land or travelling round the roads, if you want. Once you stop and use the roads for purposes other than the passage and re-passage for motor vehicles and pedestrians then it is like camping.

HON J. C. PEREZ:

I am not quite clear that what he means by it is exactly what the Bill itself says but, in any case, if what he is saying is that the caravan or caravanette can drive, what he is saying is, for example, if a tourist comes with a caravan he cannot park at all because that would be an offence.

HON ATTORNEY-GENERAL:

No, he can park.

HON J. C. PEREZ:

Parking would be bringing a caravan onto any land as the Bill is suggesting that is why the Hon Leader of the Opposition suggested that perhaps a different wording was needed because the interpretation of this can be anything. I respect the Hon Member's interpretation but he is not going to be there always to interpret it, Mr Speaker.

HON ATTORNEY-GENERAL:

To deal with that point, if I may, Mr Speaker. To use the caravan to stop and look at the view at Catalan Bay, I don't think that would be bringing onto land, that would be using the highway for a purpose, a perfectly legitimate purpose, to pass and re-pass and use the highway in a reasonable manner but not to sleep in your caravan on the highway, to answer the point made by the Hon Leader of the Opposition.

HON J. C. PEREZ:

How can the Hon Member find out whether there is someone sleeping inside a caravan if it is parked?

HON ATTORNEY-GENERAL:

That is why we have Police Officers.

HON J C PEREZ:

Knocking at caravan doors to see if there is someone sleeping inside.

HON ATTORNEY-GENERAL:

But usually you find that it emanates from a complaint or from a Police Officer on duty if he sees caravans in a lay-by or parked in the roadway certainly you get it, I think, it is at Devil's Tower Road, you have got several caravans there which were there for days completely in contravention of the permission by which they entered Gibraltar and that is how we managed to get them out of Gibraltar because they were in contravention of the permit to enter. But, as I say, we thought about this for a long time, this is the third draft prepared by the third person and we accept it is wide, we don't particularly like it but we feel it is the best we can do to cover the whole of the situation with which we are faced and this is why I have commended the Bill to the House. I don't like it but we have got to do something about it.

HON CHIEF MINISTER:

Mr Speaker, if I may be allowed to say a word. I don't normally like to get things done by majority but it is urgent this year to do something about it but I would like to be able to assure the Members though they may vote against it, give the undertaking that if after the summer, and this is put into effect, any changes of abuse or improper use of the powers given is brought to our notice we will reconsider the Bill and bring something else in its place.

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

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

This was agreed to.

THE IMPORTS AND EXPORTS ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to control imports into and exports from Gibraltar and to provide for the imposition and collection of duties of customs, and for matters relating thereto be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. I have read the Bill, Mr Speaker, and I am glad to have the opportunity to introduce it to the House, which updates the administrative and management provisions of the Imports and Exports Ordinance and makes them consistent with current practice. I think I would use that description and also describe it as, very largely, a consolidation Bill. The present Ordinance contains no specific provisions which charges any person with its administration or with the day-to-day management of customs. The legal effect of the present Bill is to place these responsibilities on the Financial and Development Secretary and to charge the Financial and Development Secretary with the specific function of collecting the custom dues, fees, charges and rents prescribed by the Ordinance and by the Regulations. In practice, it is and has been for a good many years the Collector who administers the Ordinance and is responsible for the management of customs. The new Bill, in fact, will reflect the de facto position. The House will note that the exercise of those two powers which reflect or impinge on matters of policy will remain with the Financial and Development Secretary and the Bill also provides for appeal to the Financial and Development Secretary in certain circumstances against the decision of the Collector of Customs and, indeed, in certain circumstances to the Magistrates' Court. The other principal changes in the draft Ordinance provides for, firstly, increases in fines in order to bring these into line with present day values and the deletion of all references to minimum fines.

Penalties for being concerned in the import or export of controlled drugs, are substantially increased. Secondly, there is the granting of statutory authority to the Collector to cooperate with other Customs authorities for the prevention or detection of fraud or evasion and the due administration of Customs law. Thirdly, there is the introduction of a much more comprehensive tariff based on the Brussels nomenclature which is used worldwide. This, in fact, as far as the Schedules are concerned, accounts for much of the bulk of the Bill presented to the House if not its intellectual content. There are in fact, one or two useful insights into worldwide eating habits, if not Gibraltar eating habits, illustrated by the Bill and as far as Gibraltar is concerned certain animals or, indeed, fish, for example, if they are edible then they are free of tax and if they are not edible they are taxed and that applies equally whether they are alive or dead. On the other hand fresh flowers may be eaten but dried, impregnated or otherwise prepared flowers may be imported, taxed and eaten. Another provision is the making of regulations to introduce a lower rate of duty on goods to be exported from Government or private bonded stores. At present full duty is payable on importation and a drawback is applied when the goods are exported. This system is rather cumbersome to administer and Clause 50, in effect, legalises what has been the current practice. The new drawback regulations will only apply to motor vehicles and goods assembled in Gibraltar for export. Another provision is that of authority for refunds of duty on imported goods which do not conform with the ordering instructions or have been damaged in transit to Gibraltar and though it had been the practice to authorise such refunds, Clause 68 now provides statutory authority. The Bill also provides for mandatory forfeiture of goods, vehicles and vessels by the Court in certain circumstances if the vehicle or vessel has been adapted or altered for the purpose of concealing goods. In other instances the Court has given discretionary powers. Mr Speaker, copies of the customs tariffs will be put on sale prior to the coming into force of the Ordinance and the sale of copies will include extensive explanatory notes and much more comprehensive index and there will be no attempt to make funny remarks such as I have just made during this speech which obviously fell quite flat. On the day that the new Ordinance comes into force two ratification instruments will be published revoking all the present subsidiary legislation. Simultaneously, a number of revived notices, orders and regulations will come into effect. The new subsidiary legislation contains no new provisions other than to provide for the new drawback arrangements I referred to earlier. There are, however, changes in the format as in some instances some of the old regulations are consolidated into a single regulation. There will, of course, be a number of Government amendments at the Committee Stage, Mr Speaker, on which I think I

have already given you notice. 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 BOSSANO:

I think one point that I made, Mr Speaker, earlier on is the comparison between the existing Ordinance and the new Ordinance which we looked in the new volumes and we couldn't find a copy of it there, of the existing Ordinance, and obviously it is important for us to see what is being changed and I think it is also important for us since the law is being changed to look at what is not being changed which we might think should be changed. On the general principles those are the two ways that we are going to be looking at it, we will want to see what the Government is seeking to change and when the Government is not seeking to change something like, for example, the privileged treatment accorded to MOD who don't pay duty on their petrol and things like that, we would want the Government to explain to us why they are not seeking to change that, is it that they approve of that or is that they cannot do it? Is there something constitutionally that prevents duty being put on that? On the actual detailed Schedule, we think it is useful for these things to be available to the public and for people to know what duty is payable on what and I think the Hon Member made some reference to the Brussels nomenclature. Is it really necessary to include in the legislation a great deal of things on which there is no duty? Why have it there at all if it pays no duty? I would have thought if we are looking at these things we seem to have, for example, a duty on a particular fitting if it is made of one material and no duty if it is made of another material. Is there any logic to that because one would have thought that there might be, for example, situations where for economic reasons one wants to encourage an indigenous material and therefore you may put the duty to protect an indigenous material whereas you don't put it on something that is not competing with an indigenous material but here in Gibraltar we don't have that. If we are talking about wrought plates, sheets and strip of zinc - zinc sheets (basic building material) - Free; Others - 12%; gutters and fittings - Free; Others - 12% when it comes to tubes and fittings and so forth. It seems to us that if there is a reason for putting a duty on something and not putting a duty on something else because of the difference in the material of which the component is made, then the Government should say what is the economic rationale of what they are doing. In that sense the Schedule itself is an important reflection of a particular policy decision. If it is just that all that we are

doing is consolidating what is already there without questioning whether what is there is something we want to perpetuate or not then, surely, if we are changing the law we should take the opportunity to put as many things right as we can see need putting right at this stage. We ourselves, as I mentioned earlier, have not really had an opportunity to go into this in any great detail and I am just mentioning some of the things that have struck us but I think we are putting the Government on notice that there will be a great deal of questioning when the time comes as to why you have a duty on something and you don't have a duty on something else or why are you not doing something about changing this clause whereas they are changing other clauses. I am afraid I am not in a position to be more specific at this stage because we ourselves haven't yet formulated a policy on it.

HON CHIEF MINISTER:

Mr Speaker, I think it has been felt for a long time and, in fact, I think the Financial Secretary has mentioned this at several Budget Sessions that it is necessary to amend the Imports and Exports Ordinance and make it into a comprehensive Ordinance because it is full of amendments and the trader hasn't got a booklet that will cover it however complicated it may be. That is insofar as the substance of the Bill is concerned and therefore as we have agreed to take the Committee Stage after the recess, I am sure that it would be helpful both to the Financial Secretary and the Attorney-General, indeed, for all of us, if before the meeting some indications or some enquiries, after all you have the whole of the summer to spend time at the beach reading nothing but this and finding fault with it.

HON J BOSSANO:

The only problem is that one might go to sleep in which case one would be committing a criminal offence.

HON CHIEF MINISTER:

Then you may not be here to argue. I think we would well enough welcome indications. There are points that have been raised. I can think of only one answer to two points raised by the Hon Member in connection with something that does not pay duty and the other one pays duty and that is that there is a general provision that building materials don't pay duty and therefore some of this may be considered building material and others may not be considered building materials and that is the difference. The indication of the concern, the question of MOD, is a very good one and I would like to argue that a bit generally, to have a discussion because that is something that

requires being aired whatever the outcome may be. Otherwise I think the Bill serves a very useful purpose and will help, I am sure, certainly it will help the Collector of Customs in rationalising his work much better than he does now.

HON J L BALDACHINO:

I don't know whether it is appropriate to bring it up now or it would be better at Committee Stage.

MR SPEAKER:

If it is a specific point in a specific clause then it must be at the Committee Stage but if it is a matter of principle then by all means you can raise it now.

HON J L BALDACHINO:

If I say it you can rule whether it should be brought up at the Committee Stage or not. Under 20(1)(a) it says: 'by sea, shall not be unloaded at any place other than the public quay at Waterport or the North Mole, or at the Dockyard'. The word 'Dockyard' doesn't come up anywhere else, it comes up as the commercial yard, I wonder what does the word 'Dockyard' mean, does it mean the Naval Base as well?

MR SPEAKER:

It might be looked into.

HON J L BALDACHINO: .

The other thing is that there is a typing error under Clause 72 'hospital' is spelt with the s before the o, Mr Speaker.

MR SPEAKER:

I am sure that the Ordinance itself will have it rightly spelt, I hope.

HON ATTORNEY-GENERAL:

Mr Speaker, I wonder if I may mention a point about the lack of the Imports and Exports Ordinance in the revised edition. For some reason best known to themselves the printers left out the Imports and Exports Ordinance from the revised edition. A fresh printing was done and a copy can be obtained from the Government Publications Department and I think it is free of charge because it is part and parcel of the revised edition.

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 subsequent meeting of the House.

THE SUPPLEMENTARY APPROPRIATION (1986/87) ORDINANCE, 1986

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, 1987, 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 in this House I do not propose to make a speech but simply to refer to the fact that the bulk of the funds requested are, of course, in connection with the loan of £250,000 to Gibrepair which has already been mentioned earlier in this 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:

Unlike the Hon Financial and Development Secretary, Mr Speaker, I do not intend to keep with tradition and therefore I want to raise on the general principles of the Bill the £4m which we have to vote at Committee Stage because, in fact, we have not been given a satisfactory explanation during Question Time and dependent on the explanation we will either vote for or against the £4m. That is to say, we do not support the provision of additional money by the Government of Gibraltar to GSL to meet any of its commitments because as far as we are concerned we are very critical of the way in which the original £28m has been managed by GSL and we are still committed to the view which we defended in the election campaign that the £28m should not all have been used in GSL and that consequently a

smaller and more modest operation requiring less funds would have less funds available for other purposes. We will not support the Government on providing more money, in fact, as far as we are concerned, what the Government ought to be doing is getting rid of Appledore and the quicker the better. However, if the situation is as appears to be the case from some of the answers we have had which then the Financial and Development Secretary has either refused to come clean on or tried to say something different about, that Gibraltar Ship-repair Limited has been using some of the funds that were destined for its running expenses in order to finance over expenditure on refurbishment costs which do not come from its own cash flow according to the projections and according to the provisos of the Ordinance, then we feel the Government has got an obligation to make that good and, indeed, not just a £4m and, in fact, essentially what we are talking about is GSL lending the Government money in excess of the amount of money that is now being lent to GSL. We are not talking about the Government having to foot the Bill ultimately which is the point that, I think, the Hon and Learned the Chief Minister was answering when he said that they thought that if more money has been spent on refurbishment because, for example, as GSL claims the dockyard was found to be in a worse state than anticipated and more money was required, then that is a British Government responsibility, we are not in a position to judge how true that is except that it is certainly peculiar that after so many experts and the consultancy and Ross Belch and TF Burns and Coopers and Lybrand and all that period they didn't discover that there were extra costs required but the point, of course, is that if we look at what has been said before, the experts at the time effectively said that the capital investment side was exaggerated and that certainly there is no doubt the consultant if he does a thorough job will have some questions to ask over. But our position at the moment is, if GSL has in fact been faced with bills which it has had to pay and because it has had to pay those bills from its cash flow which was intended for the running costs and for the wages and for the stock it has then got itself into a problem then we think the Government of Gibraltar has got a responsibility because under the law if the £28m had been in the Special Fund and the original projections were - I cannot remember the exact figures but let me give a simple and artificial example for the sake of illustration, Mr Speaker. If you have got a situation where there are £28m in the projected sum and of that £28m under the Section that I quoted from the Ordinance the Government is allowed to do two things by the law, one is to spend £18m in buying shares in the company and to pay £10m for refurbishing the yard and then we find that the cost of refurbishing the yard is £11m then, clearly, the extra £1m is an amount that has to be met by the Special Fund independent of whether the Special Fund gets the money from the

UK or not which is a secondary consideration. But what is clearly true is that the extra £1m is an increase on the £10m refurbishment element and not on the £18m share capital element. If in the £10m share capital element there is an amount which is cash in hand in the company's accounts and the company uses one of those £18m to meet the extra cost of refurbishment then, in fact, the company is accepting a responsibility for a payment which strictly speaking in law is the responsibility of the Government of Gibraltar as the owner of the asset as the law stands and in keeping with the answers that we have had before. If the Financial and Development Secretary shakes his head, well, he has got to stand up and give explanations.

HON CHIEF MINISTER:

If the Hon Member will give way. Will we not argue all this when we come to the supplementary provision in the Schedule of Supplementary Appropriation?

HON J BOSSANO:

Well, when we come to vote the money.....

HON CHIEF MINISTER:

No, not the vote, when we get to the Committee Stage and you have the Special Fund there provided, will the Hon Member not argue what he is arguing now because I think it is much more relevant there.

MR SPEAKER:

Not if he has argued it now because I won't allow it.

HON CHIEF MINISTER:

Because we cannot have a double event on the same thing.

HON J BOSSANO:

When we come to the Committee Stage, Mr Speaker, we will vote one way or the other depending on the explanation we get between now and then so, in fact, what I am doing is telling the Government since at Question Time we can only ask questions and get answers we have been precluded from giving an exact definition of our position and our position is that if all that we are talking about is the Government coming in and providing £4m loan so-called interest free extendable every year then effectively we will say no to that because as far as we are concerned what the Government should have done a very long time ago is to stop the wastage that Appledore has been responsible for in that yard. If in fact the situation is that the

Government is redressing the balance of a problem faced by the company because the company had to use some of its funds for a purpose which they were not intended then we cannot blame the company for that and we accept that there is at least a moral obligation on the part of the Government to advance money now because effectively the company itself was advancing the Government money by meeting the builder's cost of the refurbishment of expenditure which, in our reading of the law, is absolutely clear, it was absolutely clear at the time and I remember it specifically because when the Bill was brought to the House, Mr Speaker, it was changed as a result of my raising the point at the time. At the time that the Bill was introduced in the House the intention was that all the £28m should be paid into share capital, that was the original intention and that was the original Bill as it was brought in the House before amendment and I questioned how in the balance sheet of the company you would have a situation where the company would be showing expenditure on assets which it did not own because the assets were being leased at a nominal fee from the Government who retains ownership of those assets and the record shows in Hansard that the Government said they accepted the argument, it was something that they hadn't looked at or thought about, it would have created a great deal of problems for the company and consequently what they were going to do was amend the Section to say you can use the money either for the purchase of shares in the company in which case the company then obtained that money and is responsible for the expenditure decisions or for meeting the bills. Since then we have had many questions in the House where we have been saying, well how is it that the contracts are being signed by GSL and not by the Government and we were told because GSL is essentially acting as the agent of the Government. So if GSL gives out a contract for the conversion of No.1 Dock, the No.1 Dock does not belong to GSL, the No.1 Dock belongs to the Government of Gibraltar, it belonged then and it belongs now like the whole area and therefore the refurbished No.1 Dock belongs to the Government of Gibraltar and is being hired or rented by GSL and GSL as the tenant of the area does not meet the cost of the refurbishment. It is still met from the £28m but it will not show in the share capital of the company, that is how the structure is in the law and that is how the structure is in the accounts that have been brought previously to this House. So our argument then is, if instead of the refurbishment costing £1m they cost £1½m the extra £½m logically cannot come from the share capital of the company otherwise the original £1m should have come from the share capital of the company. How can the original £1m be paid directly from the Fund and the extra £½m be paid by the company? Essentially what the company has been doing has been advancing that money in the expectation of recovering it and it has not been able to recover it because it has not been forthcoming from ODA into the Special Fund, therefore in that context we think the

Government has got a moral responsibility if not a legal responsibility and we will support this money but not otherwise. If all that this money is there for is because the company has done a pay settlement and then come back to the Government and said: 'I cannot afford to pay the pay settlement', well, we know how to afford the pay settlement. All we need to do is get rid of a third of the expatriates and we have got £300,000, we don't need to give them £¼m, that is our position and it is a clearcut position and this is why we want a clearcut answer from the Government before we vote.

MR SPEAKER:

Any other contributors? Does the Hon Member wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I think I ought to simply for the record, I don't hope to convince the Hon Leader of the Opposition but I really must draw a distinction between the financing of the £30m by means of ODA money and the provisions in the Ordinance. Of course, it is quite true as the Hon Member has said, let us take a simple example, suppose that £10m was originally allocated for expenditure on assets which would remain in the ownership of the Gibraltar Government and the remaining £20m on other expenditure and therefore it would be, according to the Ordinance, financed by the purchase of shares equal to the amount of the £20m cash and supposing then the situation were changed so that instead of being £10m for one and £20m for the other, it was £20m for one and £10m for the other, well, of course, it would follow that the Government shareholdings would fluctuate and the amount of expenditure on fixed assets in the Government's ownership would likewise fluctuate but this would still amount to £30m which is to say there would be in no sense any contradiction of the Ordinance, no action would have been taken which would be in conflict with the provisions of the Ordinance. I think that is an important distinction between financial aspects and legal aspects here. The Hon Member may argue that the Government has some moral responsibility, he is entitled to argue that, but the Government is not necessarily going to accept his views. As far as the original amendment to the Bill which he quite rightly pointed out was as a result of his own intervention, the real reason for the changes in the Bill, the new Section 6 which was brought in making the distinction between the purchase of shares and the expenditure on fixed assets, we had to do that, we had to introduce that Section because the Constitution and the Public Finance (Control and Audit) Ordinance as it then stood would not have allowed us to hand this money over for the dockyard project and that was the inception. As I say, I don't expect that I am going to convince the Hon Member, I can only conclude with one of my quotations from Shakespeare on

this and it comes from Macbeth: 'Things bad begun make strong themselves by ill'.

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 House recessed at 7.10 pm.

WEDNESDAY THE 9TH JULY, 1986

The House resumed at 10.40 am.

MR SPEAKER:

I believe that the Hon the Financial and Development Secretary wants to make a statement.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. I would like to make a statement to try and clear up any misunderstanding which may have arisen as a result of the supplementaries on Question No.114 by the Hon Mr Pilcher yesterday. The question was: 'Can Government state whether they have now received the whole of the £28m from ODA for the GSL Special Fund?' And my answer was: 'No. The total amount received from ODA for the credit of the GSL Fund is £26.4m. The balance still to be released of the £28m is therefore £1.6m'. That is correct, £1.6m is still to be released but £300,000 is the amount withheld, that is, as I explained, the balance from the original split between offshore and local expenditure which is available for working capital purposes. As far as I am aware, there is no intention on the part of the ODA to withhold the remaining £1.3m making up the total of £1.6m, as this is on approved work in the original memorandum, therefore it is simply a question of the money not having been released because the bills have not yet been paid or the expenditure has not come to account. I think the confusion may have arisen because £1.6m is fairly close to a figure of £1.7m which, of course, is a rather different figure. As I explained, the shortage of working capital arose because the capital overruns on the originally approved items came to £1.7m and ODA approved that particular figure. That was the first reason. The second reason was the fact that GSL, as I explained, with ODA approval, used the amount originally intended for local

expenditure, ie working capital, to meet the cost of those capital overruns.

HON J BOSSANO:

Mr Speaker, so the situation therefore is that the capital overrun approved effectively meant that the company on the original provision would have spent £29.7m but in fact the £1.7m was approved by diverting funds from within the £28m to another purpose and therefore to restore those funds would mean an additional £1.7m over the £28m. So where do the £2.4m come in then?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The £2.4m is the addition to the £28m that ODA have actually offered. The Hon the Leader of the Opposition stopped in his calculations of £29.7m, that is to say, £28m and £1.7m. The £1.7m represents the capital overruns, an additional £700,000 is for further works, repairs to roofs, the fact that the crane rails left by the former Naval Dockyard collapsed and a new fresh water pipeline because the existing one is not up to standard, those are the three items which I know are in that £700,000 and the ODA officials thought that that was a perfectly reasonable request to make.

HON J BOSSANO:

I got the impression, Mr Speaker, the Hon Member was saying that, in fact, the £1.7m has been spent and therefore it is a question of meeting the cost but the expenditure has already taken place. Is that also true of the other £0.7m or is that the other £0.7m the expenditure has been approved but has not taken place?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct, Mr Speaker, the expenditure has been approved but has not yet taken place and I also perhaps ought to add that for other reasons the company had to postpone certain expenditure which was considered desirable of a capital nature but not absolutely essential again because of this cash flow shortages.

HON J BOSSANO:

Could I just ask one further thing, Mr Speaker? Is it not true that, in fact, in the original capital projections made by the company when these were examined in the Project Study by Coopers and Lybrand, Coopers and Lybrand queried the figures as being on the high side, as being excessive so does it mean,

in fact, that since we are talking about a net figure of £1.7m overrun and a number of things for which there was provision have not materialised, ie a £1m for the tug it means, does it not, that the excess on the remaining has, in fact, used up all that there was there in terms of contingencies and money that has not been spent and still £1.7m on top? So, in fact, the overrun must be more like £3m or £4m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't know whether I would entirely agree with that but there certainly have been changes. I don't recall the comments in the Report as the Hon Member does, there have been a number of changes, some contract works have not exceeded budget and others have so that there have been a number of changes and, indeed, postponements amongst the items in the original £28m.

HON J BOSSANO:

But the point I am making, Mr Speaker, if this is a net figure over and above what was provided and what was provided at the time was queried by the experts that the Government brought in as being on the high side and if we know from having observed what has taken place subsequently that the things that were queried as perhaps being unnecessary have not materialised, for example, a £1m capital investment in a tug has not taken place so therefore it means that there must have been overruns on the rest of the expenditure of £1m in addition to the £1.7m and there was a figure of £1m for contingencies for the next three years which presumably has also been used up. Am I correct in saying that or are those things part of the overrun?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Hon Member is correct, I think, in saying that the £1m for a tug was not used but then I wouldn't simply isolate that particular item and say that this is the only factor. I think there have been a number of factors at one point which one tries to make as delicately as possible because of the sensitivities of the former owners of the yard, is the fact that it was in a rather worse state than was imagined and I think quite reasonably, given the amount of time they were allowed to go into the yard, when their original calculations were made they found that they incurred a lot more expenditure and ODA are aware of that. I haven't got a figure absolutely in mind but I think certainly £1m might be about the same forecast figure.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills

clause by clause: The Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986; the Education (Amendment) Bill, 1986; the Criminal Offences (Amendment) Bill, 1986; and the Supplementary Appropriation (1986/87) Bill, 1986.

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) BILL, 1986

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

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

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

THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) BILL, 1986

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

Clause 3

HON M K FEATHERSTONE:

Sir, I beg to move an amendment in Clause 3(1). In the fourth line the word 'user' should be changed to the word 'use' and in Clause 3(5) the word 'user' should be replaced by the word 'use'.

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

Clause 4

HON M K FEATHERSTONE:

Sir, I beg to move an amendment in Clause 4(1)(b) that the word 'user' should be replaced by the word 'use' and in Clause 4(1)(c) the word 'user' should be replaced by the word 'use'.

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

Clauses 5 to 24 were agreed to and stood part of the Bill.

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

THE EDUCATION (AMENDMENT) BILL, 1986

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 CRIMINAL OFFENCES (AMENDMENT) BILL, 1986

Clauses 1 and 2

On a vote being taken on Clauses 1 and 2 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 G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

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

The following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

Clauses 1 and 2 stood part of the Bill.

Clause 3

HON ATTORNEY-GENERAL

Mr Chairman, in the Schedule in paragraph 1 - Governor's Lookout Scout Camp: 'The land in the Upper Rock Area shown edged with red on plan numbered.....' there should be inserted there T.39

On a vote being taken on Clause 3, 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 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 following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

Clause 3, as amended, stood part of the Bill.

The Long Title

On a vote being taken on The Long Title 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 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 following Hon Member was absent from the Chamber:

The Hon Sir Joshua Hassan

The Long Title stood part of the Bill.

THE SUPPLEMENTARY APPROPRIATION (1986/87) BILL, 1986

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No.1 of 1986/87.

Head 8 - General Division was agreed to.

Head 10 - House of Assembly was agreed to.

MR SPEAKER:

I am surprised to see that the Opposition have not asked when broadcasting of the proceedings of the House are going to start.

HON J BOSSANO:

We just happened to see it there and we were overwhelmed.

MR SPEAKER:

I feel that the way things are progressing it should when we meet after the Summer Recess.

Head 16 - Medical and Health Services was agreed to.

Head 25 - Treasury

HON J BOSSANO:

Mr Chairman, I would like to take advantage of this now to clear up one further point in the statement made by the Hon Financial and Development Secretary. The £1.7m of capital overrun which have been approved by ODA and which form part of the £2.4m, has the cost of that been met from its own funds by GSL and will the payment be reimbursement to GSL of that expenditure or is that money unpaid at the moment?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I couldn't say whether it has all been paid, that

is say, whether the bill was presented but it is certainly committed so the expenditure will be met from the GSL Fund.

HON J E PILCHER:

The point, Mr Chairman, is a very simple point. The point is obviously the £1.7m in overrun is work that has already been done and although the bills might have not been sent to ODA yet, have the bills been paid locally to the contractors that did the work? We would like to know how much of that £1.7m has already been paid locally by GSL and how much hasn't or has it all been paid out already not by ODA but by GSL?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I should think relatively little of it would have been paid by GSL locally. The majority of it by its nature, I think, would have been offshore and hence the bills would have been paid by the Crown Agents in the UK.

HON J BOSSANO:

We got a different impression from the earlier questions in the House and I think the important point which is the one we are trying to establish clearly is, if tomorrow ODA says: 'Fine, here is the £2.4m', does that mean that £1.7m goes back into the coffers of GSL because they have been advancing that money to ODA, as it were, and paying those bills and this is why they have got a cash flow problem because they have used their own money to pay the £1.7m and they need it back or, in fact, will it not make any difference at all to GSL as GSL because the money will be paid by ODA to whoever has done the work? There is a very important distinction between the two because the cash flow of that position is not affected at all whether you pay the thing now or in a month's time if it is being paid to the people who have done the work who are the people suffering in their cash flow but it does make a dramatic difference to GSL if GSL has used £1.7m of its own money to advance payment, as it were, to its contractors. Which of the two is it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think this is a distinction the Hon Member made which we discussed yesterday evening. What if GSL owed the money? I don't think that that distinction is one which is particularly relevant, quite honestly. I really don't know what to say about this. The £1.7m is capital overruns until the money is available, until ODA agree to make it available GSL's cash flow will be worse, I think that is quite clear to that extent for the reasons which I have already mentioned.

HON J BOSSANO:

It is not quite clear, Mr Chairman, this is what I would like to understand. It seems to be clear to the Financial and Development Secretary, it is certainly not clear to us. If there had been no overrun the amount of money we would be talking would be £28m. There has been an overrun of £1.7m, there are two possibilities of what has happened and it is a matter of fact, it is not a matter of theory, either the people have been paid £1.7m by GSL for doing that work out of the £28m in which case GSL is short of £1.7m and when ODA approves and pays the £1.7m instead of that money going to the contractor it will go to GSL who has been bearing the cost in the intervening period or it hasn't happened like that and the contractors have not been paid in which case GSL is working with the £26.4m that has been released and in that £26.4m is not included the payment of the £1.7m. Essentially, if the £1.7m has been paid already or any part of it has been paid already for the work that has been done already it must have been necessarily paid out of the £26.4m which is the total amount made available by ODA. Let us forget the distinction about whether it is the Government or part of the share capital. Has any of that £1.7m been paid out of the £26.4m or not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I misunderstood, in fact, I think I was, as is my wont on these occasions, thinking 'What is he going to ask next?' I thought it was going to be this intimate distinction between expenditure on GSL assets and the purchase of shares but no, I am quite satisfied, I cannot be satisfied as to 100% but that £1.7m has very likely been paid.

HON J BOSSANO:

From the £26.4m so, in fact, it is the company that is in need of that money so that their cash flow can go back to normal?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Of course, yes, Sir.

HON J BOSSANO:

Well then, Mr Chairman, this is the point we were making. If in fact GSL has borne in the intervening period the cost of the £1.7m which is approved capital overrun, overrun above the £28m then, effectively, GSL has been making a loan to somebody of £1.7m and here we are talking about the Government of

Gibraltar making a loan to GSL of a £4m. This is where the distinction that the Hon Member thought I might be about to make comes into it and I am about to make it now which is that, of course, if that £1.7m is something that is part of the overrun on refurbishment costs, on assets owned and held by the Government of Gibraltar and leased to the company, then we feel that the responsibility for meeting that cost in the intervening period is, strictly speaking, until ODA provides the money, the Government's and not the company's and we think that it is an unfair burden on the company's cash flow. If they overspend on wages then clearly it is their responsibility, if they overspend on running costs it is clearly their responsibility, but if there is an overspending on the contract of the property that they are renting then we don't see how it can be their responsibility and then it seems to us that, in fact, part of the problem has been created by the company accepting meeting a payment which, strictly speaking, is not theirs to meet. The company should have turned round to the Government and said: 'Look, there is this bill from the contractor for repairing the roofs or whatever which I am not meeting, you meet it or ODA meets or let the contractors sue you but it is not up to me'. Effectively, what we are saying on that basis, quite frankly, the money that is being lent to the company we consider to be justified purely on the grounds that the company itself has been from its own funds intended for other purposes essentially advancing money to ODA or to the Government of Gibraltar and we would support the advancing of a £4m for that purpose. We would not support the £4m for the purpose of meeting extra running costs because we think in the extra running costs for a start there is £900,000 of the expatriate bill which we consider to be excessive and that there are things there that can be cut in extra running costs but we feel on the capital side the company has got a clearcut case but, of course, what we are not prepared to see is if the Government is defending the £4m on the basis that they are making that money available to the company because they want to gain time for this consultancy to take place which we are going to vote against as well anyway so clearly if we are against the consultancy we are against the provision of the money so that the consultancy can take place and the yard can be working normally for that purpose. We are against the consultancy, we are against the money being made available to the company for the purpose for which it has been put but we would not be against the idea that the company should get a loan if necessary of £1.7m, let us be clear, because we think it is unfair that the company should have to carry the burden of meeting capital costs over and above what was already agreed which have been approved and which are putting a burden on its cash flow position. We would have thought that it would have been perfectly legitimate to say to the company: 'OK, we will quarrel with ODA and we will get the £1.7m to meet those bills and in the interim we will lend you the money to meet the

£1.7m and you won't have a cash flow problem', and we would have supported that.

On a vote being taken on Head 25 - Treasury, Subhead 81(NEN) - Loan to Gibraltar Shiprepair Ltd 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

MR SPEAKER:

There is a subsequent Subhead on Gibraltar Shiprepair Ltd - Consultancy.

HON J BOSSANO:

We are opposing that, Mr Chairman, because we consider that, in fact, the wealth of evidence that there is already available is more than sufficient for the Government to be able to decide which way it wants its company to go. The Government has been extremely reluctant to accept that it owns the company at all, it seems to us, from its inception and tries to stay at arms length. It is now setting up yet another consultancy after all the many we have had. I remember the money that we voted in this House for an independent party to look at the GSL position and then when that independent party came to the conclusion that the projections made at the time, in the project study were, in fact, extremely difficult to see materialising in reality, the study was kept secret and the report was ignored. What are we going to see, a repetition of that exercise. That is to say, if the consultants come up with something the Government finds embarrassing what will they do, make the report secret and not do anything about it. All

they need to do is to go back to the Secretariat like I have done and read the thing, the Michael Casey Report, and if they look in the Michael Casey Report they will find that Michael Casey said, for example, 'There is no indication that the workforce or the Trade Union Movement will accept a cut in wages which is built into these projections', and of course they have not accepted a cut in wages, they have obtained a substantial increase in wages by comparison to what the company was trying to do before. It seems to me that we have got the Michael Casey Report there which can show us many of the things that we want Price Waterhouse to tell us now. We have had the Coopers and Lybrand Report, as I have mentioned earlier in the context of the statement made by the Financial and Development Secretary, which queried the projections of the company on the capital side. The company built in £2m for contingencies. In that £2m was a sum of money for contingencies in the next two years and presumably that has gone in the £26m. We had a situation where the Coopers and Lybrand Project Study queried whether the best way and the most economic way to provide for the movement of ships was by the company purchasing a tug at a cost of £1m with a fuel bill annually of £200,000 and they recommend that savings could be made in that area by hiring the tug services. The company has been hiring the tug services but the £1m on capital investment has taken place although there is no tug and the £200,000 of fuel has been used on something else because there is no fuel like the £300,000 on pensions is not there and the pensions are not there and the £2m of municipal rates are not there and the money is not there. You certainly don't need to throw more money, good money after bad money to find out all that is wrong. The Government has already got all the information at its disposal, the Government has said publicly that the accounts have been audited by three different sets of Auditors and now we are employing a fourth set of Auditors. The Management Agreement with the company gives the Government the right to ask for monthly and quarterly reports and projections and analyses of their performance so all the information that the Hon Financial and Development Secretary might need to establish all that has gone wrong not that it is going to do us any good because the money is not there anymore now, we may find out how badly we have spent it but we are not going to get it back and that is a tragedy for Gibraltar. That is available. If what they want to do is get off the hook at the expense of the people of Gibraltar and the taxpayer of Gibraltar they will have to take the responsibility on that side of the House for doing that because clearly this is a hot potato and it won't go away. The report, from our experience of previous reports, will go the way that every other report has gone that the Gibraltar Government has produced, it will go into the Secretariat and it will gather dust. So we are against this.

HON CHIEF MINISTER:

Mr Chairman, I regret I was not here earlier in the discussion of this matter but I had a pretty good idea of the views of the Leader of the Opposition by the exposition he made yesterday in the Second Reading of the Bill and I will not deal with the legalities of the matter on which there are always two or three views and as far as the Government is concerned we are satisfied that the question of the accounts and the question of the distribution of the various parts of the Fund are being carried out in accordance with the provisions of the law. I would like to address myself briefly to the question of the £4m and to state clearly the reasons that make the Government take the steps that they have taken. First of all, there had been the difference and there is still the difference of the amounts which the Government after close study and the Board after close study felt was justifiably required to make up for the various overspending that had occurred and for the requirements at the time. The ODA took a different view and we were going to go into battle for that but there are two difficulties, I hope one will be overcome soon and the other one will take a little longer. The first one, of course, is that we have to get over the retention of the balance of the £28m. That is a direct matter to which we have devoted our close attention and have had very long sessions on this matter and, as I said yesterday, I had hoped to have news for the House either yesterday or today but for the reasons I stated yesterday we cannot expect a reply by the end of the week. I must assume for the moment that the reply is going to be favourable, a different situation would arise if the reply was not favourable, a very serious situation would arise if the reply was not favourable but that, I don't think, we need to deal with now because I have expectations and let me say that I do not have any expectations from any feedback that I have got, there is no feedback at all but I think we have made a very good case and if cases are dealt with on merit I have no doubt that that balance will be forthcoming. The difference between the £2.4m and the £3.5m, it is a different matter. We were at the point of continuing to argue that but having regard to the consultancy that has been appointed, it seems to us of no use to argue about that. First of all, we will ask for the release of such sums as the £2.4m without prejudice that we may need to keep the cash flow and the situation normal but it would be idle for us to argue about the difference now if, in fact, in a few weeks time the consultants advise us (a) that it is not known if it is £3.5m and it may be more, or (b) that perhaps £2.8m is necessary or £3m or £2.9m. The matter now being the subject of a consultancy we must get their judgement and, in fact, we may be enforced by their judgement on our attitude in this matter. That is the situation as it is now but at the time of the industrial action we had a number of choices. One was, of course, the closure of the yard and be done with it and finish

and then start thinking of something else. It is a reality, it is a real reality. That yard was given to us on the understanding that on the basis of the consultancies prepared by the ODA would work on £28m. If it didn't work on £28m and there were good reasons why it should be more then we look to the British Government and we look today to the British Government to make up for that. But in the meantime a situation arose where, I think on the statements of Mr Anderssen alone and I am not going to question that, the yard lost £300,000 by the walkout and the closure. We felt (a) that there was need to have a settlement, a reasonable settlement with which we did not interfere at all, let it be quite clear, we did not interfere in the settlement but circumstances brought about a change of management and there was a change of attitude and the change of attitude has brought about a change of attitude from the workforce and I am very happy to hear Members who visit the yard apart from the statements made by the Leader of the Opposition in his capacity as a Trade Union Official, that people will work better if they are happier and that seems to be the case today. But we were in that position and there was no time to wait for reactions from the United Kingdom in order to bring about a settlement and at the same time we had that very clear letter from the United Kingdom before the situation deteriorated, not after, but before when there was only blacking on overtime. We must not forget the sequence of events, when there was blacking on overtime, that the work practices were such that they would not release the amount, that was made public by us. The Government, in its responsibility to the workforce, to the yard and to Gibraltar felt that it had to have a rescue operation and the rescue operation was linked very clearly, as the press releases have indicated, the rescue operation was made on the clear understanding that we were only providing this in order to bring peace to the yard in order that there should be a consultancy in normal industrial conditions in the yard. Whether that should come from one fund or the other eventually we will see but we provided a loan on various conditions. First of all, it was a contribution by way of loan. Secondly, we obtained the full cooperation of management with the consultancy and, thirdly, it may be possible for ordinary work to be restored. Wherever that money will come from eventually is not a matter that concerns us now. We are satisfied in the general interests of Gibraltar and in the particular circumstances, it is all very well coming back to the House and arguing weeks after about this, that and the other but as in every crisis you have to take a decision and you have to be forceful and you have to know where you are going and the Government took that decision, it limited the amount to the minimum required, it wasn't just an open-ended commitment, it limited the amount that the House is now being asked to vote and we are quite satisfied in our minds and we are prepared to defend it here in the election and wherever it is that the contribution that the Government has made in the conditions that the Government has made has made it possible

to look to the future with much more confidence than there was before and has made it possible if the yard continues to prosper and we hope it will, that the money will be paid back to the Government and then the question of the various funds is a matter for the Auditors and the others to comment and to fight over. For all these circumstances the Government is not only firm in its decision but proud of having done something for Gibraltar which in the circumstances nothing better would have saved that yard.

HON J E PILCHER:

Mr Chairman, I am not so proud of the forceful situation that the Hon and Learned Chief Minister is advocating. It is a pity that the Hon and Learned Chief Minister did not come earlier in the debate because we have been insisting since yesterday, Mr Chairman, at Question Time and also, I think, we established it this morning that it is not the Government coming to the rescue of the company, it is not a rescue operation. We have been insisting from this side and I think we have finally been able to get the answers this morning, that it has been the Government who caused the crisis. Who created the crisis? That is the key question, Mr Chairman, and that is why we have voted against the £2m loan because we have managed this morning to get the answer that the £1.7m of overrun in capital expenditure has already been paid by the company which is all wrong because that money if it is an overrun in capital expenditure should have been paid by ODA and it hasn't. We have a situation here, the way we see it, Mr Chairman, that it is a question of somebody owing somebody else money. I owe you £1,000 and you come and say to me: 'I have a cash flow problem', and you either say: 'Well, alright I will lend you £250', how can that be? That is logic in reverse. The ODA owe GSL £1.7m because the Financial and Development Secretary has said himself that they have come out here and seen that the overrun expenditure of £1.7m was a reasonable expenditure. They should have gone back and released the £1.7m which they haven't. That has created a problem for the company who have paid out the £1.7m and have therefore got a cash flow problem so they come to the Government, the Government who has caused indirectly because they are responsible for the assets, they have caused the cash flow problem and the Government say to them: 'In order to get you out of the financial difficulty I am now going to loan you £2m'. We are not talking now of the legality and I take it that since we have been discussing the legality now for a year and half, at one stage we should get the Attorney-General to make a statement in the House as to what is the legality of the problem as he sees it. We have seen the Financial Secretary doing it, we have seen the Chief Minister doing it, we have seen other Members doing it, it is about time that the Government's own

Attorney-General gave a statement in the House as to what he considers the legal aspects of how to spend the £28m but we are not talking about the legality, we are talking about the morality, the morality of having an overrun of £1.7m and now lending the company £4m to get them out of their difficulty and then to say what a forceful approach this has been by Government, how proud they are of what they have done because they have averted the crisis, that is the way they have shown it publicly and it is our contention that it is their non-interference when he said: 'We have not interfered, we did not interfere', that is our contention, their non-interference has also been a great

MR SPEAKER:

The Chief Minister referred to non-interference exclusively with regard to the industrial dispute and nothing else.

HON J E PILCHER:

Yes, that is right, that is what we are referring to, Mr Chairman.

HON CHIEF MINISTER:

To the industrial settlement.

HON J E PILCHER:

The industrial settlement, the industrial dispute, and he said: 'We did not interfere' and precisely this is what we are saying and it is precisely although the Hon and Learned Chief Minister hasn't really answered the points on the consultancy although he was here and has heard the points made by the Leader of the Opposition, our point is that there is enough information in order for the Government themselves as the owners of the company to ascertain what it is that went wrong. You know how we feel about consultancies, Mr Speaker. Committees, they are all manoeuvred by the Government in order to put something between them and their responsibility, something which they can then have inbetween so that they can then use that publicly as a buffer zone like the Committees on the Tourist Report and many other consultancies and Committees, Mr Chairman. That is why we are voting against the consultancy.

HON A J CANEPA:

It is extraordinary, Mr Speaker, to hear the exponents of the whole philosophy of open Government being so much against the use of Committees. The Government has caused the crisis because of its non-interference, we are told. The Government has been

afraid to get itself more involved politically on the whole question of GSL than what it actually is now because of the whole history of the matter. GSL was set up because the Government reluctantly but it had to accept the reality of a closed naval yard and its replacement by a commercial yard. The gentlemen of the Opposition were against it, and in that situation, a general election was fought over that issue in which sides were clearly taken and what are we to do subsequent to that? What are we to do? To become more and more involved in the yard so that it is seen as a continuation in the industrial arena of that political fight between the Government and the Opposition? We only have to see and compare the state of industrial relations within the Government as an employer and other major employers in Gibraltar. Why are industrial relations within the Government not as good as they are in the MOD? Why are they not as good as they are with the PSA? Why are they not as good having the last incident of industrial action sparked off by the inability of the President of the Chamber of Commerce to keep his mouth shut when he should? Barring that, why are industrial relations within the Government of Gibraltar not as good as they are in the private sector, generally speaking? And why it is that in spite of that record of poor industrial relations people are falling over backwards to get employment within the Government of Gibraltar? These are questions that have to be answered. I have no doubt what the answer is and the answer was clearly not said by me, the ACAS conciliators tell you what the answer is. Mr Phayre has said what the answer is. For my part, I have no doubt that industrial relations in Gibraltar has got grave, within the Government of Gibraltar, grave political overtones. We can do something about that, Mr Speaker, in the Government. Ministers don't get involved in the conduct of industrial relations, we tell management, let them do their job, they get handsomely paid, there are the guidelines, you have got a code, get on with it. But does that happen on the trade union side, what is the quid pro quo? Or is it that the position of Leader of the Opposition is completely and utterly divorced from that of the Branch Officer of the union? How can that be the case in the eyes of the public? And that is a very serious reason why we don't want to get involved in the yard so that the yard does not become another Gibraltar Government industrial situation. That is our fear, our main fear of getting involved. So that people can be given a chance to get on with it and do a good job and management can get on with it without the political in-fighting that is part and parcel of the set-up within the Government of Gibraltar. And it doesn't help one bit for the Leader of the Opposition with his normal bravado that we are used to and which I think the public is used to who see him on television, who hear him on radio and who read what he has to say in the press, yesterday to come here and say: 'The Government should sack Appledore'. That is the kind of statement which elicited a belligerent response from Mr Abbott and I would hope

that Mr Anderssen does not react that way. My assessment of him is that he will not react in the belligerent manner that Mr Abbott reacted but more belligerent people like Mr Abbott, like Adolfo Canepa, do react that way and I hope that Mr Anderssen for the sake of continuing good industrial relations doesn't take much notice of what the Leader of the Opposition has said in the House when he sits across the table with the Branch Officer of the TGWU. And yet Sir Joshua was speaking a few minutes ago about a change of attitude. Is there a change of attitude? Not as evinced by what we have heard here in the House, there is certainly no change of attitude. Maybe there is a change of attitude at shop floor level from the people whose future, whose jobs are threatened. But, of course, there is more than all that and there is greater reason why a consultancy has to take place. It is not to let the Government off the hook, that is a nonsense at public expense, or to say 'the information is all there'. We have a new situation. All those reports by Michael Casey and Coopers and Lybrand and Ross Belch and what have you, we are in a vacuum situation, there was no yard, it was a project but now we have got eighteen months of experience and the background against which those reports were produced was one in which A & P Appledore were proposing to employ in the region of 1,200. That has not materialised, the number of people in the yard is now 850 and unlikely to go up to 900 and, in fact, what is now being spoken of is, if anything, should the yard contract, should it be a smaller operation? So that has changed. What else has changed? The economic situation in Gibraltar has changed, the unemployment situation has changed for the employment situation. All those consultancies and studies were made against the real fear of sizeable unemployment in Gibraltar. There isn't that unemployment and because there isn't that unemployment a lot of Gibraltarians don't want to work in that yard not to mention the sad experience of the last seventeen or eighteen months of poor relations with management, the inability of management to appreciate the situation in Gibraltar and to give the workforce some credit for the experience gained over a lifetime of working in the MOD yard. But because the situation is different we have to have a fresh look at the yard, we have to know whether there has been some mismanagement. There are serious question marks, questions that have to be answered. It is no part of us as politicians to get involved in that, we don't know how to run a yard. Mr Bossano himself knows a little bit about industrial relations, I would suggest he knows rather more about the running of the yard than we do because he is involved with it from the staff side on a day-to-day basis and he is an economist which helps but at the end of the day I doubt whether he would make a better managing director in that yard than Mr Andersen or Mr Abbott, that is the reality. We have to bring in people to have a fresh look at the new situation, to try and answer these questions, to try to point as to the

future of the yard and it is not a case of a whitewash and having a buffer, it is a case of being able to decide clearly on the basis of sound advice what direction is that yard going to move in. How many people is it going to employ in the future? To what extent should the Government of Gibraltar continue to be in any way financially involved? Is it worthwhile for the Government of Gibraltar to be involved in that way if the yard is going to employ 380 or 390 Gibraltarians and, unless the situation improves, the prospects are that the numbers will decrease? We also need, I think, a certain amount of ammunition with which to fight ODA on this matter because, for all we know, the attitude of ODA could be to wash their hands of the problem and, as the Chief Minister said earlier today, it was £28m because £28m was judged at the time to be the amount required but if that yard was handed over in a condition in which after investigations, after working there on the scene it was clear that a great deal more work had to be done that had been anticipated by Mr Ross Belch, by Coopers and Lybrand, by Appledore, by Michael Casey or all the other experts then that is a fact that we have got to face ODA with and they cannot just shirk that responsibility. For all these reasons, in order to give a fresh start now that people have approached the precipice, apparently they have looked over, they didn't particularly like what they saw beyond the precipice and the Government has come to the House asking the House to vote £4m to make a contribution to setting that yard on its proper footing and coming to grips with what its future should be.

HON J BOSSANO:

Of course, we are talking about much more than a loan for a consultancy, we are talking about the entire handling of GSL by the Government of Gibraltar, having won an election on that issue, and it is all very well for the Minister for Economic Development to come along now and say: 'Well, the circumstances have changed and now we may need a smaller yard', which is what we were saying in 1984 and what a lot of other people that they engaged in 1984 were pointing out to them. If he wants I will send him a copy of our manifesto so that he can read it again. In fact, he went on television saying there were two clearcut positions, ours and theirs, and that the other party that was then contesting the election had no position because the other party were saying they would go along with the Appledore proposals. We said in 1984 we would get rid of Appledore within 24 hours of winning the election and we are saying now to the Government, to Mr Anderssen and to the people of Gibraltar that in 1988 if the GSLP comes into Government Appledore will be sent packing. That doesn't mean that we need to have a Gibraltarian as manager of the yard, what the Minister doesn't seem to understand.....

HON A J CANEPA:

If the Hon Member will give way. If that statement is not published in the media later on today or tomorrow, will he commit himself to write a letter to the press stating that he has said this in the House?

HON J E PILCHER:

He has said that on many occasions.

HON A J CANEPA:

Now, I am saying now in the new situation, I am not saying the many occasions, I am challenging him to do that now.

HON J BOSSANO:

Mr Chairman, I am quite happy, if the Hon Member wants to give me greater publicity, to hold a press conference after this meeting of the House and say: 'The GSLP position in 1988 will be the GSLP position in 1984, if we come in we get rid of Appledore, we think they are a total and a complete waste of money'. You are paying Mr Anderssen a salary and you are paying Appledore £300,000. Mr Anderssen is a vast improvement on Brian Abbott but people of Mr Anderssen's calibre can be found and employed and paid without Appledore. There is nothing to stop the Government engaging Mr Anderssen as their employee without using Appledore or somebody else. He is not the only man in the world in shiprepairing, the whole of the shiprepairing world is going through a huge crisis everywhere. French yards are in the process of closing now in the Mediterranean, Mr Chairman, because they have lost billions of francs in the last five years. There are a lot of senior management people in the shiprepairing world available for hire, the market is full of them but we don't think we need 39 people like we have got here which is what Appledore has sent out which was questioned by Mr Anderssen himself on television. He said he had just come from the Neorion and there are two expatriates in the Neorion and he cannot understand why we have got 39 here with all our years of experience. We are entitled politically to question that. If the Hon Member is saying to me that because the Opposition says: 'We are against GSL', this will upset Brian Abbott and will upset the likes of Adolfo Canepa who presumably shares the character of Brian Abbott but possibly will not upset Mr Anderssen because Mr Anderssen presumably understands that if tomorrow if he offers a pay deal for the foremen which the foremen then meet and decide to vote on and accept, the fact that the Opposition in Gibraltar, Mr Anderssen knows this, I have told Mr Anderssen across the table what I am telling the Hon Member in the House, he knows that the GSLP

position is that if we get in we will change the situation and we will not want to continue with a management under Appledore, we think it is a waste of public money and he knows that and he is not upset because it is a waste of public money and he knows that and he is not upset because it is a perfectly legitimate position for a politician to take, there is nothing wrong with it. The Hon Member, I think, at least has done me the favour of coming out openly and saying something here that has been said by innuendo by his colleagues on more than one occasion. Let me say that his coming along now and saying here for the first time that because the GSLP position is what it is then, in fact, it may mean that it could have an impact on industrial relations. Well, it is not that it may mean that, the reality of it is that in December last year the Hon Mr Mascarenhas actually said on television that the Government view of what was wrong in the yard was that all the workforce had risen to the occasion in true Gibraltarian fashion and achieved all the productivity targets, nothing was wrong with the management and that if the yard failed there was only one person responsible in Gibraltar, me. This is what was said and it is there and I have got the written text of what was said.

HON A J CANEPA:

He may be interpreting it as he wants.

HON J BOSSANO:

No, it is black upon white and I am sure that there are records available and it has not been challenged anyway, nobody has said that was not said. The Hon Member is entitled to believe that and he is entitled to say and propagate it and if he says 'there are worse industrial relations in the Government than there are in the MOD or DOE', the most I can tell him is that the MOD and DOE tend to react in a way which would be unacceptable to him. He thinks that to actually consult every step of the way before you do anything is, in fact, to be bossed about by the union or the workforce, very much like Brian Abbott used to think that, and therefore his approach would be different perhaps because at the end of the day if a settlement is done in Gibraltar the difference in the relationship is that the Hon Member on the other side has got to defend that settlement politically and, quite frankly, if a settlement is done in MOD or DOE then the people who are running the show here want peace and we have had a situation, for example, I can tell the Hon Member, where there has been equipment in the DOE which was blacked for fifteen months and nobody was locked out. There was a dispute about the manning levels and plant that cost £4m was not used for fifteen months and the Hon Member presumably participated in the decision which determined that electricity workers should be taken off pay for seven weeks last summer which is still a

continuing dispute between the workforce and the Government or the Union and the Government independent of whether I am in the House of Assembly or not in the House of Assembly or Leader of the Opposition or not Leader of the Opposition. If he wants to draw the parallel let him draw the parallel. Let me tell him that there are many people in Gibraltar who believe that all the contracts and all the tenders go to all the firms registered in 3, Library Street because his colleague sitting beside him is the Chief Minister of Gibraltar, a lot of people say that. It may be true, it may not be true, it is of no consequence whether it is true or it is not true, the people who want to believe it will believe it and the people who don't want to believe will not believe it, it is up to the Hon and Learned Chief Minister whether his conscience is clear that it is not true, like my conscience is clear that it is not true that there is any situation where I have put the interests of the workers in any way subservient to the interests of the Opposition or the GSLP and since I am absolutely satisfied that in conscience I do my job well and nobody has got any reason to criticise me for the way I do my job and in conscience I carry out my commitment as a Socialist which gives me the fortunate position that politically I can, in fact, be in a situation where I am not in conflict with myself, Mr Chairman, what I cannot do obviously is be a Socialist and be the legal adviser of the Chamber of Commerce, that I couldn't do. But there is no conflict in being an active and a committed trade unionist and an active and a committed Socialist. The entire history of the Labour movement, not the AACR Labour Party/Gibraltar Confederation of Labour, of course, no, the entire history of the Labour movement, the genuine Labour movement, has been that the political impetus has come in order to produce changes in society to defend the interests of the working class as a natural extension of the Trade Union fight. This is why working people went into politics, to change society, that is what makes the Labour movement a Socialist movement in defence of Trade Union interests and in defence of working class interests. The Hon Member is perfectly entitled to defend a different philosophy, he is entitled to be a Liberal or a Social Democrat or a Conservative but what he cannot do is expect that Socialists should be anything other than what they are and we are a Socialist Party we are committed to a Socialist philosophy and if he wants me to make sure that the press say that as well as saying that we are going to kick Appledore out, I will give that as well as one of the items that I want them to put because we are not frightened of those things. We will stand and if at the end of the day the people of Gibraltar.....

HON A J CANEPA:

If the Hon Member will give way. To apply the label of Socialist to one does not inure one from criticism. I could say that I am a Christian and that I try to lead a life according to the Christian philosophy but that doesn't set you apart from everybody else, you have to live in society as it is established and it doesn't inure one to criticism and the trouble with the Hon Member is that in all the years that he has been a Member of this House and has been active in public life in Gibraltar, he has been at the receiving end of very little criticism because he is

a Trade Unionist and because he has been on the Opposition. In December last year when the Hon Mr Mascarenhas criticised him on television he wasn't able to take it. And if he is ever in Government and he cannot take criticism he is going to be in trouble because he is showing serious immaturity in that respect. We are used to being criticised, in the press, in the media, here in the House, we get used to it but he has never been at the receiving end of criticism and he reacted in a childish, immature way when he was criticised in a party political broadcast.

MR SPEAKER:

I feel that I have been liberal enough even though we are in Committee.

HON J BOSSANO:

I have given way to the Hon Member and I intend to answer him.

MR SPEAKER:

I am not cutting you in any manner or form but I think we have debated this matter enough.

HON J BOSSANO:

The Hon Member is entitled to lecture me as is his wont because he has not forgotten he used to be a school teacher.

HON A J CANEPA:

And you have been lecturing to me on Socialism and the Labour Movement.

MR SPEAKER:

Order, order.

HON J BOSSANO:

I have to do that because the Hon Member has challenged the Opposition to say in public what we have said here. We are saying it in public. He said make sure that the press say what our policy is on Appledore as if we were saying something here that we would be ashamed of or would want to hide or what we are saying is for one audience here and we will say something else for another audience. That is the point that I am making. When the Hon Mr Mascarenhas went on television on a party political broadcast and he is the Minister for Education, the normal thing one expects him to do is to talk about defending the record of his Government on education which is his responsibility, that would be the normal thing. Instead he then goes on to the kind of attack which, quite frankly, it is not that I cannot take it, Mr Chairman, it is just that I think that the level of political debate in Gibraltar has been, if anything, improved since we have been here because precisely we have concentrated on issues and on ideology and on policies and we

have tried to retain a personal relationship independent and divorced of that. He is perfectly entitled to attack the GSLP or me or anybody else he wants on the policies of the GSLP. He is entitled to go and tell the people of Gibraltar that in his opinion or in the opinion of his Government it would be disastrous to get rid of Brian Abbott or disastrous to get rid of Appledore, that the yard wouldn't work without them, he is entitled to do that. What he is not entitled to do is to accuse any Member of this House, he is not entitled to lie, anyway, and he is not entitled to accuse any Member of this House because if that is what we think of each other, that is a serious reflection on ourselves. I have never believed, for example, that the Chief Minister would be prepared to destroy Gibraltar to fulfil a personal political ambition or a personal financial ambition, I have never believed that of the Chief Minister and I would not say it because I do not believe it to be true. I think it is serious that anybody on that side of the House should think that of me or of anybody on this side of the House, should think that any of us is prepared to destroy Gibraltar to get into power apart from being a very stupid thing because if you destroy Gibraltar what is it that you are going to get into power for, to do what, to rake the ashes after you have burnt the place down? It is total nonsense, it is logically invalid and logically nonsensical but apart from that, if it is not simply a political gimmick to blacken somebody's character or blacken somebody's name in the hope that that will cost him votes and it is not just that because you don't really believe it, then we are talking about two issues. One is, either you really believe that of somebody on this side and we have never thought of people on that side as being that sort of personally corrupt or evil or whatever, or else it is considered that the political game that is played is played within those rules and that those are permissible rules. I think it is important for all of us and for Gibraltar that we should accept that there are serious important issues that divide us and serious differences between us and that we quarrel and fight and argue about those and we may finish up with unchanged views and incapable of convincing each other but at the end of the day we respect each other as honest sincere people trying to do the best within their field although somebody else might see what they are doing as completely wrong and there is a fundamental difference and I think if the Hon Member cannot tell the difference it is because he doesn't want to but I can tell him that in spite of all that we shall continue behaving in that way because we believe that it is important to do that, it is important for this House and it is important for Gibraltar. We will criticise the Government, we will vote against what they want to do, we will challenge them but we will not go beyond that point because we set ourselves that target when we came into the House after the 1984 election and we shall not be deviated from that and we will not be drawn into the kind of gutter politics that we have always disassociated ourselves from.

HON G MASCARENHAS:

Mr Chairman, the Leader of the Opposition is.....

MR SPEAKER:

Order, if you wish to speak you are entitled to get up and speak.

HON G MASCARENHAS:

No, Mr Chairman, I just want to comment that the Leader of the Opposition obviously does not read the 'Tio del Capote' in the 'The People'.

HON M A FEETHAM:

Mr Chairman, one point that I want to remind the Hon Minister for Economic Development when he talks about improved industrial relations, I have told him this before, why and what caused the enormous rift in Gibraltar's industrial set-up that has today constituted in the mind of the Hon Member that there is an industrial conspiracy headed by my colleague on this side against anything which the Government is associated with of which we obviously totally disagree? What started that? I have got enormous experience, Mr Chairman, I will not give way, I have enormous personal experience as a young man yet to find his way through, when I came in through the Trade Union Movement, where the AACR were affiliated to the TGWU.

HON CHIEF MINISTER:

No, Sir, they were affiliated to the AACR.

HON M A FEETHAM:

It doesn't make any difference. I haven't given way and it doesn't make any difference and I accept that you are saying this and it is correct, I accept that. But what happened? We had two important leaders in the TGWU at the time for whom I have got and still maintain although they have both passed away the highest respect for their honesty and their integrity and everything else that they stood for at the time, and we are talking about the late Hon Alberto Risso and the late Ernest Mor. But what happened at the time when the AACR were the governing party because of the inflationary problems because of the new militancy that was coming into the union which was only a natural thing and was happening throughout Europe, what happened? The establishment that represented the AACR in that political industrial network began to oppose and create the rift between the industrial labour force and the political parties. Of course, I am going to say it because it comes to what.....

MR SPEAKER:

There have been allegations.

HON M A FEETHAM:

There have been serious allegations and we must remind the

Minister in the same way as he accepted that the package of £28m was generous in itself and today he is trying to defend a different line, let me remind the Hon Member opposite that it was the AACR that fought that militancy, the AACR that drifted away from the TGWU and created the climate and even gave more impetus to what they classified as the extreme left in the union despite the fact that some of us defended the affiliation in general meetings, despite of that because they run scared and weren't prepared to face up to their responsibilities. They have disaffiliated the Union unconstitutionally without even going to a Party Conference from the AACR and said 'You are on your way' and literally left those of us in the union that believed that the workers had to have a political wing to defend their interests and the same as commercial and conservative interests have and will continue to be defended politically by politicians in Gibraltar, they left the union in the lurch without a political wing and those of us who defended that line were swept to one side. What happened then? Of course, the union because of their frustration even though some of the leaders were not even aware that that frustration comes because they haven't got the outlet, began to militate and fought against the AACR and it went to a general strike after even though it was the IWBP that made the original offer. And since then in Gibraltar precisely because of that gap, and history will show that you are responsible, we have got bad industrial relations in Gibraltar, that is the root of the evil because you started that situation and you haven't yet accepted that responsibility and that is what happened and that is why the Union organised and that is why perhaps history will show that the GSIP may never have come into being if the courage and conviction of the political leadership that had to defend the interests of the affiliated members of the union had taken a different line today we may still have had a situation where a more enlightened AACR taking more note of the aspirations of workers and the militant workers not because they were Communists or Anarchists but because it was clear that 50p offers and 7p offers that were made at the time was not in keeping with the dramatic economic changes that were taking place and you weren't prepared to accept people that wanted to stand up and say 'enough is enough'. What they used to do is they used to push them to one side. I have made the point on that. I will come to the other point. The other point is, Mr Chairman, that despite everything that has been said about the need for extra funds and the need to make a case to the ODA, the realities are that it is not that we are saying now that we would do away with Appledore, we have said this from the beginning and I remember very distinctly the night that we went on television, the Hon Minister for Economic Development, myself, Bob Peliza and Dr Isola. I remember that I defended very clearly that what we would do with that money was that we would go for a smaller yard with more specialised work because the skills were already there and that our case would be that some of that money would go towards investment in other areas to help the economy during the difficult period of transition, that was our case. The retort later from the Minister for Economic Development was that the British Government wouldn't have given us that money for that but that is his interpretation of his negotiations, of his economic planning with the British Government. We never

dealt with the British Government and he will remember that during that election campaign the AACR were saying that that was a starting date for employment and that we would go up to 1,200 or 1,300 and so on and so forth. And we told them that it was not in our economic interest to do that because if we are going to in the constraints of the economic development of Gibraltar expand to the extent which we are already doing and that is one of the symptoms and what we are going to pay for later, expand at such a pace without economic and manpower planning, why should we be spending money from ODA or from any other source, indeed, even from borrowed money, if all we are going to do is create jobs for people who at the time, now or in the future are not even living in Gibraltar at the moment. Why bring in people into a yard which, at the end of the day is going to mean jobs for people from outside. I am not saying as a Socialist 'let us not create jobs', what I am saying is that it is vital to Gibraltar's economic survival that whatever we do must be within those constraints first and that is not what you have done because what has happened is because of the conditions that Appledore were trying to impose, let us not forget when the Hon and Learned Chief Minister speaks about the overtime ban and so on, there was industrial unrest in the yard because the conditions which the company wanted to impose were totally unacceptable and not in keeping with what was being paid elsewhere, that is why. That was the situation and that is why the turnover today continues to be the same as it was before the industrial unrest and after the pay agreement. People will try to get more secure jobs elsewhere because the management has failed to create the right climate and it will take a long time even though there is industrial peace it will take a long time for people to say: 'There is a future in this yard under this management'. That is why people are going to the Government service. The other thing is, since the Hon Minister for Economic Development has brought it up, that in the private sector we have still got a situation where apart from a few good employers the rest in this rush for development and because they are bringing labour from outside, you have given 500 work permits during the last year for labour from outside, think that they can still impose cheap working conditions and that is why the union in that sort of situation will come up and say 'we want a national minimum wage', will come up and say 'we want redundancy payment' and that is a cost factor but it is a cost factor because the economic planning of the Government is not geared and the manpower planning of the Government is not geared and that is why what we have got ourselves in a vicious circle because your economic planning and direction is wrong and this is all costs that we are bringing in and at the end of the day the Government has to pay indirectly or directly unfortunately but that is the reality of the situation, it isn't that this side or any Member of this side is trying to stir it up everywhere, I am sorry, I will not accept that accusation. This is the second time I have stood up and I wish that the Hon Member had left it to me to defend him but he is quite capable of defending himself because I will not accept anymore, it is not criticism, it is hitting below the belt and so long as I am here as a Member of this Opposition I don't wish to hit anybody below the belt but don't push us into a situation where we are going to have mud slinging because that will lower the status of the

House. I don't want to get myself involved in that sort of situation.

HON CHIEF MINISTER:

I would like to say something if I may. Mr Chairman. I address my contribution completely to the subject matter before the House which is the voting of the money. A lot of things have been said outside that scope which may or may not have been necessary but there is only one thing I must answer the Hon Member for the record because he has made a very serious accusation. The AACR in 1972 in Opposition found itself in exactly the same position as Mr Neil Kinnock finds himself in the Labour Party with the militants, that he wants to throw them out because they will follow him and that is exactly what the AACR did by disaffiliating the union which was not only a question of rights for the union, they wanted to take over the party and that they would have done over my dead body. We did it constitutionally and within the right of our Constitution which was copied from the Labour Party Constitution of the United Kingdom.

HON H J ZAMMITT:

Mr Chairman, I have heard Mr Feetham, in particular, with great interest and I am delighted to see his socialistic concern for people. I wonder if he has the same concern for those ten taxi drivers that are unemployed, one of which he is directly responsible for.

MR SPEAKER:

Order, I will not have that.

HON J BOSSANO:

Do we now move on to the Coronia?

MR SPEAKER:

Order. I will not have that either. We will now take a vote.

On a vote being taken on Head 25 - Treasury, Subhead 82 (NEW) - Gibraltar Shiprepair Ltd - Consultancy, 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 25 - Treasury was accordingly passed.

Schedule of Supplementary Estimates Consolidated Fund No.1 of 1986/87 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No.1 of 1986/87.

Head 101 - Housing was agreed to.

Head 104 - Miscellaneous Projects

HON J BOSSANO:

Mr Chairman, we are voting against this. It seems to me that the outstanding claim from project consultants, one would have thought since the project consultants disappeared from the scene a very considerable time ago, one would need to know how come we are meeting this claim and, in fact, if my memory serves me right I believe the last settlement with the project consultants was the other way round. That is to say, that they paid the Government some money which was then put into the Improvement and Development Fund, I believe, because of the non-operation of the chute. Can we find out how come at this stage in the proceedings we are facing a claim from them?

HON M K FEATHERSTONE:

No, Sir, these are not the same consultants. These are the consultants that we used against the first consultants.

MR SPEAKER:

Does that satisfy the Leader of the Opposition?

HON J BOSSANO:

So these are the ones who got for us the reimbursement originally. Well, if that is the case they deserve to be paid.

Head 104 - Miscellaneous Projects was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.1 of 1986/87 was passed.

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.

HON CHIEF MINISTER:

Mr Speaker, I would like your leave to make a personal statement. In my enthusiasm to reply to Mr Feetham in his historical approach to the question of the AACR, I omitted to say the very first thing I wanted to say and that is that I totally repudiate the innuendo not perhaps deliberate but which was contained in the reference by the Leader of the Opposition to the question that people who want contracts go to 3, Library Ramp. I repudiate that as being totally untrue as much as I am sure we would repudiate any suggestion that was made at a meeting at which he took part in public during the elections that he was the economic adviser of certain firms and therefore that was why there are no conflict with certain firms and so on. These innuendos are made very often and to be made in the House by the Leader of the Opposition even though attempting not to give it credence, I would like it to be on the record that, as far as I am concerned, I have no dealings with anybody that has anything to do with the Government of Gibraltar. My Chambers deal with matters as Chambers of all lawyers deal with matters connected with development and so on and it is within the code of conduct of Members of the Government and Members of the Gibraltar Council.

MR SPEAKER:

May I say that I dislike insinuations and innuendos from either side. My attention was not drawn to it and I don't have to be asked that something should be withdrawn. The manner in which it was stated did not allow me to interfere otherwise I would most certainly have. But may I express my view that I dislike intensely any personal references to any Member of the House.

HON J BOSSANO:

I think really there was no need for the Hon Member to do so but if he wants to make that personal statement so be it. It is a good thing, of course, that I do not share the views of his Minister for Education who would have said in reply to that that if you defend yourself you accuse yourself and he would have said it in French like he did on television.

HON CHIEF MINISTER:

Pardon?

HON J BOSSANO:

His Minister for Education would say to that if you defend yourself you accuse yourself because that is what he said on television in exactly the same context. I have said to the Hon and Learned Member that I am sure that if his conscience is satisfied he will not care what they will say about it just like I don't care what he or his Party says about me because my conscience is clear of what I am doing with my life and with the interests but I defend, Mr Speaker. If he is as clear as I am

he will sleep as comfortably as I do at night.

HON CHIEF MINISTER:

But there were two different references that were made and I was not referring to the second one because the second one was in a normal way which I entirely share, that if my conscience is clear I have no problem but earlier on in his contribution he did say something about, 'it is also said that' and I don't want to refer to it again but I have made it quite clear that if that is what he said and has repeated what he said, it is untrue.

MR SPEAKER:

We will now continue with the First Reading of the European Communities Bill.

BILLS

FIRST AND SECOND READINGS (Continued)

THE EUROPEAN COMMUNITIES (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the European Communities Ordinance so as to include in the definition of 'the treaties' and 'the Community Treaties' certain provisions of the Single European Act signed at Luxembourg and The Hague on the 17th and 28th February, 1986, and to extend certain provisions relating to the European Court to any court attached thereto be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill gives effect in Gibraltar to the changes to the Treaties establishing the European Communities which were agreed in Luxembourg in December, 1985. The Luxembourg Agreement is contained in the Single European Act which was signed at Luxembourg and The Hague on the 17 and 28 February, 1986. Clause 3 of the Bill, Mr Speaker, amends the definition of 'The Treaties' and 'the Community Treaties' contained in Section 2 of the European Communities Ordinance to include reference to certain provisions of the Single European Act. By Clause 3, Mr Speaker, the whole of Title II of the Single European Act is applied to Gibraltar and Clause 3 also applies the Preamble and Titles I and IV of the Single European Act insofar as the Preamble and those Titles relate to the Communities or to any Community institution. Mr Speaker, all Members of the House have been supplied with a copy of the Single European Act and I think it would be useful if we were

to examine the Act in order to see exactly what we are talking about. Mr Speaker, the Preamble is set out on page 1 with the heading 'Single European Act' and it continues to the top of page 2, that is the Preamble. Title I, Mr Speaker, is set out on page 3. Title I 'Common Provisions' and it contains three Articles, that is Title I. Title II begins at the top of page 4 and continues to two-thirds of the way down page 19, and Title II finishes where you see the heading 'Title III'. Title III begins at the bottom of page 19 and continues to the top of page 22. Title IV shows the remainder of page 22. That is the long explanation. Hon Members may care to do what I have done, Mr Speaker, and that is to delete those provisions of the Single European Act which have no relevance or very little relevance to Gibraltar. I have deleted the whole of Chapter 1 of Title II on page 4 because it seems to me that amendments to the Treaty establishing the European Coal and Steel Community have little relevance to Gibraltar so I think for all intents and purposes you could put a line through the whole of page 4. Similarly, I have deleted Chapter III of Title II on page 18 and to the top of page 19 because, again, Mr Speaker, it seems to me that amendments to the Treaty establishing the European Atomic Energy Community have little relevance to Gibraltar. I have also deleted the whole of Title III from the bottom of page 19 to the top of page 22 because the Bill does not seek to apply Title III to Gibraltar. Title III deals with European Cooperation in the sphere of foreign policy and Foreign Policy, of course, is the preserve of Her Majesty's Government in London and it is no concern of Gibraltar or the Government of Gibraltar so I think we can take Title III completely out. Consequently, Mr Speaker, what we have to concern ourselves with is the Preamble insofar as the Preamble relates to any of the Communities or to any Community institutions. Title I insofar as Title I relates to any of the Communities or to any Community institution. The Bill applies to the whole of Title II and particularly insofar as Gibraltar is concerned, Title II which is set out from page 5 to 18 and Chapter IV on page 19. The Bill applies Title IV on page 22 insofar as Title IV relates to any of the Communities or to any Community institution. Mr Speaker, regretfully, I think it is now incumbent on me to go through the Single European Act and to speak particularly to those parts which are applied to Gibraltar. First of all, the Preamble on page 1. It confers no rights nor does it create any obligations, it expresses the intention and the highhearted hopes of the signatories to the Act. The principal significance of the Preamble is that it is part of the context of the Act to assist in interpretation, that is the only purpose of the Preamble. Title I on page 3. Again, Title I is only included insofar as it relates to any of the Communities or to any Community institution so consequently paragraph 3 of Article I which relates to Political Cooperation which is contained in Title III can be deleted because it does not apply and similarly paragraph 2 of Article III on page 3, that again refers to European Political Cooperation and that is excluded from the scope of the Bill. With regard to Article II, Mr Speaker, for the first time the European Council's existence is recognised in the Treaty, for the very first time. The composition of the Heads of State or Heads of Government; the President of the

Commission assisted by Foreign Ministers and a Member of the Commission reflects the existing practice. The European Council is now to meet at least twice a year. Before the Single European Act, Mr Speaker, customarily it met three times a year. I have dealt with Title II Chapter I on page 4. I shall deal, incidentally, with these when I come to deal with Clauses 4 and 5 of the Bill.

MR SPEAKER:

I am beginning to get confused. Did you not delete the whole of Section II?

HON ATTORNEY-GENERAL:

Yes, I did delete it, Mr Speaker, but it does have some relevance when I come to deal with it in Clauses 4 and 5. It has no relevance to Gibraltar but it is applied to it. Article V at the bottom of page 4 and, again this is repeated in two other Articles, this enables the procedure of the Court of Justice of the European Coal and Steel Community to be amended by the Council acting unanimously at the request of the Court and after consulting the Commission and the European Parliament. Title II, we have come to the nittygritty of it, Mr Speaker, Title II on page 5. Article 6 amends the following Articles of the EEC Treaty to enable new Cooperation procedure with the European Parliament to apply where Community legislation is adopted under them. The first one referred to is Article 7, this is referred to in paragraph 1 and Article 7 deals with the rules prohibiting discrimination on the grounds of nationality. Article 49 which deals with the free movement of workers. Article 54(2) deals with directives laying down the freedom of establishment. Article 56(2) deals with the coordination of legislation restricting freedom of establishment of self-employed persons on grounds of public policy, public security or public health. Article 57 of the Treaty which deals with mutual recognition of qualifications. This particular Article 6, Mr Speaker, also provides that the Cooperation procedure shall apply to acts based on five new Articles contained in the Single European Act, namely, Articles 100A and 100B which deal with the approximation of laws with regard to the internal market; Article 118A which deals with working conditions; Article 130E which deals with implementing decisions for the rationalisation of structural funds; and Article 130G(2) which deals with technology. With regard to all these Articles, Mr Speaker, the specified qualified majority is required for the adoption of acts by the Council. This specified qualified majority is something which I ought to deal with that is contained in Article 148 of the EEC Treaty. This was amended by Article 14 of the Spanish and Portuguese Accession Treaties. What this qualified majority means is that it is specified in paragraph 2 of Article 14: 'Where the Council is required to act by a qualified majority the votes of its Members shall be weighted as follows: Belgium - 5; Denmark - 3; Germany - 10; Greece - 5; Spain - 8; France - 10; Ireland - 3; Italy - 10; Luxembourg - 2; Netherlands - 5; Portugal - 5; the United Kingdom - 10'. For the adoption of acts under that particular

Article there must be 54 votes in favour where the treaty requires them to be adopted on a proposal from the Commission and 54 votes in favour cast by at least eight Members in other cases. Every time we talk about the qualified majority, Mr Speaker, it is as specified in Article 148 of the Treaty. Article 7 on page 6, Mr Speaker, this sets out the new cooperation procedure with the European Parliament. This introduces a new form of consultation with the European Parliament by enabling it to give an opinion not just on a Commission proposal for legislation but on the common position adopted by the Council of Ministers on a Commission proposal. The object of it is to allow Parliament to propose amendments to a proposal after the Council has formed a view on it but before the Council has formally adopted it part of community law. This is the Article which gives a say and a voice to the European Parliament which it hasn't had hitherto. Articles 8 and 9 on page 7 amend Articles 237 and 238. Article 237 deals with the accession of new Member States and Article 238 deals with association agreements with third countries or groups of countries. These two Articles provide that agreements to be concluded under them shall require the assent of the Parliament by an absolute majority of its Members, that is, not just those present voting. This absolute majority, Mr Speaker, means there are 518 votes in the European Parliament and to get an absolute majority you have to have one half of those votes, namely, 258 votes for anything that needs requirement for an absolute majority. Article 10, this really enables the Council to delegate certain powers to the Commission, it confers implementing powers on the Commission. The Council is free to exercise the powers themselves or to delegate or to confer them on the Commission to exercise. I shall deal with Article 11, Mr Speaker, on page 7, when I come to deal with Clauses 4 and 5 of the Bill. Article 12 on page 8, again enables the procedure of the Court of Justice of the European Economic Community to be amended. Articles 13 to 15, Mr Speaker, again are fairly important Articles in that they lay down the provisions establishing an internal market by the 31 December, 1992. What is this internal market? The internal market is described at the top of page 9: 'The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty'. This means, of course, that the free movement of goods, persons, etc, must be applied within the Community State and not to outsiders and therefore a Community country can retain full immigration control insofar as non-EEC Members are concerned but within the Community there must be free movement of persons, goods, etc.

HON J BOSSANO:

Will the Hon Member give way? Is it that under the common external tariff means that this does not apply in the case of goods to Gibraltar? It applies to services and capital and persons, presumably, but not to goods in our case?

HON ATTORNEY-GENERAL:

Free movement of goods does not apply to Gibraltar.

HON J BOSSANO:

And this doesn't change, does it?

HON ATTORNEY-GENERAL:

No, that doesn't apply. When I come to deal with the actual provisions for implementing this internal market we will see what applies to Gibraltar and what doesn't apply. You will note by Article 14, Mr Speaker, that the Commission is required to make progress reports to the Council before the end of 1988 and 1990. The Council will be able to determine the guidelines to ensure that progress is made in a balance not just in one area and not in the other. Article 16 on pages 9; that amends, Mr Speaker, certain provisions of the Treaty which are related to the new internal market to allow for qualified majority voting so you can now get these articles through by a majority whereas before in many cases you needed a unanimous vote. Article 17 on page 10, that provides for the harmonisation of legislation concerning VAT, Excise Duties and other forms of indirect taxation to the extent that such harmonisation is necessary to establish the new internal market. Gibraltar is not required to harmonise on VAT and it is not required to harmonise on excise duties and indirect taxation on goods. Articles 18 and 19 on pages 10 and 11; these introduces two new Articles, Article 100A and Article 100B which supplement the existing Article 100 which is the basic provision providing for the approximation of laws with regard to the internal market. Article 100A which is contained in Article 18 on page 10, this provides that the Council shall act by a qualified majority for measures approximating national laws where the object is the establishment and functioning of the internal market. The Article 100A procedure will not apply to fiscal provisions nor will it apply to the free movement of persons or provisions relating to the rights and interests of employed persons. The Commission's proposals envisaged by Article 100A which concern health, safety, environment and consumer protection, will take their base at a higher level which might exist in any Community country rather than the lowest common denominator having regard to the equalisation standard, so you are taking the highest common factor and not the lowest common denominator. Article 100B, Mr Speaker, provides that in 1992 the Commission will draw up an inventory of national laws which ought to be harmonised by the end of 1992 Article 20 on page 11 provides for cooperation in the field of economic and monetary policies. Article 21 on page 12, Mr Speaker, it introduces a new Article 118A which provides for further improvements in health and safety at work and for the minimum requirement on the health and safety of workers. Article 22 on page 12, Mr Speaker, introduces a new Article which provides that the Commission shall endeavour to develop a dialogue between management and labour at European level which could, if the two sides consider it desirable, lead

to relations based on agreement. Article 23 on page 13 aims at strengthening the economic and social cohesion of the Community. Article 24 on page 14 aims at strengthening the scientific and technological development of the European industry. Article 25 on page 18 deals with the amendments establishing the European Atomic Energy Community. Article 27, again refers to the Court of Justice and enables it to amend its procedures. Article 28 which may be of some interest to Members, contains intact the provisions, derogations etc, which are contained in the Spanish and Portuguese Accession Treaties. Article 29 deals with Euratom which has no relevance to Gibraltar. Article 30 in Title III deals with the European Cooperation in foreign policy and is not included. Article 31, Mr Speaker, ensures that only Title II and Article 32 affect the powers of the Court of Justice. Article 32 ensures that only Article 3(1), Title II and Article 31 affect the Community treaties. Article 33, I will deal with when I deal with Clause 2 of the Bill. Clause 34 deals with the depositing of texts of the Single European Act. Mr Speaker, before dealing with Clauses 4 and 5 of the Bill I would refer you to Article 11 on page 7, this is the one on the European Court and insofar as they have any relevance, Article 4 on page 4 and Article 26 on page 18, all three Articles dealing with the European Court. Each one of these Articles, Mr Speaker, deal with the setting up of a Court which is to be attached to the Court of Justice and this new Court will have jurisdiction to hear and determine at first instance certain classes of action or proceedings brought by natural or legal persons. In case any such Court is set up it is necessary to amend certain provisions of the European Communities Ordinance and the Criminal Offences Ordinance to include a reference to this new Court. Certain provisions in both the Criminal Offences Ordinance and in the European Ordinance refer to the Court of Justice and all Clauses 4 and 5 of the Bill do is to amend these provisions by adding the magic words 'or any court attached thereto'. Wherever you see the words 'The European Court of Justice' insert the words 'or any court attached thereto'. Clause 2 of the Bill, Mr Speaker, postpones the coming into operation of the Bill to a date to be prescribed by the Governor by notice in the Gazette. It is intended to bring the Ordinance into operation on the date when the Single European Act itself enters into force and by Article 33(2) on page 22 the date will be the first day of the month following that in which the last instrument of ratification is deposited in accordance with Article 33(1). It wasn't as long as I anticipated, Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, I am not sure whether this, in fact, has the effect of requiring us to move faster than we have done in the

past in bringing our legislation into line with Community standards and Community directives and I think it is an important point of principle, on the general principles of the Bill, that we should clear up because if all that we are doing is going through the motions of passing this with every intention of paying lip service to it and then doing nothing more. For example, in an area like consumer protection which I think the Hon and Learned Attorney-General talked about the harmonisation process being on the basis of extending the provisions that are highest so that, for example, presumably if in Holland there is greater consumer protection than in Portugal it means that the Portuguese will have to come up to the Dutch standard and not vice versa and that would have to apply to us.

HON ATTORNEY-GENERAL:

If Parliament has a higher standard than that required by the Community, the higher standard should stay, Holland would not be required to come down but if Portugal has a low standard Portugal would be required to come up to the Community norm. Everybody has to have the lowest common denominator but if some countries have a higher standard then the Community is not going to ask them to reduce their standard.

HON J BOSSANO:

But it doesn't mean, in fact, that the norm will become what is the highest standard?

HON ATTORNEY-GENERAL:

No, not necessarily.

HON J BOSSANO:

I am grateful for that clarification, Mr Speaker. We are not absolutely clear whether it means in fact that the Single European Act will impose an obligation which is already in existence under the Treaty of Rome or whether it is really just a paper exercise. Does it mean as a result of this that we are going to be required to go further along this process of European integration than we would have done formerly? I think that is an important point of principle in the whole basis of the Bill that we are passing.

HON CHIEF MINISTER:

Mr Speaker, there is an ongoing controversy in the United Kingdom about this Act and there is no doubt that to the extent that Britain approved of the Act to that extent an element of sovereignty has been taken away from the British Parliament insofar as affairs with the Common Market are concerned. In an article in the Daily Telegraph of the 13th June, 1986, Dr Caroline Jackson who Members will remember is a Member of the Gibraltar in Europe Representation Group, wrote in the Daily Telegraph in reply to somebody who had written a letter against

the Act. 'Those who express grave doubts about the Single European Act and the effect of Westminster need to ask themselves two questions: (1) Do they seriously believe that there is any viable alternative to our membership of the EEC and, if so, what? (2) If they are in favour of Parliamentary control then why not turn to the European Parliament already the only directly elected body in the EEC specifically consulted by the European Commission on draft legislation?' In this respect, I think we ought to realise that the Single European Act does give more powers to the European Parliament than they had before. She goes on: 'The Single European Act is part and parcel of our membership of the EEC, it brings the Treaties up-to-date with some very mild changes. There will be more majority voting in the Council to help achieve the 1992 target established in a complete open market in Europe'. The extent to which the British Government oppose this and did not become a party to it is insofar as foreign affairs are concerned when there has to be unanimity. I hope the Attorney-General doesn't disagree with some of the statements I have made but that is my reading of the Treaty. And it says: 'Since Britain currently runs a trade deficit with the rest of the EEC, we ought to gear ourselves to take advantage of the open market, if we don't our partners certainly will. Those parts of the Single European Act which facilitate travel within the EEC, yes, European passports will seem to be to most of us plain commonsense. As for the House of Lords comments on the effects of the Single European Act on Westminster's powers anyone who has observed our Parliament since 1973 will have realised that it exerts only the sketchiest control over European matters now. The usual procedure is for Ministers to inform the Commons after a decision has been taken in the Council. The importance of the European Parliament lies in the fact that we should consider proposed amendments and give our opinion on legislation when it is still in draft, in a better world perhaps now opened up by the Single European Act we would collaborate closely with our national Parliament to alert them to proposals for action by the Commission on which the question should be raised with Ministers before the Council of Ministers takes a decision'. Obviously here the European Act is in favour and therefore she makes the case for the fact that more consultation with the European will give more time for the Cabinet in England to be aware of what is coming to be able to make objections. But all is not that easy. In another Article by E E Attlee who is a regular columnist of The Telegraph published shortly after, I think, it says: 'Mrs Thatcher fought hard to avoid the need for any such Bill maintaining that there was no need to revise the Treaty of Rome at all but she was defeated at the Milan summit in June, 1985'. So that really the British Government fought against that and what they were able to come out with is the limitation to which she agreed, the Preamble, which is only a declaration of faith, I suppose, in legal terms other than that to some extent and which nobody can object to and in any case it hasn't got the validity of law. The question of majority rule as explained by the Attorney-General in respect of limited subjects and to a limited extent the more involvement of the European Parliament and the creation of an additional Court to the European Court which, of course, is purely to deal with personal and not national claims other-

wise those are the general principles. We as Members of the European Economic Community must, to the extent that it is required of us, do so whether we like it or not. I don't think there is much to dislike because the decisions that are to be taken in these respects mainly are decisions at the level of Member Nations and not at our level and there is nothing that I can find which is of particular effect in Gibraltar other than the overall effect that it has on the membership of the United Kingdom of the EEC.'

HON M A FESTHAM:

Mr Speaker, when we talk about the Single European Act and the consequences that this has on Gibraltar in the wider aspect of European unity, we are doing so in the understanding and knowledge that we are actually having to comply with legislation and directives and regulations by virtue of the fact that we are in the European Community with Britain. There is, of course, a conflict insofar as our right as a people, the people of Gibraltar are concerned, when we come to face this sort of legislation in that (a) it tends to give most of the rights to the European Assembly and Parliament and therefore it takes it away from the Member States and the Parliament of Member States. I know there is a public debate about it and everybody have got their point of view but it does give more sovereign rights but as far as Gibraltar is concerned, it takes even more rights away because we happen to be the only community in the European Community today who haven't got the right to vote to the European Assembly and haven't got the right of direct representation. It seems to me that although we are a little people and we are being pushed along and we are advised that there is very little that we can do about it except go through the rigmarole and process of listening to the Hon and Learned Attorney-General explain this in a most eloquent manner half of which I haven't understood to be quite frank, at the end of the day what does this mean to me? It means to me that more rights are being taken away from the people of Gibraltar and more responsibility, on the other hand, is being given to us. I think that a little voice of protest somewhere along the line is not unwelcome. The Opposition, primarily because of what I have said and we have said previously when we have discussed European Community matters, the Opposition will be voting against the Bill precisely because of that.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, I don't.

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

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

This was agreed to.

The House recessed at 1.00 pm.

The House resumed at 3.40 pm.

COMMITTEE STAGE (Continued)

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the European Communities (Amendment) Bill, 1986, clause by clause.

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

THE EUROPEAN COMMUNITIES (AMENDMENT) BILL, 1986

Clauses 1 to 5

On a vote being taken on Clauses 1 to 5 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

Clauses 1 to 5 stood part of the Bill.

HON CHIEF MINISTER:

I would like to draw attention to the fact that the operation of this Bill will not come into effect until the Bill and the Act has been passed in the United Kingdom.

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986, with amendment; the Education (Amendment) Bill, 1986; the Criminal Offences (Amendment) Bill, 1986, with amendment; the Supplementary Appropriation (1986/87) Bill, 1986; and the European Communities (Amendment) Bill, 1986, have been considered in Committee and agreed to and I now move that they be now read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Specified Offices (Salaries and Allowances) Bill, 1986; the Insurance (Motor Vehicles) (Third Party Risks) Bill, 1986; the Education (Amendment) Bill, 1986; and the Supplementary Appropriation (1986/87) Bill, 1986, the question was resolved in the affirmative.

On a vote being taken on the Criminal Offences Bill, 1986, and the European Communities (Amendment) Bill, 1986, 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 Montefrizzo
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 J BOSSANO:

Mr Speaker, I beg to move that: 'This House notes the Principal Auditor's Report for the financial year 1984/85'. Mr Speaker, we have brought the motion to the House because two years' ago we initiated that practice following the decision of the newly elected GSLP Opposition not to take part

in the Public Accounts Committee that had previously existed and we thought it was better, in fact, because we didn't think as our role the day-to-day questioning of civil servants, as far as we are concerned, we question the Government and then it is up to them to question the civil servants, we thought it was better that it should be done in this way and the first time we did it we were told by the Government that it was desirable that we should wait until the House subsequent to the Report being tabled to give them enough time themselves to look into it. Last year, in fact, the Government moved the motion in the first meeting of the House when it was tabled and this year, in fact, we are reverting to what we consider to be the correct practice of us moving the motion since it gives the Government having had the Report the chance to reply to any points that we raise and for us to come back and say whether we agree with their replies or not. I think, a number of things in the Report, of course, reflect some of the debates we have had previously in the House and as far as we are concerned they tend to support the line that we have taken. I think in particular we have got the situation of the money that is unspent in the Consolidated Fund and the yield from the investment of that money in short term gilt edged securities or even in a bank account the yield of that money until it is invested in the projects for which it is intended should, in our view, be seen as revenue for the I&D Fund and not as revenue for the Consolidated Fund, we are seeing a reflection of that here and the Auditor mentions that although the way that it has been done he is obviously satisfied that that is a reflection of the value of the income to the Fund and consequently as long as that is happening, it is not a question, as far as we are concerned, of nit picking or concentrating on any technicality, what we are concerned about is that a true reflection of the income and expenditure of the Government should be one that divorces the capital fund and the resources of the capital fund from the recurrent expenditure and the resources of the recurrent expenditure. This is why, for example, we voted against the last Loans Empowering Ordinance which gave the Government the ability to use loan capital for recurrent expenditure. And it is consistent with the changes that have taken place in the Estimates over the years where the Non-Recurrent Public Works vote initially was reduced considerably by the actual project being moved into the Improvement and Development Fund, I think it was when Mr Collings was the Financial and Development Secretary, and then more recently it was done away with altogether and we had just one Public Works vote. An obvious area of interest to us, Mr Speaker, is the coming and going of the correspondence on the GSL shareholding, obviously. We support the view of the Auditor that that shareholding is part of the assets of the Government and should be shown as part of the assets of the Government not as a footnote and we think that the Auditor is right in saying that there is an inconsistency in saying the £1,000 of shares in the Gibraltar Quarry Company forms part of the Consolidated Fund, the £18m of shares in GSL do not form part of the Consolidated Fund because technically, as far as we can tell, independent of the size of the enterprise or the value of the shares, the relationship between the Government is supposed to be identical. What we would like the

Government to consider and perhaps the Hon and Learned Attorney-General can give some thought to whether this is compatible with the Public Finance Ordinance or with the Constitution because both make reference to the Consolidated Fund and to the Improvement and Development Fund, whether it is compatible to have such shareholdings shown as part of the assets in the Improvement and Development Fund rather than in the consolidated Fund because we believe that the Consolidated Fund as the Auditor points out, ought to be really as it used to be before the Special Funds were set up, a Cash Fund because it is a measure of the liquid reserves available to meet a cash flow problem, the kind of problem that the Hon Financial and Development Secretary has been telling us GSL has been facing, well, that is what the Consolidated Fund is there for. We have got the Contingency Fund with \$200,000 but that really is only to provide money in between meetings of the House of Assembly before approval can be obtained for the expenditure, it is then topped up again from the Consolidated Fund. So really the cash in the Consolidated Fund is what is supposed to take the Government over a situation where they might have a lot of bills coming in and revenue being held up. That in a way is almost as if they had their own overdraft facility on which to draw and that cash in there was cash until the Special Funds created the relationship between the Funded Accounts initially the Water, Telephone and Electricity and subsequently Housing as well, where the income of those Funds is based not on receipts but on demand notes. We had a situation where until the Special Funds were set up when the Government issued an electricity bill if it didn't get paid it didn't show in the Estimates of Revenue and Expenditure and it didn't show in the Consolidated Fund and it was an asset that didn't appear anywhere, this was before the Special Funds. When one is looking, and it is a point we have made before, Mr Speaker, when one is looking, for example, at the strength of the Government's financial position if we go back to a situation, for example, in 1972 when the Consolidated Fund had \$1.4m, it was \$1.4m in cash. If we go to a situation where you had in 1978 \$2.2m, the \$2.2m including all the unpaid bills might be less money than the \$1.4m was and therefore it means that unless you know at any one point in time how much of the actual figure shown as the balance of the Consolidated Fund is cash then, effectively, you are getting a false picture and that argument seems to me to have been reinforced by the argument of the Government in reply to the Auditor that if you then put in the shares in GSL as part of the Consolidated Fund which cannot be easily translated into cash, effectively you are creating an even more of a false picture. The validity of that argument is correct but it is only correct if one is consistent and carries that argument straight through. What we would like to see certainly is a situation, quite frankly, where the Consolidated Fund and the revenue of the Government reflect the actual cash coming in because that gives us a better idea of the true position. Perhaps a way can be found that the actual unpaid bills are still shown in the Special Fund until they get paid and if it were possible to show the Quarry Company shareholding and the GSL shareholding and, for example, if there is a move in the telecommunication field which would also involve a Government shareholding, then those would be

assets and those assets would be, in a way, the same as the assets that are obtained by investment from the Improvement and Development Fund. It may not be possible because clearly the Improvement and Development Fund was not intended for this and we know that but what we are saying is that if we need to show the shareholdings in Government-owned companies somewhere then it seems to us that if the choice is either the Improvement and Development Fund or the Consolidated Fund, the Improvement and Development Fund is a more appropriate vehicle because it is a vehicle where we hold at the moment the cash which is intended for capital investment and an investment in shareholding is of the same nature as an investment in a building or an investment in equipment, the reality of it is that, of course, that in the Improvement and Development Fund once the investment takes place since there is no balance sheet there are no shareholdings. At the moment what we have in the Improvement and Development Fund is a cash reserve position which is the balance at the end of the year and we have in the Consolidated Fund a reserve position at the end of the year which is made up, as the Auditor points out, of three elements; £1,000 shares in the Gibraltar Quarry Company; unpaid bills and the cash. We think a move to keep just the cash in the Consolidated Fund, a move to keep the unpaid bills in the Special Funds to which they relate and a move to transfer, it would be a paper exercise, but to transfer the assets to the Improvement and Development Fund and use the Improvement and Development Fund as if it were a holding company holding the shares in Government-owned businesses or in businesses in which the Government participates, would give us a much better reflection of the true reserve position for dealing with day-to-day running expenses of the administration of Gibraltar which is one issue. It would give us a Fund which would show the assets that the Government has got from time to time, however liquid or illiquid those assets might be and I think it meets, quite frankly, both the argument put forward by the Principal Auditor in his Report and in his complaints that at the moment the shareholding of GSL technically does not appear on the balance sheet of the Government and consequently is not there and there is an inconsistency between that and the treatment of the Quarry Company shares, whilst also meeting the argument of the Financial and Development Secretary that to include such a massive shareholding would distort the true reserve position and give an impression of financial strength which is not really there because the shares are not quoted on the Stock Exchange and they are not easily realisable and certainly if they don't get the money from the ODA then the writing down of the value of the shareholding could be very substantial without a doubt. It may be, Mr Speaker, that the Government will not be able to give us any response on the spot to what we are saying but it would be useful to know that they are prepared to

give some thought to that and give us an answer one way or the other. There are two different aspects and this is why I brought the Hon and Learned Attorney-General into it. I think we would need to know whether it is permissible to do it, that is, whether it is compatible or incompatible with the provisions of the Constitution. If it is not permissible then there is no more to be said, if it is permissible then it is a matter of policy whether it is desirable or not. I think that on the whole, Mr Speaker, the other point that I wish to make about the Report as a whole is that there are a number of areas, for example, if we look at the Labour and Social Security paragraph on page 20, the Auditor mentions in Section 54 the need to establish better procedures for controlling the contributions by employers to the Social Insurance Fund. We think that when there are important areas like this to which the Auditor draws attention then it would be desirable that the Government, at some stage, should report back to the House whether there has been any progress in this matter and to what extent action has been taken to put that right. We sometimes find that a comment like that appears in one year and does not appear in the subsequent year and we don't know whether that is intended to reflect that the situation has now been corrected or whether it is just that the Auditor feels that having made the point one year it is up to the Government to do something about it and there is no real need for him to keep on repeating the same thing. Going over the years, of course, Mr Speaker, I am sure you will agree that there have been many, many occasions when the Auditor's Report has simply said that this has been brought to the attention of the Department, that the Department has said they were going to do something about it or look into it and then the same comment appears afterwards and I think it was that kind of apparent lack of response, I think, that initially created some of the impetus for the setting up of the Public Accounts Committee of the House. Although we hold different views on that and we felt that sometimes the performance of the Public Accounts Committee was counterproductive in that they appeared to be almost hounding certain departments and instead of making for the department to work better I think one can overdo a situation where effectively you deprive people of the incentive to take any decisions at all for fear that if they take a decision they are exposed to making a mistake and if they make a mistake they expose themselves to being hammered and therefore it is safer not to take a decision. I think one needs to avoid that but on the other hand I think the importance of the Auditor as the officer that in a way is the watchdog for the Government and the watchdog for the public purse and the watchdog for the efficient administration of the affairs of Gibraltar is an important one and therefore he must be seen to have the full support of the House. It is really his expertise and his knowledge on which the House has to rely to ensure that the

money that we vote in the Estimates are effectively well spent and that the department is acting efficiently in implementing the policies that are decided by a majority in this House and, consequently that support can only be reflected if the comments that he makes and the criticisms that he makes are taken seriously and action is taken to put them into effect or, at least, to satisfy him if they are not put into effect that there are compelling reasons why it cannot be done.

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

NON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I shall not delay the House long. I would like to thank the Hon Leader of the Opposition for, what I think were, sympathetic and constructive comments on those parts of the Auditor's Report which he dealt with during his speech. He is quite right, there was a fair amount of correspondence between the Principal Auditor and myself and, indeed, the Attorney-General was brought in as well, on the question of the proper accounting practice as described. I think the Leader of the Opposition has, in fact, put the dilemma very fairly that there is a problem one does not want to see the Consolidated Fund further distorted in any way by the inclusion of the value of the GSL shareholding while at the same time naturally one must have regard to the provisions of the law and the Constitution and what it says however imperfect in financial terms it may be in some respects. I think I would agree with him and he knows this but the problem is one of reconciling between the trading accounts and therefore the non-cash element in the trading accounts and the cash accounts of the Government to a very large extent and this leads to the inclusion in the Consolidated Fund as we have often acknowledged in debate in this House of an element of non-cash and I think the Principal Auditor quotes himself somewhere commenting on my own remark that by custom and convention the Consolidated Fund is understood as a source of yearly liquid reserves. He points out that the total due from these funds on the 31st March, 1985, was some 66% of the value of the Consolidated Fund and I agree that taking his comments with mine they do look a little contradictory. As the House will know the Government have been giving some consideration to this question of separation of the cash and the trading element. Ironically, the Principal Auditor himself was a member of a Study Group in the 1970's which, in a sense, brought about the present situation by making recommendations in a Report which he now, I think, recognises as perhaps not having been the best solution. It was certainly a very ingenious solution, it had my admiration if not my understanding for the first few months when I was Financial Secretary but I think there is a way and we have been

studying it by which one can maintain the Government's estimates and, indeed, the Consolidated Fund on a purely cash basis so that what we are talking about in the main I think it is page 5 of the Estimates, for example, which is probably the document most familiar to all of us, that would be on a cash basis but you would provide a reconciliation between the Government's cash accounts and the trading accounts but not to this rather curious and Byzantine device of reimbursement which means that you are, in effect, producing something of a non-consolidation. The way to do it, I think, would be to provide what in fact was the standard solution to this problem in the UK, for example, with the old Post Office when it had commercial accounts but was still a Government Department. You produce your estimates of revenue and your expenditure, cash received from bills paid and your expenditure in the Electricity Department but you provide separately a commercial account which includes all the non-cash items, debtors and creditors, of course, accruals, depreciation ie financial charges, capital charges and management charges, the notional charges which we now include as a trading account, and it is possible to do this and I think it is possible to do it without a great deal of additional effort in staff resources. This, I think, to be fair to those who looked at this problem in the 1970's, they felt that to do it any other way would be costly or expensive in staff resources but I am not sure that that is so. However, as I said, we are considering this and I shall be putting forward proposals to Council of Ministers involving that and, of course, the Telephone Service as well in due course. There is just one other point I would like to mention, Mr Speaker. The Principal Auditor has referred to the improvement in collection of revenue of the arrears of municipal services and there is no doubt that improvements have been made particularly over the past two years. He is quite right to say that some revenue or the collection of other revenue has given rise for some concern, of course, one of the items which does is that of rates where there has unfortunately been an increase. As the Principal Auditor himself says, the problem here is the enforcement mechanism. It doesn't take very much to realise that while the Government has with telephones, electricity and water always the option of cutting off the supply in the event of non-payment of bills which is a fairly severe but nevertheless in the ultimate an effective sanction, this is not the case with rates. You cannot cut off rates, there is only the procedure, a fairly long involved and lengthy one involving the Courts. However, we have also been looking very carefully at this particular problem in conjunction with the Court and I am hopeful here of some improvement in the not too distant future. One of the features of the increase in the arrears of rates is, of course, the fact that the 5% penalty for non-payment is being continually compounded so that of a figure of, I forget what it is, at the

end of the 1984-85 or indeed a more recent figure, something as much as a third of the arrears represents this compounding element. It isn't really very sensible to have a system which is clearly not producing the effect originally intended and I shall also be making proposals to Council of Ministers on this very point in the not too distant future. That is all I would like to say, Mr Speaker.

HON J E PILCHER:

Mr Speaker, really only a very minor point to deal with the Tourist Office. It is a very minor point, as I say, although I think in principle it is a point which is important. I am referring to page 24 of the Auditor's Report on the hire of St Michael's Cave and since we are noting the Auditor's Report we should be noting the comments. It is not our policy to deter people from using this undoubtedly beautiful setting for various functions, private functions, but I am worried about the comments made by the Auditor that there has been a departure of an agreed procedure which is, up to a point, an abuse of a public place. As I say, the amount of expenditure is minimal we are talking about £1,830 but there is a departure from the agreed rules governing this and as a result there has been money which has been used from public funds and has not been accounted for. I would also like to ask whether this expense takes into account costs on the Public Works like electricians, cleaners, labourers and other expenses which are incurred in these functions and my question is which were those functions and why was there a departure from the procedure? What is worrying, Mr Speaker, is the fact that in paragraph 68, it says: 'I have not received any satisfactory explanation from the Department for the departure from the approved policy in the case of the six functions mentioned above'. I hope since we are noting the Auditor's Report that we will note this and ensure that the procedure is adhered to.

Hon CHIEF MINISTER:

Where is it.

HON J E PILCHER:

Page 24, the hire of St Michael's Cave and this is paragraph 68 which is the one I quoted. Thank you, Mr Speaker.

HON H J ZAMMITT:

Mr Speaker, Sir, on the question of the hiring of St Michael's Cave mentioned in the Auditor's Report, what occurred here was that in the past we used to make provision in the Estimates so

that we could bear the cost of the overtime factor involved in the running of the Cave for a particular function and then we would charge the people using the Cave for that cost. It was then discovered, Mr Speaker, that particularly since the frontier opened, that we do not hire the Cave out for a commercial enterprise and, in fact, the only times the Cave is, I use the word 'hired out' in brackets, it is to those institutions that perform up there for charity. In those circumstances it is Government's policy to assist charities in particular and therefore what happens is that in the past whereas we used to pay the overtime element to the Public Works Department or to the Tourist Office set-up if overtime was required, today it is footed from our own vote and does not go elsewhere. The Auditor has commented on this in the past, Mr Speaker, but it seems to me the most equitable way of getting round this otherwise very cumbersome situation. An enormous amount of overheads is involved and, in fact, to hire the Cave out if we were to analyse the costs of it, would be very much in excess of what charitable institutions could afford. If the Hon Member would care I am quite prepared to let him know that the main user of the Cave today on charity is probably the Albuhera Band or the Royal Marines that may come here once or twice a year and perform.

HON J E PILCHER:

If the Hon Member will give way. The charitable organisations, part of it is well covered in paragraph 67 and I don't think the Auditor does comment on the fact that it is agreed that the policy should be to help charitable organisation but this is talking particularly of six functions held at the Cave which could not be for charitable purposes because he wouldn't have commented on it if it had been, so it must have been that at one stage the Cave must have been hired out commercially for these functions and this is what I am trying to clarify.

HON H J ZAMMITT:

This was in the past, Mr Speaker, it certainly doesn't occur anymore.

MR SPEAKER:

Are there any other contributors to the motion? Does the Mover wish to reply?

HON J BOSSANO:

I haven't got anything to say, Mr Speaker, except that we haven't had any indication from the Attorney-General as to

whether what I suggested is permissible or whether he has any idea. I will give way if he thinks he can say something now.

HON ATTORNEY-GENERAL:

Mr Speaker, I was going to look into it. At the moment as the Constitution reads, Section 63, I don't think it would be permissible as things stand at the moment. What you would have to do, I think, is to provide by law for the revenues or other moneys into some other Fund established for a specific purpose. Therefore it will need an amendment, as I see it, to the Public Finance (Control and Audit) Ordinance to set up, if you like, a Government Investment Fund and if such Fund was set up then, of course, Section 63 would permit the payments to go into that Fund. I was going to investigate this more fully but that is my off the cuff view on Section 63 and I think it is something that the Financial and Development Secretary is considering.

HON J BOSSANO:

Mr Speaker, I would just like to comment on what the Hon Financial and Development Secretary said about what happened with the Special Fund and the ingenious way in which the money is shown back in Government's account through reimbursement. I think, of course, one of the detractions of the present system is that it does have an effect on inflating the level of revenue and expenditure because, effectively, the same thing is being counted three times, it is counted on the expenditure side and then it is reimbursed as Government revenue and I think when we move from notional accounts to the Special Fund effectively there has been this inflated impact on public spending which the Government revenue and expenditure effectively shot up although nothing more was being spent than what has been spent before because of the movement of money, at least on paper, backwards and forwards between the four Special Funds and the Government, either as reinvestment of capital charges or as interest payments or whatever. Certainly, we would welcome the move in the kind of direction the Financial and Development Secretary is talking about and I think if we go back to the original system we used to have before the Special Funds when at the back of the Estimates we had the notional accounts, essentially our big complaint about the notional accounts was that because they were notional accounts produced with the Draft Estimates at the beginning of the year there was never any attempt to give us a final account. The answer we got from the Government in setting up the Special Funds went well beyond the complaint that we had been putting in the House and produced something totally different. What we had been saying in the House was, OK, if we are being given an estimate of what it is anticipated is going to be the performance of the electricity

account over the next twelve months we then want to know at the end of the year what has been the actual result so that we can compare the historical account with the projected account so that we know whether we are actually moving into a subsequent year with an inherited deficit or surplus. Whereas the notional accounts were started every year on the 1st April as if the Electricity Department was being created new every year and there was no continuity between one year and the other. I think really that was the most important point from our point of view and in going into the Special Fund something much more complex was created which incidentally and, I think unintentionally, had the effect of inflating the accounts of the Government by virtue of the practice of the reimbursement which then when you are looking at Government revenue the bigger the deficit the bigger the revenue, basically. I think that anything that corrects that and gives a more realistic and more easily understood picture of the Government's position the more welcome it will be.

At the end of the debate the House noted the Principal Auditor's Report for the financial year 1984/85.

HON J BOSSANO:

Mr Speaker, I beg to move that: 'This House does not approve the terms of the Agreement entered into between the Government and Banque Indosuez on the 18th day of June, 1986, to borrow £4 million'. I anticipate that the Hon Financial and Development Secretary will not be as warm in his welcome of what I have to say on this motion as he was in what I had to say on the last motion. The Opposition, Mr Speaker, was informed by the Hon Financial and Development Secretary in the Budget debate that of the £6m that the Government was raising in loans, £4m were intended to repay the Midland Bank loan because it had been possible to borrow that money from Banque Indosuez at a lower rate of interest and that consequently all that was involved was a reduction in the cost of borrowing and a reduction which we obviously supported. There is no way that we as an Opposition would say to the Government: 'We want you to pay higher interest than you need to pay'. I think that the House was deliberately misled on that point by that statement because, of course, there is much more to it than simply a reduction in the interest charges. Had we known what there was in it, which we now know from the terms of the loan that we have had tabled in this House, then we would have said at the Budget that we would not support the Government. Of course, the Budget contained the innovation as well of including the £6m in the Estimates and in the summary of revenue as if this was recurrent revenue whereas in the past the loan income has been shown separately on page 5 and not included so if we look at page 5

it is easy to see how misleading these things are, Mr Speaker, because anybody coming along and looking at page 5 would say to himself: 'Recurrent revenue - £72½m, does it not imply that you are going to be borrowing £6m every year otherwise how is it recurrent?' We said that on the £4m we supported the Government because we had been told that it would reduce the cost of borrowing and we are saying we were deliberately misled. On the other £2m, if you will recall, Mr Speaker, what we said was that we did not support the Government because they were keeping £½m of that and putting it into the reserves ostensibly for meeting recurrent expenditure and we are against borrowing money for recurrent expenditure and we voted against the Loans Empowering Ordinance because the Loans Empowering Ordinance on this occasion, uniquely and for the first time in our history permitted the Government to do that. Although one could argue that to the extent that you are borrowing money from one Bank to pay another Bank you are using it to meet recurrent costs, we couldn't know that for sure until we saw what was happening with the terms of the loan and therefore it appeared to us that the explanation we had been given on the surface was a reasonable explanation and that we should support that. Of course, now that we have got the new loan and we have got the old loan, what we find is that the difference, Mr Speaker, between the cost of borrowing from Midland Bank and the cost of borrowing from Indosuez, unless we have understood this agreement incorrectly in which case the Hon Financial and Development Secretary will be able to put us right, but as we see it the difference is three-eighths of 1%, that is to say, that we are paying to Indosuez Libor plus ½% and we were paying to Midland Libor plus seven-eighths per cent so what we are saving is three-eighths of 1%. However, against that three-eighths of 1% we have to offset the commitment fee for the loan of Indosuez, I will give way if there is something I have said that the Hon Member cannot understand.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I always hesitate to challenge the Hon Gentleman's arithmetic but did he say that the difference between seven-eighths and one-quarter is three-eighths?

HON J BOSSANO:

Five-eighths.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Five-eighths.

HON J BOSSANO:

We are talking about a sum of money, Mr Speaker, over the three year life of the loan of something like £20,000 to £25,000, that is what we are talking about, that is the kind of saving. That is to say, had we had two loans of £4m on which we would have had to pay interest for the next three years and one was seven-eighths over Libor and the other was one-quarter per cent over Libor, with the repayment periods involved the figure comes to something like £25,000. Even that amount of money, if we are saving £25,000/£30,000, fine, if we can save that money then why not, there are better things to do with that money than push up the profit figures of Midland Bank. However, it isn't as simple or as straightforward as that because, in fact, if the Government had not done that, suppose the Government had not been able to get a loan from Indosuez which was at $\frac{1}{4}\%$ over Libor instead of being seven-eighths and they were not able to argue that we were borrowing cheaper, does that mean they wouldn't have done this? They would then have had to pay back Midland Bank beginning this year because the loan that was negotiated in 1981 was a loan that allowed the Government a period of grace in the repayments as indeed the new one does and the repayments would have started this year. And again, on looking at the agreement, it appears to us that the Government would have had to pay the £2m of the Midland Bank loan and the £2m of the Midland Bank International loan over the same period and in five equal instalments beginning this year. That means that in a two and a half year period they would have had to pay the £4m which would have meant £1.6m this year, £1.6m next year and £800,000 the year after. Where would the money have come from if we look at the Estimates? We would then have had a situation where the revenue of the Government would not have been £76m, we would not have had the £4m that they have borrowed from Indosuez as revenue and, of course, the repayment to Midland Bank would not have had to be £4m this year, it would have had to be £1.6m but the difference is, Mr Speaker, that if we are going to compare the policy decision taken by the Government with what was programmed to happen, we would have had a reduction in the outstanding public debt this year of £1.6m and there should have been money there to repay that loan and the money to repay the loan is not there. Independent of whether the cost of the loan is the difference between seven-eighths and one-quarter per cent, the reality of it is that they haven't got the money to pay the £1.6m this year and they haven't got the money to pay the £1.6m next year and they haven't got the money to pay for the £800,000 for the year after that which is what was intended should happen when the House was asked to vote in 1981 on the Loans Empowering Ordinance. The Financial and Development Secretary, Mr Speaker, came with a Loans Empowering Ordinance to the House of Assembly on the 17th December,

1980, and the loan was raised in 1981. We were then told when we agreed to the Government borrowing this money, I didn't even comment on the thing because it was so straightforward, Mr Speaker, the Financial Secretary came along and he said: 'Right, the original 1978/81 Development Programme envisaged an expenditure of £21m, we have been given £13m by the British Government, we have to find £8m ourselves and now we find that the cost instead of being £21m is £31m and we have got commitments on the investment side that we are going to have to carry out and we need it' and, in fact, he asked the House exceptionally to take all the stages of the Bill in the one meeting of the House because in those days it was the exception rather than the rule so the Financial Secretary said it was because of the urgency of investing that money in the 1978/81 Development Programme and the House approved it and, in fact, authority was given for raising £14m which was partly going to be raised by the issue of loans from banks, partly was going to be raised by the issue of local debentures and part of it was going to be supplier financed. So we are talking about the money invested in 1981 and the Government, at the time, said that they had had a very good response from the banks and that they had been able to negotiate a position where there would be no repayment of those loans in the early years of the loan, we would be paying interest only which is what we have been paying until now, interest only, and clearly, Mr Speaker, the question of investing money in assets and repaying that money is linked together, it is not a unique feature of Government finance because it is a thing that businesses do as well as Governments. We need to ask ourselves apart from everything else, apart from the fact that we are, in fact, saying we have been misled because we have been told that the cost of borrowing is coming down when, in fact, the cost of borrowing is going up, we need to ask ourselves, 'What did we spend the £4m on in 1981?' Having looked at the Development Programme for 1981/82 it would appear that in that year we bought some vehicles and some plant for the Public Works, in that year we have got in the Estimates the beginning of the notorious MOT Testing Station. Are we saying that having borrowed money in 1981 and paying interest since for the MOT Testing Station that should have opened in 1983 we haven't even got the money now to pay back the Bank for the money we borrowed to build the Station in the first place. And because we haven't got the money to pay back Midland Bank we need now to borrow from Indosuez to pay Midland and now we are committed to paying back Indosuez in five years' time and presumably by then with this banking expansion we are expecting we should be able simply to go to another bank so I think if the banking expansion promised by the Government materialises, I suppose we can spend the rest of our lives on a merry-go-round of going down Main Street from one Bank to the other borrowing from one Bank to pay the last Bank until we run out of Banks and then we can start again with the first one, that is a good idea. The importance of the difference between borrowing for investment is, of course, that we are borrowing this money and we have got nothing to show for it. We are going to be paying interest over the next five years on £4m whereas after this year we would have paid interest on £2.4m and in two and a half year's time we would have repaid the £4m back and that was the intention in 1981 when the House approved the 1980 Loans Empowering Ordinance and the House was presented with the Agreement by Midland Bank and when that agreement was brought here there were two tranches to this loan, there was a

£2m tranche (a) and a £1m tranche (b) from Midland Bank Ltd and the same from Midland and International Bank Ltd. We are effectively repaying early the first tranche, tranche (a). If we look at the Estimates, Mr Speaker, for this year, for 1986/87 in the Consolidated Fund I think the footnote explains that the amount of money that is being paid there which is just over £4m, one assumes that the £2m is the instalment due on tranche (b), that is what the note says. Note (e) on page 21 says: 'Repayment of tranche (a)' - which is £4m where we should have paid this year £1.6m but we should have paid £1.6m because we had the £1.6m to pay. What we have done is we have paid the £4m by borrowing the £4m and we are repaying back the first and the second instalments of tranche (b) where we have got a longer period to repay the sum of money. I think in the case of the first tranche the repayments in the agreement are over something like two and a half years whereas on tranche (b), if I am not mistaken, it is in fifteen repayments making it seven and a half years that the repayment takes place. So we are carrying on with the seven and a half year repayment clearly because that puts it into the future and, of course, it will be a problem for whoever has to do it in the future if he doesn't have as friendly a Bank Manager as the Members opposite seem to have. And obviously I don't think Indosuez is going to be the friendliest of Bank Managers after the motion although let me say that the motion would have been brought independent of which Bank the borrowing had taken place from because it is the Agreement that we are objecting to and not the specific Bank. If we look over the life of the loan, there is no way of knowing what the total cost of this loan is going to be because, of course, we are talking about floating interest rates and at the moment they seem to be floating very slowly downwards but they could equally float upwards as they have done in the past. But it is not unreasonable to say that the rates at the moment are probably going to be costing the Government something like 10% or 10½% over a ten year period.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

Well, if the Hon Member knows what interest rates are going to be like in ten year's time or in a year's time he will be able to retire as Financial and Development Secretary, Mr Speaker, because he will be able to make a lot of money.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is why I shook my head, Mr Speaker, because I don't know and neither does the Leader of the Opposition.

HON J BOSSANO:

I have said, Mr Speaker, that if that is what it is at the moment and what it is at the moment is lower than what it has been in the past and we agree that it could go lower or it

could go up, then we can only calculate the cost on the existing rate, we have got nothing else on which to calculate it and on the existing rates the additional interest cost over the new loans as compared to the old loan over the life of the loan will be in the region of £2m, that is what we are talking about. We are going to have to pay £2m extra in interest on investment that we put in in 1981. It is bad enough if we are borrowing and doing the investment now because at least we have got something to show for it, we have got an asset there but now we haven't got the asset and we have got a commitment on interest. Of course, what it will do, Mr Speaker, is that it will depress the cost of borrowing in next year's Estimates, in 1986/87 it will depress the cost of borrowing because of the fact that we have got the repayment of the loan substituting by the payment of another loan because the saving in the differential because of the margin over Libor takes place in the first year and we are not having to show in next year's Estimates a repayment of £1.6m as part of our servicing costs so, in fact, next year's borrowing cost will be lower than they would have been had the Government not done this but that is not true over the period of the life of the loan of Indosuez had we simply repaid the Midland loan as intended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

Well, the Hon Financial and Development Secretary may say what he likes or make whatever phrases he likes but the reality of it is that he told the House of Assembly in the Budget: 'the purpose of this Bill is to save the Government money', and it is not going to save the Government money, it may save the Government money between now and 1988 but it won't save the Government that is in 1988 to 1992 money, it is going to cost the Government from 1988 to 1992 money because they will be paying money to Indosuez for a loan that was raised in 1981 and for money that was spent in 1981 and which has not yet been repaid because the normal thing is that if you buy a car, Mr Speaker, and you do a hire purchase on the car or you get a bank loan on the car, you expect to pay the loan back by the time the MOT Station, which has been built with this money, scraps your car. What you don't expect is to go to another bank to borrow the loan from the third bank and then they scrap the car and you haven't got a car but you have still got the loan because then you cannot borrow a second loan for a second car because you are still paying for the first one. And that is the essence, the essence of it is that when we are talking about financing capital investment and I would remind the House, I asked the Hon Financial and Development Secretary to give us the figures for the public debt of the last five years and apart from the fact that I think he got one year wrong, when he gave us £22.4m it ought to be £26.4m, I think, in March, 1984, from 1983 to 1984 it went from £22.5m to £26.4m and the figure he gave in the answer was £22.4m, but apart from that what we see there is that the big jump came when the figure was the figure that he started with

in 1982 which was £20.6m because in 1981 the figure was £9m of public debt and if we go back over the years we had a situation between 1972 and 1981 when the Government was very reluctant to borrow notwithstanding the fact that it had very healthy cash reserves and notwithstanding the fact that there were important development projects that could have been financed by loan capital and then there was a very dramatic change in policy and from going, for example, in 1972 we had £3.9m of public debt, in 1973 £3.8m, in 1974 £4m, in 1976 £4.1m, so in fact, there was virtually no change. Then in 1981/82 we went to £20m and, of course, we then have a situation as well where the Consolidated Fund and I think when we are looking at public debt the figure that the Financial and Development Secretary has chosen to give us in the answer that he gave as to how much of the burden the national debt is by comparing it to public expenditure and expressing it as a percentage of public expenditure, quite frankly, is complete nonsense because if the Hon Member says the percentage of public expenditure that is the national debt is coming down that can be achieved two ways. One way to achieve it is to spend more money so the more the public expenditure is the lower the percentage of the national debt. The public expenditure is going up this year partly because the repayment of the Midland loan is shown as public expenditure of £4m. Just like the borrowing of the £6m is shown as income but I can re-write the situation on paper and produce a totally different percentage from the one he produced and we would still be talking about the same financial situation. The way that I have always seen public debt being analysed is either by comparison with the reserves because that is a sensible thing when you look at it from an individual point of view you look at what money you have got in the bank and what money you owe not how much money you are spending and how much money you owe. If you are spending more than you can afford and you owe more than you can afford that doesn't make you any wealthier, it puts you in an even more precarious position. I have never seen anybody defend the level of national debt by reference to how high public expenditure is and by arguing that the higher public expenditure and consequently the lower the percentage the national debt is of public expenditure the better off we are. And the one that previous Financial Secretaries have looked at and brought to this House and certainly the one that was brought in December, 1980, and in other meetings of the House when Financial Secretaries have put forward the Government's plans for borrowing, what they have looked at has been the cost of servicing the loan not how big the loans are, not how big the total debt is but what is it going to cost every year to repay those loans because, clearly, if you are going to have to depend, as has always been done, on revenue for paying interest charges and on revenue for paying back your debt not on getting more debts to pay back other debts, then it is as a percentage of your total revenue that you express your debt servicing and in that context the figure has fluctuated from as high as 15% to as low as 8% but I have never seen it expressed in those by any other Financial Secretary in this House or anywhere else for that matter. I have never read of any Financial Secretary in any other territory or any Chancellor saying: 'We are better off this year because our public expenditure has increased 100% and therefore our national debt is a smaller percentage of our public expenditure'.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I think this is the second time he has actually accused me of saying that, I did not.

HON J BOSSANO:

Mr Speaker, I think the answer of which we have all got a written copy clearly says that the public debt is going to decline as a percentage of public expenditure and consequently the Government is in a better position to borrow. Well, no, because it can decline because public expenditure goes up.

HON CHIEF MINISTER:

And revenue.

HON J BOSSANO:

Well, the Hon Member didn't mention revenue because the reality of it is that he has brought a Bill to the House that enables him to meet a deficit of up to £10m by borrowing on current expenditure, that is what the Loans Empowering Ordinance did, it gave the power to the Government to borrow £10m to cover recurrent deficits. Revenue doesn't enter into it, he just mentions expenditure there and this is what I am saying that in the past when any Financial Secretary has chosen to do any comparisons the comparisons that he has always done was to say: 'Well, of the income that we are getting, the income we get from income tax and the income we get from import duty or whatever income we have got, we have got to use so much percent to pay off our debts', which is a sensible thing, it is what the average person does with his wage packet. If he is looking at whether he can afford to take a loan or not afford to take a loan, he says to himself 'I have got £100 income in my pay packet and I am going to have to use £10 every week to pay for the loan for the car and if I have to use £20 every week to pay for the loan for the car then I can afford it'. He doesn't look at what he is spending he looks at what he is receiving and in this situation what we are doing effectively is we are extending into the future the cost of expenditure we have had in the past. What is significant is that the Government debt as a percentage of total expenditure which was 49% in the first year, and 45% in 1985/86 will fall to 38% during the current financial year. Well, that is not significant at all, that is a meaningless statistic. What is significant, Mr Speaker, is that we are going to have to be paying interest on £4m in 1986/87, 1987/88, 1988/89 and for the next five years and a loan that should have been repaid in the next 48 months will have to be repaid in five years time. That is what is significant and that consequently the cost of borrowing and the cost of servicing will be affected by that which means that the Government's capacity to service the loan will be affected by the fact that if we are looking at it as we have always done, if we are now going to be paying out £300,000 or £400,000 in a year on the £4m to Midland when the £4m is not there because we have repaid it to Midland

and where there are no assets that we have built with that £4m then it means that that is a burden on the annual income of the Government which is not money available for something else and if we are looking at debt servicing as it ought to be looked, then the percentage devoted to debt servicing over X years will now be affected by this and consequently unless the Hon Member goes back to the philosophy he trotted out for the first time in this year's Budget, that we are also antiquated in this place that we should emulate other administrations or the UK Government or the Treasury where they just print more money if they need it. It is all very well for the Hon Member to say that other people have got debt problems and that we have got less or none but all the other people who have got debt problems are regretting having them. They are not rejoicing, all you read about in the paper is how do you get out from your debt problems so we have got none and he wants to put us in them. He then takes his retirement, gets his 25% gratuity for his three year service and leaves us with the debts. Well, that is not acceptable, we cannot even surcharge him for that. If, in fact, when we had seen the new loan, and he knows that this was bound to be our reaction, I suppose he just tried it to see if he could get away with it, if we had seen the new loan was a loan that effectively had the same life as the old loan and over that same life at a lower cost that would have been the end of the story. We would have said to ourselves: 'Right, he has done a good job, we are going to have to pay the same amount of money over the same period of time to Indosuez as we committed ourselves in 1981 to doing to Midland Bank but, of course, we are going to be able to do it at a cheaper price and that means that the Government of Gibraltar is going to have an extra £30,000 to spend on something else' and with £30,000 from the figures that the Hon Minister for Economic Development told us before about this feasibility study you could build a house so if you can build a house even if it is one house by saving money by borrowing from Bank 'A' instead of Bank 'B', fine, it is a job well done but that is not what is going to happen. What is going to happen is that we are going to be paying interest over a much longer period of time on money that was spent a very long time ago and I am not sure that the Hon Member can even tell us what it was spent on and he would probably argue that why should he have to tell us what it was spent on because when we have asked him in other areas, for example, when my colleague, the Hon Mr Feetham, asked him what was the £2.3m being spent on? He said: 'Well, Government expenditure', the £2.3m we borrowed last year over which we also had very strong objections. The Hon Financial and Development Secretary has to understand that it is very difficult for the Opposition to understand how it is that he can now come along and be so liberal in his attitude on borrowing when he emanates from the same stable, and no offence is meant, as previous Financial Secretaries. Is he not also a minion sent out to control us by Whitehall, Mr Speaker, or am I mistaken? Is it that the British Government would rather see us up to our necks in debt than give us OEA money? Is that why there has been a change of emphasis? Because I remember the last time we had a Loans Empowering Ordinance the complaint we had from the Government benches about how the Treasury didn't want them to allow to have money to invest in assets, in bricks and mortar, they wouldn't allow

them to borrow money to put in bricks and mortar in 1982 and I remember saying: 'Well, is it fair? The Government says they want to borrow and they are only being allowed £10m, is it fair that it should be the British Government if we are going to have to pay the money, why should the British Government say what we can borrow and what we can't? And I was told: 'Because that is the constitutional position'. Because at the end of the day the Hon and Learned Chief Minister said to me: 'At the end of the day you cannot have responsibility without power and since ultimately if things go wrong they are responsible for the financial stability they have got the power to say to us 'you will not be able to borrow more''. How come that in 1982 we were being cautioned about not borrowing more when we owed less and when we wanted to put it in bricks and mortar and now we are allowed to borrow to pay wages and we are allowed to borrow to pay other Banks. Because the £2.3m that we borrowed last year we still don't know what we borrowed it for, we know we are paying interest on it.

HON CHIEF MINISTER:

And getting interest.

HON J BOSSANO:

And getting interest on it and previous Financial Secretaries have told us in this House that they would not do that because the interest they get is less than the interest they pay. If it doesn't matter, if the difference between the interest we are getting on the £2.3m and the interest we are paying on the £2.3m is so small as this Financial Secretary has told us previously, is so small that it is a matter of a few thousand pounds and it doesn't really make that much difference, why then do you go to borrow from Indosuez to pay Midland Bank when that is also only a matter of a few thousand pounds? If it is important to save the difference between the 1% and the seven-eighths percent by doing this loan and if that is the real reason why is it not important to save it in the case of the £2.3m where you are losing that margin? He doesn't want to shake his head on this one, he'll have the chance to tell me, Mr Speaker, if he can. So then I can only deduce, being the rational animal that I am, Mr Speaker, that the real reason is not the difference between the seven-eighths and the one-quarter. The real reason is that what we are doing is putting off the day of reckoning and putting it off into the future and therefore it has to be understood that this is something that the Government of Gibraltar will carry a local political responsibility for and the British Government, since we have been told in the past that they are responsible for the financial stability of the territory and they have to OK these things, the British Government carries a responsibility on this and when the day of reckoning comes it may be the British Government that will have to answer for that day of reckoning because we are saying that this is wrong, we are saying we do not support it, we are saying that we do not consider that it is binding on us or fair on future Gibraltarians. The whole philosophy of public borrowing for investment in assets and the philosophy which we have heard on many, many occasions in this House in the past has been the logical one that you do

not burden the taxpayer in one year with the cost of an asset which has got a life of several years and you try to match, to some extent, the cost of servicing. This is why there are Sinking Funds which the Hon Financial and Development Secretary who is, incidentally, responsible for them, he is responsible for all the Special Funds under the Constitution which are the Sinking Funds except that he told us in this year's Budget that he didn't understand the concept of the thing, in fact is very simple.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I didn't say I didn't understand, I said it was an unusual one in this day and age.

HON J BOSSANO:

Well, not so unusual now, it might have been unusual at first when he arrived if he had never seen them before but he has been here, he is getting a few grey hairs amongst us now, Mr Speaker, so he ought to be more used to them by now. The idea, as I have always understood it, I didn't know about Sinking Funds before I arrived here, when I was given an explanation it seemed to me a sensible explanation and that explanation was that effectively the asset is coming down in value at the same time as the Sinking Fund is building up and by the time you write off the asset you have got the money on a historical cost accounting basis. You may have a problem in that when you need to replace the asset then the money in your Sinking Fund which enables you to repay the loan may be less than the new loan you need to buy the new asset because of inflation in the intervening period. But, of course, every business has that, every business has got a problem of replacing out-dated assets with new assets at prices which compare with the original cost but until a different accounting system is devised and many, many people have thought of different ways of revaluing these things without coming up with a satisfactory answer, the only way to do it is to depreciate historically. And the Sinking Fund to me seems to be a very sensible vehicle in Government finance in that it maintains a good reflection of the position of the Government in terms of the money that is spent. But, of course, fine, when we went into the loans from the Banks the last time and when we went into supplier finance, the Government said: 'Look, we have been able to do something new and something different in that we are going to get a breathing space, we are going to get a holiday in the middle where we are paying interest only which gives us a chance to repay capital in the future'. Of course, by the time you repay your capital you are already five years into the loan and already the asset that you bought five years previously is not worth the same although you still owe all the money but we are now compounding that, Mr Speaker, because effectively we are borrowing today money for another ten years on assets that we bought in 1981 and in 1982. It is not possible, I think, to be absolutely sure from the Estimates of Expenditure exactly where the £4m went in particular because, of course, we had a £6m loan from the same source and there is no distinction between where tranche (a) went and tranche (b) went in terms of expenditure. The only

thing that we know from looking at the Estimates for 1981/82 is that there was expenditure from ODA funds and expenditure from local funds. In the year 1981/82, Mr Speaker, the Government had income from local funds of £12.4m. Of that we had £4m of supplier finance for the Power Station, £400,000-odd of supplier finance for Varyl Begg and £600,000 of supplier finance for IDE, for the Telephone Department. The Loans Empowering Ordinance in that year raised £7m, I am assuming that the £6m is part of that £7m and therefore that the £4m is part of the £7m because when I looked at the outstanding public debt at the end of the book I find that the £6m is there so that means that the £6m was obtained during that financial year and therefore the £4m was obtained during that financial year and that went into financing a variety of local projects but we don't know which is which except that we see, as I have mentioned, that the MCT Station appears there and we have seen that there is expenditure on equipment for the Public Works Department and we see a variety of small purchases and we assume that some of this came out of that money. There was also some of the costs of the Waterport Power Station which was not financed by supplier finance which might have come out of this money. So here we are in a situation where we are saying people are going to be paying interest in the next four or five and six or seven years on the cost of tools that were bought in 1981 and the tools may not be there anymore. That is not a sound way in which to handle public money, that is not a way of reducing the cost to the public, that is, in fact, a way of getting round a serious problem the Government now faces of what would the page 5 look like if instead of having been presented as it was in the Budget it has been presented with a £1.6m hole in it and with another £1.6m hole next year. Therefore, we need to say that we will not go along with this. We also need to draw attention, I think, to the question of the kind of undertaking that this loan contains. Some of it, in fact, are to some extent a repetition of what was referred to in the original loans agreement with Midland Bank although this time it seems to have been put in even clearer and more specific language than it was the last time. We are talking, of course, on the freedom of a future Government to do things. It is bad enough, Mr Speaker, having to take orders from the Foreign Office and from everybody else but if on top of that we are going to have to ask the permission of the Bank Managers before we can do things, shouldn't we ask the Banks to stand for election? We are being told that a Government in the future, a Government for the next ten years, it is not just the Government that may come in in 1988 but even the Government that may come in in 1992 and possibly the Government that may come in in 1996, so they are giving Indosuez power over three Governments: 'That in the case of any taxes or duties, withholdings or deductions of any kind, present or future, are required to be paid or made by any authority of any of the payments that the borrower under this Agreement, the borrower will increase his payment so that the Bank will receive the full amount of any sum payable as if no such taxes, duties, withholdings or deductions had been required to be paid or made except any such duties, taxes, withholdings or deductions on the Bank's overall net income'. That is to say, we can actually tax this Bank like we can tax any other Bank except on the profit they make from this loan. On the

profit that they make from this loan we cannot increase their taxes and if we do they then charge us, the Government, for the tax that we have put on them and if we don't accept that then they cancel the loan and we have got to pay the £4m straightaway. Is all this worth the difference between seven-eighths of 1% and one-quarter of 1%? Does the Hon Financial and Development Secretary sell his soul that cheaply? Of course, it also says 'that the borrower shall not, unless the Bank otherwise consents in writing, create or allow to be created, granted or extended any mortgage, pledge, lien, charge or other encumbrance or any or all of the present and future revenues and assets of the borrower or his agencies as security for any indebtedness unless such security is at the same time extended or granted to the satisfaction of the Bank equally'. Of course, it does mean presumably that the borrower can exercise some restraining influence on the Government which is more than the Opposition have been able to do. And, of course, the borrower will have to, as and when the same is published deliver to the Bank the approved Estimates of Expenditure but in addition to that they have got to give information related to foreign reserves and balance of payments and external indebtedness which is something we have never been able to get so maybe I can come to an arrangement with the lender that they pass the information on to me when they have got it from the borrower. And of course they have to deliver on request to the Bank other published statistical and financial information about the borrower and its agencies as the Bank may request. All this, Mr Speaker, because they are able to reduce the cost of borrowing from seven-eighths of 1% to one-quarter of 1%, nobody is going to believe that. The reality of it is, as we have said, that we have been presented with something in the Budget which the Hon Member tried to slip through and which the Hon Member should have known by now he was not going to be able to slip through. I think the Hon Member who is responsible to the British Government as well as to the Government of Gibraltar, should take the message back that it will not do.

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

HON FINANCIAL AND DEVELOPMENT:

Mr Speaker, as the Hon Leader of the Opposition quite rightly assured, I don't propose to congratulate him on his speech. There is a great deal in it. I think, possibly, the point on which I should start is his concluding remark because he, in effect, said that I had tried to slip this through without anyone noticing. I totally reject that idea, I have given plenty of notice on behalf of the Government of its intention to refinance this particular loan or if not this particular loan to take advantage of opportunities occurring when loans were due for maturity to refinance them, indeed, I have in front of me, Mr Speaker, the Hansard of the meeting of the House of Assembly on the 11 December, 1984, pages 32 onwards which was when I had the honour to move that a Bill for an Ordinance to provide for the raising of loans by the Government of Gibraltar in aid for the general expenditure of Government. My speech on that

occasion, Mr Speaker, talking about the purpose for which the money to be raised by loans and debentures were to be used, I went on to say something about Government's debt policy which I said then: 'Has on the whole been rather conservative' and I certainly mentioned debt charges as a percentage of public expenditure or, indeed, public debt as a percentage of gross national product which when compared with those of other Western countries compares very favourably indeed. But the particular point to which I want to draw the House's attention after what the Hon Leader of the Opposition said was that because of earlier borrowing, in fact, it seemed that debt charges were likely to rise to a peak of about £7m in 1986/87. I said 'This does give rise for some concern and I am therefore exploring with the financial institutions the possibilities of refinancing with a view to spreading the debt more evenly. Naturally it is not a sensible policy to have one's debt peaking, it is a sensible policy to spread this out as far as possible. The discussions I will be having will be with a view not to increasing the amount of public debt but to spreading the incidence of debt charges towards the end of the decade'. I also said that the refinancing I had in mind would reduce the peak from £7m to about £6m even with the addition of the further debentures which the Government were then about to raise. I have given the House and the Opposition ample notice, and they have had ample notice of the Government's intention, and really to make the comments the Hon Leader of the Opposition has just made are not, I think, justified. However, I do have some sympathy with him on one particular point and that is when he referred to the innovation on page 5, the fact that we are showing the increase this year in debt charges have amounted to £10m, in effect, one has to net that £10m of the £4m which we are borrowing and subtract it from revenue where it is included. I am afraid I lost the arguments with my colleagues in the Treasury on that who were rather too concerned perhaps were rather more concerned than I am about the things I do and the extent to which they may be compatible with the Constitution or the various laws. But if I did say in the Budget that I was going to reduce or I hoped that the cost of borrowing was going to be reduced, I certainly meant interest and not the amount of debt. I did not suggest that we were going to borrow less, what I have always said is that we intended to reduce debt charges to smooth the peak of future Government debt and it is part of the policy of arranging future maturities in a better profile. The Hon Leader of the Opposition made what I thought was a rather revealing comparison, or rather he made a very revealing comment, that the average person uses revenue to repay his debts. Well, Governments use revenue to service debts and that is, I think, the crucial difference. Governments, in a reasonably sound financial state, and I am not now talking about banana Republics, Government do not repay in net terms nor is it likely that a modern Government will reduce the amount of public debt as a percentage of whatever one cares to name.

We are not threatened in any way with financial instability and the view I have taken and in the light of that view advised the Government, is one which has been supported by the Foreign Office so far as they comprehend all the issues because their knowledge of finance is strictly limited but certainly by the Bank of England and the Treasury against whom I would certainly not levy such a criticism. There is no question of the Government not having the money, the Government is adopting a sensible and, I hope, realistic approach to borrowing and I am sorry if some of my predecessors for one reason or another and I hesitate to think what they may have been, they may have been trying to con Ministers even, Financial Secretaries in the past I understand were occasionally guilty of that particular practice, I have tried to be open and frank with Ministers and to lay out the financial verities in front of them as I always have with the Opposition and I am left rather with the feeling, Mr Speaker, that perhaps it is my frankness and my concern for the verities which may concern the Opposition.

MR SPEAKER:

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

HON J BOSSANO:

All I can say, Mr Speaker, is that it is a pity we don't have broadcasting of the proceedings of the House because I don't think the Hon Member's defence would have persuaded anybody that in fact he has been able to answer the arguments put forward by the Opposition on this issue and, of course, he did make reference to one element and only one element in what I have said and that is that he had not misled us in the Budget because in the Budget he had not said that he was going to reduce the repayment of the loans, that he was going to reduce the interest and the cost of the interest.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I did in fact ask for the Hansard to see what it was that I said, it wasn't available but what I said was if I said I was going to reduce the cost of borrowing then I am pretty sure we knew that the Banque Indosuez loan was, I think we knew the terms at that particular stage and therefore I knew that it was going to cost, ie Libor over 1¼% less in terms of the interest chargeable than any previous loan and I am sure that is what I meant. But otherwise I would have been talking about reducing debt charges which, of course, is the intention as I have just explained.

HON J BOSSANO:

Therefore, Mr Speaker, what the Hon Member has just said I think provides final proof that he was seeking to mislead the Opposition because if, in fact, the Hon Member had been interested in reducing the interest charged as he claims he is and which he claims to be the explanation for this and the explanation that he gave us in the House then, in fact, Mr Speaker, what he would have done would have been to repay tranche (b) and not tranche (a) because in tranche (b) the rate of interest is 1¼% above Libor and instead of saving as he is saving now five-eighths percent he would be saving 1½% and therefore he would have been saving more public money by repaying tranche (b) than by repaying tranche (a). The reason why he hasn't done it is because tranche (b) doesn't have to be repaid until well into the future and therefore the actual capital repayment of tranche (b) although it carries a higher interest, the actual capital repayment on tranche (b) which is in fifteen equal instalments from now instead of in five equal instalments from now, go into the future and into the 1990's and.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way because I can answer that point. Naturally, I did look indeed we have in the Treasury looked at the various other loans outstanding. I am not a bloody fool, I shouldn't use that sort of language in the House, I am not a fool I should say, and of course we looked at the other loans and we decided that as soon as the Indosuez loan was negotiated we would consider the possibility of some form of consolidated refinancing. I would like the Hon Member to temper his sudden onset of fury with those few remarks. I think I may even have mentioned it in the Budget speech.

HON J BOSSANO:

I haven't been able to go back and see the Budget speech either for the same reason as the Hon Member and therefore I am relying on memory, Mr Speaker, but I am quite clear that the emphasis was very small and it was an emphasis on reducing the cost of borrowing and even with the qualification that the Hon Member has introduced now my argument still stands. If you are going to borrow money today to repay a loan and your justification of repaying that loan is that the loan that you are repaying costs more because it has higher interest and you have got the option in the same agreement to repay either the loan which pays 1% more than the one you are going to use now or the loan that pays five-eighths of 1% more, you naturally go for the loan that pays 1% more because you are going to save more money unless what you are really wanting to do is push your

repayments into the future because, in fact, if we look at the estimates it is quite obvious that the estimates would have looked very different if instead of having £4m of revenue and £4m of expenditure which cancel each other out we had had no revenue and £1.6m of expenditure, Mr Speaker. The reality would have then been that instead of coming up with minus £800,000 which is what we have got in the approved estimates as the bottom projection for the end of the financial year, we would have had minus £2½m. It cannot be neither, it is simple arithmetic. That is what would have happened if this sort of 'refinancing' in inverted commas had not gone through. So here we are with a situation where, first of all, we are paying interest which at a figure of £400,000 a year for the next five years is £2m. We are talking about interest over the next five years but, of course, the loan is not for five years, it is for ten years, of course it won't be £400,000, the interest may come down, the interest will start declining in five year's time when we start repaying the loan but the reality of it is that we are going to have to be financing a loan for the next ten years and the money has been used to pay another loan and it hasn't even been used to pay back the loan that is paying most interest and the reason why they have chosen this loan now instead of the second one is because the second one they have got seven and a half years to pay and this one they have only got two and a half years to pay it and they didn't have the money and there is no disputing that, Mr Speaker, and there is no way of talking it away or dressing it up. I commend the motion to the House.

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

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

The following Hon Members voted against:

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

The motion was accordingly defeated.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

HON M A FEETHAM:

Mr Speaker, I beg to move that: 'This House - (1) Notes with concern the failure of the Government to provide pensions for Industrial workers after 10 years service in line with the existing provisions for non-industrials as promised in December, 1983 (2) Notes that the Government continues to retire industrial workers compulsorily with 10 to less than 20 years service without payment of a pension (3) Therefore calls on Government to take immediate action to provide pensions for those industrial workers, with at least 10 years service who have been or are being retired, as an interim measure until such time as a unified pension scheme is implemented'. Mr Speaker, in presenting this motion I wish to go through a factual background, as I understand it, of the events leading to this motion being presented to the House today. In December, 1983, the Hon Minister for Economic Development and Trade made a Ministerial statement in response to my colleague, Mr Joe Bossano's motion in a previous meeting of the House of Assembly whereby Government had accepted, in principle, the policy of bringing about improvements in pension benefits by removing the discrepancy existing between the non-industrial and industrial workers. Government accepted the principle therefore of lowering the minimum qualifying service for industrial workers from 20 to 10 years in December, 1983. In doing so Government agreed to the principle but announcing at the same time a unified pension scheme. I recall having been informed that at about the same time it was pointed out to the Government that it had already initiated discussions previously with the union, some time before in fact, and had even brought out an expert, I think it was a Mr McNeil who spent a great deal of time here and cost a lot of money.....

HON CHIEF MINISTER:

Not us, ODA.

HON M A FEETHAM:

I stand to be corrected eventually. According to the Minister, the Government had decided to leave the matter on ice for the time being, that was the position in December, 1983. The Minister also said, quite rightly, in December, 1983, that Government did not want to give notice to elderly people and

have them out on the streets without a pension, quoting his own words, by being able to afford a pension for those people Government hoped to sugar the pill and at the same time create job opportunities, that was the policy of the Government in December, 1983. In January, 1984, Government began to retire persons without a pension on the condition that such a pension would be awarded from the 1st January, 1984. It is now two and a half years later and the situation remains the same with the added problem, of course, that during 1985, 41 persons were retired with more than 10 years service and less than 20 years without a pension. The delay, as far as our information goes in introducing a pension after 10 years, is causing hardship to some of these employees and, indeed, as a matter of fact, Mr Speaker, the Gibraltar Government is the only public sector department where this happens. For example, in the UK Departments a pension is awarded after seven years and nobody leaves the Department without a pension being paid to him effective from the date they actually retire. We have now learned that Government presented proposals, about a week ago, to the Staff Side presumably at the same time to respond to this motion today. Of course, this could be considered - and I am not implying so - but it could be the height of cynicism but, anyway, I am not saying it is, because what we are talking about is the welfare of a few elderly people that are desperately in need of this pension. The height of cynicism, perhaps, because in real terms the proposals which have been put to the Staff Side is very little different to what the Minister said in 1983. I think, looking at this now in an objective fashion, what is worse is that the effect of the proposals that Government has presented a few days ago, comes up with a pension after ten years of less than £1 per week per retired person than what was originally asked for by the unions in December, 1983, or round about that period. In other words, that the total savings after two and a half years proposed in the scheme to Government for each one of the 41 that were recently retired in 1985 produces a total saving to Government of £2,000 a year. I think, quite frankly, that it is a very miserly approach to a very human problem that to date has meant a wait of two and a half years. I am putting it to the House, Mr Speaker, that there should be no more obstacles of any kind to this problem once and for all and therefore what I am trying to do by bringing this motion to the House, is to ask Government to act without delay and reach an agreement with the TGWU and demonstrate in the process that the interests of their ex-employees are at long last being protected or, alternatively, that a pension based on an interim arrangement is reached until a unified pension scheme is agreed with the TGWU and the non-industrial unions since the non-industrial unions already get a pension and it shouldn't be too difficult a matter for Government to agree to this approach. The unjustified difference,

Mr Speaker, between what was asked for and offered last week warrants, in fact, immediate action. It would be worse, and one doesn't really want to refer to this sort of thing happening, but it could be worse and who would be responsible if one of these employees dies without having even got their pension? What I am asking, Mr Speaker, is how much longer does this Government intend to continue to do what the Minister said quite rightly in December, 1983, that the Government did not want to do and that is to give notice to elderly people and have them on the streets without a pension, Mr Speaker.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I am just going to make one or two points about the sequence of events which has affected this particular issue. The Hon Member, I think, quoted correctly the early part of the sequence, that is to say, the motion which was moved by the Hon Leader of the Opposition in the House in October, 1983. There was an amendment moved by the Minister for Economic Development and Trade. There was subsequently a meeting of Council of Ministers, the Government agreed in principle, as the Hon Member has said, to the basic claim involving the lowering of the minimum qualifying period as part of a unified pension scheme to be introduced for all Government employees and the Minister for Economic Development and Trade reported back to the House in December, 1983, the Government's acceptance of this. There was, I think, some interval before the pensions adviser, Mr McNeil, who normally advises Government on these matters, this pension expert, quite well famous, I believe, was commissioned in January, 1985, so I think one must accept there was an interval. I think, perhaps it might be forgotten too readily now, that during that period there was a certain amount of concern over dockyard redundancy, employment prospects generally and I think that contributed to a certain amount of caution, shall we say, in the way which the issue was processed at that particular juncture. But anyway, the pensions adviser was asked to produce an outline of the proposed unified pension scheme and, again, I think, not necessarily a criticism of him but it did take him rather a long time and it was not until December, 1985, that this was accepted by the Government. Then the scheme had necessarily to be approved, in principle, by the Secretary of State and this took another three months or so which takes us up to April, 1986. Thereafter the scheme was presented to the Staff Side at a meeting on the 3 July and the Staff Associations Coordinating Committee representing non-industrials have said that they need time to consider the scheme and said that they will not be in a position to reply for a few months. I accept that the TGWU have accepted, in principle, the draft

scheme whilst I think making one or two reservations on the detail or they are in fact going to reply shortly. I think the position in which the Government is in is that we want to see a unified scheme and it is important that a unified scheme is introduced and it was felt that it would be wrong to go ahead and take a unilateral decision, shall we say, with the industrials or introduce something in advance of that general agreement being reached. Nevertheless the Government fully accepts if not the critical tone behind the original part of the motion, nevertheless, I think, shares the concern of the Opposition at the general delay and one of my colleagues will be moving an amendment during the debate which will, while reflecting and sharing the concern, perhaps modify the tone of the motion a little. Thank you, Mr Speaker.

MR SPEAKER:

Do I understand that the Hon Mr Canepa wishes to speak?

HON A J CANEPA:

Mr Speaker, I hope that the fact that the Financial and Development Secretary has given that brief exposition as to the state of play is not seen as too odd having regard to the actual constitutional position on the matter that is now before the House. I think it has to be realised that occupational pensions, in other words, the pensions paid by the Government to its employees are not a defined domestic matter as against social security pensions and therefore in the case of social security pensions the procedure is very simple. If the Minister for Labour wants to enact certain proposals he gets his Department to prepare the proposals for him, he submits them to his colleagues in Council of Ministers, a decision is taken on the matter and then the Attorney-General is asked to draft the necessary legislation. A very simple procedure, one that ensures that target dates can be met as successive Ministers of Labour since 1972, namely, the Hon Dr Valarino, the Hon Major Dellipiani and I myself working backwards have been able to do over the years and that is why we are able to come to the House every year with proposals for annual reviews. But that is not the position with occupational pensions. There is also the added advantage with social security pensions that there is no trade union side to consult. In the case of occupational pensions it is very much a matter for the administration and because Ministers are not even responsible for the matter collectively, the ability of any one individual Minister who follows the matter up and to give it the kind of impetus that he would tend to give any other matter which is close to our heart and is of a departmental nature, that ability is seriously undermined. No matter to what extent the Hon Dr Valarino with his concern for pensions naturally or I myself

because of the history of my involvement in the matter, no matter how often I phone, I speak to, I call the Establishment Officer to a meeting, and no matter how much one cajoles and tries to get things moving, the position is not the same as when you are dealing with a Head of Department who works directly to you and for which you are directly politically responsible. In the case of the Hon Dr Valarino, the Department of Labour, in my case the Port, Crown Lands or what have you. I think it is important that Hon Members and perhaps the public at large should appreciate that there is an important distinction in this case but that is not by way of excuse. Between the Hon Mr Feetham and the Hon the Financial and Development Secretary they have given part of the reasons why this matter has not yet been brought to fruition. Let me say at the outset that I am very much aware of the hardship or the potential hardship that can be caused if there are further delays. There are a number of people who must now have retired six months ago, a year ago, in the knowledge because they probably had it in writing, that they would get a pension in due course but time goes by, people get older, some of them may have found alternative employment but others may not and if they have found alternative employment the time will come when they have got to retire altogether. I get representations myself and I am very much concerned about the matter. I understand that there are about 55 persons now in this position. May I say that the timing of the meeting held last week with the Staff Side was totally unconnected with the moving of this motion. I was informed before notice was received of the motion that the proposals were going to be tabled before SACC at a meeting that was going to be arranged and whilst the Hon Mr Feetham was moving the motion I went outside, consulted with the Acting IRO who was in the Ante Chamber and I asked him when had the meeting been arranged and he said that the meeting had been arranged about a week before Thursday 3 July. I think that it was in anticipation of this motion and it may appear to be a coincidence but when I give the whole history of the matter he will see that it is not a coincidence, it is that in Council of Ministers we have been expressing concern very recently about the matter and therefore some fresh impetus was given at our request. I hope that he will grant us when he exercises his right of reply that amount of goodwill on the matter. Subsequent to my making the statement referred to in the body of the motion in December, 1983, there was a small incident that had to be disposed of shortly after that, namely, a general election, and when the dust has settled we find that in March, 1984, the thing was set for the proposals which, in a way, were outlined in principle in the statement that I had made in the House in December, 1983, for those proposals to be formally put to the Staff Associations Coordinating Committee. That was the position in March, 1984, but a report that I have before me indicates that they did not proceed to do so in March, 1984, and I quote from this report

because 'the Establishment Division was informed that agreement had been reached in principle to facilitate employment to workers made redundant as a result of the closure of the Dockyard. Establishment was asked to work out the details of measures which would give such workers such option over candidates from outside the service for industrial vacancies. Therefore it was not considered prudent to present the retirement - namely these proposals - and recruitment policies to the Staff Side until the details of the measures to be adopted in respect of the Dockyard employees had been agreed and the positions become clearer as to whether or not the proposed policies might be affected by any of the exceptional measures to be introduced in respect of the redundant Dockyard employees'. So following a request that exceptional treatment should be given to Dockyard workers who were to be made redundant, Establishment perceived that there could be a possible connection between that issue, the issue of giving priority of employment under certain conditions to people, and the retirement policy that at the time the Government was developing and the whole question of the link which this retirement policy had with the enactment of the unified pension scheme. I didn't become aware, let me say, that that was the state of affairs until some time later and this is where I say that because of the peculiar constitutional position momentum can be lost because if it had been a Government Department adopting that view that it was not considered prudent to proceed in the way indicated, they would not have adopted that view without clearing the matter with the Minister. Where a Minister has responsibility for a specific matter no senior official of the Government or Head of Department would arrive at that conclusion, make that assessment without getting the Minister's agreement. But, as I say, Establishment had no obligation to come and talk to me about this or clear the matter with me at the time. In fact, for all I know they may have had political support generally at a level even higher than mine because I know that the Chief Minister was involved with Mr Bossano and other people in the discussion on the problem of the redundant Dockyard workers. But months later seeing that no progress was being made in putting the proposals to SACC, I asked about it and then I was given an explanation, I remember that this was some time in the summer of 1984, and I was not entirely satisfied, I thought that we could have proceeded in parallel and eventually my views managed to prevail and at my insistence the proposals were presented to the Staff Side in November, 1984. They were accepted in principle by the TGWU, SACC agreed to set up a Working Party to study the proposals but a month later on 21 December, 1984, they said that they could not go along with this, they did not agree. They changed their minds and they stated that the proposed pension scheme was inferior to that presently in force and they felt there was no need to negotiate an inferior scheme. That killed it at the end of 1984. Shortly after that, a full report was made to Council of Ministers on 21 January, 1985, explaining the reasons for the delay in implementing the scheme. Council of Ministers was advised that the Attorney-General had been consulted on the matter and his advice was that the details of the unified pension scheme should be cleared by the United

Kingdom pension's adviser, Mr McNeil, who had been originally engaged to draw up a revised pension scheme in line with UK conditions prior, I think, to the announced closure of the Dockyard in the early 1980's. Mr McNeil was commissioned to do this in January, 1985, and a final draft report was received from him in December, 1985. In the meantime Ministers had asked for and obtained an interim report, or rather not a report, but a report of the state of play in July, 1985, when, and I quote, in answer to a question the Chief Minister said: 'The pensions adviser will shortly start work' and Council took note. So even though he had been commissioned in January, 1985, according to the records that I have in this file, for some reason or other, he wasn't actively engaged on this matter in the early part of 1985 but he was in the second half of 1985 and produced a draft report at the end of December, 1985. In February, 1986, my colleague, the Minister for Labour, Dr Valarino, asked for a progress report or perhaps what one might more euphemistically call a non-progress report and as a result Council of Ministers asked for an information paper on the matter, the information paper was circulated to Ministers on 26 February, 1986, when I complained at that meeting about the delays in the matter being held up by the FCO and ODA. A further progress report was asked for in April, 1986. At the end of April, 1986, a progress report was produced, we were told shortly after that that the FCO/ODA had agreed to the proposals provided we footed the bill, naturally, and hence the meeting of 3 July, 1986. That is the sequence of events and Hon Members will see that in the intervening period of two and a half years the matter has been raised in Council of Ministers on at least eight occasions. The position now is that again the proposals had been accepted in principle by the TGWU, SACC have asked the Official Side that they be given until October to reply and that is the position that the Government is faced with. If the Government were to unilaterally, having regard to the fact that the TGWU have accepted the proposals, amend the legislation without introducing a unified pension scheme, amend the legislation retrospectively to lower the qualifying period from 20 to 10 years and therefore give a pension to these people who have retired in anticipation of general agreement with the rest of the Staff Associations, the Government I think would be weakening its bargaining position in whatever discussions may unfold over the next few months. Alternatively, what is the Government to do? It has reached agreement in principle with the TGWU, should it proceed unilaterally? Should it tell the non-industrial unions: 'Well, look, sorry, chums, we are really interested in aligning the conditions of industrials, we think that this is right and proper but we are going to go ahead and we are going to unilaterally introduce a scheme which we will then put before Government employees and they can exercise an option as to whether they remain under the existing scheme or opt for the new scheme'. I think that the Staff Associations, the non-industrials, may have a point that perhaps an inferior scheme is being put before them than the present one because retirement age will be 60 and each year of service will count as one over eighty as against one over fifty but the present scheme is an extremely lucrative one, it is a throwback to the old Colonialist days

and I don't think that one can find a scheme for non-industrials, because it is less favourable than in the case of industrials, for non-industrials I don't think that you can find just like that a scheme as good as the present one but I think the rough has got to be accepted with the smooth and the responsible position that non-industrial Associations, in my view, should adopt is that the position of everybody today in employment is absolutely safeguarded, everyone can remain on the day that this is introduced under the present scheme and it will only be people who come into employment in the future who will come under different conditions and anybody that serves a full lifetime of service, 40 years, will be entitled to pretty well the same level of pensions as we are now getting with the added advantage that people will be able to receive a pension with fewer years of service than is the case now. I would hope that the way should be clear if the House can come to terms today, Mr Speaker, for good sense to prevail for the remaining discussions to be speedily concluded, for the legislation to be enacted and hopefully if we could get a positive reply from the Staff Associations before October, I see no reason why the legislation cannot be enacted before the end of the year. The motion is not totally unacceptable to the Government, Mr Speaker, the spirit behind it, except in the first paragraph where by implication it is the Government that is criticised for the failure and I hope that it will seem that we have within the constraints that I have explained done our very best to expedite the matter. Therefore, I am proposing an amendment, Mr Speaker, namely, that all the words after 'the' in the first line of the motion be deleted and substituted by the following: '(1).... delay in providing pensions for industrial workers after 10 years' service in line with the existing provisions for non-industrials, as promised in December, 1983; (2) Notes that the Government continues to retire industrial workers compulsorily with 10 but not less than 20 years' service without payment of a pension; (3) Notes that the draft outline Pensions Scheme was last presented to the Staff Side on Thursday 3rd July, 1986, and that their reply is now awaited; (4) Therefore calls on Government to urge the Staff Side to discuss and agree the details of the Scheme and for the Government to take urgent steps to introduce the Unified Pensions Scheme without further delay'. I would hope, Mr Speaker, that the House could, broadly speaking, agree on this motion and that a message could therefore go from both sides of the House to the administration and to the Staff Associations that we are concerned about the potential hardship that is being caused to an increasing number of employees and that we would like to see this matter settled once and for all. Mr Speaker, I commend my amendment to the House.

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

HON J BOSSANO:

Mr Speaker, this motion that was brought by us to the House necessarily is aimed at the Government because the GSLP is in the House of Assembly and seeks responsibility from the

Government which is elected to that side of the House for all the sins and omissions of everybody in the civil service, that is what they are politically answerable for, it doesn't mean that the Ministers themselves have taken a decision but it is a part of the political system that if a civil servant makes a mistake at the end of the day the Opposition does not criticise the individual civil servant, it criticises the Minister even though the poor Minister may have found out about it after the event. To the extent that it is critical and it isn't a censure motion, it isn't censuring the Government but, as far as we are concerned, the failure is on the part of the Government because it is the Government who came here, who told us what they were going to do. Their problems with ODA or their problems with the administration.....

HON A J CANEPA:

If the Hon Member will give way. I have tried to explain where the executive responsibility, having regard to the constitutional position of the matter lies and I can tell the Hon Member that in the 14 years that we have been in office we have made a great deal of constitutional progress in practice but the legalistic aspect of the constitutional position is one that cannot be denied. This formality of having to submit the proposals to London for the Secretary of State to come back and say churlishly: "Well, yes, but you have got to foot the bill", I think is indicative of a very real problem.

HON J BOSSANO:

All I can say, Mr Speaker, I don't know who prepared the brief for the Secretary of State in London but we keep on talking about this Bill. Let us be clear that the Opposition does not support the view of the Government on the unified pension scheme and therefore there is no question of the Opposition saying: 'We urge the Government to urge the Staff Association to accept the Unified Pensions Scheme', because we are not saying they are right in wanting a unified pensions scheme and we are not saying that they are right in the ability that they claim to have to meet the pensions if they have a unified pensions scheme but not to be able to meet it if they don't have the pensions scheme. We don't understand why there has been so much of a problem in meeting what the union asked for for industrial workers. Let us be clear, first of all, what it is that exists today because presumably the Government knows and the British Government knows what we are talking about. One has to assume that that knowledge is there on the other side otherwise we cannot understand how they can come along and expect us to vote in favour of them urging the Staff Association to accept what the Government is proposing unless they know what it is that they are proposing. The reality of it is that we have got a pensions scheme in Gibraltar for white collar workers, for civil servants and non-industrials and non-pensionable officers and the non-pensionable officers get a pension which is inferior to that of the civil servant and which is a pension where they get three-quarters of a week's pay for every year of service with a maximum of half pay. So that means that if they do 35

years they get half pay and the Government has come along and said: 'I cannot afford to give you half pay after 35 years but I can afford to give you half pay after 40 years'. The difference between the multiplier of one over seventy and the multiplier of one over eighty is so small that it is not really worth arguing about if in the process you are going to deprive forty or fifty or one hundred people of a pension and they are going to be out in the streets without an income so therefore the response of the TGWU is a very logical one. If you have got a situation where you are arguing about whether it should be one over seventy or whether it should be one over eighty and the difference is for a man who has had ten years service something like 66p a week, well, you are not going to argue for the sake of fighting for 66p a week more you are going to have 50 people without a pension for two years because the difference is too small and the logic of the thing is to accept the one over eighty in order to get it settled. That is why the reaction of the industrial workers in principle is to say: 'Well, the difference between one over eighty and one over seventy is very small'. However, the difference for the white collar workers is much bigger because the white collar workers can get a pension of up to two-thirds salary and the multiplier for every year of service in their case is one over fifty and consequently the Government is going along to Staff Associations and saying: 'We have got a new scheme for you which is inferior to the scheme that you have got now except that the people who are on the existing scheme will not be required to move to the new one, only the people who join after the day you sign'. Well, every day that they delay signing is one more person that they have got into the old scheme so there is every incentive to delay, obviously. I don't know what the Hon Member thinks would be the reaction of the GTA if he was still in the GTA but the reaction of the GTA is to say: 'Well, why should we negotiate an inferior pension for future teachers than we have got for existing teachers?' The reaction of the Staff Association has been for the last two and a half years what I told the Hon Member it was going to be in December, 1983, and what any sensible person that knows anything at all about the operation of unions would know. That the unions are saying on the white collar side: 'Look, we are not saying you must not give it to the industrial workers, if you want to give it to them you give it to them, we are not stopping you but what we are saying is we are not prepared to see that improvement for industrial workers being made at the expense of us accepting less good conditions for our members or for future members of our union', that is what they are saying and what the TGWU is saying is: 'We are not prepared to see you, the Government, exploiting the situation of the people who have been retired in order to try and put moral pressure on the non-industrial unions to get them to accept what they say they will not accept by making them responsible'. I can tell the Hon Member that we in the GSLP are not prepared to take part in that game of blackmail. It is not a question of removing the Government's bargaining position, the Government has got no right to seek to bargain one group of workers against another group of workers. We think it is totally wrong and it is totally immoral. If the Government wants to change the conditions for civil servants because they are too generous,

they should come along and say to the civil servants: 'Look, we want to change it and if we have to have a fight with you we fight you', but they shouldn't make the scapegoat the industrial workforce and they shouldn't seek to make the scapegoat the House of Assembly, they shouldn't then go and say to the non-industrial union: 'Look, with the full force and the full weight of the House of Assembly you are now being urged to accept inferior pensions for future school teachers, future Clerks of the House of Assembly, future people doing the tape recording', no, we are not a party to that and therefore we are against the amendment because that is what the amendment wants us to do. It wants us to tell the Government to urge the Staff Association to discuss and agree a scheme which the Staff Association have already told the Government: 'You are asking us to invert the role of unions. Unions negotiate improvements, they don't negotiate to go backwards'. That is the response of the unions and that should be obvious to anybody that has been in the Trade Union Movement on that side of the House and I think it would be their reaction if they were in the shoes of those unions and because this was obvious to me from the beginning, Mr Speaker, I told the Member at the time and because it was still not moving I remember that he was asked, I think it was in 1984 or even last year, about an interim arrangement and he said he knew nothing about an interim arrangement and I remember when he answered a question in this House saying that they were awaiting for a reply from the unions and how upset he got when he discovered that, in fact, he had been badly briefed and they were not awaiting a reply from the unions because the unions had not had anything put in front of them for them to reply to. I am not saying the Government doesn't want people to have a pension, this is not what the Opposition is saying because if they didn't want to do it he wasn't forced to give me the reply he gave me in December, 1983, we held one seat in the House of Assembly at the time, I couldn't put a gun to his head, I brought the motion here because I was in favour and sympathetic to the stand being taken by industrial workers, we had people who were 70 years old and with 18 years service and they were waiting to be 72 so that they could get a pension because if they left at 70 with 18 years service they didn't get it. That is the situation we had in 1983 and we had a situation where the Government on the one hand was saying and the Minister for Labour was saying here in the House: 'We have got to do something about elderly people in employment well over the normal retirement age when we have got school leavers coming out of schools and these people are blocking the jobs, and on the other hand we cannot do it because there are some cases of people who came late into Government service'. In other cases people who many years ago used to go into this practice of dealing with their gratuity as if it was a savings account and when they got to the 20 years they then got their gratuity and bought themselves a television and then started counting years all over again so they just might have done 39 years with one lot of 29 years having been bought out by a gratuity 19 years ago and then be on his second leg of his second 20 years. There are many, many elderly male industrial workers in the Government service in that category who when you count their years have been there perhaps since they were 15 years old but, in fact, they may be now on their third

20 year leg. It is unfortunate that it happened like that and it is not a desirable situation but once you inherited that kind of mess at the end of the day what you have got to look to is do we really want to have a situation like we have today and I can well believe that the Hon Minister for Economic Development has people pestering him about what is going to happen with the pensions because they do it to me as well and they keep on calling at the office and they say: 'Well, what progress is being made?' And I have to say to them: 'Look, the fact that you have got a letter saying to you', and you have got to understand, I think, Mr Speaker, that we are talking in the main about people who are nearer 70 than they are 60 and we have got people whose understanding of the English language is not as good as it is with industrial workers nowadays who have been through an English educational system and as far as they are concerned they half understand the letter that they have got and the letter that they have got says to them: 'You are going to be retired and you are going to get a pension' and it doesn't say when they are going to get a pension because it says: 'When the Unified Pensions Scheme is coming in'. And they have had that letter in some cases now for fifteen months and they say: 'Well, when am I going to get this pension, I am now 77 and I am going to be 78, what does it mean? Doesn't this mean that I am getting a pension?' I think most of the people although the letter is clear and the letter does not seek to mislead because I have seen the letters myself, I think most people misread into that letter that the pension was just round the corner and that they were going to be retired and then within a matter of weeks or a couple of months at the outside they would be called in and the pension would be there. I have no doubt that they are calling back at the Secretariat knocking on people's doors like they are doing at mine. I don't think the problem of those people can be solved by us urging the Government to urge the Staff Association to do something and I think it is wrong to put the responsibility on the Staff Association for the people who have been retired as industrials without a pension. I also think the Government must understand if they don't already, that it is very peculiar for a Government to come along and say to the civil servant: 'Look, I am putting in front of you a proposal for a pension scheme which is inferior to the UK', because you have now got a pension scheme which is superior to the UK and which is inferior to the one in the UK Departments in Gibraltar which is marginally inferior to the UK, the only difference really between the UK Departments' pension scheme in Gibraltar and that took eight years to negotiate, it was finally negotiated in 1980 and signed in 1980 and made retrospective to 1972 for all the people who had been retired without a pension in those eight years, we don't want to repeat that. The only difference between those two which at the end of the day the unions accepted because it was a difference that was not worth holding up the entire exercise for any longer, is that in UK you get a pension after five years service and in Gibraltar you get a pension after seven years service. The Government is coming along and offering people a pension after ten years service, not after five like it is in the UK civil service, not after seven like it is in the UK Departments but after ten years but with the same multiplier of one over eighty.

Any person getting hold of the Government's proposals and getting hold of the proposals of the MOD will come to the conclusion that all that they have done and you don't need to be an expert or bring anybody from UK to do that, is to pick the one over eighty out of it and put it in yours and forget all the rest. There are many, many other things. Apart from anything else I believe, quite frankly, that in spite of what the Government has said about the generosity of the multiplier of their pension scheme that if they went all the way with the UK pension scheme which in my view is the only way that they are going to get a unified pensions scheme, if they get it, I don't see any union in Gibraltar accepting anything inferior to the UK civil service pension scheme and if they go all the way I think they will find that there are quite a number of elements which come more expensive and that the difference between the two may not be as much as it is being cut out to be just like the difference between what the union asked for for the industrial workers which was to say: 'Give them a pension after ten years on the existing multiplier which is one over seventy'. All that the union asked for in 1983 and I am sure that even if it has to be approved by ODA and approved by the Foreign Office and by everybody else, the House of Lords and God knows who else, all that was being asked was to take 20 out of the law and put 10 in and leave everything else the same so that the industrial worker with 10 years service would have got a pension which would have been based on a multiplier of one over seventy, that is to say, that for ten years service he could have had one-seventh of his pay, so if he is earning £70 a week then he gets £10. The Government turned that down because it was too expensive and proposed it should be one-eighth. We are talking peanuts. I don't believe this would have taken so long if the Government would have said: 'OK, we are prepared to give you the pension after 10 years because we have recognised that we have got many people who are never going to make the 20 because of their age but we are not prepared to perpetuate the existing scheme which is out-of-date and therefore we are putting you on notice that it is our intention to modernise the Pensions legislation, bring it up-to-date but we recognise we have got a problem with 20 or 30 people every year who are retiring because they just really cannot go to work anymore and those people need to be looked after because it is not their fault'. Had they done that in 1983 or in 1984 or in 1985, I believe they would have made more progress in getting a new scheme, fully protected the existing people and the cost would have been minimal, negligible. We are talking of a couple of thousand pounds a year between what they are offering to pay retrospectively and what they would have had to pay at the most and I don't think it would have been so difficult to convince the Secretary of State that whilst this process of change was going on which was going to be a lengthy and

cumbersome one this minute amendment should take place. Let me also say, quite frankly, that if it wasn't that we are dealing with a group of people who belong to an old school they would not have the problem because there is a very easy loophole in the law which would enable all of them to get a pension but we happen to be dealing with people who belong to an old school and who feel conscientious about work and who feel guilty about not acting honestly because all they need to do and it is very easy to do when you are 69 or 70 is to go to a doctor and say: 'I want to be medically examined because I feel it is too much work for me now' and when you have got a 69 year old man with 18 years service and any doctor will tell a 69 year old man who is working as a labourer: 'You really are too ill at 69'. I have had people who have been effectively retired by doctors from the St Bernard's Hospital and they have put on the thing that because of old age this man is no longer fit to keep on working. Then that man would be entitled to a pension after 10 years service but the people concerned feel that that is dishonest and because they feel that that is dishonest, which I don't think it is, quite frankly, I think it is perfectly legitimate, they are not malingering, they are not pretending to be ill, they have given in some cases just like we have had people who although they had a cut off point, we have had people in the Government service whose maximum pension was after 25 years and who have done 35 years for the Government effectively without getting anything for it just because they felt that they were strong enough to keep on working and in some cases, in fact, we have had also the unfortunate experience that some of these people who have worked all their lives, retiring them unless they can be found a way of still playing an active role in society is almost condemning them to death.

HON A J CANEPA:

And then there are the others who have done very little work and are now driving taxis with 20 years pension.

HON J BOSSANO:

But the fact that there are people like that shows one thing, Mr Speaker, what it shows is that it pays dividends to be like that, that is what it shows and therefore what should one recommend to somebody? To be conscientious and honest and hardworking and then be carried feet first at the age of 90 with everybody saying: 'What a wonderful man he was, it is a pity he died of starvation', not that anybody is starving because we don't have that in Gibraltar. I don't believe and nor does anybody believe on this side of the House that the Government is unsympathetic to the case of these people, we have got no reason to believe it, Mr Speaker, and therefore

when the motion asks the Government to do something about it it isn't so that we can then go out collecting votes of old people and saying: 'See how bad they are, they don't care about you'. The Government knows in any case that most of the people we are talking about are die-hards AACR who will still vote for them even if they don't get a pension, they know that and I know that, we know the people concerned because they are people who were founder members and people who were in the original struggles of the OCL in 1945 and those people also feel that it is wrong to change loyalties, they also feel that. This is not a motion brought to the House out of any attempt to make political capital or to hit at the Government or to make them out to be insensitive, no, it is a motion brought to the House because we feel that really the way that it has been played for the last two and a half years and urging the Staff Association to change their mind as the amendment proposes is not going to produce the goods for those concerned, quite frankly, Mr Speaker, and the problem will not disappear unless the Government suddenly decides to change its policy and stop retiring people at 65. Then you will have a situation where the people who were retired at 65 a month ago will come back and say: 'How come I was retired at 65 and now there are people with 66?' Once you start along a particular road it is very difficult to turn back and it is not that we are harrasing the Government on this, it isn't that we have been bringing motions every three months. We have given the thing a fair amount of time for it to go through the system and I can honestly tell the Government that the Unified Pensions Scheme that they have produced and the Unified Pensions Scheme that they want to see is a very, very long way off. That is the honest truth and they must know that this is so and the fact that there are people who are as a consequence of that suffering the deprivation of a pension which they have been promised they will get eventually retrospectively will cut no ice and, in fact, the non-industrial civil servants resent and in my judgement are entitled to resent that they should be made out to be selfish or uncaring because they are not prepared to bargain away things that they have got in order that somebody else should get it. At the end of the day the Minister says to us: 'Well, the ODA approves it and the Foreign Office approves provided we pay for it'. Well, it seems to me that he is doing the same thing to the union. He will approve it provided they pay for it.

HON A J CANEPA:

If the Hon Member will give way. I hope the Hon Member should give a little bit more credit having regard to the way that I have presented the case on behalf of the Government that I don't think I have been critical of the stand. Notice what the

amendment does, it urges them to discuss and agree, it doesn't say: 'Look, say yes, accept it', discuss and agree. But I hope he doesn't think that I am being critical about the stand that they are taking because, as he rightly says, if I were in that position I might well take the same stand and I don't want anybody to go away with that impression, that it's not the case.

HON J BOSSANO:

I am glad to hear the Hon Member say that because then I think he must understand that the question of discussing the thing, it is not going to be discussed any more rapidly as a result of the motion and it is not going to bring the conclusion of the thing any nearer and the problem of the people who are out still stays there. We certainly don't object, for example, to an amendment that removes the reference to the Government if he feels that by saying: 'notes with concern the failure of the Government', we are being hypercritical, we would be prepared to say: 'Right, we note the failure and we don't say whose fault the failure is, we take away 'Government' to provide a pension'. But I think we have to ask the Government, as an Opposition, on the basis of coming along and saying: 'Well, look, there is a problem in the strategy that you had proposed to deal with the situation in December, 1983, clearly because here we are in July, 1986 and we are really no further down the road we were then', that is a fact, we are no nearer to a solution, so clearly that particular road has not produced results. In that context, urging everybody to keep along the same road will not solve the problem so what we are saying to the Government is you have got to look at it from a different angle and, as far as we are concerned, we know that the TGWU's position has been to say to the Government: 'You have got two choices, either you do as an interim what we suggested that the people in post get it after ten years until a new Unified Pensions Scheme is in place and then we will go along with everybody else at the same pace because the current people are protected or alternately you do a scheme with us and then you go with the others at their pace'. We think that that is a sensible alternative. The Government may not be able to decide that without consulting the Secretary of State, I don't know, but at the end of the day perhaps we should ask somebody to raise it in the House of Commons instead of raising it here because if the political decisions have got to be taken by UK Ministers then, fine, what we will do is we will ask some of our friends on the Labour side to put a motion in the UK Parliament raising the issue there and say to the British Government: 'What are you doing about all the Crown employees that are being retired from your employment in the Government of Gibraltar without a pension?' Accepting the Hon Member's amendment, certainly the last part, gives us the impression and will give others the impression, I am glad he has clarified that it is not the intention to do that but I think if we are asking the Government to urge the Staff Side to discuss and agree the details of the scheme then we are saying that we and the Government are joining forces really because it is the Staff Side that is dragging its feet. Mr Speaker, I am going to move an amendment to the Hon Member's amendment which effectively deletes

paragraph (4) of the amendment, we don't mind paragraph (3) because that is just a statement of fact that it was presented and a reply is awaited, we delete paragraph (4) and what we are proposing is that we add a new paragraph (4) which would be the original paragraph (3) with changes which perhaps make it easier for the Government to accept, that is, in the original paragraph (3) we were asking the Government to take immediate action to provide pensions for those industrial workers. In the light of what the Hon Member has said about the constitutional position and the difficulties in any changes in the Pensions Ordinance, what instead we want to say is that they should provide an interim solution without specifying that it should be a pension and then that removes the constitutional problem about talking about pensions. It would therefore read: '(4) Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired', and that would follow from the basis that we know a scheme has been presented and we know a reply is being awaited but while we are waiting for the reply something really needs doing which is the essence of what we are proposing.

MR SPEAKER:

I understand then that you do not object to any part of the first three paragraphs of the amendment.

HON J BOSSANO:

No, on that basis we would support the Government's amendment because really we are not here to accuse the Government of anything, we are just here to try and see if we can get some progress. The proposed paragraph (4) would read: 'Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired', and we leave it to the ingenuity of the Hon and Learned Chief Minister to think up what the interim solution should be. I propose that the amendment proposed by the Hon Minister for Economic Development should be amended further by the deletion of paragraph (4) and the substitution thereof of a new paragraph (4) to read: 'Therefore calls on Government to take immediate action to provide an interim solution for those industrial workers with at least 10 years service who have been or are being retired'. We might even think of making them a loan since we are now in the process of making loans to everybody including GSL, Mr Speaker.

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

HON CHIEF MINISTER:

I just want to make three or four remarks on practical experience and absolute ignorance of the details of the matter. First of all, we introduced pensions for industrials in the City Council before anybody else did in Gibraltar after 20 years

service and the then non-Executive Government, that is to say, there were no elected Members with executive authority then, had necessarily to follow suit because the Council had done it and that is, in fact, what happened in most industrial process at the time. The Council had an elected majority which made progress and the Government which didn't have an elected body had to follow suit because of the pressure. But shortly after we introduced that there was a spate of applications of people wanting to have their gratuity and be re-employed. That must have been some time in the early 1960's. I remember quite clearly telling people after having obtained, which wasn't easy to get approval, after obtaining a pension for them trying to persuade them not to spoil that pension by getting £400 or £500, paying for a debt or an operation or a car or a holiday and then starting again. I confirm that that was the case and there was a spate of that that lasted for about eighteen months and many of those probably have suffered considerably as a result of that. The other thing that I must say is that I was not aware that the pensions scheme which is being offered to the Staff Side is less favourable to that which is provided by the Services and that I take note of. But I am also conscious of one thing which whatever happens with regard to the 10 years which we will have now to take an initiative and I know what that initiative will be, we can do it. What I think is unfair about the pensions scheme of the Government for the non-industrialists is their entitlement to retire at 55. That is a great disservice to the Government and a very expensive thing indeed and that is something I have always fought against because if you want to ask an officer who is not satisfactory for any reason to leave at 56 or 57 which we have a right to do, the Establishment and the administration put up their arms and say: 'Well, you have to justify, he wants to stay until 60', so it is his choice, if he wants to stay until 60 and you don't like him you have to carry him and it has been an effort in one or two cases to try and persuade people that they have to go at 57 or 58 without any blemish on their character but they have to give way to somebody else. That I think must be solved in any agreement that is negotiated with the Staff Side and, of course, this tied up for the future, people who have that entitlement can never be deprived of it but there are people who have started young, who have gone up in the service and do not wait one day beyond their 55th birthday to get their gratuity and their very good pension and care two hoots how long it is going to take to have that man replaced in a place where he has become important to the service and useful. That is a practical thing which I see in the administration personally, that I think is unfair and that is better, whatever else may be said about the staff pensions, that is better than what the people in England have, they are not entitled to retire until 60. These are just thoughts on matters which I have seen at close quarters and I know that we have a commitment with the people over 10 years and that the longer we take the more anguish there is going to be and the less people are going to benefit if we take much longer.

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

MR SPEAKER:

The question before the House now is the amendment proposed by the Hon A J Canepa as amended. You have the right of reply.

HON A J CANEPA:

There are a couple of points I want to take up, Mr Speaker. The Unified Pensions Scheme that has been put to the Staff Side is, of course, not inferior or that indeed that was presented in November, 1984, was not inferior in any respect. I think it had a number of provisions which were desirable. For instance, the provision whereby someone entering the service late in life because of the exigencies of their profession like an engineer, for instance, or a doctor, a barrister, the provision whereby that person would be able to buy back years of service so that if someone entered the Government service, say, a doctor at the age of 40 and retired at 60, under the present pensions scheme he would only be able to have 20 years service towards a pension and therefore he would never get a full pension. Under the Unified Pensions Scheme that was put to the Staff Side in November, 1984, there was, I think, provision for this concept of buying back years of service according to a certain formula of repayment which I think would have been very beneficial in the absence of transferability of pension rights for those individuals. I think it would make it more attractive for Gibraltarians who may have left Gibraltar, who may want to come back and practice their profession years afterwards to do so. There was also the concept of the unfreezing of pensions. At the moment persons retiring at 55, as explained by the Chief Minister, have the indexation of their pensions whereby they are increased in line with the cost of living every year, that indexation is frozen for five years, between 55 and 60, it doesn't seem to act as much of a disincentive, let it be said. The road that we have been travelling does not seem to have produced results, Mr Bossano has explained, and the indications he said are that it is not likely to do so. I am frankly somewhat puzzled to understand why at last Thursday's meeting the Staff Association Coordination Committee asked until October to give a reply.

HON CHIEF MINISTER:

So as not to lose summer hours.

HON A J CANEPA:

I wonder whether it might not in that case have been better that they should have given a reply much earlier than that, after a week or two of consideration which would help, I think, to expedite matters all round. I will conclude with this thought, Mr Speaker, there is a need for a new pensions scheme. The present one is out-of-date in many respects. It is also the subject of some abuse. There is an increasing tendency in certain areas of employment and I won't mention which sectors are involved in that tendency so let me just refer to them as employees of the Government who having got employment in a well

remunerated sector of employment within the Gibraltar Government, soon after they reach their 10 years of service they begin to suffer from depression and before very long they succeed in being retired on medical grounds, being awarded a pension of 20 years service which at the rate of salary being paid in that sector of employment becomes a very lucrative pension, a very high pension, and because they have been retired on medical grounds, every year it is increased in line with the cost of living and that is a scandal, it is militating against the interests of the service which gives the public service a bad name and I think that I would urge here, I have no compunction in urging Staff Associations to cooperate with management in eradicating this because it gives the public service a bad name.

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

HON M A FEETHAM:

Mr Speaker, having clearly established that having gone down a particular road in relation to this problem hasn't produced up to now the desired results, I am pleased that the House has been able to establish a commonsense policy on how to tackle the problem even though it is going to be in an interim manner and I am hoping that, at least this side of the House and I am sure the Government is in agreement, that having agreed on this that this will produce a solution, particular for those 55 people who have been retired.

Mr Speaker then put the question which was resolved in the affirmative and the Hon M A Feetham's motion, as amended, was accordingly passed.

HON CHIEF MINISTER:

Mr Speaker, I was going to propose the adjournment of the House but before that notice was given of a motion by the Hon Mr Mor yesterday which would require the suspension of Standing Orders. I had a word with the Leader of the Opposition and subject to a statement being made by the Minister for Education, I understand that we will not have to take a stand on whether the suspension of Standing Orders should be taken. I wouldn't like to refuse it but I don't think I can accept it so we have found a compromise and the Minister for Education will make a short statement on the matter which I think will satisfy Members for the moment because we haven't got enough information.

HON J BOSSANO:

I would just make the point, Mr Speaker, that we wouldn't normally, in fact, have done it except that when the issue came to our notice there wasn't the necessary time and that having discussed it the Party felt that by the time we meet after the recess it may be too late to do anything about it but we would not normally put the House in the position of having to suspend Standing Orders, anyway.

MR SPEAKER:

Then I will call on the Minister to make his statement.

HON G MASCARENHAS:

Mr Speaker, it is a short statement. The European Commission recently took up with the British Government the matter of access to vocational training courses by nationals of other Community States. As a result of this, the Secretary of State for Education and Science, Mr Kenneth Baker, stated in the House of Commons on the 1st July, 1986, that as from the 1st September, 1986, students who are nationals of other European Community countries and are studying in the United Kingdom on courses designated for mandatory award purposes in England and Wales or which are covered by equivalent awards will have their fees paid by the British Government if they satisfy the same or equivalent conditions for eligibility for such assistance as are applied to UK students. We have sought clarification on this but in the absence of any further information it is impossible for Government to formulate a new policy but once a reply is received then we will be in a position to consider the implications and obviously what improvements can be made to the scholarship system. That is all I have to say.

HON J BOSSANO:

Mr Speaker, I think the point is that we have brought a motion essentially which is based on the Minister's reported elation in the Chronicle and we therefore assumed that he knew that he was going to make a saving. We are now being told that he isn't sure but, of course, what we really want from the Government is an assurance that if between now and September they get official confirmation and therefore they have got money available to them which they didn't anticipate having, then we wish to see that money retained within the Minister's Department and used to provide extra scholarships rather than used for some other purpose. Of course, if October comes along and they still don't know then we accept that they cannot do it. If that is the understanding then, fine.

HON G MASCARENHAS:

Mr Speaker, I think I can give the House a guarantee.

ADJOURNMENT

HON CHIEF MINISTER:

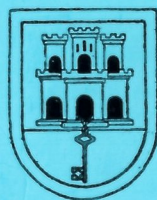
Mr Speaker, I now move that the House do adjourn sine die.

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 7.15 pm on Wednesday the 9th July, 1986.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

3RD NOVEMBER, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY .

The Thirteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Monday the 3rd November, 1986.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J B Perez - Minister for Municipal Services
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services
The Hon E Thistlethwaite QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 8th July, 1986, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Gibraltar Registrar of Building Societies Annual Report, 1985.

Ordered to lie.

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

The Tourist Survey Report - 1985.

Ordered to lie.

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

The Employment Survey Report - April, 1986.

Ordered to lie.

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

- (1) The Scholarship Awards Committee (Amendment) Regulations, 1986.
- (2) The Accounts of the John Mackintosh Hall for the year ended 31st March, 1986.

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 1985/86).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.2 of 1986/87).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.1 of 1986/87).
- (4) Supplementary Estimates Consolidated Fund (No.2 of 1986/87).

(5) Supplementary Estimates Improvement and Development Fund (No. 2 of 1986/87).

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 House recessed at 5.35 pm.

The House resumed at 6.00 pm.

MINISTERIAL STATEMENTS

The Hon the Minister for Economic Development and Trade and the Hon the Minister for Health and Housing have given notice that they wish to make statements. I will therefore now call on the Minister for Economic Development and Trade.

HON A J CANEPA:

Sir, during the course of a speech in the House of Assembly on 8 July 1986, after having asked why industrial relations within the Government were not as good as in the MOD, the PSA or, generally speaking, the private sector, I said:

"I have no doubt what the answer is and the answer was clearly not said by me. The ACAS conciliators tell you what the answer is. Mr Phayre has said what the answer is."

The statements I made call for some explanation. In the course of meetings with Mr Phayre, I left him in no doubt that my view, shared by others in the Gibraltar Government, is that the question of industrial relations with the Government is bedevilled by political overtones. That is my view and I wish to make it clear that I know that neither Mr Phayre, nor anyone connected with ACAS, has at any time made any comment on any political issue in Gibraltar and that they are most careful to ensure that their approach is impartial and independent. I accordingly regret having made any statement to the contrary. I clarified this matter in a letter to the 'Gibraltar Chronicle' published on 28 July and wish now to put the record straight in this House.

MR SPEAKER:

I now call on the Hon the Minister for Health and Housing.

HON M K FEATHERSTONE:

Mr Speaker on Thursday 18th September, 1986, the Gibraltar Government started a series of meetings with the Gibraltar Taxi Association with a view to reaching an agreement that would resolve all the problem areas encountered within the taxi trade.

Both sides have now agreed to a process of consultation and co-operation for the future aiming at producing stability as well as improving the services currently being provided.

The following are the points on which agreement in principle has been reached.

A. RATIONALIZATION OF ROAD SERVICE LICENCE FOR TAXIS

A.1. It has been agreed that any road service licence for taxis transferred following this agreement will be on the condition that the taxi is to be full time owner driven. Exceptions will only be made in the case where the beneficiary of the road service licence is the widow of the licence holder.

B. CITY SERVICE FOR GENERAL PUBLIC

B.1. A new service of 10 vehicles, operating on a permit basis, will be introduced. This new service will be termed 'City Service' and will operate under permit regulations and conditions to be introduced by the Traffic Commission.

B.2. In addition, a minimum of 15 taxis will also operate in this service from the taxi ranks and will attend to all radio calls as well. None of the vehicles employed on City Service will be allowed to conduct Rock Tours or be hired by time.

C. CROSS FRONTIER TAXI SERVICE

C.1. The basis upon which Gibraltar taxis will provide services across the frontier has been agreed and will be introduced after consultation with the relevant authorities.

D. REPRESENTATION IN THE TRAFFIC COMMISSION

D.1. The Taxi Association and the Public Services Vehicle Operators Association will be represented in the Traffic Commission and each will nominate a representative to be a member of the Traffic Commission.

E. NAMED DRIVERS

E.1. During the transitional period of 1 year, and in order to regulate the relationship between those existing licence holders themselves not driving their vehicles and their named driver, both parties will enter into agreement which will include a minimum of six months tenure and 1 month notice of termination by either side. These agreements will be lodged with the Gibraltar Taxi Association and a copy with the Traffic Commission. All second drivers will be afforded part time status and their hours regulated.

F. PRIVATE HIRE CARS

F.1. On the question of private hire car licences, Government after further investigation, considers that the vehicles so licenced would carry out work similar to, and in areas already well catered for by the taxis. It is therefore the policy of Government to recommend the limitation of the private hire car licences to the present level.

Other points on which agreement in principle has been reached are:-

- A) Publication of Tariffs at ranks and in the taxis
- B) Passenger facilities
- C) Standardisation of taxi vehicles
- D) Taxi at Ranks (the first two have to be available)
- E) Positioning of Ranks (a study will be conducted)
- F) The setting up of a Department of Transport to deal with all aspects of transport and traffic.

Details will be publicised later.

Subject to the increase of 10 vehicles which will operate with other taxis the City Service, Government agrees that the present level of taxis are adequate and it is the policy of Government to continue to adhere in future to the limitation in force.

In order to implement many of the points in this agreement, substantial amendments to the Traffic Ordinance and its subsidiary regulations are required. These are being drafted as a matter of urgency and, where applicable, will be brought to this House as soon as possible. Thank you, Sir.

HON CHIEF MINISTER:

Mr Speaker, perhaps I should clear one point. If, in fact, we can have the legislation pretty soon we will not wait for the next House of Assembly. If by the time we finish the proceedings of the House we know that we may have that legislation then we

will recess to a day in which we can take that Bill and then have a meeting in mid-December but if we can get that in time to fix a date we will recess to do that and bring it into operation as soon as possible.

HON J C PEREZ:

Mr Speaker, is one allowed to comment on it or just ask questions?

MR SPEAKER:

To ask questions for clarification.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I beg to move in the terms of the motion standing in my name in the Order Paper as follows: 'This House resolves that - (1) the Gibraltar Broadcasting Corporation be authorised to provide and operate sound signal origination equipment for the purpose of recording or broadcasting the proceedings of the House of Assembly subject to the directions of the House or a committee empowered to give such directions; (2) no signal, whether direct or recorded, made pursuant to this Resolution shall be used by the Gibraltar Broadcasting Corporation in light entertainment programmes or programmes designed as political satire; nor shall any record, cassette or device making use of such signal be published unless the House or a committee so empowered shall have satisfied themselves that it is not designed for such entertainment or satire'. There is a second resolution, Mr Speaker, but I would like to shorten my contribution if I were able to address the House in both cases and then move the second resolution, I shall refer to the second resolution but I will not move it and in that case I can deal with the two matters that go, really, together. In the first place, as Hon Members know, the question of the broadcasting of the proceedings of the House has been the subject of discussion for many years and it has been finally agreed, the expenditure was voted last year and I think it was re-voted because it had not been done within the year and now the Gibraltar Broadcasting Corporation is in a position to make the signals and to broadcast the proceedings. In order to do that it is necessary to pass a resolution. I would like to pay tribute to the Clerk of the House for the great research that he has made and the study that he has made on the report of the Select Committee on Sound Broadcasting and whose advice has been invaluable to the Speaker, to myself and to the Leader of the Opposition in the original meeting we had in order to bring these motions to the House. I wasn't terribly happy, as the Chronicle quite rightly reports, about the broadcasting of the proceedings of the House in the past because I

feared that instead of having the proceedings of the House broadcast, it would be the other way about, that people would come here to have what they say here broadcast rather than broadcast what they say here and that is to say that there should be, and this of course is the experience of the Speaker as quoted in Gibraltar Chronicle this morning of Mr Speaker Thomas who told me in December of last year that if he were to think again he wouldn't broadcast, in fact, I am radical enough to realise that there comes a time when whether you like something or not, the trend of opinion is such and the circumstances are such that it is ridiculous to resist it. I had the same view of the amalgamation of the City Council and the Gibraltar Government, that there it was, it was the tide of amalgamation and you couldn't fight against it and I didn't but I don't know whether it was the right decision or not. Sometimes I see clear cases that it was not the right decision but I am not dwelling on that. I hope I will not have or I will not have later the same feeling about the broadcasting of the proceedings of the House. If I may say so with due honesty and I have changed slightly my mind because of the conduct of the Opposition in this House as opposed to the previous Opposition. I think that whatever our differences may be and with the odd exception, I think Members opposite and Members on this side of the House say what they have to say and no more. It is true that some of us like to hear the sound of our own voices, others don't, but I am quite satisfied and quite happy, certainly now. If this morning's proceedings had been broadcast I don't know who would have been interested in the whole morning on the details that we have been dealing with but there it is, we will have said that we have made a contribution by means of broadcasting so that those who want to know what is happening will know, some of us will find it interesting, others may find it a little boring. I think the time has come when if people are to take a little more note of the proceedings of the House and the part that the proceedings of the House play in the life of Gibraltar, broadcasting judiciously put and fortunately, for the moment, not edited because that is really the difficulty and I think the Hon Leader of the Opposition is quoted as saying that he would like, and I think he said it the other day at the meeting, the proceedings to be heard live as they happen. I do not think, with the greatest respect to the resources of GBC, that there is the know-how or the technique sufficient to take up debates and report on them and then take bits and pieces. We are not, I think, ready perhaps later on in years to come we may be ready I don't think we are ready now because there would be all sorts of difficulties as to the time allotted and so on. Britain, of course, is different in many ways. They have Members of Parliament. We do not have the worry that Speaker Thomas found which is partly quoted but he doesn't say where it came from. When he said that they were going to have the proceedings of the House broadcast he said. 'It so happens

that on the first day of permanent broadcasting Question Time dealt with Welsh questions and I was staggered when I reached the bar of the House to see at least sixty to eighty Members in for prayers on the day when the Secretary of State for Wales was answering questions. Normally, I would be lucky to see a dozen people there but I knew at once that broadcasting was going to have a major effect on our proceedings, my instinct was not wrong'. Then he went on to say what is quoted that he found that people who appeared to have been dead suddenly were revived to come. Here because of the limited numbers and because we all take part in the proceedings, that kind of change is not likely to happen. I very much hope that we will deal with the broadcasting of the House in the same way as we have dealt with other matters in the proceedings of the House courteously and correctly and concisely and not longer simply because the House is being broadcast and do our business as we have to without fear or favour. I have no doubt that that will be the case and it is for this reason that I am pleased to move in the terms of the motion standing in my name. Before I do so I would like to also as an adjunct to that move the necessary motion in order that the procedure which is followed in the House of Commons be followed here to and that is: 'that a Permanent Select Committee on Sound Broadcasting consisting of the Speaker, as Chairman, the Chief Minister, the Leader of the Opposition and three other members two to be nominated by the Chief Minister and one to be nominated by the Leader of the Opposition, be appointed with the following terms of reference:- To give direction and perform the duties in accordance with the provisions of the Resolution of the House passed earlier on in these proceedings in relation to Sound Broadcasting'.

MR SPEAKER:

You will be moving it at a later stage.

HON CHIEF MINISTER:

Yes, but I just want to make one address and not two. This is the necessary requirement, it also follows the procedure in the House of Commons because, in fact, in the House of Commons it was on a trial basis for rather a long time until it was decided definitely. We are small enough to consider the matter on our own initiative without pre-conditions. In any case, I think it would be a good thing to review the position and keep the matter under review to make sure that the matter is put in the most attractive way and that we get a feedback from the public whether we are doing the right thing or not as to what part of the proceedings of the House are being broadcast or not which is ultimately the responsibility of the Select Committee. I now move in the terms of Resolution (1) standing in my name.

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

HON J BOSSANO:

Mr Speaker, we of course favour the broadcasting of the proceedings of the House and, indeed, the televising of the proceedings of the House. I think the packed Public Gallery
.....

HON CHIEF MINISTER:

I am sorry, I should have said that one of the purposes of broadcasting would be not to have to increase the size of the Public Gallery.

HON J BOSSANO:

I think that is an indicator of why we feel it is a necessity. We are looking at it not from the point of view of giving Members of the House another opportunity to make speeches and to win votes. We have got party political broadcasts available to us, we have got election campaigns every four years and we get reports of what happens in the House in the media but we think that it is an essential part of democracy for those of us who are in the House of Assembly to make the rest of our fellow citizens aware that decisions are being taken which affect them and that they ought to interest themselves in the arguments for those decisions and, in particular, from a Government point of view I would have thought that since most of the legislation that gets passed in the House of Assembly, it is only on very rare occasions that we manage to get the Government to accept amendments from this side, most of the legislation are the implementation of Government policies, then it is a healthier democratic situation that people should be aware of the arguments in favour and against the legislation rather than people should not take an interest in what is going on while it is going on and then wake up to the fact that the legislation has been passed and try then to mount a lobby to reverse what has already been decided. To the extent that people become better informed and either support whatever view we are putting on this side if we feel that the Government is making a mistake or support the Government if they think the Government is right, it can only be to the betterment of the democratic process, to a more informed citizenship, to a more responsible citizenship in terms of filling a part of the process of what a Parliament is all about and therefore it is essential, we feel, that we look at this from a Parliamentary standpoint and not from a party political standpoint. We are a little bit concerned therefore that the first decision that we agreed on which was that it should be only Question Time

which we made public in a Press Release issued by your office, Mr Speaker, on the 23rd October we should find that now the Government is having second thoughts on it when, in fact, in the first meeting when this was agreed it was the Government that convinced us that it made sense if we are starting on a venture to tread warily as we go along and let us experiment, first of all, with Question Time and then let the Select Committee review the situation in the light of experience and decide what more, if anything more, needs to be done and how fast it needs to be done. The position that we put forward, Mr Speaker, was that everything should be broadcast in toto and I was persuaded by the Hon and Learned the Chief Minister who tends, generally, I think, in most issues to say that you take one step at a time, I was persuaded that that made sense and I agreed and I went back to my colleagues and said: 'I have agreed with the Chief Minister that this is the way we should proceed' because after all none of us know what we are talking about. We don't know what either technical or political problems we may face when we start doing it so it makes sense to try it out for a couple of meetings of the House on this basis and then let the Select Committee take a second look at the situation and either say 'you are being over-cautious' or 'you are not being cautious' enough'. But the fact that now that agreement is no longer an agreement and the Select Committee is going to take a decision in a situation where the Select Committee has got a Government majority, I think requires that we should at this stage put on record certain misgivings that things should appear to be going wrong even before we have even got off the starting mark. I need to say that because we have not objected to a Government majority in the Select Committee but clearly there would be little point in having a Select Committee if what we are going to have is that Select Committee taking decisions on how the broadcasting is being done constantly on the basis of three to two. I think we must proceed on this on the basis of consensus. I think if we find, if either the Chief Minister feels that Members on this side are changing their approach and instead of sticking to the point of the debate trying to make party political broadcasts in the House, then I would be only too happy to have that brought to my notice and seek to make sure that it doesn't happen and I would expect that the same thing should work on a reciprocal basis with the response of Government Ministers on individual issues. It is not the Opposition's intention to lower the tone of the proceedings of the House, on the contrary, it is the Opposition's intention that the proceedings of the House should be conducted in a responsible and cogent and rational basis so as to persuade the electorate outside who have put us here that we are doing a job conscientiously even when we disagree fundamentally on what is being done and how it is being done but that we are both doing what we think to be right and that that should be manifest from the way we conduct

our affairs. I believe that if we are determined to do it we can only enhance the standing of the House in the eyes of the people of Gibraltar and therefore I sincerely hope that when we start the broadcasting and when the Select Committee considers it it will consider the issues on a non-partisan fashion of what is better for the Government or better for the Opposition but what is better for the House of Assembly, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I have over the years changed my mind and my attitude towards the question of broadcasting the proceedings of the House and I have done that for much the same reasons as the Chief Minister has indicated. I remember when the matter was being discussed with Members of the then Opposition that they took the view that the order of business in the House should be changed to accommodate broadcasting. First of all, that only Questions and Answers should be broadcast and that that should be done in the afternoon when they hoped that there would be more listeners and I was totally opposed to that. Today, Mr Speaker, I am an enthusiastic supporter of the whole concept of the proceedings of the House being broadcast, I support the idea in principle and, what is more, I am of the view as with the case of the Leader of the Opposition, that all the proceedings of the House should be broadcast. After all, Mr Speaker, this House doesn't meet that often. We may meet for a total of twenty days in the year, not 200 days and editing is a problem. Editing will be the subject of controversy, there will be accusations of bias and I say that the editing should be done by the listeners at home. If he is not interested in what he is listening to, if he is bored by Question Time then let him switch off at Question Time. If he is bored by what goes on during the Committee Stage of the proceedings of the House let him switch off the radio then and per contra if he happens to be interested in one particular matter of the business of the House and that is all that he wants to listen to, the choice should be his. Who is to judge what is more important? Who is to judge what is of greater interest? You only have to look at the business of the House today. Obviously, Question Time always tends to be interesting because there is an element of cut and thrust about it and usually Opposition motions also tend to be interesting because the Opposition rightly tends to highlight matters which are of great public interest which are controversial but there is today, I would suggest, on the Agenda a Bill which I will have the honour to move before very long, and that is the amendment to the Town Planning Ordinance which having regard to the controversy of the last couple of months ago should be of great public interest. Why, after what has happened in the House today should Questions and Answers only be broadcast and not the debate on that particular Bill? I just mention that as an example. I am all in favour, Mr Speaker, of all the proceedings of the House being

broadcast and I would only agree to a truncated version if it is to be experimental for a meeting or two or perhaps three meetings but I would withdraw my support on the concept of broadcasting if after two or three meetings I were to be told that there are grave technical or other reasons why all the proceedings of the House cannot be broadcast. I hope, Mr Speaker, that the business of the House will continue to be conducted in the manner in which it has been conducted since 1984. It is not that we want to be patronizing, I think that the fact that debates in the House these days are not as lengthy as what they used to be is not indicative of the fact that previous Houses went into the matter more deeply, it is by and large a question of approach and a question of personalities. There was a particular Member in the House whom I used to accuse of speaking on every subject that came up. Whether he knew what he was talking about, whether he knew anything about the subject that was being discussed or not, he would get up and speak and he had a reason for doing that and one could understand and see behind the reason. What I hope Hon Members will do, Mr Speaker, will be to resist the temptation of getting up and speak on subjects that they don't know about. I think that that is bad, I think it is better to keep quiet and to be told perhaps outside: 'Well, you don't seem to have a great deal to say'. The answer to that is: 'I speak when I know that I have something valuable to contribute and not just for the sake of being heard'. I think that that is a great error, Mr Speaker, and I have, over the years, learned that one can resist the temptation of contributing when one shouldn't. I remember in my early months, the early meetings of the House in 1972 and early 1973 that I used to get seriously worried when there was a lengthy piece of legislation, in particular, something that had nothing to do with me and that I knew very little about, and I remember one particular one because it was a lengthy Bill, something involving the Medical Department and actually going to my colleague, Aurelio Montegriffo, and asking him to explain what the thing was all about because I really felt that I had conscientiously and assiduously read through every single clause of the Bill and then to come to the House and find how many Members of the Opposition got up and participated in the debate when I felt that I had nothing to say and I think that that is better, Mr Speaker. Over the number of meetings that we have in the course of the year most of us get sufficient opportunities to take part in the proceedings of the House to convey to the members of the public who may so wish that we are performing a useful function here usually in the areas of responsibility or of shadowing for which we are responsible. It is a small House, we only meet for a few days and I think that to continue along the lines in the spirit in which has been a feature of the proceedings of the House over these last two and three-quarter years is important. This is the fourth House that I have had the honour to be a Member of, Mr Speaker,

and I can honestly say that the extent of personal invective, we sometimes criticise each other, we sometimes have had harsh words to say but it is not a feature of the proceedings of this House and I think that personal invective has been kept to a minimum and that is how it should be because it is not an indication that we are in cahoots, that we agree, we don't, we passionately believe differently and approach political issues differently and sometimes, in fact, the battle has been taken out of the House as with the case of the Brussels Agreement when there was almost something akin to an election campaign. We have felt about issues to that extent. Party political broadcasts on television are becoming, because we are now ourselves participating more, are becoming a feature of political life in Gibraltar and I think that the broadcasting of the proceedings of the House on radio should also be a step in that important direction of making the public generally aware that the House of Assembly is not a place where people come to waste their time, where people come to discuss nonsense or where people come just to air differences for the sake of those differences. There is a body of opinion in Gibraltar that there shouldn't be a House of Assembly, that the House of Assembly should be reduced to a municipal level and I think at a time when the international dimension of the Spanish question continues to be so important that there should be people who should suggest that because they say that there are matters of a municipal nature which are important but when seen against the struggle of the people of Gibraltar for their survival or their way of life, I think they have to be seen in their proper perspective. I hope that the resolution before the House today will, in fact, enhance the standing of this House, that it will reawaken interest in the proceedings of the House and if there aren't as many people in the Public Gallery because they don't need to come along like the ladies who came here this morning from the Police Barracks, more of them can switch their radio on at home, continue to do the washing-up and the cooking and be listening to the proceedings of the House. Mr Speaker, I support the motion.

HON J E PILCHER:

Mr Speaker, when the new House was constituted I was the Member to ask initially about the broadcasting of the proceedings of the House obviously asked by my party to do so, as the Member to sort of initiate in this House the broadcast of the proceedings I have to, I think, say something about the proceedings. I think in answer to both the Hon and Learned the Chief Minister and the Hon Mr Canepa, I think we have been here for three years and we know each other by now well enough in the House of Assembly to know what it is that we do normally in the House and what it would be that we were doing in the House as a result of broadcasting. I think the House of Assembly certainly being a new Member I have enjoyed every moment in the House in the toings

and froings that is part of the normal democratic process and I think, certainly from this side of the House, the proposal to broadcast the proceedings of the House was not in any way seen as a party political ploy to gain us votes, it was seen as a system of public awareness and I think I concur with the Hon Mr Canepa and, indeed, obviously, with the Hon the Leader of the Opposition when I say that I also favour the broadcasting of the whole of the proceedings of the House and the editing should be left up to the individual. I don't know what technical problems, if any, there are not being a technician, but I am sure that it is important for the people of Gibraltar to decide what aspects they want to listen and what aspects they don't want to listen to. I think it is particularly important when we come to legislation, when we come to Bills where sometimes what is missing in our democratic process is the feedback of people who actually do not know what is happening and the first time they realise that the Bill has been passed is when they read it in the Chronicle. The first time they realise that something has happened is when they see it on television. At that stage it is too late in the democratic process for that analysis to be put into the balance and discussed. I think it is important, particularly for Bills, for everything, but for Bills in that there is a move, for example, in this town planning system for people to have more input into the decisionmaking. I think for Bills if the democratic process and the Government know how we feel about First and Second Readings of the Bills being taken in one House and the Committee Stage and Third Reading being taken in another, that in itself produces a public awareness of the system of legislating that could well force the Government to move to one area or another and would create in itself a pressure coming from the electorate in a feed in into the system and an input into the system for that to produce a desired effect. Unfortunately, we are sometimes in a situation where we sit here and not enough people are coming to the Gallery and sometimes, perhaps because we do not like the reporting in the press because we feel that perhaps what we said which we thought was important has not been taken up by the press. I think it is important that if all the proceedings are broadcast then it is up to the individual listener to discard whatever part he thinks superfluous and to take an interest in that part that is important to him. I don't think any editor in the world, with all due respect to all the members of the press and the media in general in Gibraltar, it is not up to any individual to do that, it is up to the person who is listening and who is reading the reports. It is obviously impossible for my media to just give hours and hours of what people said so I think the only possible option is to broadcast the whole of the proceedings and to have the editing done, as was very rightly pointed out, by the individual listener. I think the broadcasting of the proceedings of the House can do nothing but better the proceedings of the House. The only purpose of the

Committee would be where abuses in the system were to be registered and discussed and as the Hon the Leader of the Opposition said, the abuses would be registered and corrected. It is not a situation where we would in a Select Committee decide what was put on and what wasn't put on. It is not our suggestion that it should only be Question Time, it is a sort of interim arrangement pending our maturing in the broadcasting but we would be all in favour for the whole of the proceedings to be broadcast. It can only better the proceedings and with a little help from each and every individual Member can only enhance the political maturity of the people of Gibraltar.

MR SPEAKER:

Are there any other contributors. Does the Mover wish to reply?

HON CHIEF MINISTER:

Thank you, Mr Speaker. It is not often that one gets one's motions supported by both sides, I think it is very pleasant. First of all, let me say that the question of limiting it at the beginning to Question Time was not only as a trial for ourselves but also in fairness as a trial for CBC itself who require arrangements and, in fact, it will mean much more expense though we are not worrying about that, in having all the proceedings broadcast because we are paying the extra hours and people will have to work for it and, of course, it is one thing to have an extra day, for example, up to 5 o'clock today when we finished Question Time or continuing this evening and tomorrow hopefully not much later than tomorrow or the day after. Let me also say that the idea of having a majority in the Select Committee was not in order to exercise majority for the purposes of running the show in that way. For one thing since it is so important that the Speaker is our Chairman, one of the reasons why I thought that that was a better idea was that I did not want to put him in the position of having to exercise a vote one way or the other if there was a decision in which both sides differed. I entirely agree with the Leader of the Opposition that it is not going to be a place where we are going to start taking votes but it will be a question of consensus. With regard to the contribution of my colleague, Mr Canepa, reminded me of the young MP who had very enthusiastically arrived in the House of Commons and asked Benjamin Disraeli who was then Prime Minister for advice. He wanted advice as to what to do and what to say and he told him: 'It is better that people should wonder why you didn't speak than that they should wonder why you spoke'.

Mr Speaker then put the question and on a vote being taken all Hon Members voted in favour except the Hon Major F J Dellipiani who voted against.

The motion was accordingly passed.

HON CHIEF MINISTER:

Mr Speaker, I move in accordance with the terms of the second motion standing in my name which reads as follows: 'This House resolves as follows - that a Permanent Select Committee on Sound Broadcasting consisting of the Speaker, as Chairman, the Chief Minister, the Leader of the Opposition and three other members two to be nominated by the Chief Minister and one to be nominated by the Leader of the Opposition be appointed with the following terms of reference:- To give directions and perform the duties in accordance with the provisions of the Resolution of the House passed earlier on in these proceedings in relation to Sound Broadcasting'.

Mr Speaker then put the question and on a vote being taken all Hon Members voted in favour except the Hon Major F J Dellipiani who voted against.

The motion was accordingly passed.

MR SPEAKER:

I would like to make a comment in respect of the second motion. As all Members are aware the Speaker, under the provisions of the Constitution, Section 44(2), has not got either an original or a casting vote. I am honoured to be asked to be Chairman of this Select Committee but I would like to make it public now, at the first opportunity, that I will never exercise a vote either original or casting in the Select Committee itself.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move in terms of the motion which stands in my name and I hope the House will allow me not to go through the details of the motion which I think are explained in the notice of motion which was circulated. The purpose of the motion is to amend Item 10 of Schedule 1 of the Licensing and Fees Ordinance and to adjust the level of fees for tavern licences downwards, of course. The purpose of the adjustment is to make the fees, first of all in the light of representations by the Gibraltar Licensed Victuallers Association, secondly, in the light of the increase in rates for commercial premises generally following the recent revaluation and having regard to the increase in the number of premises which are now paying at the top rates of fees compared with, say, 1983, it was decided by the Government to make this adjustment in favour of the holders of tavern licences. This is being done by maintaining the existing five fee steps as shown in the notice, the lowest being £160 per annum and the top being £400 per annum for the highest rated premises but also by raising the limit for each rateable band, in effect, raising the rateable bands three times and the effect

of this, again compared with 1983, will be that whereas in 1983 the average fee payable in respect of a tavern licence was £313, in 1986 before this proposed revaluation it would have been £347 and as a result of the revaluation, if the House passes this motion, it will fall to £252 on average. The amount of Government revenue lost is not great, Mr Speaker. In 1983 the annual yield from tavern licences was approximately £36,000; in 1986 before this proposed revaluation it would have been £40,000; with the proposed revaluation there will be a fall of about 38% to just under £30,000. I commend the motion to the House, Mr Speaker.

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

HON J C PEREZ:

Mr Speaker, whilst welcoming the move of the Government, there is something which I feel we need to point out and which is, to a certain extent, incomprehensible in that one of the reasons that the Hon Financial and Development Secretary has given for having to make this move is the recent increase in rates. No argument has been put to support that tavern licences should be linked to rates at all. We have a situation where tavern licence holders on occasions have to suffer thrice because you might have a situation where the rent is increased and because the rent is increased the rates are increased and because the rates are increased the tavern licence is increased. One of the points raised by the Hon Member was that this was being done because of the increases in rates and we might have a situation where some of the tavern licence holders are again adversely affected if their rents go up because the rates automatically go up and they pass from one hand to another. In looking at the whole question of tavern licences, if the Government sees that the revenue yield as it has said now, they are prepared to see the revenue yield being £30,000, I think that the measure should be one of regularising it in a different manner and not attaching it at all to the question of rates and be aimed really at raising the revenue which the Government feels they need to raise from that measure. It is, after all, a revenue raising measure and if they see fit to lower the yield from £40,000 to £30,000, perhaps in looking at it in a different manner they could come up with the same yield and at the same time not have it linked to rates where, as I said before, if there is an increase in rent the tavern licence is affected because the rates are affected or if there is an increase in rates only then the tavern licence again is affected. That is all we have to say on the matter.

MR SPEAKER:

Are there any other contributors to the debate?

HON J BOSSANO:

One point that I would like to make which has not been mentioned by my colleague, Mr Speaker, is that in fact to my knowledge the people in the trade have been making representations over the years that tavern licences in Gibraltar were out of line with what is normal in their trade anywhere else particularly, I think, they made the point in relation to what would be paid in the UK with whom they have links through the Association for licensed victualliers in UK and here. I think if the Government is in a position which presumably it has not been before to look at their case in the past because in the past it was not able to consider a drop in revenue and now apparently it is, otherwise it wouldn't be bringing this motion to the House, then it should be looked at both in the context of having a system which is not on a built-in escalator like my colleague has pointed out and a system which makes people in that particular area of business have to bear costs that are reasonable by comparison with the competition. I think it is a reasonable case that they have made in the past and if the Government is in a better position now to look at that case than it has been before we would expect it to see that sympathetically reflected in a policy change.

HON CHIEF MINISTER:

Following representations made by the GLVA we went to the extent to which the motion deals with and they were informed and they have naturally come back on the 26th September with a reiteration of some of their grievances which are being looked into and they should not think that they are forgotten but things must be done carefully and they are grateful for what we have done and also for the dire consequences that no amendment would have made with the increase in rates.

MR SPEAKER:

Any other contributors? Does the Hon Member wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker, I think the Chief Minister has made the point.

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

The House recessed at 7.00 pm.

TUESDAY THE 4TH NOVEMBER, 1986

The House resumed at 10.50 am.

BILLS

FIRST AND SECOND READINGS

THE TOWN PLANNING (AMENDMENT) ORDINANCE, 1986

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Town Planning Ordinance in order to give the Development and Planning Commission discretion to approve development projects which do not accord with approved planning schemes be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, the current City Plan or planning scheme as it is referred to in the Town Planning Ordinance, dates from September 1976. It was exhibited in September, 1976, for a period of three months during which the public could view the exhibition, if you like, and prepare and submit representations, views, comments on it. The representations that were received initially were referred to the Development and Planning Commission for their consideration and from there subsequently the process was one of submitting the views and comments of the Development and Planning Commission on these representations to Council of Ministers and Gibraltar Council. The process of consideration by the DPC was not that long but due to an administrative oversight the planning scheme was not finally taken to Gibraltar Council to be approved and therefore to become the planning scheme under the Town Planning Ordinance until November, 1979, so from a legal point of view it could therefore be said that the current City Plan is seven years old but from the point of view that it was first exhibited in September, 1976, the ideas, the concepts, the policy in the current City Plan therefore are really ten years old. The consideration to reviewing the City Plan first commenced in 1981 because the DPC was working to five years from the date of the exhibition, namely, from September, 1976. But in 1981, there was a great deal of uncertainty, firstly, about the future of the dockyard, secondly, about the opening of the frontier, by 1981 the aborted Lisbon Agreement was a fact of life and because of the uncertainties surrounding the future of the economy the DPC considered that it should renew the planning scheme on a yearly basis and await developments, wait and see until the situation regarding the future of Gibraltar

politically and economically became clearer before we get down to drafting a new City Plan. The situation though is now much clearer and I think that there is therefore every prospect, there is no good reason why a new City Plan should not see the light of day during the course of next year. To this effect the Government has employed a young graduate town planner in order to assist the Chief Planning Officer since the Chief Planning Officer has a dual role in that apart from being Chief Planning Officer he is also one of the two Deputy Directors of Public Works, so in order to assist him and give the whole matter some momentum, these administrative arrangements have been made and that is the reason why the powers which we are seeking which are contained in this Bill are intended to be of limited duration. The Ordinance would expire at the end of 1987 or earlier if a new City Plan is implemented then as it ought to be. But in the meantime, Mr Speaker, the present planning scheme does not take account of the new economic situation or of the demands that this is making underlying, in fact, the need to have some flexible town planning policies. Recent rulings of the Courts have also cast doubts on the extent of flexibility actually contained in the present approved City Plan, contrary to what the then Chairman of the DPC, Mr Abraham Serfaty, and he then Chief Planning Officer, Mr Mario Sanguinetti, stressed in the survey and analysis and in the introduction to the City Plan, as being important. Some of the important projects which are now in the pipeline probably breached the City Plan. For instance, the proposed development at Rosia Bay and here you have a situation, Mr Speaker, in which the Government of Gibraltar had detailed and difficult negotiations with the Ministry of Defence, in the context of the negotiations of the future of the dockyard it managed to get the Ministry of Defence to agree to hand over certain properties there, MOD land, with a view to a substantial tourist orientated development in the Rosia Bay area that could make an important contribution to the economy. A brochure was prepared by the Drawing Office of the PWD, approved by the Government and by the DPC, and it was on the basis of this brochure which envisages development on Rosia Bay itself that the Government invited proposals, invited tenders. In the 1976 City Plan Rosia Bay is designated as an open space. Hon Members may well wonder how has this come about? But that is not the end of the story, there is another scheme that has been considered by the DPC and approved which has been the subject of considerable airing in this House and I refer to the former ex-Shell Petrol Station site at Corral Road. The DPC has approved a four-storey building on that site. In the 1976 City Plan that is designated as an open space. Why has this happened? And in the case of IES, let it be said, and as Hon Members know, the matter has been going and froing for six or seven years. Let me say first of all, let me declare most solemnly that neither the DPC nor the Government were advised at any stage in regard to these two developments when considering

proposals for them that to build on Rosia Parade, to build on the ex-Shell Petrol Station could be contrary to the City Plan. I don't know whether Hon Members know what are the procedures when a building application is received. A building application is submitted to the Crown Lands Department for consideration, if necessary, ultimately by the DPC, copies of that building application go to the relevant Government Departments, invariably these are the Public Works Department from two points of view, the Public Works in order that they can consider the adequacy or otherwise of the services, water, sewage and so on insofar as the development is concerned. Public Works again from the point of view of the Drawing Office so that architectural and town planning aspects of the proposed development can be considered. City Fire Brigade, the Environmental Health Department, Telephone Department and Electricity Department in order that all the Government Departments can put an input and comment on these proposals. In the case of the two schemes that I have mentioned even though the former, Rosia Bay, the brochure itself was prepared by the Drawing Office, I regret to have to state that the Chief Planning Officer did not advise the DPC about the aspects that I have mentioned that, in fact, these proposals could be contrary to the City Plan. It may sound incredible but it is a fact of life and one would imagine that it would be logical that when a building application is sent to the Drawing Office for their comments one of the first things that they should do prior to considering the architectural merit is to look at the City Plan and say: "What is there in the City Plan for this site or this area and is this proposal in conflict with the City Plan or isn't it?" That has not happened and it is a matter for regret but it is a fact of life and that is one of the main reasons why I am having to bring the Bill to the House today. Because there are development projects which are important, which the present DPC consider should get off the ground and in respect of some of which the Government, I think, has a quasi contractual obligation to deal with people who have submitted proposals in good faith, properly, in an efficient and in a proper manner because if you ask people to submit proposals for development in Rosia Bay you cannot twelve months later say to them: 'Sorry, there cannot be any development in Rosia Bay because we hadn't realised that it should be an open space'. That is from the point of view of the Government, the position in which the Government has been put into by this oversight. As I mentioned yesterday, arising from questions, the Government has taken a decision in principle to have a greater element of public participation particularly in the effect that building applications can have on persons occupying, owning or living adjoining properties. There is no difficulty about that in principle, the only problem might be whether we just follow blindly the procedures in UK or whether and to what extent we adapt them to meet the realities in Gibraltar. The reality being, for instance, that you have a DPC as being the planning

authority which is not the same as the planning authority in the UK. In the DPC there are people appointed by the Ministry of Defence as a relic, if you like, of the days when the Ministry of Defence were represented in the old City Council because they were important rate payers, it is a residue of that, but they make an important contribution because they aren't just members of the DPC to look after MOD interests, they are there in order to appraise the DPC at an early stage about the implications that any proposed development can have for the Ministry of Defence. For instance, a reclamation scheme in the Port can have implications in the harbour, say, in respect of silting and the Ministry of Defence need to know at an early stage in order that they can come back with their comments. They perform a very useful function but they are individuals who are not involved in public life in any way, services representative, a United Kingdom civil servant, and I have got serious doubts in the context of public participation whether, for instance, the proceedings of the DPC can be made public to the extent that those of the Transport Commission are. I don't think that people who are here for two or three years and who are appointed to the Commission in the capacity in which I have explained are going to be prepared to be pilloried in a public hearing. That is a matter for politicians because we have got certain responsibilities and when we go into public life we know what we are letting ourselves in for but it is a different matter, I would submit, for members of the MOD or for civil servants, in fact, I would say, I think a distinction has got to be drawn. We are not in a parallel situation with the planning authorities in the United Kingdom and I think that whatever we come up with at the end of the day that will allow a greater element of public participation has got to be tailor-made to meet the reality of the situation in Gibraltar. There were recommendations, as Hon Members know, from Sir John Farley Spry in this respect. The DPC has already looked into the United Kingdom legislation, it has made a preliminary submission to the Commission which the Commission in respect of one or two matters is seeking legal advice and I think I indicated yesterday as to the areas that it deals with, namely, to what extent there should be a right of appeal, should just anybody have a right to appeal or should it be limited to those who are aggrieved, who are affected in any way because they own adjoining properties and so on. Once this matter has been resolved the DPC will then submit these recommendations to the Government and I therefore very much hope indeed that before next summer there will be fresh legislation brought to the House amending the Town Planning Ordinance to permit a much greater element of public participation. In the meantime, Mr Speaker, I hope also that in the first half of 1987 a draft City Plan will be exhibited and the public will be given an opportunity, naturally, to submit their comments on the proposals contained in that City Plan. But we are, regrettably, in a situation in which unless the DPC acquires the powers which

are proposed in this Bill, we are going to be effectively fettered in respect of important developments. It will be extremely difficult for the developments to proceed and the attitude that I take as Minister for Economic Development is that development is important in Gibraltar. It is important because it entails an expansion of the economy, in the short-term it produces employment for the construction industry but in the medium to long-term it entails the creation of permanent jobs principally in the tourist industry and in the financial centre and I think that it is important to strike a balance between the need to abide by sensible town planning policies and the need to develop the economy. The Government itself whenever it has been able to do so has been anxious to preserve the character of certain parts of our city and the work over the years that has been done on modernisation of old housing in spite of all the decanting problems, in spite of the very high expenditure that that has entailed and the criticism that it has had because the pace at which you are providing new housing through modernisation is much slower, the Government has given a lead in that respect. The Government has given a lead in Town Range by converting a building that used to be a school in the past which went into disrepair by refurbishing it and today it is an attractive building and it provides a first-class school and across the way, again, there are Government offices in a building that was worth preserving. Not only has that function been met but also the other requirement that the Government public service are not working in terribly good conditions, anybody that takes a walk around some of the Government offices will see the deplorable state in which many civil servants are working in and that cannot be a permanent feature of life particularly when many offices in the private sector are far more lavish than those in which the Government civil servants are working in. We are trying to strike a reasonable balance in these matters but, as I say, it has become necessary for the DPC to acquire these powers unless, to all intents and purposes, over the next six to nine months it is to have very little to do and unless these developments by which the Government has laid a great deal of store in the development of the economy are otherwise to remain on the drawing board for another six to nine months. 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:

We are opposing the Bill, Mr Speaker, and the House has only

been given half or even a quarter of the story by the defence of the Bill presented by the Minister for Economic Development. This is, in fact, no more and no less than the implementation of the threat issued over television by the Hon Mr Featherstone in a political broadcast when he said that if people take it into their heads to challenge Government action because it conflicts with the law then let them be warned that the law will be changed and here we have the law being changed. Of course, the Government has just demonstrated to the House of Assembly that it has no difficulty in changing the law very quickly when it suits it. It has not been able to bring legislation to this House to give pensions to people who have been retired since the 1st January, 1984. It took between 1978 and 1985 to legislate for pensions for part-timers. It has taken from 1983 to 1986 to legislate for the use of the MOT Testing Station and it has taken two months between the threat to bring legislation to give it the powers that it is seeking and the implementation of that threat. Of course, this is not the first time the Government has been challenged in Court on something it was doing. I remember one particular Bill that was brought by the Minister for Economic Development to the House and carried with the Government votes and my vote, I was the only Member of the Opposition that voted in favour and the Government was challenged in Court by the Chamber of Commerce and the Government was found to be in conflict with the Constitution the way the law was drafted and the Government had to come back and change back what they had introduced. They brought no new arguments, they just said: "We have been found to be in conflict with the law and what we are going to do now is we are going to go back and re-draft it". I am still waiting for it to be redrafted, I think it is now ten years since they took it back for redrafting and it was an important matter of policy and I was convinced by the Minister for Economic Development, this is why I supported the Government, that the measures that they were introducing giving Consumer Protection Inspectors access to businesses was essential in order to protect people against excessive pricing and having come here, having taken a policy and introduced that policy they found that the policy that they had implemented was in conflict with the law and they quite rightly came back here and said: 'The Government cannot be in conflict with the law, we are going back again to the drawing board'. But they never came back again ten years ago, so much for Government policy. This time round they have tackled this with a haste which is exemplary by comparison with anything that I have ever seen them doing in fourteen years in this House of Assembly. I don't think the arguments that the Minister for Economic Development has used in support of the Bill hold water. We know that this has nothing to do with IES and this has nothing to do with Rosia Bay, this has got to do with the Command Education Centre, this is what it has got to do with and this is, in fact, the Government doing what they said they were going to do after the

question of the Command Education Centre. But of course, it tells us something of which, again, this is not the first example. Many people were very upset by what appeared to be a departure on the part of the Government in saying: 'We are here to govern and we are going to do it whether people like it or not'. But, of course, Mr Speaker, this is not the first time that they have done it. In the earlier part of this year when they changed the way of calculating rates, or last year, I cannot remember if they did it in this budget or the last budget, it was after the Opposition had brought to their notice that the way that they were calculating rates, which they might have been doing historically, had no provisions in the law and what did they do? They came along and they changed the law so they simply legitimised what they had been doing all the time. And if they are having to bring this law now here it can only mean that what they did on the Command Education Centre they didn't have the legal power to do otherwise why change the law? Nor is it true that we are on the verge of a major expansion and that if there is a six or nine month delay in 1987 the whole economy of Gibraltar is going to come to a halt. The reality of it is as Members of the opposite side must know and if they don't know then they don't read their own statistics which would not surprise me in the least, the level and the volume of work already in effect in practice in the construction industry and programmed for the construction industry is as much as the construction industry can cope with, that is the reality. The reality is that if you have got an economy that has been with minimal construction work and declining in terms of employment, the construction industry has come down from employing 800 people to employing 400 people and now it is back to employing 600 people according to Government statistics. The reality of it is that you cannot switch an economic system on and off like throwing a switch in the wall. If you are gearing up from an economy that is simply surviving on public sector contracts from MOD and from ODA funded development programmes and there is a steady constant flow where really all you have got is the same workers moving from employer to employer as one employer loses a contract then another one gets it and you move from that into a phase of expansion, firms cannot in fact cope with that situation unless they do what is tending to happen in many sectors in the private sector which is that they are all chasing a limited supply of labour and pushing the price up and that is not a good way in which to run the economy because what we are facing at the moment is what could well be the gold phase of a stop gold economic system which was something that people were very critical of in the 1970's in UK where you go from a period of boom to a period of depression and back again. We do not have a steady programme of saying: 'This is what we are going to do next year and the year after that and the year after that and that is the volume', and it is better to run the economy on a system of stretching out the

work so that we have got continuity of employment rather than importing a lot of labour at one stage and then laying a lot of people off. As well as that, we have a situation where when we are talking about planning, the Minister has said they have now taken a policy decision of introducing a greater element of public participation. I thought that was the policy decision they took in 1975, they made a big song and dance about it in 1976, of course, it was an election year and they tend to do that, they tend to make a big song and dance in election years and then become dormant for another three and a half years and then you have got a six month phase of activity again. But, of course, I remember that the House was asked to vote money for some of the stands that were put up in Mackintosh Hall to show people what was being planned and everybody came along and they saw the pretty pictures and they saw the models and everybody went away and that was the end of the story. They never saw the reality of the situation. So, in fact, as far as we are concerned on this side of the House our understanding is that the Government has been committed to a greater element of public participation for the last ten years, it is not a new policy that they are announcing. It is not quite as old as free association which is twenty years old and it is just going to be considered again but it goes on for that length of time. As far as we can tell the Bill is, in fact, a Bill which seeks to give the Government the right at their sole discretion to depart from what they have publicly invited views on ten years ago. It is not the fault of the public and it is not the fault of the conservationists and it is not the fault of the Opposition that in 1986 they have done nothing about up-dating the 1976 City Plan and if it took them from 1976 to 1979 to approve the old one I don't see why they expect us to believe that they are going to be able to approve the new one in thirteen months, between now and December, 1987, at the latest. So what will we have, Mr Speaker, the Government coming back as they did with the notorious Landlord and Tenant Ordinance, coming back every six months extending the thing or as they did at one stage with the Trade Licensing Ordinance extending the life of the thing every time they put a deadline which they had no intentions of meeting and they couldn't meet? I think the issue on the general principles of the Bill is an important issue. It is one thing to say: 'We invite public participation in the decisions and then we legislate to give us the discretion to ignore the views of anybody and do what we think is in the public interest'. Well, this is not as simple as taking a decision which is reversible. If the Government decides to do something on building independent of whether it is the right economic policy to bunch too much in too shortened a period of time which is a question of an approach on economic management, independent of that, from a point of view of the quality of life in Gibraltar, decisions taken to put up

buildings are irreversible. Nobody could come along tomorrow and reverse the decision on the Command Education Centre and rebuild the place as it was originally and the same applies to other decisions. Once decisions are taken they are there for life. If the Government wants to be honest with us and honest with the conservationists and honest with the whole of Gibraltar let them forget all about town planning and let them decide to do what they like for four years and then if they are out in 1988 we come in and we decide to do what we like for four years and then Gibraltar will look like a jigsaw puzzle. I think the whole philosophy of the City Plan, I remember, that Mario Sanguinetti used to put forward, was that this was too important an area to be dogged by party political differences and, in fact, it has not been dogged by party political differences because nothing has been happening since 1976. In fact, the City Plan was there, it was an attractive piece of work, a lot of important arguments were being put then in that document not just on the question of development, a great deal was said that was important on housing, on how to deal with the housing problem, on the need to spend money on maintenance otherwise at the end of the day if you let the buildings deteriorate you find the only thing you can do is pull them down, 90% of it was ignored so it wasn't a question of saying: 'Well, the Government would like to do it and is being frustrated by a hostile negative Opposition that is opposing for the sake of opposing'. The fact is that it was there but nothing was done to give effect or to reflect in the policies of the Government what they had put forward. Much of it made a lot of sense, well defended by professionals, defended in this House by Abraham Serfaty when he was a Member of the Government, Mr Speaker, and if we are now ten years later and nothing has been done to replace that original document, then what the Government needs to do is to come to the House or to come to the people of Gibraltar and say: 'This is what we want to change in the old document and this is why we want to change it, so that we finish up with a new City Plan that is an improvement on the old City Plan' and that takes into account what has happened in the intervening ten years but not simply one that says: 'Since it is my fault that I have done nothing for ten years I am now giving myself the power to do what I like to make up for the fact that I have done nothing for ten years'. They will not get the support of this side of the House on that approach and we cannot accept and we do not believe that, in fact, we are going to see in the next six or nine months anything dramatic happening in Rosia Bay which would not be better seen in the context of where Rosia Bay is going to fit in the overall development of the whole of Gibraltar because it isn't just a question of the people who live next to Rosia

Bay or the people who go swimming in Camp Bay, it is a question of the people who live in Gibraltar which includes all of us in this House and all the people outside. We have yesterday debated the importance of broadcasting the proceedings of the House in order to make people interested in the decisions that we are taking and when we are talking about allowing change of use in buildings and allowing development, we are taking decisions for generations to come. We are not just talking about decisions which can be changed in 1988, we are talking about decisions for generations to come so it is even more important to get people to understand what is being done and why it is being done and it cannot be seen in any sensible fashion unless one is looking at it in an overall context. If you are just looking at what they are doing in Rosia Bay and they are doing nothing else in Gibraltar you might say: 'Well, it doesn't really matter if in Rosia Bay they put up a hotel or a tower block or whatever they want to put up'. But if you are going to have a string of tower blocks all the way from Rosia Bay to the frontier you might take a different approach. I think the importance of a City Plan is not just what you are going to do on one individual bit of land, on the Shell Petrol Station or in Rosia Bay, it is that you see where it fits in in the whole context and what Gibraltar is going to look like if it comes to fruition after a number of years. The people who are drawing up the plan are drawing up the plan with a vision of the physical appearance of the place in the future and the people who are looking at the plan must look at it in that way and therefore the question of views and right of appeal is not just because you happen to live next door and you don't like a lot of noise, this is a different consideration altogether, it is because we have all got a right to say what kind of Gibraltar we want in the future and not just the people who happen to be in Government who might find the idea of having an extra 500 construction workers for an extra six months paying income tax an attractive thing to be able to come back to the House and say: 'Look how well the economy is doing. We have got an extra £2m in income tax this year'. We need to look at it with the seriousness and the importance that it merits. I do not believe the Government needs this power and I do not believe that this is the correct way in which to approach it and we are opposed to it in principle. I have myself, Mr Speaker, been convinced by seeing the difference between good development of old buildings and the destruction of irreplaceable buildings and the replacement by buildings that are destined to become slums and are recognised and many other communities have made those sort of mistakes because of the short-term attractions of seeing a lot of development and a lot of money coming in and paying in the long-term a heavy price because at the end of the day the developer has made his money, the developer sells the

property, the developer gets out and the residents who live in the place are then left with the relic for a very long time to come and I believe that sound re-use of buildings that can be safe and preserved enhances the quality of life, enhances the attraction of the place and makes in the long-term economic sense provided you take a sufficiently long-term view. I was not of that persuasion myself, having seen it myself I can understand the arguments which I could not understand before because I have tended, generally, to side with the view that it is better to create jobs and it is better to generate income and it is better to develop an economy than to preserve old buildings, what is the point of preserving old buildings, what are we talking about?

HON A J CANEPA:

In other words, no longer a Philistine.

HON J BOSSANO:

I am less of a Philistine that I was before but I have had to see it myself. I don't know how I can convince other people in the House but I have been convinced by seeing it myself and having seen the difference and having had it explained to me by people who have been through that learning curve themselves, who have taken me to see parts of a city where the original idea was economic development, growth, demolition, put up a skyscraper the more the better, the bigger the better, and then coming back and saying: 'Now we are finding the kinds of problems that that creates', where you have got people moving out of city centres and you have got a total collapse of the whole economic development and infrastructural development of that city centre and you are left with white elephants behind whereas old buildings regenerated and given a new lease of life prove to be assets, they improve the quality of life for the people who live there and they improve the attractions of the place and people do not just then go. What we don't want in Gibraltar is simply a mirror image of another plastic tourist resort because I think that once the novelty of coming to the Rock passes it is the attractions of the Rock that must keep on getting people back here to visit us and contribute to our economy. I believe that those assets are recognised by the Government and have been recognised by the Government in the kind of approach that was reflected in the thinking behind the 1976 City Plan and I say we stick with that until the Government comes up with something better to put in its place. The opposition will not give the Government the right at their discretion to depart from it as they wish and when they wish.

HON CHIEF MINISTER:

Mr Speaker, I really have been very surprised and disappointed at the earlier remarks - I will deal with the latter remarks - at the earlier remarks of the Leader of the Opposition about the question of the pensions and the question of the price control. In the first place this amendment is a short one and if you know what you want it can be drafted and prepared at short notice, it is a one or two clause amendment and it has been explained, I am not going to repeat that, and it is an amendment to a law that we have passed ourselves. We were responsible for the Town Planning Ordinance. If we go further back we were responsible for the first ever town plan in Gibraltar. I remember Clifford Holliday who was a very eminent town planner who came out to Gibraltar in the early 1940's when I was in the City Council and said that Gibraltar was the only territory abroad that he knew that didn't have a town plan ever and this was the first outline town plan which later was administered by the Central Planning Commission which I had the privilege of presiding over many years with quite a number of representatives of all interests and we dealt with applications in accordance with the outline town plan of Mr Clifford Holliday. Then we had Mr Kendall and it was as a result of our desire to look to the future planning of Gibraltar in an orderly way that the Town Planning Ordinance was introduced by this Government in 1973. We do not need, if I may say so with respect, any lectures on recently converted conservationists to know exactly what we want. It is true and I said so at the Heritage Conference in the Rock Hotel where I think the Hon Leader of the Opposition spoke completely differently to what he has been saying today, I wish we could convert him on other matters as easily, it must be a very strong conservationist lobby that can change the Leader of the Opposition's thinking so dramatically in such a short time unless there are, of course political considerations and conveniences to be explored and exploited. But there were two different things, first of all, in the case of the price control it was found that the proposal that came before the House and amended, it was found that it was contrary to the Constitution. Well, everybody knows that we cannot change the Constitution and anything which is unconstitutional must be put right and that is exactly what the Government of the day did. It was found by a declaration of the Court despite the advice given by the Attorney-General of the day who no doubt should have looked at the matter to see whether it was constitutional or not that is a rule of law, that is the advantage of having a judiciary that overcomes the Executive, that can tell the Executive where it goes wrong and that is why we amended the law because it was found to be contrary to the Constitution

and any law which may be passed here by any Government which is found by the Courts, the highest Court, if necessary, up to the Privy Council but initially if it is found by a Court of First Instance that it is contrary to the Constitution the Government has got a duty to amend the law in order to comply with the Constitution. But the Government has also got its power to amend what it has brought to this House if it thinks it necessary and this is an amendment of a law which the Government of the day and this Government, not another Government, passed in order to organise and better the town planning in Gibraltar. That really is no comparison at all, with the greatest respect. Nor is it a comparison of the rapidity with which an amendment was obtained compared with the question of the pensions. Hon Members opposite know that we have decided that and we have had endless difficulties not of our making because pensions is not completely a defined domestic matter, it affects other people and it requires the consent of other people and we are as disgusted and as fed up as Hon Members opposite at the fact that we have not been able to deal with that matter earlier and Hon Members know that and they will know that when we come to the motion on the problem, it is not of our making. We are not sovereign to that extent of deciding everything that we want. We may be a little more sovereign if we get free association, we don't know, certainly we are not going to go much further if we want to declare independence. Those two examples are really not at all relevant. In fact, the first exercise which happened to be in 1976 of a City Plan was also the creation of the Government and of a very enthusiastic town planner who appears to have lost part of the enthusiasm in the course of time because if he was the one who made the town plan and he was the Chief Planning Officer at the time we must hold political responsibility that must be sacred Sir Humphrey, we must hold that responsibility but it is rather ironical that the City Plan was prepared by the Chief Architect who later on forgot about it. Such is human frailty, I suppose, and we have to pay for it and we have to pay for it in the criticisms that have been made today because eventually we are the ones that have to face the public. But the extent of the amendment is not as drastic or as sinister as had been made out by the Leader of the Opposition because it is obvious that town planning is an on-going thing, it is never finished and what is today something which is sensible in five year's time may not be because the environment changes, people's habits change, the character of a place may require an element of change and you have to make sure that you do that within the parameters of what you want generally and hence the Town Planning Ordinance provides that there has to be a new City Plan every five years otherwise we would be stuck with a City Plan fore-

ever and there could be no progress at all. The fact that the City Plan was not reviewed in 1981 or 1982 is also very deplorable but it may well be, too, that those were not the days where you could look ahead with any element of confidence of what was in store for us after twelve or eleven years of a closed frontier and the expectation possibly of an open frontier where things could change not only in the development of offices for the Finance Centre but generally the aspect of life, the people who come, the people who live here require to have a new situation looked at by the planners. Therefore it may well be that that was one of the reasons why not much more progress was made in the review of the City Plan but a lot of work, I understand, has already been put into it and I must say that despite the progress I saw a paper recently, I forget, but somewhere in the course of my duties about planners who are, I suppose, idealists then they don't put the thing into effect. We are thinking that we ought not to have a City Plan for another ten years until we knew exactly what the City Plan across the way was so that we could match it in. You have to strike a reasonable balance between what is in the very distant future and what is in the more immediate necessity and more immediate requirement of a community which has had this jolt, very dramatic difficulties imposed on it, one was the segregation and the isolation from the mainland and the other one after a period of time was the connection again as part of life with an open frontier situation. Precisely because the powers that are required are only interim pending the new town plan, the Ordinance only seeks to have this power and because it is past the five years of the original town plan the Bill seeks to obtain powers to deal with the interim problem which will be done with all care. I do not think, in fairness, that the reference to the broadcast by my colleague, Mr Featherstone, has been properly understood nor is it fair to say that because that is not what we do. We didn't do that in other cases, we have to deal with the matter as it stands but this is one of general public importance and, of course, once the Leader of the Opposition has been converted then I am sure all the members of his party have been equally converted to conservationism and we can see the reason for the opposition to the Bill. We feel that this is good for Gibraltar, that this is what is required, that is why the Minister has proposed it and that is why we propose to use it in the best interests of the purpose for which it is brought to the House.

HON J E PILCHER:

Mr Speaker, on the general principles of the Bill I think most has been covered by both the interventions of the Hon

Mr Canepa and the Hon Leader of the Opposition. However, there are various points which the Hon and Learned Chief Minister has brought up in his intervention, that need to be answered. He started off by saying that the difference between this amendment brought before the House and other amendments that have been delayed through perhaps years or months was that the Government know what they want, these were words that he used. In this particular case the Government know what they want and therefore can act on it quickly

HON CHIEF MINISTER:

If the Hon Member will give way. I think he is misquoting me. I said that this was something which we had done and we know that we can do it. I referred to the pensions as being entirely outside our province.

HON J E PILCHER:

I accept that and obviously there is a motion in the name of one of my colleagues which will bring to light all the problems of the pensions but the Pensions Regulations are not the only ones mentioned by the Hon Leader of the Opposition that have been delayed through the years, this is just a one-off. It is, I think, important that in fact this amendment is not passed because if the Government know what they want and they know what they want to do with the City Plan, the provisions of this amendment, what it does is it gives the Government the right to relax, to sit back and be inactive on the City Plan until it suits them to do otherwise. If this amendment had not been brought to the House given all that has been said by the Hon Mr Canepa, the pressure on the Government to change the City Plan and to make Gibraltar aware of the new City Plan would be much greater than if we pass this amendment giving the Government the right to do what they like over the past year is such that the pressures would not be as great on the Government to actually sit down and change the City Plan. The Hon and Learned the Chief Minister also gave us a history of how the City Plan and the Town Plan came into effect and said that it had been the AACR Government that had initially since 1975, if I am not mistaken, brought the City Plan with the 1976, passed in 1979, being the City Plan of today. With that history behind them it should be more so evident to them that what they are doing in this amendment is doing away with the City Plan altogether and our Leader, recently converted conservationist, was recently converted conservationist in the United States of America not because of the votes that that can give us in Gibraltar but what has happened is that

there has been a contradiction, a change over from the Leader of our party being the Philistine and now the recently converted conservationist, to the prospective Philistines on that side of the House now and because the Leader of the Opposition is now a converted conservationist, the Hon and Learned Chief Minister says that the rest of the Opposition must therefore be converted conservationists. If the Hon and Learned Chief Minister has always been a conservationist how is it that now because he has a Deputy Leader who is a Philistine the rest of the Government are prospective Philistines and it must only be that. The Hon and Learned the Chief Minister talks of the extent of the amendment and he talks of changing this to give the Government the right and the time to be able to amend the City Plan. If we look at the amendment, Mr Speaker, it says 'and in any particular case grant a permit for the demolition of any building or for the erection and subsequent use of any building even though the demolition of the building or the character of the building to be erected and its proposed use would be incompatible with the planning scheme approved on the 22nd November, 1979'. That, Mr Speaker, completely denies the 1979 scheme and gives the Government the power to do what they like for a year without having to even bother about the 1979 scheme. I think, Mr Speaker, that is what the extent of the amendment is and that is how this side of the House sees the extent of that amendment. The City Plan is not being revised at this stage, the City Plan is just being put in a drawer so that people can forget about it.

HON A J CANEPA:

That is what they were doing, unfortunately.

HON J E PILCHER:

That is not our problem, Mr Speaker, that is the problem of the Government who if their civil servants are not doing their work properly that is not a political problem that the Opposition have to take into account. The only other thing, and I know it is not a point made by the Hon and Learned the Chief Minister in any way related to Government policy but it is a point that was made and one which we want to add our little piece and that is that if - and I think this was in fact mentioned by the Leader of the Opposition - it is not the thinking of the GSLP, quite the contrary, that we have to match our City Plan against that of the adjoining neighbourhood of the Coast. The opening of the frontier might have had an effect on our economy, might have had an input into our economy but our City Plan must be made in such a way as to keep Gibraltar unique, completely different to the coast and completely unique. Thank you, Mr Speaker.

HON M A FEETHAM:

Mr Speaker, one final point that I wish to make which, in fact, was the final point of my colleague on my left and that is that the Chief Minister said that he came across some documents which argued in favour of having no City Plan and waiting to see what happens on the other side of the frontier. It is a fact that on the other side of the frontier there has been a stagnated period in many respects in the same way as there has been in Gibraltar where the build-up of the Costa del Sol philosophy has not reached the other side of the frontier and already today there are many in Spain who because of their new ideologies in the matter of planning and conservation and preservation and so on are already very much against the mass market mentality build-up which the population in the Costa del Sol are suffering as a consequence of the philosophy of the previous regime in Spain. I want to make it quite clear that if any of those planners who exist obviously in the civil service think for one moment that if there is a GSP Government in power that we are likely to want to wait and see what happens on the other side of the frontier before we start making a move in any particular direction, I think they had better go and find themselves a job in private practice as some other people are doing and leave the job to us because we will do a better job than they are doing or thinking of doing. The final point that I wish to make is, and I don't wish to disappoint conservationists, I am not a totally converted conservationist, let us be clear about that. What I am totally converted to is to the fact that if conservation can be blended in with development and where we can preserve some of Gibraltar's historical uniqueness as part of our enjoyment - not only of life and environmental being in Gibraltar but as part of our product in selling Gibraltar, then that has to be something which has to become a priority in our development strategy, there is no doubt about that. To that extent I am in favour of conservation but I am not in favour of total conservation for other reasons which I am not going to get myself involved in at all. And the final point which has not been answered by the Hon Member opposite is why did Government, in fact, break the law and he hasn't given an answer to that.

MR SPEAKER:

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

HON A J CANEPA:

I will deal with the last comment first if I may, Mr Speaker,

and that is that I lay store by the final judgement of Mr Justice Kneller and that one vindicated the DPC. I want to make one thing abundantly clear. The Hon Joe Pilcher kept on talking about the powers that are being given to the Government. The Government has no powers on town planning matters. The statutory planning authority is the DPC and the Government cannot influence directly the DPC in any way or take away any of their decisions. The Government has no authority to approve any building application, that is a matter for the DPC and in the DPC the politicians are in a minority, they are not in a majority. Mr Speaker, I have a great deal of respect for the powerful intellect of the Hon the Leader of the Opposition. I have tremendous admiration for the logical way in which invariably over the years he has been able to string together an argument but on conservation matters, on town planning matters, he has to go much further than to the United States before he is not guilty of getting a number of things wrong as he has done this morning. It was very interesting to hear Mr Joe Pilcher reveal that it was actually in the United States that Mr Bossano was converted, I thought that it had been on the road to Damascus but, of course, these days Damascus is a much more dangerous place than what it was 2000 years ago. But more nearer home, of course, there are wonderful examples in the United Kingdom of what conservation is all about and I am referring, of course, to some of the more notable ones like the London docklands and Covent Garden. But one of the essential aspects about these examples of conservationist planning which has been left out is the question of viability. Is a conservation project viable or isn't it? And that is the difficulty that, of course, we had with the Command Education Centre but in the case of the Command Education Centre you had a building which only had two floors and it was extremely difficult to adapt it in a way that would make it viable and that is why when we invited tenders with very stringent conditions about the treatment that the Command Education Centre should be given, namely, in 1982, there were no takers. There were no takers because the project was not viable. I think that to make comparisons between Gibraltar and the United Kingdom in respect of what is happening in the inner cities there is invidious. For one thing you haven't got the relativities of scale. You cannot compare what happens in a city centre such as Manchester or Liverpool or Birmingham with Gibraltar and it isn't as if even in the case of the Command Education Centre, whatever anybody might say about the demolition, it isn't as if we are going to put a tower block there, a fifteen storey office block, we are not doing that, the treatment that that important part of Gibraltar is being given is much more in consonance with the urban environment in the area. We have learned in many other matters from the mistakes that are made in the United Kingdom, a notable case

in point for instance being the mistakes they have made there with comprehensive education. We don't have comprehensive schools of 2000, ours are of moderate size and that is why they work so sometimes you need a period of time to elapse before you are able to learn the lessons of the mistakes that others are making. The Government is able to change the law, as the Chief Minister has said, much more expeditiously when it is a defined domestic matter than otherwise and I think to level criticism as Mr Bossano has done with the legislation in terms of the Pensions Ordinance and in terms of the amendment to the Price Control Ordinance, to level criticism at me personally, I think, is really hardly fair on his part if he has regard to the fact that I am the elected Member who has probably brought more legislation to this House than anyone else in its history because I have been dealing with matters that have been the subject of a great deal of legislation and I have always on matters where I have direct Ministerial responsibility, I have always endeavoured over the years to give the whole question of legislation the drive and the push that is necessary and I think that my record over the years in this respect, my record in bringing important legislation to the House expeditiously is second to none and I think at least he should have granted me that. He said on the question of public participation that what I had announced in the House yesterday and today, of course, was not the end of the story because we had had that since 1976. No, he has got it wrong, the public only had limited right to participate in respect of the City Plan and the City Plan only once every five years. What is now being contemplated is that the general public should be able to make representations and make their views known in respect of every building application and the intention is not to limit the right to make representations just to people in adjoining properties. The qualification that I made was only in respect of the right to appeal. In other words, if a building application proposes to erect a fifteen storey office block here where we are now sitting, someone living at Europa Point is perfectly entitled to make representations and views on the matter. But once the DPC has considered those representations and taken a decision on the matter, the question is on which we are seeking advice, whether the right of appeal should lie with somebody living on the other side of Main Street or with that person in Europa Point, that is the point really that is worrying us. But as regards making general representations it is intended, of course, that it should be the general public including Members of the Opposition and I look forward to very many valuable representations from the new convert to conservation, perhaps the latest member of the Conservation Society, I know that he attended the last general meeting of the Conservation Society in the person of the Hon Mr Bossano.

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 C Mascarenhas
The Hon J B Perez
The Hon Dr R C Valarino
The Hon H J Zommit
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 A J CANEPA:

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, if necessary, today, if Hon Members opposite do not agree then, of course, it will have to be tomorrow.

MR SPEAKER:

Do Members agree that it should be taken today if we should get to the Committee Stage?

HON J BOSSANO:

No, Mr Speaker, we are opposed to the Committee Stage being taken today and we shall be making the point that once again we are going to have to complain about the Committee Stage being taken at the same time as the First and Second Readings of the Bills. The point was made in the last House and we were told by the Government that they appreciated the point but it is not being reflected.

MR SPEAKER:

Then it will be taken tomorrow, if need be.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1986

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance (Ordinance 1957 No.4) 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.

HON M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this is a long-awaited Bill to get the Vehicle Testing Centre into full use. Basically the Bill gives the Government powers to make regulations for the use of the Test Centre and matters relating to the issue of licences. Regulations will follow very shortly to enable the Test Centre to be used to test all vehicles over the age of ten years initially before they can be issued with a licence and, progressively, the age of the vehicle will be reduced until vehicles from five years onwards are being tested at the Test Centre. Sir, Clause 1 of the Bill designates the Test Centre, who is to run it and the requirement that vehicles and trailers should be tested and for test certificates to be given. Unless a vehicle has a test certificate no licence will be issued for that vehicle so if you don't have a test certificate you won't get a licence and you won't be allowed to be on the roads. Clause 5 is a series of new provisions amongst which are regulations for powers given to a Policeman in uniform to request a roadside test on any vehicle he suspects is not road worthy and for the examiner to suspend the motor vehicle if it is found to be unfit. Public services vehicles are included in these tests but if a public service vehicle is to be stopped on the road for such an inspection, the inspecting Police Officer must be above the rank of sergeant. Clause 6 insists that before a licence is issued duty must have been paid and the vehicle must have a certificate of a valid test. Clause 9 says no one can drive without a valid driving licence for the category of vehicle driven and further describes the requirements for having a valid licence and the category of such a licence. Licences will in future be valid for a ten year period or until the driver reaches the age of 70, whichever is the sooner. For a driver over 70 licences will only be issued on a three-year scale so once you get to 70 you will have a licence issued to you for three years and then if you are certified as medically fit you get another licence for another three years, etc. The new driving licence will cost

a little more, it will be worth £1 a year so it will be £10 for such a licence. Licences must also be produced if requested by a Police Officer. Clause 13 deals with the suspension of licences and their renewal and includes an appeals procedure. The other Clauses are either consequential or clarifying except Clause 15 which removes restrictions on prosecutions for speeding and other offences. Clause 23 is a saving Clause on licences already in issue. As I said, Sir, the main purpose of this Bill is to allow Government to make regulations to get the Testing Centre working fully and I undertake here and now that these regulations will be forthcoming very quickly indeed so that we can have the Test Centre working well before the new year. Thank you very much, 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, Members of the House are aware that since 1984 when I first became a Member of this House I have been pressing the Hon Member opposite on when the legislation to make the MOT Test Centre fully operational should be brought to this House. The main argument being that since September, 1985, an asset built at the cost to the taxpayer of some, I think, £300,000 has been lying to a great extent idle because the legislation had not been promulgated in time for the asset to be utilised at the time of its completion and not only that but we have had to wait for three years afterwards to be able to get the legislation off the ground. The wisdom of having an MOT Test Centre or not is certainly at this stage not a matter for debate. The decision to have an MOT Test Centre was the Government's certainly prior to my being a Member of this House since when I became a Member of this House the MOT Test Centre was already built and one cannot discuss now whether it is better to have one or not. Perhaps the Hon Member can give us some of the arguments used by the Government in favour of MOT in the context of Gibraltar. I know that in other places it has been argued that MOT testing would certainly reduce the number of accidents and it is a safety measure and it would be indefensible and unforgivable if that was the reason why the Government opted to have MOT in the first place that three years should have elapsed since the Centre was completed before legislation was brought to this House because it has meant that it has been a risk to life if that was the argument. Be that as it may, Mr Speaker,

we would need to see how the Test Centre operates in practice and what the regulations provide for which I accept can only be made available once this piece of legislation is passed so that we are able to review our own position on whether MOT is good for Gibraltar or not. Therefore the Opposition will be abstaining on this Bill, Mr Speaker.

HON M A FEETHAM:

I want to clarify, Mr Speaker, something which will have a bearing as to why the Opposition is abstaining apart from everything that has already been said by my Hon colleague, and that is having followed the Traffic Ordinance now for a number of years what is being implemented here, I think, is going to be difficult unless we introduce amendments or have a rethink and come back again because, for example, what enforcement is there going to be - we are talking about enforcement in Gibraltar with Gibraltar traffic and transport - what enforcement is there going to be in the areas where vehicles coming into Gibraltar are breaking Gibraltar laws? There is such a thing as an oversized vehicle where you have to have a special permission to circulate in Gibraltar which has to be enforced in the context of this legislation which means that at this point in time every vehicle which is circulating in Gibraltar coming in from Spain without an oversized disc is breaking the law all the time. What provisions are being made to cover this in this legislation? For example, if you go into Spain and your car is stopped and put to one side because you are breaking the law in various respects of this, that and the other, what provisions are there in this legislation that would ensure that it will be enforced? The main thrust of what I am saying is, how are you going to enforce the oversized vehicle aspects of the legislation which exist in respect of lorries coming into Gibraltar and circulating regularly as they are, buses and so on and so forth? Unless these things are cleared, unless these things have been thought out there is no way we can vote in favour of this legislation.

MR SPEAKER:

Are there any other contributors?

HON ATTORNEY-GENERAL:

I don't quite understand this point, Mr Speaker, about the oversized vehicles. The oversized vehicles coming into Gibraltar are presently controlled under our existing legislation, they have to be of a certain size they can only circulate in certain areas and they must have the disc. With regard to the other vehicles and the condition of vehicles

there are going to be three sets of regulations. The first one will be the Vehicles Construction (Equipment and Maintenance) (Amendment) Regulations and this applies the EEC Directive as to steering gear, brakes, direction indicators, windscreen wipers, fuel tanks, emission of smoke and vapour and it converts all the various measurements from the imperial measure into the metric measure. That is the first set of regulations which are here and which are with the printers. The second set of regulations are the Motor Vehicles (Test Centre) Regulations and these regulations provide for the procedures to be followed in the testing of vehicles. It provides for the roadside tests which are to be carried out and how they are to be carried out and it also deals with appeals against refusals of test to vehicles. The third set of regulations and it is this third set that is still giving us a problem and this third set of regulations deals with the testing of drivers as distinct from the testing of vehicles. It deals with the thorny problem of medical examinations for candidates for driving licences. This is causing us a real problem, this is implementing an EEC Directive and it makes provision for the issue of EEC driving licences. This set really brings into force the EEC provisions as to EEC driving licences and what you have to do and how fit you have to be to get such licences and it is the fitness that is still giving us the problem.

MR SPEAKER:

Does the Mover wish to reply?

HON M K FEATHERSTONE:

I have very little to say, Sir. Firstly, I think it was not the taxpayer of Gibraltar who paid for the Vehicle Testing Centre but the ODA, so perhaps it was the taxpayer of the United Kingdom. I am a little upset that after two or three years of pushing us to get this legislation and after it was a feature in a recent political broadcast by the GSLP, that they would wish to abstain on the legislation but I presume abstention is better than voting against it so I will 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 Joshua Hassan
The Hon G Mascarenhas
The Hon J B Perez

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

The following Hon Members abstained:

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

The Bill was read a second time.

HON M X 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, today if everybody agrees, otherwise tomorrow.

MR SPEAKER:

Do Members agree that the Committee Stage and Third Reading of the Bill should take place today?

HON J BOSSANO:

Mr Speaker, on the Committee Stage we are going to make our position clear and therefore we are not prepared to see the Committee Stage of any Bill being taken today except the two Bills from the last House, of course.

THE TRADE LICENSING (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Trade Licensing Ordinance be read a first time.

Mr Speaker 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 Bill is on the lines of a legal opinion given by me that the insertion of 'welding' and 'Shipping Agent' in Schedule 2 to the Trade Licensing Ordinance was contrary to the standstill provisions contained in article 62 of the Treaty establishing the European Economic Communities. Article 62 requires that Member states shall not introduce any new restrictions on the freedom to provide services which has in fact been attained at the date of the entry into force of the Treaty. Mr Speaker, so far as Gibraltar is concerned, the Treaty entered into force on the 1st January, 1973. Mr Speaker, on that date anyone had the freedom and the right to carry on business as a welder or as a shipping agent without the necessity of a business licence under the Trade Licensing Ordinance 1972. The Trade Licensing Ordinance 1972 was repealed and replaced by the Trade Licensing Ordinance 1978. The 1978 Ordinance came into force on the 1st January, 1979, and on the 1st January, 1979, Mr Speaker, with the new Ordinance, the position was still unaltered. Anyone had the freedom and the right to carry on business as a welder or as a shipping agent without the need for a licence under the 1978 Ordinance. Mr Speaker, it wasn't until the 8th May, 1980, when the 1978 Ordinance was amended, that a business licence became necessary to carry on business as a welder. On the 19th July, 1982, when the 1978 Ordinance was again amended, shipping agents were required to have a business licence. Mr Speaker, while drafting the first European Communities (Amendment) Ordinance, 1985 - this is the Ordinance giving the effect of advance implementation - I realised that the standstill provisions had been breached with the insertion on the 1st August, 1983, of carpentry, decorating, joinery, painting, plumbing and woodwork into the Second Schedule of the Ordinance. This breach of standstill, Mr Speaker, was corrected by the last item in the First Schedule to the European Communities (Amendment) Ordinance, 1985. Mr Speaker, I must bear the responsibility for not realising at that time that the standstill provisions had also been breached with the insertion of welders in 1980 and shipping agents in 1982. If I had so realised, Mr Speaker, I would have ensured that the First Schedule to the European Communities (Amendment) Ordinance 1982 corrected the situation and thus avoid the need for this Bill and the situation in which I find myself today. Mr Speaker, I believe that my opinion on this matter is correct and for that reason 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 M A FEETHAM:

Mr Speaker, I can well understand the explanation given by the Hon and Learned Attorney-General on the matter that under Article 62 we are forced by the rule of law to change our own laws to comply with that Article because we entered the European Community on the 1st January, 1973. You know what our position on this matter is and I am not going to repeat it, on the question of the EEC. Here is another item where we are opening up ourselves because we didn't attempt at an earlier date to re-negotiate our terms of membership of the European Community at the time of Spanish accession, is another item where we are opening up to competition because we are doing this because there is not just a requirement by law, we are doing this because we are under pressure from the Spanish side to do it because there is a Spanish company that wants to compete under the Treaty of Rome with the right of establishment with Gibraltar companies. That is what this is all about and what worries me and worries the Opposition is that the resources which are available within the territorial waters of Gibraltar and with the bay being just across and with the wider competitive pool that there is on the Spanish side as against our little Gibraltar on the question of, for example, taking agencies away from each other, that we are unfortunately putting at this point in time the members of the Shipping Association which make up our shipping community at very serious risk. Should we do it or should we not do it at this point in time and why have we done it at this point in time, and what could we do about it before bringing this Bill to the House? Those are the questions which the Hon and Learned Attorney-General has not answered.

HON CHIEF MINISTER:

I will.

HON M A FEETHAM:

That is why I am standing up asking these questions. I am therefore saying that we are going to oppose this Bill. I am just going to quote as far as I can possibly recall the recent statement by the Hon and Learned Attorney-General when he said in reference to a decision on Bigib where he said that he didn't want a certain Judge to hear the case because of certain remarks that he made and that even if he lost the case he was prepared to go all the way up presumably to Privy Council or the European Court or whatever.

HON ATTORNEY-GENERAL:

Mr Speaker, if the Hon Member will give way. I didn't say anything at all, I was represented in Court by Counsel, I didn't say anything.

HON M A FEETHAM:

Then his Chambers said it so therefore I am just recalling what his Chambers have said, they were prepared to take it all the way. Therefore on an issue like this we ourselves should put ourselves in a position of taking it all the way if we are forced into complying and that is the argument that we are trying to put over. If what I now detect from the comments which I have heard from across the floor in passing, from the Chief Minister that he will have something to say, if he is saying that rules are going to be introduced which will give protection, of course, we will want to hear about it and I will want to hear to what extent, quite seriously, to what extent it is going to protect this particular sector of the Shipping Association because it is not just simply the Shipping Association and the business that they generate for themselves, it is also the spin-off of the business that they generate for others. For example, we talk about crew changes and they get their fees for crew changes and they bring those crew members to Gibraltar and they can stay in Gibraltar hotels and they take Gibraltar transport and they spend money in Gibraltar whilst in many cases they are waiting for the ship to come through. In some cases they go straight off but there is still a spin-off. It is not just simply a narrow issue, it is a wider issue so therefore I want to know because it is already happening and we are not able to control it. They are already encroaching on our business in that area and we are finding it difficult to control it. Doing away with this section, doing away with the need to have a trade licence as part of the protection is opening us more and more into a takeover in that area unless we put something in its place from the Spaniards across the way. One of the things which was drawn to my attention was the fact that whilst we became members of the European Community on the 1st January, 1973, and the Italians were there a long time before us, they actually only introduced rules to protect themselves in 1977 of similar effect for people in the shipping profession. These are the things that are worrying us and that is why we are opposing this Bill.

HON CHIEF MINISTER:

Mr Speaker, in the first place I would like to answer what is now a preface to everything to do with anything of our

obligations under the European Communities that we didn't do anything to safeguard our right, that is not true, simply not true. We tried to safeguard the interests of Gibraltar long before Spanish entry. We had the then Mr Hannay who was the Head of the European desk at the Foreign Office, he came on two visits and took a number of notes, he saw the whole spectrum of Gibraltar, went back to Brussels and did his best. In some respects he found some easing of problems, in other respects he wasn't able to. But with regard to the particular point made by Mr Feetham, the House will see from Clause 2(1) of the Bill that the amendment to the Second Schedule is to come into force on a day to be appointed so, in fact, we will be taking the Committee Stage at another meeting of the House, there won't be any need to ask for it to be taken today or tomorrow because, first of all, even if we did it would not come into force until a day appointed in the Gazette. The reason for this is that the Gibraltar Shipping Association are extremely concerned about the possibility of shipping agents from outside Gibraltar operating here as such but without being properly established and therefore competing unfairly with local agents. I have received them, I have heard their grievances and they have made written representations which have been of great value to us. The Association considered, for instance, that a shipping agent operating in Gibraltar should have properly equipped office accommodation in Gibraltar which should be open to the public during normal working hours. That shipping agents obviously should be staffed by locally employed personnel capable of attending to vessels' requirements on a 24-hour basis, that is what they want, that proper books of accounts subject to annual audit by locally registered companies should be kept and that agents should be subject to the laws of Gibraltar, including tax laws. The Association has made strong representations to the Government on this matter and have submitted proposals as well as information on the practice in this respect in other European countries where they have made regulations not in substance but in practice in order that there should be no unfair competition from outside. All this material is now being studied and it is proposed, subject to legal advice, to make regulations to safeguard the position. We want to make regulations so that the position when the law comes into effect is safeguarded. As the House knows, Gibraltar complies with the Community obligations and judging by the questions we have had from the other side, it looks as if we are not doing enough because they are asking us when are we going to implement this legislation, when are we going to implement the other Directives? But that, of course, is one slant of the other one which will bring the amendment they are opposing. I don't know why they are so concerned about Directives that have not been implemented. Such regulations that we propose to do will not infringe Community principles provided they

do not result as discrimination against Community nationals or companies. But there certainly appears to be a case for introducing safeguards. Indeed, if for instance a Spanish company were to establish itself as a shipping agent in Gibraltar, I am sure it would wish to see itself protected against the sort of operation which gives rise to the concern which is now expressed by the Association. The Government's approach is to have appropriate regulations ready as soon as possible and to make such regulations at the same time as the amendment proposed in the Bill comes into effect. We have now asked for early advice and will take the matter further as soon as it is available.

MR SPEAKER:

Any other contributors?

HON J BOSSANO:

Mr Speaker, perhaps I can enlighten the Hon and Learned the Chief Minister as to why we say to him and his Government when are they going to comply with this Directive or that Directive. We believe that Gibraltar should have renegotiated its terms of membership and we moved a motion in that respect on the 7th July, 1980, in this House and what the Chief Minister then at the time did was to set up a Committee in order to kill the idea which is a thing he is always very good at doing, killing ideas by either employing consultants or setting up Committees or studying it or whatever. The reality of it is that the Government has got to defend the position and therefore we are entitled as an Opposition to demonstrate that if they are not facing a problem it is because the problem has not yet caught up with them as this one has caught up with them because it must be absolutely obvious to the House that if the House is now being told that we are removing what we added then when it was brought to the House by the Government the Government was infringing Community law. Is the Government aware that they also added road transport contracting after the date and we are leaving it there and that is not in conflict with Community law? Or is it that we only correct the law when somebody complains? That is to say, if a native complains about the Government breaking the law then you punish the native by changing the law and if a Community national complains about us breaking the law then we change the law to come into line with Community law, is that the philosophy that the Government defends.

HON CHIEF MINISTER:

Transport contracting is being considered between now and

the Committee Stage of the Bill for a number of reasons.

HON J BOSSANO:

Let us be clear that we believe that the Trade Licensing Ordinance as it stands is only able to give protection, and we have seen a number of examples of this, until it is challenged and every time it is challenged we back-track. We don't believe that that is the proper way to do things, it would have been far better if the Government had taken a policy stand on this at the time when I could, which is very difficult to do now, and they would have been able to do it even before the GSLP had seven Members of the House because the other party that was here was also committed in the EEC Committee to getting protection. We took the initiative in bringing it to the House, the Government set up a Committee and therefore in that Committee everybody accepted that Gibraltar had a need to seek special treatment based on its size. The reason why a local transport contractor cannot compete with a transport contractor from across the road is because the local transport contractor doesn't have the resources, if the local transport contractor was a subsidiary of a multinational he wouldn't have any problem and we know from experience in areas which are not covered by the Trade Licensing Ordinance, we have seen it, Mr Speaker, happening in the Government-owned Gibrepair. In the Government-owned Gibrepair somebody can be painting a ship and doesn't need a trade licence but he cannot paint a house without a trade licence although it may be the same painter working for the same employer. We have had a situation where sub-contracting has gone to Spanish firms and it is only the stand of the workforce in the yard independent of what the law has said on the subject that has succeeded in protecting local interests in that area. But the Government has been able to do nothing about it although they are the owners of the yard because they have not interfered with management decisions as to who gets what contract and the management decision has been 'we will give it to the cheaper contractor' although the cheaper contractor may, in fact, not be paying local taxes or local rates or local insurance or anything else. We have had in the yard people who have come in from Cadiz who have been doing work in the yard and it has been well known and nobody has stopped it and the company is saying: 'Well, I am a commercial manager and if I can get it cheaper, well, then I get the ship painted cheaper'. Nevertheless, is it cheaper for Gibraltar? That is what we have got to ask ourselves. If this is happening in a publicly-owned subsidised enterprise, one can well imagine the logic commercially operating even more when people are spending their own money. So either we are talking about Gibraltar being able to stand up to

open competition from a position of limited resources which are never going to disappear because it is a function of size, it is not a function of saying: 'We need a period of adjustment'. If we say 'we need a transition period to cope with competition from across the way' that would be one kind of argument. But it is not that kind of argument at all, it is not a matter of saying 'we are going to adjust after we have had a frontier open for seven years', like Spain is having to adjust to the impact of entering into the European Community and Spanish manufacturers are being given time to adjust to the competition from Northern Europe. We, however much time we have got, however much time we were given, would never be able to adjust to the fact that there is a domestic market of 7,000 households because the essence of having a protective barrier is that you build up a base in your domestic market which enables you then to face competition from another market provided you are talking about similar sizes of market. If a local transport contractor has got 1½ broken down lorries how is he going to compete with anybody? How is Ready Mixed going to compete with the stuff from across the frontier? And the same applies in many areas because the private sector in Gibraltar relatively to the size of Gibraltar is understandable, a big employer in the private sector is one that employs fifty people. In most of the EEC legislation they only start talking about taking notice of employers from fifty up, they forget the ones under fifty because there may be many hundreds of them but collectively they account for a very small proportion of the national economy whereas in Gibraltar, in fact, the private sector consists of many, many small family firms and a few biggish employers employing forty, fifty, sixty but very few over that figure, one or two maybe in the whole of Gibraltar. Even that size would be considered minute outside Gibraltar and companies of that size get swallowed up one hundred a day in any other national economy. We have got a particular and a specific situation and if we are just looking at our legislation in the Trade Licensing Ordinance in the context of how compatible is it with Community law, the answer is it is totally incompatible, of course it is. If you try to introduce national trade licensing for the whole of Spain or national trade licensing for the whole of the United Kingdom it wouldn't make sense but if you were to have a rational way of controlling business activity in a town the size of La Linea then the conditions and the criteria and the factors are applicable there as they are here. Since La Linea is part of the Spanish nation state they are not able to seek a regime of their own. But the problem that we are facing with this amendment is that, okay, it has highlighted one area and the Government may now try and get protection for that particular area in another way and certainly we will support any attempt that they make to give protection to that

area because we feel we have to start looking after our own because nobody else will. But at the end of the day it doesn't address itself to the real problem of this amendment and that is that each time a successful challenge is mounted against the Trade Licensing Ordinance then the concept of the Ordinance is undermined and watered down and clearly each time it makes more and more of a nonsense of the law. When the Government in the law to which the Hon and Learned Attorney-General has made reference of the amendment to the European Ordinance said that carpentry, decorating, joinery, painting, plumbing and woodwork were being retained provided they were undertaken in the context of building contracting, it shows how, in fact, we are trying to camouflage things rather than tackling the situation head on. What are we saying then, that electrical contracting requires a trade licence and building contracting requires a trade licence. If somebody has got an electrical contract and following the electrical contract they have to do painting, then painting for the electrical contract doesn't require a trade licence but if it was being done for a building contract it would require a trade licence, that is what we are legislating here. We have to come to terms with the thing and either we tackle the thing in its roots and redraft it in a way that gives us protection or we have to face the reality that it is not going to stand the pressures and the passage of time and then how do we give the protection that we need to give because we certainly need to do it. It may be that in twenty years time the economy of Gibraltar will be so transformed and the economy on the other side will be so transformed that these issues will not be important but in the current stage where we have had a situation where many businesses through the period of the closed frontier have been surviving on a market that was unchanging but not able to produce enough return on their capital to be able to face an onslaught of competition with an open frontier, we are now in a situation where their attempts to adjust to the new situation economically and their attempts to put business on a right footing by investing more could suddenly be wiped out because the rug would be pulled under their feet the moment somebody challenged it. The situation is that it isn't just a question of people being able to set up shop here with or without a trade licence, what is clear is that de facto already we have got a flow of competition from people operating from a cheaper base, that is the real threat. The real threat is not just one produced for us by the accession of Spain, it is that we have been operating an island economy and we are now joined physically to the mainland and, of course, if you are able to enter and supply the Gibraltar market without the overheads of having to set up shop here then you are on a winner, you cannot go wrong and the people here cannot do it in the opposite direction so it is a recipe for closing down, perhaps not a

big chunk of the private sector in terms of numerical representation because we all know that 80% of the private sector at least in terms of employment is made up of the commercial dockyard, the construction industry and the hotel industry, take that out of the private sector and you are left with 20%. But there are people providing specialist services in specialist areas who are making a living and who have been making a living for many, many years and they are entitled to expect of the rest of us the protection so that they can continue making a living and continue providing the service and this amendment is not doing that. This amendment is opening the door for further inroads.

MR SPEAKER:

Are there any other contributors? Does the Hon Member wish to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, perhaps I could explain this business about carpentry, decorating, joinery, painting, plumbing and woodwork. Each one of those were put in the Second Schedule in contravention of standstill and so in the European Communities (Amendment) Ordinance we brought it into the context of standstill because building contracting was always there and we said, well, a painter will need a licence if it is in the context of building contracting work but if it is not in the context of building contracting work he won't need a licence and therefore.....

HON J BOSSANO:

If the Hon Member will give way. He hasn't even done that, surely, because it is not a painter, a painting company will need a trade licence because if it is a self-employed painter he won't need it because he has exempted self-employed people as well so even in the context of building contracting you can go tomorrow as is happening, the Hon and Learned Member only needs to go down to where the Naval Base is being refurbished and he will find that there is a company there which employs 90% self-employed people and 10% employees. None of those self-employed people are covered by the Trade Licensing Ordinance and all they have got to do is commute and they sell their own services.

HON ATTORNEY-GENERAL:

As a cross frontier service, actually. But this is the position under the Community. We tried to protect it in 1983 and we found we couldn't do it because of the standstill

provisions, Mr Speaker. So far as the Trade Licensing Ordinance, generally, is concerned, I think we must try and maintain the Ordinance as much as we can and indeed this question of Bigib although I didn't use the words myself which the Hon Mr Feetham quoted, I think we should fight the question to the highest Court in the land and I think we should protect our Trade Licensing Ordinance by fighting in this way. There is just one other point I would like to mention and that is the protection that we can offer to the local shipping agents and the local welders. We are obviously going to protect Gibraltar and the local agents against criminals, against bankrupts and against incompetence and the sort of legislation that I have prepared, the sort of subsidiary legislation is based on the Italian legislation which Mr Feetham quoted earlier. This is legislation the Italians passed in 1977 so presumably, Mr Speaker, this legislation is, shall I say, EEC proof, if it is good enough for the Italians it should be good enough for us. The sort of legislation which the Italians have is on these lines, Mr Speaker. Anyone who wants to carry out shipping agent activity shall apply for registration in the shipping agent register as indicated by Article 7. The candidates for registration must have full exercise of their civil rights, have attained a high school degree, reside in the locality where they intend to carry out the shipping agent activity, have had no convictions for offences against the public administration, against administration of justice, against public faith, against public economy, against industry and commerce, against patrimony for smuggling or for any other non-negligent offence for which the law establishes a minimum imprisonment of two or a maximum of five years or for foreign currency offences for which the law establishes imprisonment; not to be in bankruptcy; have done at least two years of professional training; submit to an oral examination before the Commission indicated by Article 7 such examination is. (a) to check the knowledge about the usual commercial shipping document, about the legal knowledge as to the professional activity and the English language'. And it is that sort of legislation that I think we can introduce to try to protect the local businesses and certainly shipping agents and we will have to try and devise a formula to try and protect welders if they need to be protected, 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 Zammit
The Hon E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

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

The 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 subsequent meeting of the House.

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance 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, under the existing law any person who has been called to the Bar in England, Northern Ireland or the Republic of Ireland or who has been admitted as an Advocate in Scotland may be called to the Bar in Gibraltar. It is felt, Mr Speaker, that the existing law is too wide in that it enables English and Irish Barristers and Scottish Advocates: (a) to be called to the Bar and to practice in Gibraltar without having had one day's pupillage or one day's practical training or experience as a Barrister in either Gibraltar or in their own countries; and (b) it also enables such persons to be called to the Bar in Gibraltar even though they have no intention whatsoever of practising in Gibraltar. Consequently, Mr Speaker, Clause 2 of the Bill requires that

English and Irish Barristers and Scottish Advocates who wish to be called to the Bar in Gibraltar must: (a) either have completed a period of at least six months pupillage in either their own countries or in Gibraltar; or, alternatively, must have completed an approved practical training course in their own countries; and further, Mr Speaker, and perhaps most importantly, (b) they must intend, on admission, to practice in Gibraltar either alone or in partnership. Clause 3 of the Bill deals with Solicitors, Mr Speaker. The existing law enables English, Irish and Scottish solicitors to be admitted in Gibraltar. As such solicitors have as part of their training to serve Articles of Clerkship with a practising solicitor, it is felt unnecessary to require them to serve a period of pupillage. However, before they can be admitted in Gibraltar Clause 3 of the Bill requires them to intend to practise either alone or in partnership with another barrister or solicitor in Gibraltar. Clause 4 of the Bill, Mr Speaker, amends the law with regard to Queen's Counsel. The existing law provides that no barrister who after the 31st December, 1948, attains the rank of Queen's Counsel shall perform any of the functions which in England are performed by a solicitor and are not performed by a barrister. Mr Speaker, this provision has been up-dated and clarified by providing that Queen's Counsel shall only act on instructions from a solicitor or from a barrister who is not a QC. Sir, I ought to mention the new Section 28(3) of the Bill which is contained in Clause 2 as this deals with my Chambers. Under the existing law it is only the Attorney-General and Crown Counsel who have and enjoy the rights and privileges of a barrister entitled to practise in Gibraltar. The new subsection extends the rights and privileges to the Law Draftsman who arrived today, Mr Speaker, and to Senior Crown Counsel. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, we know what the Bill is doing because we have read the explanatory memorandum. We still don't know why it is doing it and that is what we expected to hear if we are going to be persuaded to vote in favour. Generally speaking if the Government is now embracing the closed shop in all sectors of the community and not just for barristers and solicitors then we will support them but what we cannot support is a closed shop just for barristers and solicitors which seems to be the main purpose of the legislation. What

is wrong with the current right enjoyed by barristers from the United Kingdom and the Republic of Ireland which needs to be corrected? How are consumers being adversely affected by the existing legislation because, presumably, if the House is being asked to vote for this it is for the good of the clients of the barristers and the solicitors and not for the good of the solicitors or the barristers. If this legislation is to protect their interests then there are a number of members of the profession in the House who can say how they are going to benefit or be adversely affected by the law but we cannot see that restricting the choice of the customers of barristers and solicitors is something that we can support and that seems to be the effect of the legislation. We also wonder whether, in fact, this is compatible with the policy of the European Community that we should not introduce new restrictions after entry into the EEC because at the moment we appear to be giving a privileged status to Irish Republican lawyers and United Kingdom lawyers and no other EEC lawyers. Even that might be questionable in terms of the move in the Community to allow reciprocal recognition of professional qualifications. We don't know to what extent that has already happened with lawyers, we know that it has happened with doctors and we know that it has happened with nurses and it is, of course, indicative of what a powerful lobby the legal profession is that they have been able to block it where many other barriers to trade and work and freedom of movement have fallen the lawyers have still been able to uphold the citadels of protectionism in their own area. The fact that they are able to do it round the Common Market doesn't mean that we are on this side of the House, anyway, where lawyers are notable by their absence, Mr Speaker, we are going to go along with the idea that this particular profession requires a greater degree of protection than any other one. We believe that if we have got a situation where there is a limited market for the services of barristers and lawyers and if barristers and lawyers are facing unfair competition like we have said about shipping agents, like we said about transport contracting, then we would support. We are not biased against lawyers, we would support giving them the same protection and, in fact, if we had to fight the EEC on it we would fight the EEC the same as any other member of the community. Lawyers are as entitled to earn their living by the exercise of their professions and their skills as any other member of the community. What they are not entitled to is to privileged treatment and therefore we haven't heard one single argument as to why we should support this Bill and therefore unless we are convinced to the contrary we are voting against.

HON CHIEF MINISTER;

Mr Speaker, I think I ought to declare an indirect interest, I think Queen's Counsel are not affected by the changes in the law but Queen's Counsel have other people who help them and to that extent it could be said that one has got an interest but I think the rule of the House is that if you declare an interest you can speak in favour of whatever it is and therefore, first of all, let me say that there has been no rush to pursue representations made by the Gibraltar Bar Association which was mentioned by the Leader of the Bar in the Opening of the Legal Year two year's ago, not this last October but October of last year. Although the Attorney-General hasn't got the correspondence here, representations must have been made well over eighteen months ago and it arises from one particular special circumstance which is only applicable, in a way, to Gibraltar and that is that though the professions are not fused, that is to say, barristers are still different to solicitors, from very old times solicitors because, perhaps, there were very few solicitors and the bulk of people were barristers, junior barristers have always been allowed to act as solicitors so they are acting solicitors, they are barristers and acting solicitors. But, because they had this privilege, equally, the solicitors in Gibraltar enjoy a right that they are fighting hard to get in England and that is that they have a right of audience in the Supreme Court which solicitors in England haven't got. This has grown up as reciprocity in respect of the fact that barristers have been allowed to practice as solicitors, that solicitors have got all the privileges that barristers have in England. I think the core, I hope the Attorney-General will correct me if I am wrong because I want to give the House my understanding of the rationale of this and let me say, in fairness to the Attorney-General, that he has not put in the legislation all that he was asked to put, he resisted certain things which I in no way interfered with, if that was his view, good enough. My union made certain representations which did not agree with the Attorney-General but I wasn't concerned about that. But the evil arises out of this question of once you are a solicitor you can be called as a barrister in Gibraltar and therefore we had a spate of retired solicitors coming to live in the Costa del Sol, coming here, being called to the Bar, being able to pose as barristers in Gibraltar in Spain and taking away the bread of members of the union in Gibraltar. That is the truth. They can go in Spain and say they will do the in-between with a Spanish lawyer or whatever but to say in Soto-grande 'barrister of Gibraltar' without an address and without paying all the things that we were talking about the shipping agents, makes the Bar Association claim that there should be an intention to settle here. The other question of

the barristers from Scotland and so on has been taken in the stride but the gist of the amendment really was to ensure that anybody who wants to practice will practice here that is why he has to have the intention. The other one, the question of reading in Chambers is something which in England you cannot practice at the Bar without one year's reading in Chambers. Gibraltar barristers come from England, they are called in England and they can start practising defending a murder case the day after but that is not the way it happens. The way it happens is that either you start on your own, very difficult nowadays, or you join a firm and there you do the apprenticeship whereas before you could do the apprenticeship at the same time that you are being called, if this law passes you would work and you will earn money. Nowadays in England pupillage is being paid. When I was a pupil in England I had to pay my master so things have changed because life was much more difficult. I had to pay for the year I spent in Chambers to my Head of Chambers but nowadays if you get into Chambers as a pupil you get some element of pay and you cannot practice. Also the most important matter which I should have mentioned earlier is that whether people like the members of the legal profession or not it is a necessary evil to the community and we are guided by rules of conduct and there is a disciplinary board and any member of the public or any other lawyer can complain to the Attorney-General about any malpractice or any impropriety and then we are subject to disciplinary rules and the disciplinary committee can recommend many things including suspension or perhaps going up to the Judge to be disbarred. In England it is the same. The people who are practising here are subject to that discipline but if you have a spate of solicitors who live in Spain because they are retired and they want to play golf every other day but at the same time want to take the bread from the people who are earning their living here then I think in essential trade union practices we are entitled to protection.

HON J C PEREZ:

Mr Speaker, may I commend the Hon and Learned the Chief Minister for such a strong trade union defence of the legal profession. Let me clarify that on this side of the House he has mentioned briefly, in passing, a dislike for the profession. It is not a question of dislike.....

HON CHIEF MINISTER:

I never said that.

HON J C PEREZ:

There is something which perhaps that part of the Trade Union movement of the legal profession confuses and that is why perhaps it is wrong to analogue the arguments being put on the defence of the Trade Licensing Committee with the defence of the protection of barristers and solicitors and it is because the Hon and Learned Member has reminded me that this issue first arose and was first mentioned by the Leader of the Bar whom I hold in great regard but who, unfortunately, in the same speech as he was talking about the defence of the solicitors, also attacked the Trade Licensing Committee and the Trade Licensing Ordinance because it was depriving its members of that union from exercising their right to get more clients up the Costa so there is perhaps a contradiction in the views of the Hon Member's union but certainly the position that he has put I think will be taken into account in assessing how we vote.

HON ATTORNEY-GENERAL:

Mr Speaker, each Member State remains free to regulate the exercise of the legal profession on its own territory.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way in order to give me an opportunity to ask him to explain something in relation to what the Hon and Learned the Chief Minister said. This limitation refers to six months pupillage and refers to an intention to practice, that is in Clause 2, the new section 28. What is there to stop somebody who is retired who has had before he retired six months pupillage, of asking for admittance and saying 'It is my intention to practice'? It seems to me that the Hon and Learned the Chief Minister has put up a very strong and very well argued case of very sound trade union principle which we cannot fail to respond to, obviously he knows our weak point, but have we actually succeeded in achieving what the Hon and Learned Member has said with this because given - I am talking from a position of a limited knowledge of the subject - it seems to me that if all that we are saying is somebody must serve six months we may actually be saying it more effectively with the newly qualified people than with the retired people. The retired people will still have six months, presumable, and they say: 'It is my intention to do it'. It is like all the people who have got trade licences and they never do anything and then once a year they produce a receipt to show that they mended somebody's door or window and that gives them the right to have the licence for another twelve months. If we are going to do something effective and if the Government

has, put strong arguments for protecting one section of the community we are prepared to lend our weight to that argument and support it but are we actually doing it?

HON CHIEF MINISTER:

If I may be allowed, Mr Speaker, because it is important. One thing I should have mentioned which I didn't mention before and that is that the six months pupillage will not apply to barristers who come here to do a case like in many specialities where one side wants to bring Counsel from England and the other side sometimes inevitably wants to match the equation and then they come. For that they are just called, do the case, and they are members of the Bar forever. Actually, in Hong Kong you have to be called every time you go to appear in Court and we don't think that that is proper. The number of members of the Bar that come from England occasionally are not such that we need that suggestion and in any case I don't think it is fair. Eminent members who come to do a case won't come again unless somebody is prepared to pay them to come again, they don't come to practice here. The difference between the question of a barrister and a solicitor, as the Attorney-General has said is that a solicitor in his training does work in an office whereas the barristers are allowed study at home and at the Bar but does not practice like a solicitor, he does articles and therefore part of his training is working in an office. But a barrister is the same as that story about the chap who went to an interview for broadcasting in the BBC and he was asked whether he had been selected, and he answered (with a very bad stammer): 'They said I was too young'. The barristers who have no experience require reading for a while in order to be able to acquaint themselves.

HON ATTORNEY-GENERAL:

Mr Speaker, with regard to the intent to practice in Gibraltar, all applicants for admission to the Bar in Gibraltar are interviewed by the Admissions and Disciplinary Committee who have to certify that they are fit and proper people to be admitted and called to the Bar in Gibraltar and this Committee has myself as Chairman and two other members of the Committee, another silk and a junior of the Bar and the idea being that they will have to satisfy us with some sort of evidence that they intend to practice in Gibraltar, have they negotiated office space, where, and if they are going to practice on their own or with somebody else, and it is a question that these applicants who are called to the Bar satisfy the Admissions and Disciplinary Committee that they do intend to practice in Gibraltar. They are not going to satisfy us by saying: 'Yes, I intend to practice in

Gibraltar'. Show us, give us evidence, give us proof of how you intend to practice in Gibraltar, where, with whom, etc until we are completely satisfied before we certify to the Chief Justice that they are fit and proper people to be admitted to the Bar.

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 subsequent meeting of the House.

The House recessed at 1.15 pm.

The House resumed at 3.45 pm.

THE CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure Ordinance (Ordinance 1961 No.24) 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, the principal purpose of this Bill is to restrict the reporting of proceedings in the Magistrates Court of serious cases which will or may be tried in the Supreme Court. When a person is arrested on a serious charge which will eventually be tried in the Supreme Court that person must first appear in the Magistrates Court. There will be several such appearances before he is actually committed for trial in the Supreme Court. During these preliminary appearances in the Magistrates Court the Crown give the Magistrate the prosecution's version of the case and inform the Magistrate of any admissions which the accused has made to the Police and in the appropriate cases inform the Court of the defendants previous convictions.

Under the existing law, Mr Speaker, the press is at liberty to report everything that has been said in the proceedings. Everything which has been said until the day on which the Crown actually begins to present its evidence for committal and on that day, Mr Speaker, unless the defendant consents, the press is restricted to reporting the several matters which are presently set out in the new Section 126(6) on page 323 of the Bill, namely 'the identity of the court and the names of the examining justices; the names, addresses and occupations of the parties and witnesses and the age of the defendant or defendants and witnesses; the offence or offences, or a summary of them, with which the defendant or defendants is or are charged; the names of barristers and solicitors engaged in the proceedings; the decision of the court to commit the defendant or any of the defendants for trial, and any decision of the court on the disposal of the case if the defendants are not committed; and where the court commits the defendant or any of the defendants for trial, the charge or charges, or a summary of them, on which he is committed and the court to which he is committed; where the committal proceedings are adjourned, the date and place to which they are adjourned; any arrangements as to bail on committal or adjournment; and whether legal aid was granted to the defendant or any of the defendants'. In June this year, Mr Speaker, I received a complaint from a member of the Bar in the following terms: 'The press has been writing down the allegations verbatim and printed the story almost as if it were true. Even allegations of so-called 'verbals' are being splashed in the columns or over the air. A more obvious danger to a fair trial, particularly in a small place like Gibraltar, is difficult to conceive'. Mr Speaker, I agree with those comments which defence counsel made and the whole object of this Bill is to impose the reporting restrictions on the very first day on which an accused charged with a serious charge appears in the Magistrates Court, and that is in place of the day on which the committal three or four weeks later takes place. The Magistrates Court will, of course, lift the restrictions if the defendant so wishes and that is contained in the new Section 126(2) and (3): 'Subject to sub-section (3) a Magistrates' Court shall, on an application for the purpose made with reference to any committal proceedings by the defendant or one of the defendants, as the case may be, order that sub-section (1) shall not apply to reports of those proceedings' and that leaves the proceedings free for reporting. Mr Speaker, the Bill was seen by Sir Renn Davis before he left Gibraltar and approved by him. 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:

We are supporting the Bill, Mr Speaker. The arguments put by the Hon and Learned Attorney-General are so obviously valid that I don't think it is a matter of controversy. Obviously, I think we are all in favour of a free press and we are all in favour of giving the press every opportunity to report on everything but what we cannot do is to carry that freedom to such an extent that it can lead to injustices and that I don't think is in anybody's interest so it makes sense.

MR SPEAKER:

Does the Hon Member wish to reply?

HON ATTORNEY-GENERAL:

No, Mr Speaker.

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.

HON J BOSSANO:

We are coming, I think, tomorrow for the other Committee Stages, Mr Speaker, but we haven't got any strong feelings on this one so if it is important to do it today we wouldn't mind in this case doing it today but we are coming for the rest, anyway, tomorrow.

HON ATTORNEY-GENERAL:

Tomorrow then.

This was agreed to.

THE MARRIAGE (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Marriage Ordinance 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 18 of the Matrimonial Causes (Amendment) Ordinance, 1983, amended the Marriage Ordinance to allow females of 15 years of age to marry with the permission of the Supreme Court. The Matrimonial Causes (Amendment) Ordinance received the Assent and was Gazetted on the 27th October, 1983. However, it was not brought into operation until the 1st January, 1984. The Commissioner for the Revised Edition overlooked the fact that the date of the coming into operation of the Ordinance had been postponed and in a savings Clause which is contained in Section 15(3) of the Marriage Ordinance he stated that the new law would not affect the validity of marriages, contracted before the 27th October, 1983, that is, the date on which the Ordinance appeared in the Gazette instead of on the 1st January, 1984, the date on which the Ordinance came into force. Mr Speaker, when things begin to go wrong they go very wrong indeed. The 1983 Matrimonial Causes (Amendment) Ordinance contained nineteen fairly lengthy sections. Eighteen of those sections dealt with amendments to the Matrimonial Causes Ordinance and only one section dealt with the amendment to the Marriage Ordinance. Unfortunately, in this welter of divorce provisions the Marriage Authorities overlooked the one marriage provision and a number of marriages of 15-year old females were solemnized without the permission of the Supreme Court. The fact was discovered in early May, 1985, and consequently, Mr Speaker, in order to ensure the validity of those marriages the saving provision contained in section 15(3) of the Marriage Ordinance should be amended to protect the validity of marriages solemnized before the 30th April, 1985. Instead of putting the 1st January, 1984, in the Bill I am asking that the Bill be extended to the 30th April, 1985. With those words, 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 perhaps we ought to carry out a survey of those in the intervening period to find out how many want us to validate their marriages. Clearly, the intention when we passed the Bill in the House was not to create this situation and we were putting right something that through omission on the part of the authorities was put wrong then we have got an obligation to put things right so I don't think that we are setting up any new principles. I remember, in fact, Mr Speaker, that we were concerned in the Select Committee, in amending the legislation, to allow for grounds for divorce on wider grounds than then existed, that some thought should go into not allowing marriages at a very young age which ties up people for life without being totally prepared for that life and knowing the full gravity and consequences of what they are taking on and I think it is an important point that was a reflection, I think, that when the Select Committee and the House was looking at this, those who were critical of the position that was being adopted by the supporters of the Bill, both in Government and Opposition, were accusing those supporters of wanting to do away with the institution of marriage. I think our concern to make sure that the age at which it was allowed was one which increased the prospects of a stable relationship showed that we wanted, in fact, to strengthen the institution as well as to give people an opportunity to start afresh again and therefore I think it is important, at this stage, that if we are going to put it right the House has not, as far as I am concerned, changed its position about the desirability of having an age below which people should not get married too easily.

MR SPEAKER:

Does the Mover wish to reply?

HON ATTORNEY-GENERAL:

No, Mr Speaker.

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 tomorrow.

This was agreed to.

THE PENALTY RATES REMISSION ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance for the remission of penalty rates that became payable on and after 1st April, 1986, and may become payable thereafter in respect of arrears of general and salt water rates and penalty rates previously due and payable, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time. I would like to say something about the background to this particular Bill which may, at first sight, appear to have rather the opposite effect to that which is intended. By that I mean I would like Hon Members to consider the Bill and the proposals in the context of other measures and indeed in the context of the general problem of the arrears of rates. As the House will know there has been an improvement in the collection of arrears for water, electricity and telephones in recent years but the problem of arrears for general rates and brackish water has remained a serious one and, in fact, the seriousness has increased in the sense that the arrears have proved relatively insusceptible to reduction by the various means available to the Government at present. I think the main reason for this as everyone will recognise is that in the case of water, electricity and telephone accounts there is the ultimate remedy of cutting off the supplies of the debtor, to someone who is persistently in arrears. That particular eventuality is not available in the case of arrears of rates and brackish water. We have, in fact, considered the possibility of even going as far as to cut off water and electricity and telephone accounts as a result of persistent arrears for rates but it was felt that that would be contrary to natural justice, that is to say, just if not actually *lex*, and it would be inappropriate for the Government to contemplate that remedy or, indeed, to legislate for that purpose. One is therefore left with the various enforcement mechanisms for recovery of rates which, as the House will know, involve very lengthy court procedures. A complaint has to be made to a Justice and the Justice then summons the defaulter to appear before the Magistrates' Court to show good cause why the rates and arrears should not be paid, the defaulter may fail to appear in which case there is

a further summons or if no sufficient cause for non-payment is shown the Court may make an order for payment of the amount due. That of course is not by any means the end of the process. If, in fact, the defaulter does not comply with the judgement then it becomes a judgement debt and it is necessary to apply to the Court for a further warrant so that the recovery of the rates may be effected by means of distress of the goods and chattels of the defaulter. Then it is a question of the bailiff actually confronting the defaulter and going through the sometimes painful process, it can indeed be physically painful, I think, in some circumstances, of making some sort of appropriation of goods and chattels. I think there is nothing basically wrong with this particular procedure, indeed, it is the only one which is really known to man or at least to the Courts short of anything rather more brutal or illegal, as the case may be, but of course it does take a great deal of time and I regret to say that this is perhaps one area which in recent years has not received quite the attention which is due to it, possibly this is because the Financial and Development Secretary is the person charged with responsibility and he doesn't always carry quite the clout of Sir Humphrey in such circumstances. Nevertheless I accept this is my responsibility and of course I take responsibility for putting proposals to Council of Ministers for their consideration on such matters, I regard the collection of debts as a very important aspect of my responsibilities and, indeed, essential to the maintenance of financial discipline generally. We have a situation in which we, as a result of a measure which my predecessor recommended to Ministers in 1982, whereby we add a 5% penalty to the arrears outstanding at any particular time of any particular ratepayer. Unfortunately the Government's ability to collect the 5% penalty is just as much effective by, what I might call the lengthy procedures and indeed the lack of an effective remedy as the collection of the arrears themselves so we have had a situation in which in recent years the amount of the penalty, the penalty element, in the rate arrears has increased at an exponential rate. For example, the Principal Auditor mentioned in his Report that the arrears for rates, generally, at the 31st March, 1984, was £705,000 whereas at the 31st March, 1985, it was £838,000 and I am sorry to have to say that by the 31st March, 1986, this figure will have increased to an amount in excess of £1m. That latter figure of over £1m includes approximately £267,000 simply in respect of rate penalties and that amount represents approximately 75% of all the penalties levied since their introduction on the 1st July, 1982. As I mentioned during the House of Assembly debate on the motion which was introduced by the Hon Leader of the Opposition on the Government accounts, the non-payment of the penalty has had the effect of artificially, if

I may use that word, exaggerating the arrears. There have been two further developments, one, I think, in the form of a carrot and the other in a form of a stick and the approach I would like to recommend to the House which is really the purpose of this Bill is to consider this particular measure in the context of a stick and a carrot and an attempt to come to grips with the problem of arrears including penalties in a way which I hope, and this is of course a matter of judgement, will produce some effect. As the House will know there was a substantial increase in NAV's commencing with this financial year and as a result of that the Government decided that it would initially allow ratepayers concerned and we are, of course, talking here about commercial premises almost entirely, I believe, the Government decided that it would introduce rate rebates of 40% in the first year and 20% in the second year to soften the load of those high increases in rates. I would like the House to consider the proposals I am now making in that particular context in the sense that what we are proposing is partly by knowledge because of the ineffectiveness of the penalty in persuading people to pay their arrears, we are proposing that those ratepayers who do in fact pay their rates will be granted a moratorium on further increases in rate penalties with effect from the 1st April, 1986, that is to say, they will not be let off anything which has been accumulated to that date and, of course, to gain the benefit of the rate rebates which the Government introduced in the Budget they will have to pay their rates, that was made quite clearly a condition of the rate rebates which were introduced, and if they pay their rates they will, of course, have to pay the arrears. So, basically, those who still persist in not paying their rates or their arrears will get neither rate rebates nor a remission of penalty but we will have recourse to the mechanisms of the Court and that is what I would like to come to now. As I said, there perhaps hasn't been sufficient attention in recent years to this particular problem but we have, in fact, after a certain amount of tribulation in acquiring premises and all the necessary procedures, we have appointed a bailiff and I am glad to say that there already has been an improvement. There was an improvement in 1985 simply in the number of summons which were issued in respect of ratepayers and I am hoping that there will be a further substantial improvement in 1986. We have also arranged with the officials of the Court, with the consent of the Stipendiary Magistrate, to arrange a further day's or afternoon's sitting of the Court specifically dedicated to this particular problem, that is to say, the collection of rates and arrears and, indeed, the enforcement processes necessary to collect judgement debts. Action is, certainly in hand and I am hoping that as from this autumn the Court will be sitting twice weekly for this purpose and additional staff are being provided in the Treasury to handle

this particular activity. I think that is in general all I would like to say, Mr Speaker. I quite accept that there is in this particular proposal an element of risk that it may not be effective, my concern is, of course, primarily to collect Government debts and, as I have said, to improve the general state of financial discipline which I hope has an impact on the community generally. It is, of course, a matter of judgement and I am quite prepared to take full responsibility if it is seen to be ineffective but I would ask Hon Members at least to suck it and see for a period of twelve months after which I will most certainly report back. 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?

HON J BOSSANO:

The Hon Member, Mr Speaker, is asking us to do something else than suck it and see for twelve months. He is asking us to suck and see whenever in his discretion from time to time by notice published in the Gazette he feels we should suck it and see and he has made no mention of that. Why should the House give the Hon Member the power from time to time without having to come here and justify it, to remit the penalty. That is an important, I think, perhaps political is not the word but it is an important point of principle which we certainly don't agree with unless we are given very compelling reasons for it. The Hon Member, Mr Speaker, in his final appeal for support on the Bill has said that he takes the full responsibility for recommending this and that he asks us to suck it and see, that is to say, let us experiment it and see if it works but, of course, the Bill does more than just that, it seeks to give him the power to introduce this from time to time by notice published in the Gazette without having to come back here to the House. In Clause 4: 'The Financial Secretary may in his discretion'. We may have the highest regard for his discretion but we are not here to give him discretionary powers to put off penalties and take off penalties and we think if there has to be a penalty put on or a penalty taken off, fine, the Government has got a majority, they can ensure that they do it but the essence of the parliamentary system is that they have to justify their actions to the people through us because that is what we are here to do and we don't agree with that discretionary power. On the provision for the current financial year we don't want to be obstructive, obviously, if it is going to help the Government to get people to pay then we will

support it because we are not here to do other than act in a responsible manner when it comes to looking at equity in terms of people having to pay their fair share. Nobody likes paying rates and nobody likes paying taxes, what is wrong is that if we have a system which penalises the conscientious and rewards the people who are irresponsible then why be conscientious and why pay your bills when they come? Clearly, in any situation there are people in a position of not being able to pay but when it comes to certain sectors of the community who seem to have no problem in financing other things and they have a problem in meeting their rates then we don't look very kindly at that. At the end of the day it is the rest of the community that has to make up what they fail to pay. But I don't think the Financial Secretary has succeeded in explaining to us how this is going to help him because I thought he had said at one stage in his argument - and I will give way for him to correct me if I misunderstood him - that those who pay the rates will not pay the penalty. My reading of this unless I have read it wrong is that nobody will pay the penalty, that is, nobody will pay any penalty from the 1st April, 1986, to the 31st March, 1987, whether they pay the rates or they don't the rates. Obviously, if they pay the rates they don't pay the penalty - period - without us checking the legislation. Are we being told because we are now in November, that if somebody has not paid their rates in the first three quarters of this year, the rates are payable quarterly in advance so he should have paid on the 1st April, on the 1st July and on the 1st October. Are we saying that somebody that comes along and pays now will have the penalty deducted but somebody that doesn't pay will not have their penalty deducted or are we saying that everybody will have their penalty deducted because if it is everybody I don't see where the incentive is to pay.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may interrupt the Hon Member. He is right in the sense that the moratorium will apply across the board. We did, in fact, think of the possibility of only applying the moratorium to those who, in fact, pay their rates but if you examine that particular proposition and if you consider that we are also taking action against all those who are in arrears of rates and do not pay and I do emphasise that we do propose to take action, that is what the House has to consider as well as the moratorium, the effect is the same. That is to say, those who pay their rates will get the rebate and those who don't pay their rates will be taken to Court.

HON J BOSSANO:

And get the rebate.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

HON J BOSSANO:

There are three Clauses here, Mr Speaker. The first one does away with the penalty for a period of twelve months, that is, for the current financial year. The second one allows those people who have been made to pay already, presumably somebody in October could have paid and could have had a penalty in respect of April and July, it is only fair, of course, that if we are going to take it off for the people who don't pay we take it off for the people who have paid it as well, that makes sense. We are not objecting with that second part, we think that it is reasonable to reward, if you are saying to people: 'You have had to pay this penalty in the first two months but we are giving you a chance to get back what you have paid if you change your mind and you pay up now' then that makes sense and I can understand where the stick and the carrot comes in but if you are just taking it off for everybody independent of whether they pay or whether you take them to court then it might be worth being taken to court and waiting, you might be at the end of the queue and you may not have to pay for the next three years. If the Hon Member thinks that taking away the rates penalty is going to help him this year to collect it, fine, we will support it, I have made that clear already. We certainly will not support the fact that he should have the right in his discretion from time to time to decide to take the penalty off, we think that if it is a trial let him try it and then if it is working let him come back and report to the House that it is working and that he wants to carry on with it. When the thing was introduced initially, as I remember, it was, in fact, introduced as a result of a comment in the Auditor's Report saying that something had to be done to penalise people who were obviously treating the whole business of paying rates as a joke, they are just using the rate demands to wallpaper their walls with and not paying any attention and, as the Hon Member has said, there appeared to be no way of putting pressure on those people and therefore the Auditor recommended that something had to be done and the Financial Secretary at the time came along and said: 'We are going to introduce a fairly heavy penalty of 5% a quarter' which is over 20% per annum because, of course, it is compounded, in the second quarter you get the 5% on the 5% of the first quarter. It is quite obvious that people have decided not to pay the rates, not to claim the 40% rebate, not to pay the 5% on the original quarter or the 5% on the 5% as an instrument of getting the rate demands collected it is quite obvious that there is a substantial body of people against which this is having no effect at all in

that situation it is clear to us that the Financial and Development Secretary has got a responsibility to put on his thinking cap and think of another way of getting an effective collection system. If he thinks that this is going to help him do it then we will support it on that basis and we will see what happens but he hasn't succeeded in showing us how it is going to help him do it, I think we need to say that. We are saying to him: 'If you think it will work, we will give you the benefit of the doubt' but we are not convinced that it will, but as far as Section 4 is concerned we are against that and we will vote against it.

HON CHIEF MINISTER:

One would have thought that the changing financial climate might have made it possible - we had this problem years ago - that we had to refrain from executing claims because we knew that people didn't have the means to pay and you had to help them to carry on over a difficult period. We had to do that ourselves, it was done many years ago and a lot of fuss was made about it but, in fact, it was purely the original restriction in the City Council days. There was a big row about the Tisdale Report. But time proved that we had to do it again after different situations. But it seems to me now, with the improved climate, that the bulk of these amounts being owed in respect of business premises where it is perhaps, another argument about this, of course, would be for certainly companies in liquidation if they want to carry on business they will try not to, but it is also fair to say that certainly in my experience when a company fails for other reasons, the first thing that you have is a huge figure of arrears of rent, rates, etc, etc and though the Government has got priority, I think, for one year in respect of rates over other creditors but, really, if you see a balance sheet of a company, I remember seeing one seven or eight weeks ago where the Government was owed something like £9,000 or £10,000 of rates and you say: 'Why should I have allowed that to happen?' but this is, of course, the difficulty the Financial Secretary was mentioning. I can see the reservations about paragraph 4. I was the one who opposed and I would like to say this quite clearly, originally proposed by Major Peliza at the time and more recently has been proposed by the Financial Secretary, not proposed but put forward for thinking and that is the cutting off of other services. I think that that is unconstitutional, a law which is made for one thing should not be used for another and I have resisted that. I resisted it at the time of the Peliza Government and I resisted it within Government because though it is, perhaps, a strong arm, for all we know the electricity services could be run by a separate authority and the water could be run by

a water authority and still the Government could be the rating authority, one thing could not be used for the other. Obviously, any changes that were made under Clause 4 could be revealed in the accounts of the company but I just thought since it is by way of experiment and since it could be rather cumbersome to come with a new Bill every time, I wonder whether we might not put into Clause 4 the mechanism that the times of extension shall be by a resolution of the House of Assembly and then the House would have an opportunity of questioning the Financial Secretary and making a report. I think there are one or two instances in which, I think, for example, parcel charges are done by means of a resolution. There are various ways in which the Ordinance can be extended or rather that part of it, the powers concerned with that can be extended by just a resolution, you don't alter the Statute Law, the Financial Secretary comes and seeks approval of a resolution and justifies it. I think that might meet the point made by the Hon Member but we want to go carefully about this and I am sure that we want to go also carefully about the mechanism of this. My idea would be the other way about, reduce the rates of those who pay within a short time but when they told us about penalties, well, there you are, the penalties now have increased the debt and it is not a real asset. If we are owed £1m of which £240,000 is on penalties really we are owed £1m because the penalty that we have imposed we cannot see enforced so I would suggest that that might be something that if Hon Members agree we could bring a suitable amendment at the Committee Stage....

HON J BOSSANO:

If the Hon Member will give way, I can tell him straightaway that that will meet the point completely as far as we are concerned.

HON CHIEF MINISTER:

Well, I hope it meets the point of the Financial Secretary but I think that that would be so and perhaps between now and when we come to the Committee Stage an appropriate amendment can be introduced and then we can have the approval of the House on that.

HON J E PILCHER:

Mr Speaker, the Hon Leader of the Opposition made this point but in his summing up the point that certainly I would like explained, perhaps he has understood or not is, what happens if somebody has arrears of rates and has penalty rates on top of that come the 1st April, 1986, if he doesn't pay during the financial year and has to be taken to court at

the end of that year because he still hasn't paid he will not pay any penalties under this law which seems illogical and at that point I would like cleared.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I can answer that. It is true, Mr Speaker, that a person who did not pay his rates during the course of this particular financial year on the assumption that the legislation which is proposed is affected only for this financial year, he would not in going to court have to pay any penalty rates in respect of this financial year, yes, I agree that that is so. I can understand the Hon Member's feelings about this but it seems slightly incongruous that a person who has not paid should get the benefit. I can assure you that we have considered this very carefully and the administrative procedures involved and I think in the circumstances it is justified only - and I do emphasis - only because we intend, and this is the whole purpose of this particular measure, we intend to take more effective action through the courts. I would certainly not have put this proposal forward if we were not proposing to take action through the courts. I agree that there is a certain incongruity in that particular proposal. I welcome the Chief Minister's intervention, certainly I had no intention myself of abrogating to myself discretionary powers which the House would not wish me to exercise although I am sure they would love to see the Financial Secretary making more progress than he has already made, and that is quite considerable, with the reduction of the arrears of revenue since the beginning of 1984 and, as the Chief Minister has said, we will introduce an amendment in the Committee Stage to give effect to this change and, of course, there will be an opportunity, I think, it would probably be appropriate to take the resolution round about the time when there is an annual debate on a motion usually moved by the Leader of the Opposition on the Government accounts.

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 tomorrow.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO.2) ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, 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, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time and in accordance with normal practice I don't propose to make a speech except to draw attention, as I believe I already have given you notice, Mr Speaker, that at the Committee Stage we will be introducing an amendment to Part I of the Schedule. I feel sure Hon Members will already have noticed that the Treasury is not, in fact, Subhead 24 but Subhead 25. 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?

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 tomorrow.

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Prison Bill, 1986; the Imports and Exports Bill, 1986; the Town Planning (Amendment) Bill, 1986; the

Criminal Procedure (Amendment) Bill, 1986; the Marriage (Amendment) Bill, 1986; the Penalty Rates Remission Bill, 1986; and the Supplementary Appropriation (1986/87) (No.2) Bill, 1986.

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

MR SPEAKER:

We are now in Committee and we will be taking today exclusively the Prison Bill and the Imports and Exports Bill after which we will recess until tomorrow morning and then we will continue with the Committee Stage of the other Bills.

THE PRISON BILL, 1986

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON J L BALDACHINO:

Mr Chairman, may I ask the Government one point on Clause 7(1). As I understand it, Mr Chairman, when a Prison Officer is employed he is entitled to a quarter. Clause 7(1) states that on the termination of his employment he has to vacate possession of any official quarter but it doesn't state anywhere that alternative accommodation has to be offered.

HON J B PEREZ:

That is not stated in the Prison Ordinance. The Bill only provides in the event of a Prison Officer occupying a particular quarter, that on termination of his employment it makes it quite clear that he must vacate the quarter to allow another Prison Officer who takes up his job to go into that quarter. That is the only purpose of that particular Clause.

HON J L BALDACHINO:

I understand that but then under this Ordinance you can take possession of that quarter without giving him alternative accommodation so what happens, he becomes homeless?

HON J B PEREZ:

That is, in fact, one of the conditions of employment and it also applies, I think, to every civil servant.

HON CHIEF MINISTER:

I would like to make a statement on this because it is important in other respects, too. There is no protection under the Landlord and Tenant Ordinance in respect of any building or any dwelling which is given for the purpose of employment, there is no protection at all. There is no protection in the United Kingdom either and some quarters, of course, are earmarked for reasons of convenience, for example, the police quarters at one time it was thought as part of police strategy that all policemen should live together in case of an emergency. Now the thinking is that the more spread they are in the community the better. Things change but that is why the quarters remain in order to have them for others. But all pensioners who have finished their employment with the Government, strictly speaking, can be put out in the street but the Government never does that, the Government tries to persuade people by offering alternative accommodation the same as we do with premises which are in dangerous conditions. Naturally, when you do that they try and impose too many conditions and there may come a time when you have to take them to court. This does not place any more burden on a Prison Officer than he has now so long as he has a quarter. We are, I think, quite tolerant with pensioners, sometimes too tolerant with pensioners, who have lived in Government quarters for years because they have not been able to find accommodation. In some cases it would be a silly exercise to try and give new accommodation to somebody in an old quarter if it has passed its normal age and instead of giving it to somebody who is in the waiting list for a long time. I think that the Hon Member can take it that there is no intention here to vary the situation, it is just a reiteration of the present state of affairs.

HON J BOSSANO:

I think we are going to vote against this, Mr Speaker. I accept what the Hon Member has said but I think we get this kind of situation cropping up more than once when we are looking at legislation. We approach the thing on the basis, okay, there may be pieces of legislation on the Statute Book that are a dead letter but as far as we are concerned we shouldn't legislate if it is unenforceable legislation and there is no intention to enforce it. The Government may say they have no intention of taking a draconian stand on this and putting people out on the street and, clearly, we wouldn't want to do it either if we were on that side, but this is not the point, the point is that what we are legislating today in the House of Assembly is that if the Superintendent of Prisons gives notice to a Prison Officer and the Officer fails to

quit the premises within fourteen days then he can direct a Police Officer to enter into the person's house by force, if necessary, and remove the person and all his possessions and, presumably, put him into prison which is next door. That is what we are passing here in the House of Assembly, that is the law. We are not voting to have that law in the Statute Book and it is not enough to be told by the Chief Minister that they are too soft and too kindhearted to actually enforce it, then why legislate it?

HON CHIEF MINISTER:

I am not saying that Clause 2 is simply unenforceable, you don't do things that way, people who have been living in a quarter for years cannot vacate it in fourteen days and I don't know why it is there, to be quite frank. There may be times for disciplinary purposes that it is necessary, I don't know whether we are reproducing the old Bill. It is necessary in the interests of the service that a person should live in a particular place and there are people who are inclined, naturally, if they have been a long time in a place, not to move and sometimes they are reasonable and sometimes they are unreasonable and I think, apart from the fourteen days which I don't think is particularly relevant, the power to remove somebody on the basis of offering him alternative accommodation and not putting him out on the street, I think, must remain.

HON J B PEREZ:

Can I add, Mr Chairman, that in fact the provisions are identical to what we have today and that under the present Prison Ordinance since this one hasn't yet come into force, it is an identical Section, 7(1), 7(2) and 7(3) of the existing Prison Ordinance.

HON J BOSSANO:

But surely, Mr Chairman, the whole purpose of changing legislation is not simply to reproduce it, it might have been there from the year dot and it might have been that when there was the first Prison Ordinance in Gibraltar you could clap the persons in irons just like that but the point is that we are now legislating in 1986 and this is the 1986 Prison Ordinance, not the 1886 Prison Ordinance, and we are saying that the Head of a Department, people who are employees of the Government of Gibraltar, is being given the power by this legislation to give one of his subordinates fourteen days notice to leave his home and if he doesn't he has got the authority to call the Police, break down the door, go inside, arrest the man and his family and take away all his

possessions. That is what we are saying. It might have been there a long time, it is a dead letter, nobody has paid any attention to it but the whole purpose of bringing Bills to the House and going through a Committee Stage and we are saying we don't want to take all the Bills in one session, why, because we actually take the trouble to read it and when we don't understand it we come back here and we ask for explanations and when we read it and we don't like what we are reading we say: 'We don't want to see that perpetuated in Gibraltar's laws'.

HON J B PEREZ:

The point is, Mr Chairman, it is not as the Leader of the Opposition has just said, that the Superintendent can give fourteen days notice. It only applies in the event of a Prison Officer who has terminated his employment, it only applies in that particular case. It is not a case of giving the Superintendent the power to give fourteen days notice. When a Prison Officer takes up employment he knows that the quarter that goes with the job will have to be given up.

HON J L BALDACHINO:

That is not the point I am making, Mr Chairman. The point I am making is that we are now legislating and we are giving the power to the Superintendent that once a Prison Officer terminates his employment, either he retires or he resigns, then he has the power under this Ordinance without giving him alternative accommodation to carry out what we are legislating here today and this is the danger that I see. It might never happen and what I am saying is, if all this procedure could happen after the person was offered suitable alternative accommodation and he still refuses to move if we have this then, surely that is fair and proper but in this case we are legislating without giving the person the opportunity of being offered alternative accommodation and yet the Superintendent can throw him out and nobody can stop him.

HON J C PEREZ:

Mr Chairman, it is all very well to say: 'This piece of legislation is there and we don't intend using it'. If we don't intend using it why have it? That is basically the fundamental point and although I agree with the Hon and Learned the Chief Minister that the Government has never actually carried policies of this nature through and is lenient to pensioners as he said, notwithstanding that, on a couple of occasions the administration has seen fit, for

example, to apply strictly the rules to expatriates whose contracts have finished and have given long and loyal service to the Government. I can certainly remember on two occasions in other aspects of employment where the rules have been applied rigidly but if we are actually not going to use it it is superfluous to have it in any case.

HON J L BALDACHINO:

Mr Chairman, if I may, I think the Government has a point in having something legislated like that, the point that I am trying to make is that alternative accommodation should first be offered.

HON J B PEREZ:

Mr Chairman, I am prepared to consider the deletion of sub-clauses (2) and (3) if that would be acceptable.

HON J BOSSANO:

Obviously, Mr Chairman, we wouldn't like to see subclauses (2) and (3) stay there unless subclause (1) was qualified as my Hon Friend has said. That is to say, if the Government wanted to have a safeguard where they could actually put pressure on somebody who had been given the choice of moving out and who simply said: 'I am not moving out', that would be understandable because first you give him the option of moving out by persuasion and if they won't move out by persuasion, then you have the carrot and the stick the Hon Financial Secretary was talking about before. Our objection is that there is a stick here and no carrot so we are saying to the Government either you introduce a carrot and you keep your stick or else you take the stick away. If you prefer to take the stick away, fine, the Opposition welcomes that change.

HON CHIEF MINISTER:

I think subclause (1) must remain because otherwise they would become tenants and if it is difficult for them to move when the Government hasn't got a legal duty to provide alternative accommodation, if they have a legal duty then they will argue that it isn't reasonable and the Government would be much more hemmed in than what they already are despite the difficulty. I had a case of somebody who retired in 1976 who wrote to me suggesting that he was being badly treated - who had been offered eight flats, amongst them flats in the Alameda Housing Estate which I considered the best and yet they didn't want to move. There comes a time when Government quarters require refurbishing for another officer and

we cannot give up the right to say that it has to be vacated. This goes contrary to the principles of the Landlord and Tenant Ordinance. If you were to take subclauses (2) and (3) I don't mind but subclause (1) must remain because otherwise they will acquire a tenancy right. I think we are going a long way to meeting the point raised.

HON J L BALDACHINO:

Mr Chairman, I am not disputing subclause (1), I think that the Government should have that protection.

HON CHIEF MINISTER:

That is all we want.

HON J L BALDACHINO:

The other point is that the Hon Member has mentioned the Landlord and Tenant Ordinance which as far as I understand doesn't apply to the Government.

HON CHIEF MINISTER:

No, that is why if you take away subclause (1) then it would apply, that is what I am saying.

HON J B PEREZ:

Mr Chairman, I will then move the amendment that subclauses (2) and (3) be deleted.

Mr Speaker then put the question which was resolved in the affirmative and Clause 7, as amended, was agreed to and stood part of the Bill.

Clauses 8 to 30 were agreed to and stood part of the Bill.

Clause 31

HON ATTORNEY-GENERAL:

Mr Chairman, Clause 31(1), I have given notice of this amendment to omit the word 'Director' in the third line and to substitute therefor the word 'Superintendent'.

Mr Speaker then put the question which was resolved in the affirmative and Clause 31, as amended, was agreed to and stood part of the Bill.

Clauses 32 to 47 were agreed to and stood part of the Bill.

Clause 48

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the amendment in the penultimate line in Clause 48(1) to delete the word 'prisoners' and substitute therefor the word 'prisoner'.

Mr Speaker then put the question which was resolved in the affirmative and Clause 48, as amended, was agreed to and stood part of the Bill.

Clauses 49 to 53 were agreed to and stood part of the Bill.

Clause 54

HON ATTORNEY-GENERAL:

Mr Chairman, I would like to move an amendment to Clause 54(1)(a) but no notice has been given.

MR SPEAKER:

There is no need to give notice, we are in Committee, and I can accept an amendment if you tell me what it is.

HON ATTORNEY-GENERAL:

It is Clause 54(1)(a) in the penultimate line to delete the words 'thirty-one days' and to substitute the expression 'six months'. This is at the request of the Parole Board, Mr Chairman, particularly with the increase in the number of short-term prisoners, the Board feels that if prisoners are to be considered before they become eligible for parole because if you consider parole you have got to consider previously their eligibility for parole and if their cases are to be assessed properly there must be sufficient time for a proper assessment to be made and this is difficult to achieve, Mr Chairman, in cases where the Parole process must be completed and a decision taken within thirty-one days of the date on which the prison sentence commenced. If there is a remand involved the difficulties are even greater. One instance is quoted to me here, in fact, I have recently been informed by the prison authorities that two short-term prisoners who were sentenced to four months imprisonment on the 3rd September, 1986, will become eligible for parole on the 13th September, 1986, because they have been on remand awaiting trial since the 4th August, 1986, so they had to

make almost an immediate decision. The position in the United Kingdom, Mr Chairman, under the Eligibility for Release on Licence Order, 1983, is one-third of a sentence or six months and it seems logical to move this amendment.

Mr Speaker then put the question which was resolved in the affirmative and Clause 54, as amended, was agreed to and stood part of the Bill.

Clauses 55 and 56 were agreed to and stood part of the Bill.

Clauses 57 to 65

HON J BOSSANO:

I don't know whether this is, in fact, simply something that we have copied from the existing Ordinance where we are saying: 'The Superintendent may, with the approval of the Governor, make standing orders to be observed in the execution of any sentence of death'. I think if we read the whole of the section of the sentence of death, quite frankly, it reads like 19th century legislation. Here we are talking about what they do with the body and they have to bury the body inside the prison walls. Presumably under the new participation that the Hon Minister for Economic Development is introducing on public inquiries under planning permission and so forth and the right of nearby residents to object there will have to be the right of appeal for the tenants of Moorish Castle to having executed prisoners buried on the other side of the wall. One reads it and it is difficult to believe that here we are in November, 1986, legislating as if we were in the 19th century and talking about executing people and burying them inside the walls of the prison and if there isn't enough room the Governor can decide to bury them somewhere else as if we were burying people in the days of the Great Siege at the rate of half a dozen a week. Do we really need to have this in the Statute Book, Mr Chairman? It is certainly most unpalatable to us on this side of the House.

HON CHIEF MINISTER:

Well, the sentence of death applies in the case of treason and piracy at sea. These procedures are normal certainly in the United Kingdom. I think it has been reproduced but the point is, in my view, that for as long as there is one offence that warrants the death sentence - very unlikely - they have to have the procedure.

HON J C PEREZ:

Mr Chairman, certainly this is not the time where one could

discuss the merits or demerits of having a sentence of death for treason or piracy but would I not be correct in saying that if by any event there were such a case that the sentence of death would in any case be carried out in the United Kingdom?

HON CHIEF MINISTER:

No, you can't. The question might have been where do we hang him?

HON J BOSSANO:

We are talking about the Superintendent having to publish the notice upon the outside of the prison walls, the fact that an execution is about to take place. Clearly, that is going to generate such an amount of public interest that we are now excluding the public from the right to be present. I know that the Government have been considering the potential attractions for tourism of Moorish Castle. This is going against the tourist policy and they are not going to be able to come in and crowd on walls. We can have coach tours from the Costa del Sol to watch our executions. It really sounds incongruous to be legislating this.

HON CHIEF MINISTER:

It may be incongruous but it is a fact. There are still quite a number of prints of the middle of the 19th century where sentence of death was carried out in Casemates, it is something like the Ceremony of the Keys.

On a vote being taken on Clauses 57 to 65 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

Clauses 57 to 65 stood part of the Bill.

Clauses 66 to 69 were agreed to and stood part of the Bill.

Clause 70

HON ATTORNEY-GENERAL:

Mr Chairman, I have an amendment to Clause 70. The first amendment is a very small printing error. In subclause (a) 'attempts to break or escapes from prison', it should be 'attempts to break or escape from prison'. That is the first one, to take the 's' off from 'escapes'. The other is a little more substantial. To delete all the words after the word 'conviction' - 'is guilty of an offence and is liable on conviction to imprisonment for one year' - and to substitute the following words after the word 'conviction' - 'on indictment to imprisonment for one year or on summary conviction to imprisonment for six months and to a fine of £100'. Mr Chairman, this amendment is made at the request of the Supreme Court. The request to me is contained in these words; 'In another jurisdiction where escaping or attempting was the order of the day, a similar conviction was a bit of a nuisance. Is there any objection to this offence to be a summary one or at least a hybrid?' and that means tried by either the Supreme Court or the Magistrates' Court - 'The Chief Justice is aware of my views and agrees with them. There is no objection from the administration', and it is on that basis that I move this amendment.

Mr Speaker then put the question which was resolved in the affirmative and Clause 70, as amended, was agreed to and stood part of the Bill.

Clauses 71 to 74 were agreed to and stood part of the Bill.

Clause 75

HON ATTORNEY-GENERAL:

I beg to move an amendment to Clause 75(1)(k), Mr Chairman. It is not 'payment to discharge prisoners' but 'payment to discharged prisoners', so could we add 'd' to the word 'discharge', Mr Chairman.

Mr Speaker then put the question which was resolved in the affirmative and Clause 75, as amended, was agreed to and stood part of the Bill.

Clause 76 was agreed to and stood part of the Bill.

Schedule 1

HON ATTORNEY-GENERAL:

I gave notice of a small amendment here. The deletion of the word 'who' in the second-line thereof and its substitution by the word 'whom'.

MR SPEAKER:

May I ask who the proof reader was?

HON J BOSSANO:

We want him executed.

HON ATTORNEY-GENERAL:

I didn't do it myself it was done in my office, Mr Chairman. I am told that the amendments were made in my office but they weren't made when it was printed.

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

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

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

The House recessed at 5.10 pm.

The House resumed at 5.40 pm.

THE IMPORTS AND EXPORTS BILL, 1986

Clause 1

HON ATTORNEY-GENERAL:

I beg to move an amendment to Clause 1(2) of the Bill, Mr Chairman, to delete the expression '1st day of October, 1986' and substitute therefore '1st day of January, 1987' as the date on which the Ordinance shall come into operation.

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

Clause 2

HON ATTORNEY-GENERAL:

On Clause 2 one very slight amendment in Clause 2(1) on page 91 the last definition of 'Vehicle', Mr Chairman, 'vehicle' includes a motor vehicle, a motor bicycle' I think in 1986 we might call it a 'motor cycle', Mr Chairman.

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.

Clauses 3 to 11

HON M A FEETHAM:

Mr Chairman, under Clause 3(1), (2) and (3) it is clear that what we are doing here is taking away the responsibility held up to now by the Financial and Development Secretary and passing it on to the Collector of Customs and at the same time if we take that into account with the rest of the Ordinance which is a consolidating Ordinance and bring it up-to-date and incorporate new sections taking into account various other factors. I just want to ask one question to the Government, particularly under Clause 3(1) which says: 'The Governor shall, by notice in the Gazette, appoint a Collector of Customs and such customs officers as he may consider necessary for the proper carrying out of the provisions of this Ordinance' and then Clause 3(3) says: 'The Collector may, by writing under his hand, delegate all or any of his powers under this Ordinance to such customs officers or other persons as he may think fit'. In the light of that, is Government considering because this is a major piece of legislation in the sense that an awful lot of things have been put together, new sections have been put in, we are now following EEC pattern, we are now following European pattern, is the Government considering more staff or a staff inspection to back this piece of legislation up?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not specifically in the case of this legislation, no, Mr Chairman, but obviously the Customs Department like every other Department will be subject to review. There is, in fact, a review due of the grading of the post of Collector of Customs.

HON M A FEETHAM:

I am not asking about any particular grade as you will appreciate, what I am talking about is the principle of the workload that this is going to entail. Is Government thinking in terms of the employment of more staff or a staff inspection, yes or no?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I wouldn't necessarily agree that this is going to cause more work. The essence of the legislation is one of simplification, Mr Chairman, I would hope that it would, at the very worst, leave things as they are and not cause any additional work.

Clauses 3 to 11 were agreed to and stood part of the Bill.

Clauses 12 and 13

HON M A FEETHAM:

Clause 13 says: 'For the purpose of implementing Community obligations, the Collector shall co-operate with other customs services on matters of mutual concern and, without prejudice to the foregoing, may for that purpose give effect to any reciprocal arrangements made between Member States, with or without other countries' and so on. Has anything been done up to now in this respect in recent times where this has been necessary to invoke, just to seek clarification.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not so far as I am aware in the case of additional arrangements brought about by membership of the EEC. There have been one or two Directives. There was one, for example, called the, if I can remember it had a very long title, the harmonization of frontier facilitation or something like that. We discovered that in actual fact and this is the point which I think was made earlier in the meeting of this House, that many of the EEC Directives are a way of putting into bureaucratic language for the sake of EEC Directives and probably to justify the activities of some of the civil servants employed there - although please don't quote me on that - ways of enforcing or giving legal sanction to what is already taking place. There are day to day arrangements, naturally, between the Head of Customs and his counterparts across the frontier, for example, and we found that in most cases he is already doing it when the Directives come in.

Clauses 12 and 13 were agreed to and stood part of the Bill.

Clause 14 was agreed to and stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that sub-clause (a) and (b) of Clause 15 be omitted and the following substituted therefor: '(a) Where the drug is a Class A or a Class B drug - (i) on summary conviction, to a fine of £1000 and to imprisonment for 12 months; (ii) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 14 years. (b) Where the drug is a Class C drug - (i) on summary conviction, to a fine of £1000 and to imprisonment for 6 months; (ii) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 5 years'. Mr Chairman, the reason for the first amendment is to delete the words 'on summary conviction, to a fine of three times the value of the goods'. If you are dealing with a Class A drug, what value does a Class A drug have, the street value on the streets of Gibraltar, the street value on the streets of London or where? It seems to me a stupid way of putting it so let us have it just very clearly 'to a fine of £1000 and to imprisonment for 12 months' and forget about this business of three times the value. The second reason is specifically with regard to sub-clause (b). Class C drugs are often dealt with in the Magistrates' Court having regard to the amount but if it is a large amount to the Supreme Court and therefore let us make provision not only for summary conviction as the present Bill does but to conviction on indictment if the quantity of drugs is large.

Mr Speaker then put the question which was resolved in the affirmative and Clause 15, as amended, was agreed to and stood part of the Bill.

Clauses 16 to 23

HON M A FEETHAM:

Mr Chairman, Clause 20(1)(a) on page 99 where it says: 'Save with the approval of the Collector, goods arriving from any place outside Gibraltar - (a) by sea, shall not be unloaded at any place other than the public quay at Waterport or the North Mole, or at the Dockyard'. Under the interpretation in the Ordinance there is no reference to the Dockyard, I haven't even seen it under the general interpretation so that is one point I want to clarify. The other one I want to clarify is, will this unloading be done by the dockers registered under the Dockers' Registration Ordinance or whatever particular Ordinance refers to the dockers?

HON ATTORNEY-GENERAL:

The Dock Work (Regulation) Ordinance.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Within the GSL area, that is to say, the commercial yard area, goods which are intended for shiprepair will be unloaded by Gibrepair staff, that is the intention. Any goods which are not intended for shiprepair will, of course, not be allowed the similar facility, that is to say, any goods which are to be sold into town will be if necessary taken into bond. That is the purpose of this particular provision.

HON J BOSSANO:

But, surely, there is a conflict between this and the Regulation of Dock Work Ordinance which says that only registered dock workers can engage in dock work and the loading and unloading of ships and the stevedoring and so forth can only be done by people who are registered by the Dock Labour Board as registered dock workers. If we are saying that people can engage in dock work in areas which are outside the areas defined in the Ordinance, then you cannot stop anybody discharging any cargo anywhere else.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, in practice, Mr Chairman, general cargo does not come into the commercial yard and in the event of any cargo which was not intended for shiprepair, that is to say, machinery and equipment, then it would not be unloaded into the yard and it would not be unloaded or used by Gibrepair. I don't think that the question would arise in practice.

HON J BOSSANO:

When the Hon Member says it will not be allowed, in what capacity is he saying that? He is no longer the Chairman of GSL and when he was the Chairman of GSL he didn't interfere very much in what they were allowed or not allowed to do. If GSL decides tomorrow to unload whatever they like there is nothing here to say they cannot do it and if they do it are they engaged in dock work and if they are engaged in dock work do they then not have to register all their employees as registered dock workers?

HON ATTORNEY-GENERAL:

Would this amendment satisfy the Leader of the Opposition, to delete the word 'Dockyard', first of all, and to insert

the words 'commercial yard' - because that goes along with the definition contained in Section 2 - 'in respect of goods required for use for repair by Gibraltar Shiprepair Limited'?

HON J BOSSANO:

This Section does two things. One is it proposes that with the approval of the Collector, goods arriving by sea should be unloaded at any place and, secondly, even without his approval, they should be unloaded at the Dockyard. Why is it that we want to place the Dockyard in that advantageous position of not requiring the approval of the Collector? The reason why we have Waterport and the North Mole is because they are areas already specified in the Ordinance where they are defined as part of the Port where dock work takes place.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The commercial yard is not a part of the Port where dock work takes place, that is the answer I think to the Hon Member's question, it is exclusively for shiprepair. I don't think the Government could accept that ships carrying equipment, materials, machinery intended for shiprepair should be unloaded other than at the commercial yard but if we can meet the rest of the Hon Member's concern about this then, obviously, we will try to do so.

HON J BOSSANO:

This is a piece of legislation intended, Mr Chairman, to regulate the question of imports and exports from the point of view of ensuring the control of prohibited imports on the one hand and dutiable goods on the other. In an Ordinance which is concerned with dutiable goods we have got references to the work of unloading cargo for which there is another Ordinance which regulates the unloading of cargo and where in the past assurances have been given in this House and directed to the workforce in that area that their monopoly would not be in any way interfered with with the setting up of the commercial dockyard and that monopoly is one which is enshrined in the law when we removed casual dock labour and we effectively said that only people who are registered as dock workers can engage in dock work. Why should, in fact, the commercial dockyard be allowed through the Imports and Exports Ordinance, which has nothing to do with the Regulation of Dock Work, to have one law where we appear to be saying something which I am putting to the Government is in conflict with what we are saying in another law assuming, of course, that GSL could get any of its employees who are not employed to carry out dock work or to unload ships, get them

having employed them to do something else to engage in stevedoring work which I don't think they will, independent of what the law says, let us be clear about that. From a practical point of view GSL does not employ people to load and unload ships and therefore if a ship arrives with a load of machinery for GSL, GSL will probably find that the people that they are employing as shiprepairers and fitters and painters and what not would say: 'I am not employed here to unload ships anyway'.

HON CHIEF MINISTER:

What is happening now?

HON J BOSSANO:

What is happening now is that the stuff comes in by road on a truck whether it comes in across the frontier or whether it is unloaded in Waterport, it is not unloaded in the Dockyard, that is what is happening now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is no conflict.

HON J C PEREZ:

Mr Chairman, just to say that previous to the commercial yard some ships were unloaded in the Dockyard and the people who used to do it were the registered dockers.

HON J BOSSANO:

No, I think the situation was that before you had RFA's bringing in cargo for the Ministry of Defence and that was done by the Ministry of Defence. When there was a commercial ship which for convenience could better discharge its cargo directly then the stevedores used to go from the Waterport area into the Naval Dockyard and do the discharging but there were special provisions for that situation.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman, I don't accept that there is any conflict between this and the provisions of the other Ordinance which the Hon Member has mentioned. I think it is quite clear that the commercial yard is a commercial yard and the commercial yard is only concerned with specialised material, quite legitimately so, concerned with shiprepair. Dock work, as the Hon Member has described it is, of course, concerned with

general cargo at the Port, the two are quite distinct, but as far as the Imports and Exports Ordinance is concerned, well, it is not exclusively concerned with duties, the title of the Ordinance is Imports and Exports. This, I accept, is an import and therefore it is proper to provide for it in these circumstances. It has certainly always been the clear intention that materials brought into the yard for the purpose of shiprepair should be brought in to the commercial yard.

HON J BOSSANO:

Mr Chairman, if the Government policy is to do that which is not being done now and that is a matter of Government policy, then presumably in this situation Government is prepared to give a directive to the commercial yard requiring them not to import their materials through Waterport like they are doing today and to import it directly, that is what the Hon Financial and Development Secretary is saying, no? The Hon Member says it is quite proper and because it is quite proper he is introducing into the Imports and Exports Ordinance that goods arriving from any place outside Gibraltar by sea can only be unloaded in Waterport or the North Mole where under the Dock Work (Regulations) Ordinance we are talking about a Port area and where the Ordinance says that unloading these goods is dock work and that the only people who can do the unloading are registered dock workers. Here we are saying, no, what the Imports and Exports Ordinance permit is that the goods can be unloaded in Waterport or in North Mole or in the commercial yard. The moment they are unloaded in the commercial yard since they do not fall within the definition of what Port means and since the definition says 'Dock work means the operation within the Port of loading and unloading ships', it means that a ship can be unloaded in GSL according to this law.....

HON ATTORNEY-GENERAL:

As defined in the Port Ordinance.

HON J BOSSANO:

According to the Dock Work (Regulation) Ordinance it says: 'Port means' and it specifies the areas of water, the fore-shore and so forth and the area of land commonly known as Waterport and part of the North Mole and it doesn't include the commercial yard so the commercial yard is not part of the Port. It then says 'Dock work means loading or unloading ships within the Port'. Therefore if you are allowed to unload a ship in the commercial yard, if you unload the ship in North Mole or in Waterport you are then engaged in dock work accord-

ing to the Dock Work (Regulation) Ordinance but if you are unloading a ship in the commercial yard you are not engaged in dock work and therefore you do not have to be a registered dock worker. Well, that is a major matter of policy which the Government hasn't said the reason why we are bringing the Imports and Exports Ordinance to the House is to allow dock work in a different area to be done by people who are not registered dock workers. That is not the purpose of this legislation but that is the effect of the legislation. We are permitting what is defined in this law as dock work to be done in an area where currently it cannot be done because currently you can only unload ships in Waterport or in the North Mole, that is where you can unload it. You cannot now unload ships in the commercial dockyard and at the moment in the commercial dockyard the materials are brought in by land even if they have arrived by sea at the Waterport unless exceptionally they move the stuff on a barge because it happened when we had the situation of the Viaduct Bridge being limited on the load it could take and sometimes the stuff was moved by the registered dock workers who took the container off the ship and put it on a barge and went with the barge over to the other side and put the container on site and they delivered it to the client like they deliver a container to Liptons and then once the client receives the container the unstuffing was done by its own employees.

MR SPEAKER:

So what you need is an amendment to the Port Ordinance to extend it to the commercial dockyard.

HON J BOSSANO:

Either one or the other, yes.

HON J E PILCHER:

Mr Chairman, but doesn't the Clause say: 'Save with the approval of the Collector'? Why add 'or at the Dockyard'? Irrespective of the policy matter which the Hon Leader of the Opposition is mentioning, I do not see the purpose of having 'or at the Dockyard' there because under Clause 20(1) 'Save with the approval of the Collector' that means that if there is any need for that, irrespective of the policy decision, 'Save with the approval of the Collector' comes into force so why have that included there, I don't understand it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Is the hon Member suggesting the deletion of the words 'or at the Dockyard'?

HON J E PILCHER:

Yes.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There seem to be two views on the matter. Hon Members opposite, as I understand it, feel that, and after all this must be the substance of the representations which have just been made, that materials for Gibrepair should not be unloaded in the commercial yard.

HON J BOSSANO:

The Hon Member has said that they are prepared to qualify what can be unloaded at GSL in order to meet the point that we are making but, clearly, in their original proposal with this Bill they were allowing anything to be unloaded because there isn't any qualification. That is the first point. The second point is, we are saying why should the commercial dockyard be in a position of being free to have things unloaded on its doorstep which is a position that nobody else in Gibraltar has got and which they don't apparently have at the moment and which they are not exercising? If the commercial dockyard has been in operation from January, 1985, to November, 1986, and the Government in November, 1986, wants to provide for materials for the commercial dockyard to be unloaded directly there, that is a matter for Government policy which they can stand up in this House and defend. If at the end of the day we disagree they can vote with their majority but this is not what this law is about. This law is about the Imports and Exports Ordinance, that is what it is about. It is not about facilitating the flow of materials to GSL which seems to be what concerns the Financial and Development Secretary who clearly now has the interest of GSL more at heart than he ever did when he was the Chairman, that is what I cannot understand. What has it got to do with the Financial Secretary whether GSL brings the stuff in directly there or drops it in by parachute, what has it got to do with him?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I can tell the Hon Member that I am very anxious to see that GSL costs are kept to a minimum. But as far as his other point is concerned, allowing anything to be unloaded, no, I don't agree that the force of the existing provision is that it would allow anything to be unloaded. As I have explained, the only things which normally come into the yard are materials which are used in connection with shiprepair which

is a legitimate activity, after all, that is what they were set up to do. Nor do I accept that they are putting the shiprepair yard in a special position. I accept that it is something of a specialised activity for which there is nothing comparable but it is in the nature of the work on Gibrepair that they should use materials and machinery and plant for the repair of ships and that is all we are concerned with. However, as I have said, if we can find a suitable formula which will satisfy what I take to be the Hon Member's concern that nothing other than what is used in connection with shiprepair should be unloaded in the commercial yard, then certainly we will consider that.

HON J C PEREZ:

Mr Chairman, following what my colleague, the Hon Mr Pilcher, was saying if we were to delete any mention of the word 'Dockyard' and in extraordinary circumstances when it was needed to facilitate the unloading of certain material the Collector of Customs would approve it then one would understand that it is because of extraordinary circumstances where the cargo cannot be unloaded at the wharf but if we open it up without regard to the Dock Labour Regulation Board what we are telling the dock workers is that a large chunk of the work that they do today will not be carried out by them because a lot of the imports that come through there is work that they do there and it is undermining their position in the Dock Work (Regulations) Ordinance. If it is for extraordinary circumstances like it used to be at the time of the Naval Dockyard when materials that normally came through the North Mole was transferred there and the dock workers themselves used to go there to unload it then there is no need to mention the Dockyard and 'save with the approval of the Collector' things can flow as is expected. But if we are particularly mentioning the Dockyard we are saying that any kind of material can go there and we are at the same time undermining the workload of the workers there which Government regulated under the Dock Work (Regulations) Ordinance several years ago.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The circumstances are not extraordinary, Mr Chairman, I think the circumstances are anything but extraordinary except insofar as work in shiprepair is extraordinary so I am afraid the Hon Member is exaggerating the position. But as I have said if we can find a formula to provide for what would be an extraordinary situation in which goods other than those which are necessarily used in connection with shiprepair would need some special permission then, certainly, we would consider that.

HON J C PEREZ:

Mr Chairman, then what the Hon Member is saying is that everything coming in by sea for Gibrepair is expected to be unloaded in Gibrepair and then in order to protect the dock workers we would have to amend the Dock Work (Regulations) Ordinance so that they would be the ones responsible for unloading it there unless it was a situation where we were actually saying: 'We are going to take away that workload from the dock workers', which defeats the whole purpose of the Ordinance in the first place, of the other Ordinance not this one. The objection is not that the materials should be unloaded at Gibrepair itself but that it undermines the workload at present being carried out by the dock workers who are protected under the Dock Work (Regulations) Ordinance.

MR SPEAKER:

I think that both the Government and the Opposition have made their position clear insofar as this is concerned. It is a question of either finding an immediate compromise or taking a vote on the Clause as it stands.

HON J BOSSANO:

Can I just point out, Mr Chairman, the Hon Member has said that one could not read into this what we are reading. I would just like to demonstrate that this is not the case. The Financial and Development Secretary has said that clearly it was intended always that this should just be materials for GSL and that one could not read, in fact, what we are reading into it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I didn't, I think, if I may, Mr Chairman, just to correct the Hon Member, I didn't say you couldn't read into it, I said that its practical effect will not be the slightly alarming eventuality which Hon Members opposite are painting.

HON J BOSSANO:

I would just like to demonstrate that, in fact, what the Government is legislating is precisely what we are saying whatever their intentions because, first of all, the Financial Secretary needs to explain to us if this House passes this legislation and the legislation says: 'Save with the approval of the Collector, goods arriving from any place outside Gibraltar - (a) by sea, shall not be unloaded at any place other than the public quay at Waterport or the North Mole, or at the commercial yard' and I arrive

with a shipload of transistors in the commercial yard, then that is goods arriving from any place outside Gibraltar. He then has to have the legislative power to stop me. We then come to the second part which says that I need the approval of the Collector for dutiable goods. Suppose that instead of it being transistors I am bringing sacks of cement which are not dutiable goods?

HON CHIEF MINISTER:

I think the Hon Member has missed the point made by the Financial Secretary. If a formula can be found that would limit what is unloaded at the commercial yard to materials for the yard that would meet the point.

HON J BOSSANO:

But then, Mr Chairman, the point I am making is that if we go to the removal of dutiable goods in Clause 32, we are talking about dutiable goods imported into Gibraltar whether unloaded at Waterport or the North Mole or the commercial yard. If they are being removed from the commercial yard how can he tell us that the purpose of the legislation is that they should only be for the commercial yard? Why do we have provision for their removal? Why do we have provision in Clause 32 for the removal of dutiable goods unloaded in the commercial yard?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Because, Mr Chairman, the rest of the Imports and Exports Ordinance is largely concerned with the responsibility of the Collector of Customs to see that its general provisions, and these are the ones we are talking about, are carried out and he has powers of inspection to make sure that the necessary provisions in here are properly observed.

HON J BOSSANO:

But then if the Hon Member needs to introduce in Clauses 32 and 76 powers for the Collector of Customs to control and inspect the removal of dutiable goods it must be because it is possible to introduce them in the first place otherwise he doesn't need to control their removal. He tells us in one breath that they cannot be delivered there and that the section doesn't permit it and yet he has drafted another section to inspect and prevent and control the conditions under which they can be taken out of the commercial yard into the rest of Gibraltar and put into storage and put into transit sheds. The provisions of Clause 32 apply identical treatment to Waterport, North Mole or the commercial yard or

the airport or Four Corners and it is clear that anybody reading Clause 32 will come to the conclusion that there are in Gibraltar five points of entry, three points by sea because it says so there: 'Dutiable goods imported into Gibraltar, whether unloaded at Waterport or North Mole or the commercial yard or the airport or brought to Four Corners' so we have got five points of entry, one by land, one by air and three by sea. There is nothing here to say that of the three by sea, two are for normal traffic and one is for specialised traffic, nothing at all. He needs to do it in Clause 32 because, in fact, he has created the possibility in Clause 20. If that wasn't there in Clause 20 then he wouldn't need to do it in Clause 32 and then he wouldn't need to do it in Clause 76 and therefore this law is, in fact, treating three unloading points by sea to Gibraltar in an identical fashion. As regards the inspection, the storage, the removal, the movement in transit, the powers of the Collector to allow them to be discharged or not discharged whether they are dutiable or not dutiable, they are treated exactly the same, the three areas, and yet we have got another law that mentions two of them only. Well, I am afraid if it was not the intention it is the effect and what we are telling the Government is that if they pass the law as it stands the position is that they have created the legal possibility of unloading goods in GSL using workers who are not registered dock workers, that is a major policy decision because the Government has previously given clearcut commitments to dock workers that this would not happen. The Dock Work (Regulations) Ordinance was the result of the Government setting up a committee in which I served and which was chaired by Sir Howard Davis and the Government as a matter of policy adopted the recommendations of that committee and there is a commitment that if there is going to be any change in the definition or in the scope of dock work there will have to be consultation, that consultation has not taken place. If they have overlooked it, the point is there and it cannot be overlooked, it has now been brought out.

MR SPEAKER:

I think perhaps in the circumstances, as I said before, both sides of the House have made their position clear with respect to Clause 20. I would suggest that we take a vote on the Clauses that we have called, which are Clauses 16 to 19, and we defer Clause 20 to a later stage in order to be able to find a compromise.

HON J C PEREZ:

Mr Chairman, I suppose that when we come to the Clauses mentioned by my colleague, the Leader of the Opposition,

which are related to Clause 20, we will have to do the same because they are dependent on what the result on that one is.

MR SPEAKER:

What I understood the Leader of the Opposition to say was that if you amended Clause 20 the other Clauses would be in order, is that correct?

HON J C PEREZ:

But if they are not we would be voting against.

HON J E PILCHER:

We would need amendments for Clauses 32 and 76 as well.

MR SPEAKER:

We will also leave those Clauses in abeyance.

Clauses 16 to 19 were agreed to and stood part of the Bill.

Clause 20 was left in abeyance.

Clauses 21 to 31

HON J BOSSANO:

Could I ask on Clause 24 why is it that we need a declaration of dutiable goods on people leaving Gibraltar? Isn't it normal that people declare what they have when they come in?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

One of the reasons, Mr Chairman, is he might be taking out goods which have been subject to drawback. This is again only a provision but it doesn't mean to say that it is going to be followed by a sort of wholesale examination of persons or baggages leaving Gibraltar but I think it is wise to have such a provision in respect of anything which might be considered contraband or of which, for example, he has not paid the necessary drawback.

HON J BOSSANO:

But we are talking of somebody having to declare on his way out something that he has obtained outside Gibraltar independent of whether he paid duty in the place where he obtained it because it says: 'or, being dutiable goods he has obtained in Gibraltar without payment of duty', fair enough.

Are we saying then that anybody arriving in the airport, for example, which is now something like 25% of the people who do, are supposed to make two declarations, one when they get on the plane and come in and one ten yards down the road when they leave Gibraltar because they may have things that they bought in London on the way in. Is that what we are legislating?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it is a quasi legal phrase rather like the bit about hanging we were discussing in the last legislation.

HON CHIEF MINISTER:

I think they need to control it to find out whether duty has been paid or not.

HON J BOSSANO:

Mr Chairman, I am not being given an explanation that I can understand. It is not a question of whether they pay duty or not. We are saying that every person entering Gibraltar, which makes sense, or leaving Gibraltar shall declare everything contained in his baggage or carried with him which he has obtained outside Gibraltar. We are saying 25% of the people who arrive on the flight today from London will get off that flight and go 100 yards down the road and cross the frontier. This would mean that they declare everything that they have got on entering Gibraltar and then they declare everything they have got on leaving Gibraltar.

HON CHIEF MINISTER:

This is the same as it is now and I am reminded of a case I was concerned with many years ago of somebody who came from Tangier, brought his luggage and left it at the airport. He had a nice day in Gibraltar and on the way out his baggage was searched because whilst he was having a nice day in Gibraltar whoever sold him hash in Tangier told somebody who told somebody here and when he arrived at the airport and picked his luggage to go to England they examined his luggage and they found hash there and he was convicted and sent to prison so if he didn't have the power which he has now, anyhow they would not have been able to do it because they were going away.

HON J BOSSANO:

But that is covered by other sections. There are other

sections dealing with prohibited imports. We are talking about declaration of dutiable goods, hash is not a dutiable good, at least not yet.

HON CHIEF MINISTER:

I am not saying that but that gives the power to the Collector to examine the luggage. This is an enabling power.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This is an enabling power which gives the legal right to ask questions.

HON CHIEF MINISTER:

And it exists now. The other thing, of course, are goods that are purchased in Gibraltar without the payment of duty.

HON J BOSSANO:

That is (b), Mr Chairman, I have accepted that (b) is logical but we are talking about (a) which is something he hasn't bought in Gibraltar, something he has obtained outside Gibraltar he is supposed to declare.

HON CHIEF MINISTER:

He may have brought it in without payment of duty and he should declare it.

HON J C PEREZ:

Mr Chairman, there is just one minor point which the Hon the Attorney-General might want to correct now and that is that there is a spelling mistake and 'everything' is spelt as 'enerything'.

HON J BOSSANO:

On sub-clause (5) of Clause 24, Mr Chairman, it appears in other Clauses though I think it is the first time it appears. Why is it that there is a ceiling? Why should there be a fine of three times the value of the goods that are not being declared if somebody is found guilty of an offence of £500 whichever is the greater? Is it to penalise the people who would try to smuggle in goods of lower value and give a way out so if you are going to smuggle, smuggle something worth £10,000 and the most that you can be fined is £500 but if you smuggle something that is worth £100 then you get fined three hundred pounds. Is there a reason for putting a ceiling?

HON ATTORNEY-GENERAL:

Three times the value can be greater than £500.

HON J BOSSANO:

So this becomes the minimum not the maximum.

HON ATTORNEY-GENERAL:

Yes, three times the value can be much greater than £500.

HON CHIEF MINISTER:

Anything over that should be taken to court.

Clauses 21 to 31 were agreed to and stood part of the Bill.

Clause 32 was left in abeyance.

Clauses 33 to 44

HON M A FEETHAM:

Clause 34(1) - All receptacles, of whatever size, may be removed and deposited in a Government store. Can I just ask how would this be done? We are talking about - according to the definition - we are talking about containers, etc and I don't know whether anybody who has paid a visit to the North Mole recently would know exactly why I am asking how this is going to be done if anything found on the quayside at North Mole is going to be locked up because what I want to know is is 'may be' does it mean 'must be' in law?

HON ATTORNEY-GENERAL:

No, it is 'may be'.

HON M A FEETHAM:

Why have it there at all then?

HON ATTORNEY-GENERAL:

They might have receptacles which are not large containers but a small receptacle.

HON M A FEETHAM:

No, we are talking about containers.

HON ATTORNEY-GENERAL:

Receptacles means bundle, packages, containers, box, cask or other receptacle.

HON M A FEETHAM:

I am talking about a container. Are we talking about a container or are we talking about a box?

HON ATTORNEY-GENERAL:

No, it includes a big container. The big containers we won't move but may be the small containers are the bundles, packages, boxes, casks or other receptacles we will move.

HON A J CANEPA:

This is where the audience ratings over radio will go up.

HON M A FEETHAM:

Mr Chairman, what is the reason for doing this? Is it because they are going to clear the North Mole? I don't quite follow.

ATTORNEY-GENERAL:

I suppose if something is unloaded and the people skip off and they leave the stuff on the quayside, they think they are going to be apprehended and they dump the stuff on the quayside we can take possession of it and put it in a Government store.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The intention is that if goods are left around and they are not claimed then they are taken into custody, so to speak, that is all it is.

HON J BOSSANO:

We are looking at this in the context of the operation of the Port, again just like we looked at in the other Clause. The Imports and Exports Ordinance primarily is concerned about the control of dutiable goods and the collection of revenue.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is concerned about imports and exports, Mr Chairman.

HON J BOSSANO:

So where in imports and exports is it the job of the Collector of Customs or Customs Officers to clean up the Port?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it is the job of the Collector of Customs or any other authorised officer if he finds goods which are lying around there to take them into Government store that is the purpose.

HON J BOSSANO:

But the place is absolutely cluttered with goods or hasn't the Hon Member been down there, Mr Chairman? It says: 'All receptacles, of whatever size or description' - I know that the Hon Member would presumably prefer us to come here like a lot of robots and vote whatever he puts in the legislation without questioning it but if he is bringing the legislation to the House he has got an obligation to produce satisfactory answers and he is not doing it however exasperated he may get at the questioning. The law here says quite clearly that the power that we are giving here is for the removal of any receptacle of any size or of any description found by night upon the quay at Waterport or the North Mole. I invite the Hon Member to come with me now to Waterport and North Mole where we will find the place absolutely cluttered with receptacles of every possible size, shape and description. Why do they want them removed?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Which may be removed.

HON J BOSSANO:

Where to?

HON CHIEF MINISTER:

No, surely 'found by night' means found because they were not properly declared or seen during the day.

MR SPEAKER:

It is giving the right to remove something if it is considered to be necessary otherwise it will not be removed.

HON CHIEF MINISTER:

If we don't know who the owner is.

HON J L BALDACHINO:

On a point of clarification, Mr Chairman. Why is it, after having all the explanations on Clause 34(1), it mentions three points of entry without mentioning the commercial yard, why is it that if a receptacle is found, for example, at Four Corners which is another point of entry, the Collector of Customs hasn't got that power?

HON A J CANEPA:

Because in the case of the Port or what are Port areas, a boat might approach the wharf and from below could fling something over onto the wharf.

HON J L BALDACHINO:

If the Hon Member looks at Clause 34 it has also got the airport.

HON A J CANEPA:

It could be the airport itself, somebody could leave the aircraft at night proceed on to the air terminal and you leave something there behind, you have to give Customs power to remove that if necessary.

HON J L BALDACHINO:

I think the Hon Member hasn't understood what I am asking, I understand what you are saying. Why is it that the Collector of Customs hasn't got the power if this happens, for example, at Four Corners because it is not legislated in Clause 34(1)?

HON A J CANEPA:

That he doesn't have the power at Four Corners?

HON J L BALDACHINO:

No, it doesn't mention Four Corners there.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the answer is that the likelihood of anything being dumped at Four Corners is rather more remote.

HON J E PILCHER:

Our audience rating might have increased if the Hon Mr Canepa had made his intervention earlier because what has been said is perfectly reasonable.

HON M A FEETHAM:

I think it is the drafting more than anything else.

MR SPEAKER:

I am beginning to notice that Members are not standing when addressing the House. I think we have discussed this particular Clause long enough. If Members wish to take a vote by all means.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, this simply repeats what was in Section 18, I think, of the old Ordinance.

HON M A FEETHAM:

Old Section 18, yes, but we are having another opportunity to consolidate this and therefore we have never had a chance before. We have got a right to bring an amendment or discuss it or are we just going to accept it because it has always been there, why bother?

HON CHIEF MINISTER:

Old Clause 18 had the airport.

HON M A FEETHAM:

Four Corners, presumably, under old Section 18 wasn't open and it wasn't necessary and we are failing to do it now. I think it is the drafting, Mr Chairman, more than anything else.

Clause 33 was agreed to and stood part of the Bill.

Clause 34

On a vote being taken on Clause 34 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 M I Montegriffo
The Hon R Mor
The Hon J C Perez
The Hon J E Pilcher

Clause 34 stood part of the Bill.

Clauses 35 to 44 were agreed to and stood part of the Bill.

Clauses 45 to 74

HON J BOSSANO:

Can I just ask in Clause 49(1), is the Governor the Financial and Development Secretary, Mr Chairman?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I propose to take over his powers and declare absolute rule.

HON M A FEETHAM:

Mr Chairman, under Clause 58(1) on page 112, I just want to ask what is envisaged in the statement which says: 'Provided that the Governor may direct that the provisions of this subsection shall not apply in respect of the sale of any particular goods'?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it means if it is imported by the Crown and then you find out it is not the Crown you clobber them but really my Hon and Learned Friend perhaps had better amplify on that.

HON J BOSSANO:

Execute them and bury them inside the walls of the prison.

HON CHIEF MINISTER:

Shall not apply.

HON M A FEETHAM:

Does this equally apply to anything which comes through and

is unloaded at the commercial yard which may be thought to be for a commercial operation but is in fact, not for a commercial operation and is used for something else?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, the commercial yard is not the Crown.

HON J BOSSANO:

On Clause 59(1) the valuation of goods for duty. I think an important issue here where many individuals have in the past complained, certainly to us and I am sure to Members of the Government, which I think now that we are looking at the Imports and Exports Ordinance we ought to be considering the possibility of correcting is where people are made to pay duty on the price that the goods fetch in Gibraltar and not on the price that the person has paid for the goods. There have been a number of instances, I think, where individuals have purchased for their own consumption goods across the border and then when they have got to the frontier they have been told that they have to pay duty at the price at which the article is being sold in Gibraltar and not at the price at which they have purchased it although they have produced the receipt showing what they have paid for it. And another area where there are many complaints is on the question of where goods arrive by post and the Government charges duty on the postage.

HON CHIEF MINISTER:

That is universal practice.

HON J BOSSANO:

Well, I don't know if it is universal practice or not but since we are looking at it here and we are legislating, we feel that it is wrong to make somebody pay duty on the postage stamp and the parcel that arrived by post anymore that one doesn't charge duty, for example, on the pay of the stevedores that unload the cargo when it is delivered, it is part of the carriage of the goods and certainly on the one that I am familiar with people feeling most aggrieved about is the question of the postage, people feel that sometimes the postage may be even more expensive than the actual contents.

MR SPEAKER:

I think that is comparable to the payment of duty on the freight.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, that is quite correct. It is normal to pay duty on the CIF value of goods. This is quite simply a GATT regulation or requirement which is in universal application throughout the world amongst those nations that observe the GATT, General Agreement on Tariffs and Trade.

HON J BOSSANO:

I know what the Hon Member is talking about but surely we are free to legislate in this House whichever way we choose to put duty whether we want to put duty or we can take the lot away if we want to independent of what GATT says on the subject.

MR SPEAKER:

Any other matters on Clauses 45 to 75?

HON J BOSSANO:

I don't think we have been given an answer on this question of the valuation of the goods where the person comes in and declares the goods and they are able to demonstrate by producing documentary evidence what they have paid for it and yet the Customs determines that the price that they have paid is too cheap compared to the price that is being charged in Gibraltar and consequently they are charged duty on the price that there is in Gibraltar, Mr Chairman. One assumes that the right of the Customs Officer to do that must arise from this Clause which talks about the valuation of goods, I don't know whether it does or it doesn't presumably this is where that power is being given. We don't agree with it.

HON CHIEF MINISTER:

It is a question of the price in the local market otherwise the local trade gets no protection whatsoever.

HON J BOSSANO:

I don't think that is true, Mr Chairman, the local trader surely is buying at a wholesale price and pays duty on the wholesale price. The individual consumer is buying at a retail price and pays duty on a retail price which is already higher than the duty the local trader is paying. If the local trader buys something at a wholesale price and then chooses to mark it up 200%, then we have to balance protection for the trader and protection for the consumer it would seem to me. Why should we protect people who overcharge when we don't control prices? The Government doesn't legislate to control the prices except for a small number of goods which

are considered to be basic essentials which in any case are not dutiable. In the case where we have got price control, in fact, you can bring the goods in and you don't get charged any duty at all. In the vast majority of cases where there isn't any price control the trader is free to charge whatever he likes and there have been many instances where people felt, in fact, that the Government was treating them unfairly because they had come in and declared what they had got, they have said they want to pay their duty and then they get told: 'Well, you cannot pay your duty on the equivalent of £1 because that costs £5 in Gibraltar, you have to pay duty on £5', well that is because somebody is making a profit of £4, that is why it costs £5.

MR SPEAKER:

Any other matters on Clauses 45 to 75?

HON J BOSSANO:

Am I correct in thinking that it is under this Clause that that power exists and am I correct in thinking, Mr Chairman, that the Government intends to carry on doing it in which case we will vote against?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am assured, Mr Chairman, that the duty is in fact assessed on the wholesale price of the goods, as it would be in Gibraltar. I think, possibly, the Hon Member may have exaggerated the extent of the protection which is afforded to the local trader or, indeed, the extent to which the consumer would be taken for a ride.

HON J BOSSANO:

So the Hon Member is saying that, in fact, if people are being assessed on the retail price that is incorrect, it shouldn't be happening?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The assessment of the duty, my understanding is in connection with this particular subsection by reference to 'the price which they would fetch at the time when they are entered for home use' that is intended to refer to the wholesale price of the goods in Gibraltar.

HON J BOSSANO:

Well, if it is intended to refer to the wholesale price which

I don't think the Clause says but it is on record.....

HON CHIEF MINISTER:

That is how it is done.

HON J BOSSANO:

No, this is what I am saying. If that is how it ought to be done then, presumably, what the Hon Financial and Development Secretary is saying is that people who are not being charged on the wholesale price can come back and complain, am I right in thinking that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Obviously there is always provision for appeal in such circumstances.

HON J L BALDACHINO:

When the Hon Member says the wholesale price what does he mean, the price that the general merchant sells to the shop or the price at which the general merchant imports those goods, what does he mean by the wholesale price?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It would be, obviously there are credations in the use of the word wholesale, you always have manufacturer/wholesaler/retailer but it is in general terms the price at which the wholesaler would sell to the retailer, that is to say, it includes nothing for the retailer's profit margin or mark-up.

HON J BOSSANO:

Could I just ask on Clause 61, goods exported for repair, Mr Chairman. Are we talking here about an article that has been repaired and then is brought back into Gibraltar having to pay duty on the work that has been done or on the material which is being imported? How does one assess duty on labour? If I have got something that breaks down and it is made to work again, how does one assess the duty on the repair if there isn't a material element in it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On the invoice, on the bill, you are charged a bill and you would pay duty on that.

HON CHIEF MINISTER:

If it is a piece of jewellery which was sent for repair and it is worth £3,000 and the repairs are worth £500 you pay on £500.

HON J BOSSANO:

I am sorry, Mr Chairman, we are going too fast because there are a lot of Clauses. I want to ask something on Clause 72. Can I ask why it is that duty in respect of wines and spirits for a Services Hospital - which is misspelt - is capable of being given a drawback and not in our Hospital? Why is it that our people cannot get drunk if they can?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think this is one of those provisions, as I understand it, Mr Chairman, where the Governor can give directions in the circumstances where, I am not absolutely familiar with the circumstances, I must admit, it must go back certainly to when there are sick servicemen who would otherwise be entitled to duty free liquor. I think the circumstances are very remote.

HON J BOSSANO:

Yes, but we are going to legislate now and if we are going to vote to continue that provision in the law of Gibraltar it isn't enough to be told that it is just something that has simply been lifted out of the old legislation and renewed. We thought the whole purpose of the new Imports and Exports Ordinance, 1986, Mr Chairman, was to bring it up-to-date and if there is something that is totally out-to-date and doesn't mean anything anymore then we remove it. Why do we want to carry on saying things like this in our legislation for?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If Hon Members haven't overheard what the Hon the Chief Minister has said.

HON J BOSSANO:

We have overheard it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I was about to make a generous offer and to propose that we might, in fact, delete this particular Clause as it seems very seldom to be used.

Mr Speaker put the question which was resolved in the affirmative and Clause 72 was deleted.

Clauses 45 to 75 were agreed to and stood part of the Bill.

Clause 76 was left in abeyance.

Clauses 77 to 79 were agreed to and stood part of the Bill.

The House recessed at 7.00 pm.

WEDNESDAY THE 5TH NOVEMBER, 1986

The House resumed at 10.45 am.

Committee Stage of the Imports and Exports Bill, 1986, continued.

Clause 80 was agreed to and stood part of the Bill.

Clause 81

HON ATTORNEY-GENERAL:

Mr Chairman, I move to amend Clause 81 by omitting sub-clauses (a) and (b) and substituting therefor the following:- '(a) Where the drug is a Class A or Class B drug - (i) on summary conviction to a fine of £1000 and to imprisonment for 12 months; (ii) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 14 years; (b) Where the drug is a Class C drug - (i) on summary conviction to a fine of £1000 and to imprisonment for 6 months; (ii) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 5 years'. The reasons for this amendment, Mr Chairman, are the same as I gave when amending Clause 15.

Mr Speaker then put the question which was resolved in the affirmative and Clause 81, as amended, was agreed to and stood part of the Bill.

Clauses 82 to 86 were agreed to and stood part of the Bill.

Clauses 87 to 92

HON M A FEETHAM:

Mr Chairman, these are just replacement of old Clauses into the new Ordinance, yes?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

Clauses 87 to 92 were agreed to and stood part of the Bill.

Clauses 93 to 105 were agreed to and stood part of the Bill.

Clauses 106

HON ATTORNEY-GENERAL:

Mr Chairman, I move that Clause 106 be amended to delete sub-clause (iii) and substitute the following:- '(iii) if the offence concerns a Class A or Class B drug as defined in the Drugs (Misuse) Ordinance: (a) on summary conviction to a fine of £1000 and to imprisonment for 12 months; (b) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 14 years; (iv) if the offence concerns a Class C drug as defined in the Drugs (Misuse) Ordinance: (a) on summary conviction to a fine of £1000 and to imprisonment for 6 months; (b) on conviction on indictment, to a fine of such amount as the court may determine and to imprisonment for 5 years'. The reasons being exactly the same as with the other two Clauses.

Mr Speaker then put the question which was resolved in the affirmative and Clause 106, as amended, was agreed to and stood part of the Bill.

Clauses 107 to 128

HON M A FEETHAM:

Mr Chairman, I understand there is a slight amendment to be done there. 'Unlawful possession of dutiable goods' has to be pushed down.

HON ATTORNEY-GENERAL:

Yes, the marginal notes, that is again a printer's error. It will be adjusted, I hope, when the Bill is printed as an Ordinance.

Clauses 107 to 128 were agreed to and stood part of the Bill.

Clauses 129 to 133 were agreed to and stood part of the Bill.

Schedule 1

HON M A FEETHAM:

If it may assist the Chairman the query that I am going to raise is, in fact, under Chapter 98.

MR SPEAKER:

Miscellaneous Manufactured Articles, is that the one?

HON M A FEETHAM:

Yes, in page 297 so everything else unless there is any amendment from that side is alright.

MR SPEAKER:

Yes, then let us come up to Schedule 1, Chapter 18. We will take a vote up to Chapter 17.

Chapters 1 to 17 were agreed to and stood part of the Bill.

Chapter 18

HON ATTORNEY-GENERAL:

Chapter 18, Tariff heading 18.06 - Chocolates and other food preparations containing cocoa: a. - you will see the rate of duty, Mr Chairman, is £2.37. To delete '£2.37' and substitute '£1.50'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 18, as amended, was agreed to and stood part of the Bill.

Chapters 19 to 21 were agreed to and stood part of the Bill

Chapter 22

HON ATTORNEY-GENERAL:

Tariff heading 22.09 in A and B, Mr Chairman, you will see the figures '1.50' per ltr. Wherever '1.50' appears could the pound sign be put in front of the '1.50', it is '£1.50'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 22, as amended, was agreed to and stood part of the Bill.

Chapter 23 was agreed to and stood part of the Bill.

Chapter 24

ATTORNEY-GENERAL:

Mr Chairman, to amend Chapter 24, tariff heading 24.02. Again you see '6.50', to insert the pound sign in each case. In sub-paragraph B - Manufactured cigarettes per kilo with an additional duty per '100' cigarettes, it should be per '1000' cigarettes, Mr Chairman. The expression '2.25p' per kilo to insert the pound sign before the '2.25p'. And the expression '5.50p' to insert the pound sign and to delete the words 'per kilo' to read 'per mil', so it will be, '5.50p per mil'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 24, as amended, was agreed to and stood part of the Bill.

Chapters 25 and 26 were agreed to and stood part of the Bill.

Chapter 27

HON ATTORNEY-GENERAL:

To amend, Mr Chairman, 27.10 - (b) Motor spirit, to omit the expression '0.83p' per litre and substitute therefor '£0.083' per litre. Under (c) Aviation fuel, again what should be inserted should be '£0.083p'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 27, as amended, was agreed to and stood part of the Bill.

Chapters 28 to 32 were agreed to and stood part of the Bill.

Chapter 33

HON ATTORNEY-GENERAL:

Under Tariff heading 'FOR FOOD AND DRINK: Alcoholic' to insert the pound sign before '1.50' per litre.

Mr Speaker put the question which was resolved in the affirmative and Chapter 33, as amended, was agreed to and stood part of the Bill.

Chapter 34 was agreed to and stood part of the Bill.

Chapter 35

HON ATTORNEY-GENERAL:

Mr Chairman, Tariff heading 35.06 (b), to delete 'Tiles, adhesives' and to substitute therefor 'Tile adhesive'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 35, as amended, was agreed to and stood part of the Bill.

Chapters 36 to 86 were agreed to and stood part of the Bill.

Chapter 87

HON ATTORNEY-GENERAL:

Chapter 87, Mr Chairman, to be amended in sub-paragraph (a) - 'components and fashioned parts of motor vehicles imported separately, including tyres and tubes but (excluding electric)'. It should be electric 'bulb', Mr Chairman, so could the word 'bulb' be inserted immediately after the word 'electric', and to insert a new sub-paragraph under item 87.06 as follows, after 'e' to insert 'f'. new and complete basic body chassis construction kits for the assembly of motor vehicles'. The number is '87.06 7327 - 1.No. - 12%'.

Mr Speaker put the question which was resolved in the affirmative and Chapter 87, as amended, was agreed to and stood part of the Bill.

Chapters 88 to 97 were agreed to and stood part of the Bill.

Chapter 98

HON M A FEETHAM:

Mr Chairman, page 297, Tariff heading 98.21, it says 'Goods imported exclusively for the purpose of establishing the commercialisation of the Dockyard'. I see no reason, Mr Chairman, for the inclusion of this here since the dockyard commercialisation has now been established and I would assume that the purpose of that was for the infrastructure build-up etc of the commercialisation. Is that the case?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, the latter part of the Hon Member's statement is certainly true, Mr Chairman, but the first part I don't think is true. If the Hon Member will recall, we did pass legislation in the House a short while ago to provide for the duty

free importation of goods imported exclusively for the commercialisation of the dockyard. We are not doing anything new here. What I think is not true is that the process is complete, that is to say, we are still in the process of setting up the dockyard. If he will just reflect for a moment, we have been to the UK Government to request funds and while we haven't got as much as we wanted, we have been offered £2.4m for further capital expenditure. That £2.4m forms an extension of the existing grant of £28m which was given to us and hence the process of setting it up within the context of the original agreement is not yet complete but, obviously, this section is intended only for the purpose of setting up the dockyard, I agree with him to that extent but I don't think we can regard the process as yet complete.

HON M A FEETHAM:

Mr Chairman, the undertaking that I am getting is, in fact, that when it is complete as far as capital expenditure is concerned this will no longer apply? What I don't want is for this particular sub-section to be used, for example, in situations where you have a refitting job to do on a private ship and the company imports X tins of paint to do the job and it comes in.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is tied, in fact, to the ODA funds and the reason for that is that as I think I explained when we discussed this in the House a while ago, that the ODA will not cough up money, it doesn't make an exception with Gibraltar here it is just a principle which they have with overseas aid, they will not give Governments money if duty is going to be charged on it because that offends their general principle which Parliament guards rather jealously that they do not provide funds for development aid which are to be used for general expenditure. Needless to say there are certain Governments in the far corners of the world less scrupulous than ourselves, of course, who would quite like to do that and use it for projects other than intended.

Chapter 98 was agreed to and stood part of the Bill.

Chapter 99 was agreed to and stood part of the Bill.

Schedule 1, as amended, was agreed to and stood part of the Bill.

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

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

MR SPEAKER:

We now have to deal with the Clauses that were left over from last night because there were matters to be considered. I understand that you also wish to raise amendments to Clauses 2 and 36, is that right? The ones we left over from last night were Clauses 20, 32 and 76 but I understand that as a result of what you are doing you wish to amend Clauses 2 and 36, is that right?

HON ATTORNEY-GENERAL:

Yes, consequentially.

MR SPEAKER:

So the Clauses we are going to deal with now are Clauses 2, 20, 32, 36 and 76.

Clause 20

HON ATTORNEY-GENERAL:

Clause 20(1)(a) on page 99, to delete the words 'or at the Dockyard' and substitute the comma after the word 'Mole' with a semicolon.

Mr Speaker put the question which was resolved in the affirmative and Clause 20, as amended, was agreed to and stood part of the Bill.

Clause 32

HON ATTORNEY-GENERAL:

Clause 32, sub-clause (1), Mr Chairman, to delete the words 'or the commercial yard' in the second and third lines thereof.

Mr Speaker put the question which was resolved in the affirmative and Clause 32, as amended, was agreed to and stood part of the Bill.

Clause 36

HON ATTORNEY-GENERAL:

Clause 36(2), Mr Chairman, to delete the words 'the commercial yard' in the penultimate line of sub-clause (2).

Mr Speaker put the question which was resolved in the affirmative and Clause 36, as amended, was agreed to and stood part of the Bill.

Clause 76

HON ATTORNEY-GENERAL:

Clause 76, Mr Chairman, to delete the words 'the Commercial Yard' in the second line of Clause 76, and substitute the words 'no person shall deliver or remove any goods from Waterport, the North Mole, the airport or Four Corners'.

Mr Speaker put the question which was resolved in the affirmative and Clause 76, as amended, was agreed to and stood part of the Bill.

MR SPEAKER:

Now we can go back to Clause 2.

Clause 2

HON ATTORNEY-GENERAL:

As a result of the consequence of those amendments to those Clauses, Mr Chairman, to delete the definition 'Commercial Yard' in Clause 2(1) on page 88.

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.

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

THE TOWN PLANNING (AMENDMENT) BILL, 1986

Clause 1

On a vote being taken on Clause 1 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 1 stood part of the Bill.

Clause 2

HON M A FEETHAM:

If I can call my colleague.

MR SPEAKER:

Well, your colleague should be here if he wishes to participate. Do you want a vote on Clause 2, that is what I am asking?

On a vote being taken on Clause 2 the following Hon Members voted in favour:

The Hon A J Canepa
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 E Thistlethwaite
The Hon B Traynor

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon Major F J Dellipiani
The Hon J E Pilcher
The Hon H J Zammit

Clause 2 stood part of the Bill.

HON J E PILCHER:

I am sorry, Mr Chairman, I was in the process of moving an amendment to Clause 2 in the Ante Room.

MR SPEAKER:

Fair enough, provided you are in the House you are entitled to move it. You can ask for a division if you wish.

HON J E PILCHER:

I have an amendment to make to the Town Planning Bill.

MR SPEAKER:

I would suggest you propose it.

HON A J CANEPA:

Have we not taken a vote, Mr Chairman?

MR SPEAKER:

No, with respect, let me make completely and utterly clear what the position is. As we have done on other occasions when we are in Committee, as we did with the Imports and Exports Bill just now as a matter of fact, even though we may have gone through the particular Clause if Members wish to move something we have always allowed them to do so. The answer is very simple, they can ask for a division.

HON A J CANEPA:

Mr Chairman, the five Members of the Opposition who were present in the House when the matter came up were not asking for a division.

MR SPEAKER:

A division can be asked at any time.

HON A J CANEPA:

After a vote has been taken, Mr Chairman?

MR SPEAKER:

After indication has been given.

HON A J CANEPA:

I have been in the House for fourteen years, Mr Chairman, and I do not recall any such occasion.

MR SPEAKER:

I can give you chapter and verse.

HON A J CANEPA:

After a vote has been taken?

MR SPEAKER:

With respect, any Member can ask for a division.

HON CHIEF MINISTER:

That is what we do and what was done in this case.

MR SPEAKER:

But they are still in a position to ask for a division and in fairness, I have always allowed in Committee even after an indication of the vote has been given, to go back and to look into the matter in Committee. I am not going to depart from that precedence.

HON CHIEF MINISTER:

We can put it at the end of the list and get on with the rest of the Bills.

MR SPEAKER:

If you would rather do that.

HON J E PILCHER:

Mr Chairman, I am quite lax, if I can move the amendment whether it is now or later on I am quite happy.

MR SPEAKER:

By all means.

HON J E PILCHER:

I was in the process of drafting the amendment.

HON A J CANEPA:

But we have been in the House, Mr Chairman, for three days now. We should not be in the process of drafting an amendment at this juncture. Anyhow, Mr Chairman, I suggest that we get on with the business.

MR SPEAKER:

Most certainly, we will.

HON A J CANEPA:

Either the Town Planning Ordinance or whatever it is.

MR SPEAKER:

With respect, I have taken a decision and that is the end of the matter. Mr Clerk, we will call the next Bill and this Bill will be left in abeyance until a later time when you will be entitled to make your amendment.

THE CRIMINAL PROCEDURE (AMENDMENT) BILL, 1986

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

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

THE MARRIAGE (AMENDMENT) BILL, 1986

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 PENALTY RATES REMISSION BILL, 1986

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

Clause 4

HON ATTORNEY-GENERAL:

I move, Mr Chairman, to amend Clause 4 by deleting the words 'in his discretion, from time to time, by notice published in the Gazette' and substituting therefor the words 'with the prior approval of the House of Assembly' and consequently Clause 4 should read: 'The Financial and Development Secretary may, with the prior approval of the House of Assembly, extend the period of remission prescribed in section 2'.

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

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

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO.2) BILL, 1986

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No.2 of 1986/87.

Head 4 (1) - Education was agreed to.

Head 10 - House of Assembly was agreed to.

Head 12 - Income Tax was agreed to.

Head 13 - Judicial, Supreme Court was agreed to.

Head 18 - Port was agreed to.

Head 24 - Treasury

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the figure '24' before the word 'Treasury' be deleted and the figure '25' be substituted therefor.

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

HON J E PILCHER:

Mr Chairman, the Opposition will be voting against this expenditure under Head 25 - Treasury. The reasons are clear, we have, in fact, over the past three years in Opposition made it quite clear that we object to hiring consultancies out to experts from the UK. Apart from that, Mr Chairman, I have to make the point that we could not vote £100,000, well £90,000 in this case, of public money for a report which the Hon and Learned the Chief Minister said yesterday in answer to questions that he would neither be making public or giving a copy to the Opposition until he had considered the report. Obviously, Mr Chairman, this is a situation which we cannot accept. If the report has been commissioned and been paid

for by public money then the public have a right to see it and if at least the public do not have the right to see it until it has been considered, certainly the Opposition which is privy to the decision to vote this money in the House should have a right to see it at the same time as the Government and obviously make its own conclusions. We will be voting against this expenditure, Mr Chairman.

HON CHIEF MINISTER:

I can understand the Hon Member voting against it on the principle that they are against consultancies. With regard to the other one, I think I have to make a general remark. The Opposition do not appear yet to have learned that it is not the same because monies are voted here the Government has got the responsibility, I said that I would look at it, there may be matters which are of a sensitive nature which are not in the public interest to reveal which may be available to Members or not. I cannot prejudge the whole situation. Normally, we try and make as much of it available but one thing, if I may say so, has nothing to do with the other otherwise, for example, the Government couldn't vote funds for the Special Branch of the Police because we don't know what the Special Branch is doing and the Opposition say: 'We vote and we want to know'. That principle, I think, is not correct though I know what is in the mind of the Hon Member and I undertook to look at it and, if possible, or rather there would have to be reasons for not showing it to them rather than reasons for showing it to them but that is a different concept altogether to the principle of whether you have consultants or not.

HON J E PILCHER:

I do not accept the analogy between the consultancy of the GSL and the Special Branch of the Police, that analogy is not acceptable, obviously. I don't accept the principle either. If there is a consultancy and the consultancy comes up with a report, then the Government have a right to look at that report and take whatever action they may think fit as a result of that report, that is where their governmental prerogatives and their powers as a Government comes into effect but to actually consider it before they think that parts of it should be seen by us or should not be seen by us is totally unacceptable on a point of principle on this side of the House, Mr Chairman.

On a vote being taken on Head 25 - Treasury, Item 82 (New) Gibraltar Shiprepair Ltd - Consultancy, 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

Schedule of Supplementary Estimates Consolidated Fund No.2 of 1986/87 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No.2 of 1986/87 was passed.

The Schedule 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 TOWN PLANNING (AMENDMENT) BILL, 1986 (Continued)

MR SPEAKER:

We come back now to the Town Planning Ordinance.

Clause 2

HON J E PILCHER:

Mr Chairman, if I may move the amendment now to Clause 2. Following the debate yesterday on the general principles where the Government made known its intentions under the Town Planning Ordinance, I think what certainly has surfaced is the fact that perhaps there is scope for manoeuvre within this legislation if it is that the Government are proposing what they said yesterday they would be proposing which is just an interim temporary measure pending the City Plan and

therefore, Mr Chairman, we would like to move an amendment to make the Bill palatable from this side of the House so that we could provide that interim and temporary measure that the Government is looking for and at the same time provide the necessary safeguards that we proposed from this side of the House yesterday. My amendment, therefore, is as follows, Mr Chairman: To amend Section 18A(1) by the insertion of the words 'Subject to Section 18B below' after the word 'may' in the second line. The first part of Section 18A(1) would therefore read: 'Notwithstanding anything contained in Part III, the Commission may, subject to Section 18B below, on the application', etc. Also, Mr Chairman, by inserting immediately after Section 18A the following Section: '18B(1) The Commission shall, before exercising its powers under Section 18A(1) above: (a) publish a notice in the Gibraltar Gazette giving the location and general description of the proposed development; (b) allow for a period not being less than 28 days from the date of publication of the notice, for representations to be made to the Commission; (c) consider any representation received from any person within the period specified under sub-section (b) above; (2) The Commission shall, upon exercising its powers under Section 18A(1) above, publish such decision and reasons in the Gibraltar Gazette. (3) Any decision of the Commission under Section 18A(1) above, shall not take effect until the expiration of 10 days from the date of publication in the Gibraltar Gazette under Section 18B(2) above'. That is the amendment, Mr Chairman.

MR SPEAKER:

Do you wish to speak in favour of the amendment?

HON J E PILCHER:

Well, I have basically said in principle what is the idea behind it. Yesterday we had the Government wanting to produce an interim solution and that interim solution was seen by this side of the House as giving the Government powers to actually do whatever they like even if it was in conflict with the City Plan. This amendment, Mr Chairman, what it does is it puts a further proposal on the Government in order for them to have to Gazette their intentions and give a period of 28 days in which any person could make their own representations and, obviously, there would be a period of 28 days for the public to put an input into this decision and there would then be a consideration of these representations by the Government before a decision was taken. I think it doesn't stop the Government doing what they want to do inasmuch as they would have the power under Section 18A(1) but it would give the public the right to comment, in the absence of a City Plan, to comment on things that they are proposing to do and

obviously to Gazette this before and Gazette it afterwards and therefore, I think, go a long way to do what the Hon Mr Canepa said yesterday they were going to do which is create more public awareness and bring into the Town Plan more public participation, Mr Chairman.

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

HON A J CANEPA:

Mr Chairman, we are going to create more public awareness as a result of legislation brought to this House by the Government carefully drafted by the Chambers of the Attorney-General and not by Members of the Opposition or by outsiders. That is how we are going to get an exercise in public participation on the basis of what the DPC recommends to the Government after due consideration, that is how we shall proceed and we are not going to proceed in this manner. I am very happy to see in what a short period of time the Opposition are able to get a crash course in town planning matters and become such experts. But, of course, what this is trying to do is to tie our hands down in a manner which is not acceptable and this is running contrary to the powers that we are trying to get. Already in the Town Planning Ordinance, Mr Chairman, under Section 14 of the Ordinance, you have Section 14(1) - 'At least once in every five years after the date on which a planning scheme for any area is approved by the Commission, or within such extended period as the Commission may from time to time allow, the Director of Public Works shall carry out a fresh survey and submit to the Commission a report together with proposals for any alterations or additions to the scheme that appear to him to be required' - I should explain, of course, that the Director of Public Works means the Chief Planning Officer - '(2) Notwithstanding the provisions of sub-section (1), the Director or Public Works may, at any time, submit to the Commission proposals for such alterations or additions to any approved planning scheme as appear to him to be expedient'. The law is silent as to the exact procedures that have to be followed by the Chief Planning Officer if he exercises the powers that are under Section 14(2) by way of the extent of public participation. Whereas we know that when the planning scheme, the town plan, is drawn up it has to be exhibited, representations can be made and they have to be considered and so on, it is not clear in the law what would happen or what has to happen if the Director of Public Works exercised these powers though the legal opinion is that we ought to follow the same procedure, but that is a legal opinion and if an executive decision were to be taken not to do that presumably the matter would go to court and the court would have to give a ruling

and it could well be that the ruling of the court would be that if any alterations or additions are going to be made to the approved planning scheme, the same procedures should be followed as are followed when the draft planning scheme is submitted. But what the amendment of the Hon Mr Pilcher, of course, is trying to do goes much further than this. It is tying our hands down in a more explicit fashion as to exactly the steps that we have to follow and we are not prepared, simply not prepared today to agree with these steps. We might be prepared to agree in a general exercise of public participation involving building applications that they be exhibited and that representations be made to a procedure something along these lines but the Government is not going to agree to this sort of amendment today out of the blue and therefore we will vote against it.

HON J BOSSANO:

Mr Chairman, I think there is an important point as regards it being 'out of the blue' and I refer to the position that I made clear at an earlier stage in these proceedings and at previous meetings of the House which the Government has said they understand fully and in the last meeting of the House they agreed, for example, to leave the Imports and Exports Ordinance for the Committee Stage of this House. Had they dragooned it the last time they would not have been able to remove the Commercial Dockyard from the law as they have done today because obviously we put arguments yesterday which they had not thought of, that is the purpose of the House of Assembly. We don't want to produce an amendment to this overnight. We much prefer to produce an amendment between now and the next meeting and give the Government the time to give it the necessary consideration and if they don't agree they come back and they vote against it, that is why they have got a majority but if they insist on treating this House as if it was a rubber stamp, when we meet in July and then we meet in November and in November we are presented with a whole range of legislation which we are supposed to pass in twenty-four hours. That is not what we are here for. We would much prefer that the Government leaves this for the Committee Stage and the other thing for the Committee Stage. We are prepared to take all stages in one meeting of the House if it is important and urgent because there are things that need to be done urgently and an argument is put up, but it should be the exception rather than the rule. It has been made before, it has been accepted before and then they just pay lip service to it and what do we find? Every single new Bill is down for Committee Stage and Third Reading in this meeting, it is not acceptable.

HON M A FEETHAM:

Mr Chairman, I really need to reply to the Hon Minister for Economic Development on one point of fundamental principle as far as this side of the House is concerned. He has taken what I consider to be a very reactionary view for a person that considers himself to be a Social Democrat. On one hand he has argued in favour of public participation and consultation and on the other hand is denying the right of the Opposition to seek consultation, to discuss matters with people who want to participate in this process outside the House by agreeing with us a certain line which we would agree with them should be taken in this House and he says that this is totally wrong. That I consider to be completely reactionary and neither is it the prerogative of the Government to seek consultation with people outside, it is also our prerogative. Are you not doing the same thing now that you have got yourself in a very tight corner in the financial centre, setting up a forum to discuss financial centre matters with people in the private sector? Why cannot the GSLP who are committed as a matter of policy in its manifesto to participate with the private sector fully in matters where we can have joint agreement of doing so as my Hon Colleague has done and sought the views of people who are interested and have made the point very strongly on this matter and come up with an amendment which he is perfectly entitled to do without that sort of reactionary view taken by the Minister opposite.

HON A J CANEPA:

The Hon Members of the Opposition are free to do whatever they want to. They can consult whoever they want to and whenever they want to. What they cannot expect is to come here to the House and necessarily get the Government Members to agree with them, that is all.

HON J E PILCHER:

Mr Chairman, before I actually answer various of the points made by the Hon Mr Canepa, I would like to emphasise the point made by the Leader of the Opposition because I, for one, feel very, very strongly about this and it is undemocratic, Mr Chairman, to bring Bills to the House for First, Second, Committee Stage and Third Reading. It is undemocratic because it doesn't allow the Opposition to perform its proper role in the democratic process nor does it allow the public to perform its proper role in the democratic process and it is not enough for the Hon Mr Canepa to get up and say that he is not prepared to answer such an amendment thrown at him at a second's notice. Well, he should move a motion to leave the Committee Stage for the next House and he will have a month

to study the amendment. It is not true that I am trying to be an expert in town planning, this is not my expertise in town planning and, of course, I have consulted with experts or people who consider themselves experts on conservation matters, that is the role of the Opposition. What this amendment is trying to do is trying to show up whether what the Hon Mr Canepa said yesterday is true, that it is only a temporary measure. If it is an interim temporary measure how many times does the Hon Mr Canepa expect to have to do this in the next year? This Bill is supposed to terminate on the 31st day of December, 1987. If it is only done as an interim measure how many times does he expect to have to bring this Bill into being, once, twice? Is it that much administrative work to do this once or twice and inform the public of what it was doing? If the Government vote against this, Mr Chairman, they are proving to us and to the public that what they want to do is have full overall powers and be answerable to no one.

HON A J CANEPA:

Be answerable ultimately to the electorate, certainly, ultimately to the electorate but what we are not going to have is a minority running the show. There is a majority that has got very strong views which are not always made manifest, in orchestrated campaigns of letter-writing in the newspapers, there are minorities that have access to the media with great ease and in a manner which is totally disproportionate to the support that they actually command. There was a certain general meeting held recently that I made reference to yesterday which the Hon Mr Bossano attended. How many people went along to that meeting on a subject of such controversy which has had such an airing? The Government is here because it has the support of the majority. When it no longer has the support of the majority it will fail by the wayside and it is entitled in the exercise of the powers that it has been given to do what it considers to be necessary and to do what it considers to be right. This Bill has not been brought to the House as a result of an overnight decision. It is the result of a great deal of discussion and thought in many meetings in Council of Ministers before we asked it to be drafted, we have had most of the summer to think about it, and the Bill was published and circulated. The Bill was published on the 24 October, Hon Members opposite are paid, in my view, a handsome allowance to deal with the business of the House.

HON J E PILCHER:

Not as much as you.

HON A J CANEPA:

Not as much as Ministers because the Minister is working full-time.

HON J E PILCHER:

No, as you, not as Ministers.

HON A J CANEPA:

Not as much as I, of course, there is nobody there opposite that does in politics anywhere near the amount of work that I do on a constant daily basis, in the political arena. The Hon Members of the Opposition have a function to perform, in other Parliaments there are guillotines, we don't have a guillotine here and I myself don't very often have legislation going through all stages but the view of the Government is that this legislation is necessary and that it is urgent. The DPC is not able to consider proposals that it has had before it for some time on the future of the development of Rosia Bay and it is about time that we were able to sit down and consider those proposals and give the people concerned an answer and give the Government advice about that tender. And that is not the only project, there are others and we are not going to tie our hands down over the next few months in this manner. I am not prepared to have a minority in Gibraltar do what the majority is entitled to do. Democracy demands that in the final analysis the majority will have its way, not the minority, be they the Opposition or be they any pressure group, that is the simple answer.

HON J BOSSANO:

No, it is not as simple as that, Mr Chairman. The Government went to an election campaign saying that if they got in they would commercialise the Dockyard. The Government also went to an election campaign and didn't mention anything about advancing EEC rights to the Spaniards, they didn't have a mandate to do that and they used their majority here in spite of the fact that it was not a minority of people opposing it, there were 5,000 people in the streets.

HON CHIEF MINISTER:

I think, Mr Chairman, on an amendment we are having a general debate on politics.

MR SPEAKER:

Let it be said, with respect, that if we are having a debate it is because matters have been raised which have to be answered.

HON CHIEF MINISTER:

Well, because matters of principle have been raised that have to be answered.

MR SPEAKER:

Precisely and therefore they have to be answered.

HON A J CANEPA:

Mr Chairman, in matters of such principle about the yard whether it was in the manifesto or not, I might also ask Mr Bossano whether in 1980 in his manifesto he informed the public that he was going to try and get an amendment to the Divorce laws, he didn't but at the first meeting of the House after the general election he brought a motion, it is exactly the same.

HON J BOSSANO:

Not as a matter of Government policy, Mr Chairman, which is what the Hon Member is talking about. It was a free vote where Members on that side of the House supported what was being done although it was not in the AACR manifesto either and they voted in favour.

MR SPEAKER:

Let us come down to the question before the House.

HON J BOSSANO:

What we cannot have is a situation where the Minister for Economic Development who clearly has got, as he has admitted previously in this House, a dictatorial streak in him, sees that dictatorial streak.....

HON A J CANEPA:

That I have admitted to that, when?

HON J BOSSANO:

I will tell the Hon Member when. In the last meeting of the House when we said on this side what our position would be as regards the continuation of the management contract of Messrs Appledore, the Hon Member said that it was a good thing that we had Mr Anderssen and not Mr Abbott who like him would have reacted violently to a statement like that, that is what he said, clearly demonstrating that Mr Abbott and himself are recognised by him to be in the same mould.

HON A J CANEPA:

And that is a dictatorial streak because that is how you interpret it. Well, I interpret in exactly the same way the attitude that you have when you get annoyed when you are criticised, exactly the same.

MR SPEAKER:

Order, let us come down to the matter under discussion.

HON J BOSSANO:

I think, Mr Chairman, we can only come down to the town planning on the basis that the Government is telling us that they have given a great deal of thought to this, every time they speak on the subject they clearly are demonstrating that they are acting outside the existing law and what they are doing is legitimising their position by bringing this to the House and that it is an important issue which has caused a lot of heart searching within the Government ranks otherwise it would be a one day affair, it wouldn't require all the thinking that has gone into it according to the Minister. The Opposition is entitled to expect that the Government should give us as much opportunity and they have given themselves in thinking about whether this is the right way to proceed or not and they are not doing that because they are bringing every single Bill, not just this one, although they indicated in July that it would not be what would continue to happen, last July the Hon and Learned the Chief Minister said he accepted the point and that it wasn't the Government's intention to bring everything through in one House, they have done exactly the same again. So, therefore, it is the Government's fault that we find ourselves in a situation where we are having a major debate because we have got no choice. If we don't raise it now the thing will be law and that is it. If the Government wants to have the democratic right which it has to exercise that majority which it won in the last election, it has also got to recognise that a democracy only functions by the majority listening to the minority and at the end of the day if the minority cannot convince them the majority decides but what is wrong with the Government's attitude is that they don't want to give us the opportunity or anybody else to challenge what they are doing or do they disagree with that?

HON A J CANEPA:

What are you doing, if not challenging?

HON J BOSSANO:

Mr Chairman, we are doing it not with their approval, they don't like it. What they think we should do is, they come here with all the Bills and we say amen to everything and it goes on the statute book and then they discover, like they discovered that they should have done something about the fire escapes in the Laguna Estate is not there or that they were putting something in the Dockyard which would have created a major conflict if they had gone ahead with the Dockyard thing. Sometimes we may be taking a policy stand which is unacceptable to the Government and sometimes what we are doing is, in fact, helping to produce better legislation in this House by doing our work. The Hon Mr Canepa may feel we are getting too much or too little, we think he has got an artificial job personal to holder that shouldn't exist that is why we voted against it. If he works very hard what we said at the time was, we are prepared to support all full-time Ministers getting paid more because they work more hours, fine.

HON CHIEF MINISTER:

You didn't, you opposed it.

MR SPEAKER:

Let us not go beyond the orbit of the subject matter.

HON J BOSSANO:

But the Hon Member has raised whether we are doing enough work for the money we are getting paid. Well, he doesn't want us to do more he wants us to do less. It is much easier not to have read any of the legislation which appears to be the normal practice on the other side because most of the time the answers to the questions that we have put have been given to us by the Hon and Learned the Attorney-General and the Hon Financial Secretary and the rest of the Ministers are there to make sure that their votes get the thing through if we don't convince them. If we convince them and we see a doubt in their face then they go back and they then look at it and they say: 'Yes, there is a valid point there' and we are glad that it should be like that. The House of Assembly should not just be a talking shop and it should not just be a place where we rubber stamp everything the administration cooks up. We are trying to give the people of Gibraltar something in exchange for the money that they are paying us by looking at legislation, some of it very complicated for us because none of us have had legal training, and asking to

be given satisfactory explanations, this is why we want the Committee Stage to be taken later, not because we want to introduce a delaying factor, it doesn't make any difference really whether the Town Planning Bill is passed today or passed next month unless the Hon Member says that all the economic development is going to take place between November and December which will certainly be extraordinary given the normal pace of decision-taking in the Government. And the same is true of the others. It gives us and them and other people an opportunity to look at what is being done and to raise their objections and at the end of the day if we cannot persuade them or if we are not persuaded by others the Bill will still be passed because they still have the majority. But what we are not prepared to do is simply be expected by the Government to come here, the Hon Member yesterday was saying how much better the House of Assembly performs because we try and keep personalities and personal invective out of it and we do, we don't want to talk about the Hon Member's salary, we want to talk about Town Planning and we are saying to him: 'You say that this goes much further than anything that you intended to do and that it is going to hold up development', fine, well then let us leave the Bill for the next House and if you cannot accept this see if there is something that you can accept which will give people who are informed of the decision of the Commission to depart from the City Plan an opportunity to put an argument against it before that decision is turned into reality. That is all we are seeking. We are seeking that the Government having said: 'We are changing the law so that we can act' or else come here and do away with the City Plan altogether, why bother? Why have a City Plan which gives the Government absolute discretion to depart from it whenever they want without anybody having the right to object or to put a contrary view? Why have a City Plan? If this is not acceptable as it stands let the Government leave the Committee Stage for the next meeting, no major hindrance to the development is going to happen between now and December and then let them give us a reasoned reply either why they cannot accept it as it stands or let them come up with an alternative because what we are asking for essentially is that a departure from the City Plan should be public and that members of the public should have the right to go back to the Commission and say: 'I don't think you should be departing from the City Plan' and at the end of the day if their objections are not listened to then they can still rule but they will have ruled at least after listening to those who are being ruled and listening to the views that they have about how they are being ruled.

MR SPEAKER:

Are there any other contributors to the amendment?

HON J E PILCHER:

Mr Chairman, we really cannot take it any further than we have already taken it but there are two basic questions that I asked the Hon Mr Canepa which I will just repeat in case he didn't hear them or that he just didn't want to answer them. This amendment does not take away the right that they have under Section 18A(1) to do what they like, with the only difference that they have to do what they like after having heard the people outside who have an interest in town planning or conservationists or because it is a neighbour of the development. Is he against that system?

HON A J CANEPA:

I am not against that system. What I find extraordinary, Mr Chairman, is that so many of these people who can come along and talk to the Opposition never approach the Government. Am I such a dictator as Mr Bossano says that no one can talk to me? People cannot talk to me, they cannot discuss something with me, they never approach me, they never suggest that they want to come and discuss this sort of amendment? No, give it to the Opposition and see whether the Opposition can convince the Government why such an oblique fashion? I am amazed that people think that they are going to be able to make progress and convince the Government about certain matters without ever talking to the Government because they don't talk to anybody in the Government about it.

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

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

The following Hon Members voted against:

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

The amendment was accordingly defeated.

Clause 2 stood part of the Bill.

The Long Title

On a vote being taken on The Long Title 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:

Mr Speaker, I have the honour to report that the Prison Bill, 1986, with amendments; the Imports and Exports Bill, 1986, with amendments, the Town Planning (Amendment) Bill, 1986, with amendments; the Criminal Procedure (Amendment) Bill, 1986; the Marriage (Amendment) Bill, 1986; the Penalty Rates Remission Bill, 1986, with amendments; and the Supplementary Appropriation (1986/87) (No.2) Bill, 1986, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Prison Bill, 1986; the Imports and Exports Bill, 1986; the Criminal Procedure (Amendment) Bill, 1986; the Marriage (Amendment) Bill, 1986; the Penalty Rates Remission Bill, 1986, and the Supplementary Appropriation (1986/87) (No.2) Bill, 1986,

the question was resolved in the affirmative.

On a vote being taken on the Town Planning (Amendment) Bill, 1986, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Bills were read a third time and passed.

MR SPEAKER:

The Hon the Minister for Public Works did say that he wanted to make a statement in connection with an answer he gave to a particular question.

HON MAJOR F J DELLIPIANI:

Mr Speaker, with reference to Question No. 224 from the Hon J L Baldachino, with the supplementary questions and answers, after I went home that evening I realised that I might have misled the House in one of my replies with regard to when the Engineer House project would commence and I think the impression I must have given was that the project itself, the actual building of the flats, would start this financial year when what I really meant was that the site investigations will commence this year and I would not like the House to get the impression that I have said that the flats would be commenced this year. Thank you, Mr Speaker.

PRIVATE MEMBERS' MOTIONS

HON M A FEETHAM:

Sir, I beg to move: "This House deplores that Government has failed to date to meet its commitment to introduce an interim payment for those Government employees who have or are being retired with at least ten years service without a pension and therefore demands that the Government remedies the situation of all these employees who are suffering genuine hardship by granting them immediately a lump sum payment". Mr Speaker, in moving this motion following the sort of exchanges that have taken place under the Town Planning amendment, I could if I really wanted to, go to town on Government on this motion. But that is not the role that this side of the House has attempted to play in opposing Government on matters and so therefore all I want from the Government, very simple, I am not going to make a long-winded speech or anything, all I want is a commitment from Government because everything that needed to be said was said in July when as a result of a consensus and the change in my motion, Government gave a commitment to this House and one of the commitments was that an interim measure would be introduced which Government has failed to do. What I want, basically, is two things from Government: (1) I want a definite date when the legislation will be brought to this House so that the pensions are paid to the people who are entitled to them and the commitment is there; and (2) in the meantime that Government commits itself to give a lump sum payment to these employees as a means of remedying a situation which is not of their making and at the end of it when the matter is finally agreed to, a process of rebate or accounting for could be done and I am sure this would be very helpful to these employees. I am not going to say anything more because everything that needed to be said was said at the July meeting of the House when I moved the original motion.

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

HON A J CANEPA:

Mr Speaker, I am very grateful to the Hon Mr Feetham for the line that he is taking on this motion. We won't be able to vote in favour of the motion because it 'deplores that Government' etc but I think that I can give him the commitments that he wants. The legislation will be brought to this House at the next meeting in December. We are pending the approval of the Secretary of State, I will exercise my dictatorial streak and hammer away at the Foreign Office and tell them that the Secretary of State must approve the Bill so that we can introduce it at the next meeting of the House. Now, seriously, Mr Speaker, there is no reason why the Secretary of State should not approve that the Bill be introduced. It is ready, it has

been submitted to London over two weeks ago, on Monday I was asking the Acting Establishment Officer to follow up and ask London to give early acquiescence to the Bill so that it can be brought at the next meeting of the House and I will continue to give my personal attention to the matter and try to ensure that we do get an answer from London in time to get the Bill published and introduced in the House. I am sure that Hon Members if the Foreign Office were to be somewhat late in replying, I am sure that they would agree to the suspension of Standing Orders on this occasion to introduce the Bill. Having said that, therefore, I don't think that the question of the lump sum should arise. What is more, to give such a lump sum payment you need to have legal authority, there is no authority at the moment to give a lump sum payment to any of the people concerned because they only establish entitlement to a pension when the twenty years are reduced to ten years as being the qualifying period and a claim for a pension has to be examined in the proper way. So, really, you are in the same position, and you would have to get legislative powers to give a lump sum payment and, as I say, I am determined that the Bill should come to the House next month. When the matter was debated earlier in the year, I had set myself personally the target date in my own mind that before the end of 1986 we had to have the legislation on the statute books so that arrangements could be made to pay these people the pensions that they are entitled to and the retrospection that they are entitled to: I have a note in my diary and I will continue to pursue the matter over the next few weeks on a weekly basis, I can give Hon Members that undertaking, that I will be bothering the Establishment Division frequently and, if necessary, I shall speak to the Deputy Governor as well to try and get an answer from the Foreign Office to what is a formality in this case because they have already indicated that provided that we are prepared to foot the bill, they agree to any amendments to the Pensions legislation and therefore this formality should be seen to quite expeditiously. I can assure Hon Members that I very much look forward to being able to deal with this matter in December and get the pensions paid as soon as possible.

MR SPEAKER:

Any other contributors?

HON J BOSSANO:

Mr Speaker, we are not very clear about what is the exact position because as we understood it when we left it in July the Government had accepted a commitment to provide an interim solution because this has been going on since 1983. The claim in respect of the industrial workforce to reduce the minimum service from twenty to ten years was made in September, 1983, and in 1984 the Government said that they wanted to introduce compulsory retirement at sixty-five which the unions accepted because it was at the time when we had a fairly high level of unemployment

and it didn't make sense to have school leavers not being able, to get employment and people who were seventy-year olds still working and the Government said that that proposal to make people retire compulsorily at sixty-five was linked to a guarantee, which was given in writing to each individual worker, that they would be getting a pension if they had between ten and twenty years service back-dated from the date that they had retired. When that was done in January and in February, 1984, it was not unreasonable, people got paid a gratuity, not unreasonable for those workers to assume and for the union to assume that we were talking about a situation where three months, four months, six months later people had the gratuity to tide them over between their retirement and when they would get their pension back-dated. Given the complications that arose because the Government then said: Well, although we are talking about industrial workers because non-industrials already get a pension after ten years' service and non-industrials in any case retire at sixty compulsorily and it is only on very exceptional cases that they are allowed to remain in service after sixty, given that the Government's response was to say: "Well, we cannot just do something for the industrials, we have to do it for everybody". The union throughout has been pressing on the case of the industrials: "It is not these people's fault, if you want to change it for everybody these people still have a problem and the problem becomes more acute with every passing week". I am sure that Government Ministers must be subjected to, if not to the same degree of lobbying because obviously in a way it is much easier if you are a retired Government industrial worker who has been in the union all his life to go to the union every day to find out if there is any news on the pension but I am sure that they must have been approached as well by individuals on this matter. We thought we had solved the problem by the Government accepting in July that if the legislation is more complicated than a wider thing let us deal on an ad hoc basis with making some kind of payment, let's face it, we eliminated the elderly persons pension from the statute book and we are still paying people an elderly persons pension without the authority of any law because we vote the money in the budget. What is there to stop the Government, if they are satisfied that now they have got the legislation ready and that the legislation is going to be acceptable to everybody and so on, fine, they have been at it for a very long time, we don't know what the legislation is going to do. Is the Government talking about simply putting ten where there is now twenty on the existing Pensions Ordinance because clearly to satisfy the workers all that it requires is a minute amending piece of legislation, all that it requires is a piece of legislation that says where the figure "twenty" appears in the Pensions Ordinance substitute "ten" and everything else stays the same or are we talking about a new Pensions Ordinance coming to the House next month?

HON A J CANEPA:

If the Hon Member will give way. We have already obtained the approval of the Secretary of State, approval in principle to the introduction of the Unified Pension Scheme. That approval we have. Incorporated in that, as I think he knows, was the provision of lowering a minimum qualifying age for industrials from twenty to ten years. So what we have now said to the Secretary of State is: "We have already agreed to the Unified Pension Scheme, we now want as an interim measure to advance and deal with the question of reducing the minimum qualifying period from twenty to ten and we want to proceed with that separately" and that is what we are awaiting for their approval to and then we bring a motion to this House to get a resolution. To get a resolution only because it has to be given retrospective effect otherwise we could proceed by regulations. What can be done, I think, in order to expedite matters is that already in anticipation of approval from London and in anticipation in the knowledge that the resolution will go through this House, what I think could be done is that the Establishment Division could be asked and the Treasury could be asked to start investigating the claims from these fifty or sixty people so that after the legislation is passed the investigation process doesn't start then because if it commences then, a number of months are going to elapse and I think we can gain time now in the knowledge that that is the intention of the Government, these can be investigated. Of course, there is, in my view, no legal authority to pay and probably the Principal Auditor would say that if we paid before the legislation was enacted, the Financial and Development Secretary could be surcharged because it has been done without legal authority. But I think that that can be done. I think we know, by and large, who these people are, there are fifty or sixty of them but, of course, a study has to be made in respect of their service, the records have to be examined and what I think they ought to be doing is getting on with that job and gain time. That I think the Government can give a commitment to.

HON J BOSSANO:

I am grateful to the Hon Member for that clarification. I think if it is a question of an interim solution reducing the age then clearly that meets fully the point that we have been asking the Government to meet and we are very happy to hear that. I certainly agree with him that we don't want to have a situation where it takes another six months after the law is changed before the payments are ready. I can tell him that there is as a general rule a great deal of dissatisfaction in Government service in this respect because in the UK Departments where the pension has got to be calculated in Britain, the normal practice is that since they know when people are going to reach the age, six months before they reach the age they send them an advance notice saying: "We are very grateful for your service, we are just reminding you that you are due

for retirement and we are now working on your pension" and people are prepared for the advent of their retirement and when the time comes they finish on a Friday and the following week they have got their money. Clearly the system works well, it works smoothly and there are no complaints. One could understand in the Government of Gibraltar if it was perhaps two or three weeks but sometimes we have got people who leave the service and three months later they still haven't received

HON A J CANEPA:

If the Hon Member will give way. Apparently what has happened with the industrials is that - I don't know why - but there are many departments that have got deficient records. For some reason or other many departments never kept proper records of the employment of industrials, I cannot understand why. In the City Council that didn't happen, we always find that we are able to pay the pensions of former City Council workers much more expeditiously than industrials who are employed in other departments. Public Works is not too bad, they have got pretty good records, but it is the departments that employ a relatively small number of industrials where one is shocked to hear that records don't exist beyond a certain date, it is astonishing but it is a fact of life.

HON J BOSSANO:

Mr Speaker, I think on that basis we are satisfied with the answer that we have had from the Government.

MR SPEAKER:

Does the Hon Member wish to reply?

HON M A FEETHAM:

No, not really, the thing has been made quite clear, why extend any more the discussion.

HON CHIEF MINISTER:

I am afraid that if you put the question we shall have to vote against it because we are deplored, unless they withdraw it we have to vote against it.

MR SPEAKER:

Does the Hon Member wish to take a vote on it?

HON M A FEETHAM:

Mr Speaker, in view of the assurances we are prepared to withdraw the motion.

MR SPEAKER:

Does the Hon Member have the leave of the House to withdraw the motion?

The Hon M A Feetham obtained the leave of the House to withdraw his motion and the motion was accordingly withdrawn.

MR SPEAKER:

The Hon and Learned the Chief Minister gave me notice yesterday that he wished to make a statement. I will now call on the Hon and Learned the Chief Minister.

HON CHIEF MINISTER:

Since I understand we are going to adjourn until after lunch to start the last motion, I thought I would save some time in making a short statement which is, I think, of reasonable public interest.

In answer to Question No. 63 of 1986, asked by the Hon Leader of the Opposition on 24 March this year, I confirmed that a new post of Deputy to the Administrative Secretary had been created. I said at the time that we had been on the point of issuing a press release on this matter but had held it back because the Hon Member's question took precedence.

In answer I explained the reasons for the creation of the new post. I said, inter alia, that the new post would provide scope for training a successor to the present holder of the post of Administrative Secretary.

In August, the Administrative Secretary wrote to me and to the Deputy Governor stating that, for personal reasons, he had decided to retire. His retirement will take effect at the end of this month. For the reasons that follow, it will be seen that this is not the appropriate time to render tribute to Mr Pitaluga's excellent public service.

Mr Montado, the Deputy Administrative Secretary, will by then have had some eight months' experience of the work of the Administrative Secretary's office. He has, if I may say so, taken to this like a fish to water and I am confident that the training of a successor to the Administrative Secretary to which I referred in my answer to Question No. 63 has been adequate. Mr Montado, as foreshadowed in my answer, will accordingly be appointed Administrative Secretary by the Governor on 1 December, 1986, (curiously enough, exactly eighteen years to the day on which Mr Pitaluga took over from Mr John Clinton in 1968).

Mr Montado's present post of Deputy Administrative Secretary will be advertised in this week's Bulletin of Circulars.

There is one particular area in which I have asked Mr Pitaluga to continue to work, on a part-time basis, for the Gibraltar Government. This is the area of external affairs. Mr Pitaluga and I have worked closely together in this area since we first went to the United Nations in 1963. During this period of twenty-three years we

have together accumulated the experience and the lore of the Spanish question. This cannot suddenly be absorbed by a newcomer to the post and we are therefore working to a plan whereby Mr Montado will be brought closely into this area of external affairs so that he will assume full responsibility for it in due course. Already, he is working on previous papers and background and I have decided that he, as well as Mr Pitaluga, will accompany me at meetings with the Secretary of State, the next Ministerial meeting with the Spanish Foreign Minister and our visit to the European Parliament in February.

It must not be thought, against the background which I have explained, that the retention of Mr Pitaluga as a part-time adviser will in any way dilute the post of Administrative Secretary. Quite the contrary. Apart from becoming involved in external affairs issues, as I have described, Mr Montado, who has done a first-class job as a Director of GSL, will continue to carry out this demanding function for at least the next six months, a function which is not a part of the present duties of the Administrative Secretary.

HON J BOSSANO:

Mr Speaker, I don't think there is much in the way of clarification that I can ask the Hon and Learned the Chief Minister but I would like to give a response of how we are receiving the news.

MR SPEAKER:

It has always been normal for exclusively the Leader of the Opposition to be able to do that but without debate.

HON J BOSSANO:

I think when the Hon and Learned Member mentioned the appointment of Mr Montado to Administrative Secretary the response from our side was an indication that we think it is a wise choice from our personal knowledge and our contact with him when he has been acting on behalf of the Government. We tend to share the view of the Government that Mr Montado will prove to be quite up to the job of handling that position. I am afraid we cannot go along with the part-time re-employment of Mr Pitaluga by the Government. If it is a question of giving the Chief Minister political advice on policy on external affairs which is excluded from our province by the existing Constitution and will continue to be excluded from our province if they really mean to go for free association and if they ever succeed in getting it. Clearly, we are talking about paying out of public funds for a post which is not a civil service post, which will be occupied on a part-time basis by a retired civil servant when the Chief Minister, I think, in the last debate on the motion on retirements and on the pensions which we brought to the House was saying how wrong it was for people to retire at fifty-five.

HON CHIEF MINISTER:

I don't agree with it.

HON J BOSSANO:

I think if the Chief Minister is creating the precedent that if you retire at fifty-five you get your pension and you get re-employed on a part-time basis you are giving people an even bigger incentive to retire at fifty-five. We do not support it and I think we need to make it clear that when the Government comes to the House for funds to pay for this part-time post we will be voting against it and we think this is a major departure of policy and I don't think there is a precedent for this and it is a precedent that is being created. The fact that we are talking about advice, we recognise that the Hon and Learned the Chief Minister has worked very closely with Mr Pitaluga but, after all, the whole ethos of the civil service is that the civil service serves whoever is in Government and I think for Mr Pitaluga who is now going to be a private citizen after the end of this month to be the adviser to the Chief Minister is something that should be financed out of AACR party funds not out of the public funds of the people of Gibraltar, quite frankly, and we don't agree with this and I think it is better that we make it absolutely clear on this the first occasion that the House has been given an opportunity to look at it.

HON CHIEF MINISTER:

I am very disappointed that the Hon Member hasn't even thought of what kind of arrangements are intended for him to have judged whether the appointment was right or wrong. I will tell him that it is not going to be on a what I would call a full part-time basis, it will be on a basis of hours required up to a maximum of ten or fifteen hours a week, if at all, as and when required and, in fact, the terms of remuneration haven't even been discussed. But let me tell the Hon Member that this is no precedent at all. When Mr Howard Davis - as he then was - was made Financial Secretary the then Financial Secretary, Mr Charles Gomez, was made Finance Officer precisely to put the input into Mr Davis' job as Financial Secretary in proper perspective for a while and the additional problem is that Mr Montado, first of all, has got to be acquainted with the details of the matters connected with foreign affairs and, secondly, that he has not been able either to do that or will be able to do it as much as I would like him to in the next few months though he will be brought in and, as I said in my statement, he will be accompanying us to get the experience because he is doing the job of Director of GSL which has nothing to do with the job of Administrative Secretary and let me say that the Government is most grateful to him for the way in which he has defended the Government of Gibraltar in the Board of GSL and in everything connected with

GSL. I would perhaps ask the Hon Member to withhold his judgement until the time comes. He is not a political adviser to me, he is going to be an adviser to the Chief Minister and this is not unheard of either in Whitehall or in many other places. But, anyhow, when I make the arrangements and I have to ask for that which is a secondary point as far as I am concerned, the Hon Leader of the Opposition can have his say but I would have thought that the off the cuff reply was less than just to somebody who has given such good service to Gibraltar. But in any case, I am sure that he will say that he doesn't mean the person, it is the principle, well, the principle has been there, the precedent has been there and I think that it is in the interest of Gibraltar that certainly, for a while and I don't think it will be for very long, for a while he will continue to advise me.

MR SPEAKER:

I think we will leave it at that.

HON J BOSSANO:

Mr Speaker, the Hon Member has made a statement and I haven't asked any questions on that statement and I have given our position. The Hon and Learned Chief Minister, as far as I am concerned, has just made another statement.

MR SPEAKER:

No, he has given you an explanation.

HON J BOSSANO:

I haven't asked for an explanation, Mr Speaker. When I stood up I said that as far as I am concerned there is nothing as regards clarification that I need to ask in this statement, can I make a response to the statement and you said: "Yes, the Leader of the Opposition is allowed to make a response". I have made my response.

MR SPEAKER:

But we must not debate.

HON J BOSSANO:

Well, I think then you ought to have stopped the Hon and Learned Member from saying the additional things he has said otherwise I have to have the right to answer what he has said.

MR SPEAKER:

No, the mover has always got the right to the final word.

HON J BOSSANO:

But he is not moving anything.

MR SPEAKER:

I know, I am talking about principles, I am not talking about what you are doing now. Anyway, what do you have to say?

HON J BOSSANO:

What I think I need to say is that we are not responding to the amount of money that Mr Pitaluga is going to be paid for doing this part-time work, this is why the level of remuneration is not a consideration. The example that the Hon Member has given which was before my time in this House, as I understood it, was where Mr Gomez was reinstated in the civil service as a full-time servant, paid by the civil service. This is not an appointment by the Public Service Commission, this is an appointment by the Chief Minister. Although the Government and the Chief Minister has announced that the successor to Mr Pitaluga is going to be Mr Montado, presumably this is a normal civil service appointment governed by the Public Service Commission and the Governor and all the rest of it, the Montado appointment presumably, like Mr Pitaluga's appointment was originally and like Mr Gomez's appointment in relation to Sir Howard Davis was also a civil service appointment.

HON CHIEF MINISTER:

This is a civil service appointment.

HON J BOSSANO:

Then if it is a civil service appointment then I don't see how it is a matter of Mr Pitaluga being employed as the adviser of the Chief Minister, surely then Mr Pitaluga will continue to be a civil servant.

HON CHIEF MINISTER:

Yes.

HON J BOSSANO:

Yes, and therefore Mr Pitaluga will be a retired civil servant re-engaged and being paid which presumably will be something that the new pension legislation will permit, that people collect a pension and get a second salary because I have been told, Mr Speaker, by the Government already that there will be no further appointments of retired civil servants back into the service in a wider context and what we cannot have is the Government making a set of rules for one individual which don't apply to anybody else. Certainly, we shall have to take a very

close look at the situation but when the time comes if it isn't going to be a question of a specific amount of money being paid which the House will have to vote then, presumably, there are in the current Estimates of Expenditure under personal emoluments no provisions to pay Mr Pitaluga and we have just been told that we cannot pay the fifty-five pensioners who have been waiting for their money

HON CHIEF MINISTER:

Of course and when it arises I will come to the House and ask for it and then you can oppose it.

HON J BOSSANO:

Then we will have to see how and which way it is going to be done.

HON CHIEF MINISTER:

That is right.

The House recessed at 12.45 pm.

The House resumed at 3.25 pm.

PRIVATE MEMBERS' MOTIONS (Continued)

HON J BOSSANO:

Mr Speaker, I beg to move that:-

"This House -

- (1) notes that Her Majesty's Government has unilaterally decided to remove the ceremonial guard from the frontier with Spain in the knowledge that such a move would not be well received in Gibraltar
- (2) further notes that the removal of the frontier gates with Spain has been under consideration and that a decision on this issue has been left on one side for the time being
- (3) expresses its concern that the action of Her Majesty's Government might be interpreted as a weakening of the commitment to stand by the people of Gibraltar in their resolve not to pass under the sovereignty of another state
- (4) requests Her Majesty's Government to note that the views of the Elected Members of the House of Assembly and of the people of Gibraltar continue to be that no change should take place in Gibraltar or arrangements discussed with the Government of Spain which could be interpreted

as assisting in any shape or form the process of "osmosis" or facilitating the eventual weakening of the ties between Gibraltar and the United Kingdom as a prelude to making Gibraltar dependent upon the Kingdom of Spain, and to act in consonance with these views".

Mr Speaker, clearly the motion should have been heard in this House at the time that it happened and clearly the Government did not wish to accede to the request of the Opposition to convene a meeting of the House to discuss this matter precisely because they wanted to do what they have done, to camouflage the issue, to defuse it and to let the motion be brought to the House now when the public interest is not centred on the removal of the guard and the implications of the removal of the guard and the implications of the whole scenario of Anglo/Spanish relations in the context of Gibraltar's future. There can be no other explanation because when the Opposition put this proposal to the Government the Hon and Learned Chief Minister's response was that to call a meeting of the House of Assembly especially for this issue in the climate of the public discontent would generate anti-British feeling and it was nonsense then, it is nonsense now and he knew it was nonsense when he was saying it, Mr Speaker. What did he do instead? He called a meeting of the representative bodies and presented a memorandum which captured much of what there is in the motion and we were grateful that the Government had gone so far in reflecting what we had wanted included just like we welcome when the Government accepts amendments or ideas from this side of the House in any debate. That memorandum prepared by the Government was taken away by our party and by the other representatives there and the Gibraltar Trades Council came back with proposed amendments and we came back with proposed amendments and we found that the amendments that the Opposition had put were almost in their totality acceptable to the Government and were incorporated. We found that some of our amendments were not acceptable to the Trades Council and we found that some of the amendments proposed by the Trades Council were not acceptable to either the Government or ourselves. So we can say that the joint memorandum, in fact, reflected in the majority of its contents the view of the Government and the Opposition and this is what we had intended should happen with the motion in the House. We then had a reply from Her Majesty's Government, that reply was received by the Government and we were informed that the Government was in possession of the reply and that a meeting was being convened when the Hon and Learned the Chief Minister was in the United Kingdom by the Hon Mr Canepa acting in the place of the Chief Minister and we were told that that meeting was due to take place the following day to consider the reply received from UK. First of all, we didn't think that the Government had any greater right to that reply than any other signatory to the memorandum since, in fact, the memorandum was as much ours as it was theirs. We asked to be given the reply there and

then so that we could study it and come back the following day to a meeting with some sort of response as to what we thought of it. We were refused that, we were told by the Hon Mr Canepa that we could not have the reply until we arrived at that meeting and we didn't think he had the right or his Government had the right to study the reply to a joint memorandum and come back to the meeting with their own ideas on the subject.

HON A J CANEPA:

If the Hon Member will give way. I said that the reply had been given to me by the Governor and that it was the Governor who would be releasing it, that I had no right to release it because the Governor was releasing it to me and was asking me to make arrangements so that he, the Governor, could have it released to the media.

HON J BOSSANO:

I wasn't talking about the media, Mr Speaker, I wasn't talking about releasing it to the media, what I am saying is that if the Governor gave him the reply to our memorandum presumably he gave him the reply to our memorandum so that we could all have the reply not just him.

HON A J CANEPA:

No.

HON J BOSSANO:

I see, so the Hon Member is saying that the Governor was telling him that the rest of us had to find out when it was made public and not before?

HON A J CANEPA:

No, that the rest of you would find out when arrangements had been made for that to happen.

HON J BOSSANO:

If it is a question of the Governor interfering in local affairs then we will take the matter up with the Governor, Mr Speaker. As far as I am concerned I am very clear on what happened. I rang up the Hon Member, he told me he had the memorandum with him, I said: "Can you let me have a copy so that I can look at it before tomorrow's meeting?" and he said: "No" and I don't think he had the right to say no, and therefore we decided that we would send somebody to that meeting to collect the memorandum and bring it away and come back giving our considered reply to the memorandum when we had studied it. In fact, the Government chose, having presented the memorandum to people who had not seen it before, to issue a press release immediately afterwards saying that they welcomed the reply or that the reply was satisfactory. Of course,

it means that they effectively made a nonsense of the memorandum as a joint effort because what did they do? They actually got a situation where the Opposition was not able or willing to commit itself without having given it some thought, no on the spot decision and being presented with something and saying on the spot: "It is satisfactory" or "It is not satisfactory". The Trades Council logically took the same line that they would have to go away and study it and consult other people and effectively it has been welcomed by the Government alone because I don't think the other representative bodies, quite frankly, did anything other than follow the lead provided by the Government. I don't believe the European Movement, for example, which is a body set up by Government and Opposition and independents, can be in a position to welcome something or not welcome it if the constituent parts of the European Movement take different positions. If the Government is satisfied and the GSLP is not satisfied how can the European Movement be satisfied, surely only half the European Movement is satisfied, the half that is the Government's.

HON A J CANEPA:

The independent part of it.

HON J BOSSANG:

Well, that is not the end of the story either, the European Movement may still have to come out on that one and say on what basis the independents decided to support the Government view and not the Opposition view when the European Movement has always tried to take an impartial position on issues where there are party political differences. The whole idea of the European Movement is that when it is a matter of political controversy, the independents stay independent, they don't agree with either the Government or the Opposition. Certainly, I don't think the Housewives or the Youth Association were in a position, quite frankly, having been presented with the reply from Sir Geoffrey Howe, to assess its political significance if we needed more time. They must have said to themselves: "If the Government is satisfied it must be okay", and I think one can put the responsibility on them so the responsibility lies fairly and squarely with the Government. I think it is a pity because that document contained a great deal that is important to Gibraltar and is important to the Gibraltarians and it was important that it should be supported by all Members of the House as it was when it was sent to UK. That document, Mr Speaker, did not question the position of Her Majesty's Government in honouring the preamble to the Constitution or in having to respect our right to self determination. That document made clear that the House of Assembly is opposed to the process of osmosis. That document made clear that we wished Her Majesty's Government to act in consonance and on the basis of the advice they were given by the representatives of the people of Gibraltar. It was specifically asked that if a decision was taken at any stage

which could have in the judgement of the Government of Gibraltar negative implications or be possible of interpretation in that way then if the advice that they got was against it the action should not be proceeded with, it is specific and clearcut. We asked specifically Her Majesty's Government, having previously shelved a decision on the frontier gates, to unshelve that decision, to take a decision, to reject the removal of the gates, to communicate the rejection to the Spanish Government and to inform us that that had happened. The answer to all that is no. How can you be satisfied if you get told 'no' to everything that you have asked for? I cannot understand it unless, in fact, it was just, and it is an unpalatable thing to have to face, if all that this joint effort reflected was a desire on the part of the Government, on the part of the AACR as a political organisation, to get over the problem by appearing to do something, then it is a very bad thing for Gibraltar and it is a very sad thing for us here in this House if that is all it was. If we had taken a joint stand, a clearcut and a tough stand then why are we not still there today? What is the position of the Government today? If they vote in favour of this motion they are reiterating to a very large extent what we put in the memorandum which has been rejected by the British Government which satisfies them and if they don't vote in favour of the motion then they are going back on what they signed in the memorandum. Where do the Government of Gibraltar stand on this issue? Do they stand where the British Government stands or do they stand where we and the people of Gibraltar and the memorandum stands? Because clearly there are two distinct positions, they cannot run with the hare and hunt with the hounds like they have been trying to do for so long. The position of the British Government is clearcut and it is understandable. The British Government says: "I am responsible for you and I will listen to what you have to say as I have listened in the past and having listened I will decide what is good for you and either act on the basis of your advice or overrule you like I overruled you on keeping the frontier gates closed after midnight and like I have overruled you on the guard and like I will overrule you tomorrow on the airport if I need to". That is what the British Government is telling us. It may be that is why the party in Government feels that there is a need now to make an election issue of free association, I don't know. I don't know what kind of difficulties they may be facing in their relationship with the British Government that they feel that the time has come to decolonise Gibraltar. If all that is going to happen is that it is going to take us another twenty-two years like it has taken since the Hon Member took it up in the United Nations in 1964 then, of course, we will all die of old age before we see free association taking place. But if it is a reflection of the Government wanting home rule for Gibraltar, if that is what they are talking about, then let us start by putting our own house in order, Mr Speaker, let us start by doing what we can do before we are asking to be able to do more.

What the memorandum sought and what the motion seeks is in the last few words of the motion. We are asking Her Majesty's Government to act in consonance with our views, that is the key. It is not enough for the British Government to say: "We will continue to take notice of the views of the Government of Gibraltar" which means "We will continue to ignore the views of the Government of Gibraltar" because otherwise what are we protesting about? So we don't want them just to continue taking the same amount of notice that they have taken until now, we want them to take more notice and it is not satisfactory to be told that they are going to continue the same because if it is satisfactory we should have been satisfied before, there should have been no need for a memorandum and there is no need for this motion. The position of the British Government is no change, 'we have taken note of what you have said'. Clearly they picked out of the memorandum what suited them and they ignored what didn't suit them. So they said: "Yes, we agree with you entirely we have got to do something about military aircraft", forget all the rest, that is the only bit they picked up. Quite frankly, at the end of the day the military aircraft is a problem for them not a problem for us. The aircraft are going to carry on using the Gibraltar airfield independent of the degree of use they can make of Spanish air space and we are concerned to ensure that no unnecessary hazards are put in the way of either military or civilian aircraft flying into Gibraltar and therefore we support them but at the end of the day if it means that they have to spend more money on fuel that won't make the use of the Gibraltar airfield, it isn't that finely balanced that it is going to make a difference. If the RAF needs Gibraltar they will keep on using it and if they stop needing it they will stop using it independent of anything the Spanish Government may do as regards the use of Spanish air space. But it is significant that of all the specific things we mentioned in the memorandum the only one they showed any degree of enthusiasm for - and the other one was the cordial relations with Spain - that is to say, they picked three words totally out of context because what we were highlighting was that cordial relations with Spain does not imply osmosis and they said: "I am very glad you are in favour of cordial relations with Spain", forget osmosis, that doesn't exist, we haven't mentioned that. It is not the reply that we want and it is not the reply that Gibraltar needs. It may be the reply that one has come to expect when the Sir Humphreys' in the Foreign Office get together and start drafting the reply and make sure that it is couched in the kind of language that impresses the uninitiated who came away with the conclusion that something of substance had been said and then when you actually get down to deciphering it you remove the whereabouts and the wherefores and the fullstops and the commas and the maybes and the perhapses and you are left with nothing and it is all a magical illusion. I cannot believe that if it is an illusion that is transparent to us it is an illusion that deceives the Hon and Learned the Chief Minister

who has been around for so long and claims such experience in these matters, experience which we will not challenge, he has undoubtedly been dealing with the Foreign Office much longer than we have and at closer quarters and therefore he knows that what I am saying is absolutely true, that the answer that we have had is an answer that leaves out anything that is important, commits Her Majesty's Government to absolutely nothing and just sounds good and effectively what we have had is a pat on the head from the benign colonial master who has said to us: "You have had your little fling, you have had your tantrum and you have kicked and screamed and okay now, fine, I have listened to you and now that you have let off steam now you be a good boy and get back to your place in the classroom and don't make any more noise because you really are distracting me from my important work with Gorbachov or whatever, you sit with your little nonsense in Gibraltar". And, of course, we or at least half of us have dutifully said: "Thank you very much" and the other half have said: "I am not standing for this, this is not a satisfactory reply and we want a reply to what we asked. We asked you to come out saying 'the gates will not be removed' having said the decision is on ice". What did they come back and say, that they had taken the position of putting it on ice in accordance with the advice of the Chief Minister, yes, that was the advice he gave them initially. He has given them new advice because the memorandum was signed by him. What is the British Government telling the Chief Minister and me and the people of Gibraltar? That they liked the first advice so they took that one, they don't like the second one so they ignore the second one. And we have told them quite categorically and quite clearly that we want, I mean, the value, of course, of bringing it to the House and the value of speaking on the subject and the value of getting it reported is that even if the British Government doesn't communicate to the Spanish Government our feelings on the matter the Spanish Government will have an opportunity of finding out for themselves by the reports that get printed or get published or get put on television on what has taken place in the House and therefore the British Government who has an obligation in this subject to accurately reflect to Spain what we are saying and clearly doesn't want to do it because we have asked them to do it and they haven't answered, we have been specific in asking for that as well. We have said to the British Government: "This is how we feel. We want from you, first, that you accept the views we are expressing to you. Second, that in future you will act in accordance with those views and not ignoring them or be contrary to them and, thirdly, that you will let the Spanish Government know that that is what is happening and you will let the Spanish Government know that the fact that we want to live in harmony with our next door neighbours doesn't mean that we are going to help open the door for our next door neighbours to come in and take away our furniture, it doesn't mean that, and one thing does not lead to another inevitably. And

if the first, the harmonious and the friendly relations is intended to be a method of achieving the second then since we are against the second it will interfere with the first". That is the message that we have sent back, it is not that we want to have bad relations, it is that if having good relations means that they skin you, well, then you have bad relations so that they don't skin you, that is what it means. And that message needs to be put across because all the time I think we have been careful not to give the impression that it is a question of being hostile towards Spain or hostile towards the Spanish people or hostile to the people who live next door and many of whom are now earning their living in Gibraltar because we treat them as third world citizens and we have got a bias against them, it isn't that. It is that we have to make sure and clear that just like we were concerned that the removal of the guard was not misinterpreted and we were careful to say that we were not interpreting it like that, what we were saying was that it was capable of interpretation that way, was not misinterpreted as a signal to Spain that Britain was pulling out of Gibraltar and making it easier for Gibraltar to be taken over, that we didn't want that kind of wrong interpretation to be put on it, equally we didn't want the commitment to good neighbourly relations to be misinterpreted as meaning that there was a commitment to assist in osmosis and assist in the take-over of Gibraltar. It was a matter of satisfaction to us that the Government should be willing to put its commitment down in that paper as they have done on other occasions in other motions on this or related subjects like the airfield on the question of osmosis, having said a number of times here that they are opposed to the process of osmosis, we are opposed to the process of osmosis and therefore what we have tried to do with the motion and what we have tried to do with the memorandum and what we have tried to do on a number of occasions is that independent of the very wide range of issues where we have got totally different views from the Government and a whole range of economic and social issues, on certain fundamental issues we can still agree. The Government may say they support the Brussels Agreement and supporting the Brussels Agreement and opposing osmosis is not incompatible. We think it is incompatible but the fact that we think it is incompatible is neither here nor there. We are opposed to the Brussels Agreement and we are opposed to osmosis. We would prefer that they should be opposed to both but if they are opposed to one and not to the other then, fine, we will go together on the thing where we are together in opposing osmosis even if we are not together in opposing the Brussels Agreement. And it is to try and ensure that we move forward in unity in the areas where unity is possible that the idea of recalling the House of Assembly and the idea of presenting the motion was brought and, quite frankly, we are doing it now because we said we would do it and because we have an obligation to put that on record here in the House of Assembly which is the officially recognised forum representing the people of Gibraltar. The representative

bodies are self-appointed representative bodies, nobody else elected them as representative bodies. The Gibraltar Trades Council or the Chamber of Commerce represent workers and traders for other purposes. It is a useful and a valid thing to sound out the opinion of different sectors of the community on policies, we recommend that approach to the Government but at the end of the day when it comes to giving political leadership the people who have got a responsibility to give leadership in the political arena is not the Chamber or the Trades Council or the Housewives or the European Movement or the Youth Association, it is the AACR and the GSLP because the people have chosen that it should be. If the people had chosen to be represented politically by somebody else we wouldn't be sitting in this House, somebody else would be doing it. We have been given the job of giving political leadership, it is in Gibraltar's interest and to the extent that it is possible for us to give the same kind of leadership on fundamental issues about Gibraltar's future and about the relationship between Gibraltar and Spain or the relationship between Gibraltar and the United Kingdom to the extent that it is possible to move together in any one of those areas, we believe that we should do it and we believe that we should try and do it with the Government if the Government is prepared to meet us halfway on any of these points. Where it isn't then we each have our responsibility to give the kind of direction that we feel is best for Gibraltar. They may have to give one leadership and we have to give another but we believe that the response to the reply of the Secretary of State to the joint memorandum has, in fact, undone to some extent the good work that was done in the memorandum and it is highly regrettable. We cannot understand how the Government can be satisfied with that reply. If they are satisfied with the reply they should never have sent a memorandum in the first place.

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

HON CHIEF MINISTER:

Mr Speaker, let me say that we are delighted that this motion should be aired now in accordance with the Standing Rules of the House and in accordance with the right Hon Members opposite have to bring motions. In our judgement, at the time when it was our decision whether to recall the House during the recess, we did not think that that would be the best time for the motion to be debated. That is a matter of judgement, the Hon Leader of the Opposition can say that I am talking nonsense, that I know I am talking nonsense, I could say that for three-quarters of what he has said today. All he has done is his usual rhetorical going round the same thing and telling us what he has told us so many times which really misses the whole point, if I may say so, of the crux of the matter not only of this motion but generally of our relationship with the United Kingdom. And it ill behoves him

to have treated the representative bodies in such a cavalier fashion as he has treated them now. The Womens' Association - what do they care? The Youth Association - self-appointed; The European Movement - half of them are elected by us and they should have asked us for our views; Chamber of Commerce - self-appointed, except perhaps for the President, the President of the Chamber of Commerce is appointed by members, he was returned unopposed. To deal with that in such a way now, because they agreed with the response of the Secretary of State, does not really show that he had any faith or any regard for their opinion when he sat round the table with them. Members will remember that certainly the Womens' Association made a contribution in the course of the debate of the preparation of the memorandum.

HON J BOSSANO:

Their contribution was that we should have the guard back, wasn't it?

HON CHIEF MINISTER:

Whatever it was they made a contribution. If the Hon Member wants to join the Conservationists to get their votes and he now wants to be hostile to the Womens' Association, remember that tomorrow we may be seeing him representing the Womens' Association for something they want because they think there may be something in it for them. We can all play at the same game. But the question that arises now, of course, is mostly dated and the difficulty that the Leader of the Opposition has had with the motion is that part of it, as I will show, part of it is already past, whatever he may say. And where I think his thinking is wrong is that he feels that apart from the regard and the relationship that one has to have with London, that we should hold the reins of everything that is related to our affairs and unfortunately though he does not dare to proclaim himself an independist and claim for independence, I just saw him on television dismissing free association, I suppose because it doesn't suit him to say that that may be a good way of dealing with the matter, and now he expects that without independence, without free association London should do whatever we want them to do. London - I am not speaking for them, they can speak for themselves - but the Hon Leader of the Opposition completely ignored or wished to ignore the exact nature of the relationship between Britain and Gibraltar, both constitutional and factual, completely ignored it. And with that ignorance, with that wrong conception of the relationship, of course he can go on speaking about motions and ideas that could be valid or could not be in the United Kingdom. At the time, and I am quite satisfied that it was the right decision at the time because the House was in recess and because I felt that there was a need to avoid the creation of what would then have been the creation of

anti-British feeling in Gibraltar which I think the Hon Member agreed with me was desirable not to create, my judgement was that that would have done it, it just may not have been, we can differ on that, but I had to take a decision whether to call a meeting or not and I took a decision that I thought was the right decision and it was for that very reason which the Hon Member agreed but may not have agreed that it would have done it at that time. Of course, weight is given in London to motions which are passed in this House. Equally, I think, and in fact more, to some extent, certainly a memorandum subscribed by all the Members of the House and subscribed by the representative bodies as I will show requires the attention not just of the Foreign Office but of the Secretary of State himself. The reply to the memorandum to which I will come, point by point, is not the reply of the Foreign Office, it is a reply of the Secretary of State signed by him as a letter but signed by him as Secretary of State so he bears full responsibility. It is no use talking and then Members grinning, we listen to Members opposite with respect. You can start laughing outside if you want and if you want to have a proper debate you should listen to me with the same seriousness that I have listened to you and so should Mr Perez. If you want to laugh you are welcome to laugh but perhaps we will leave you here to laugh on your own. I think we merit a little more respect than that, Mr Leader of the Opposition. Anyhow, the point is that the concept of our relationship with the United Kingdom is completely misunderstood by the Hon Member and he feels that Britain should be signing on the dotted line of everything we want. Unfortunately, I don't say that with any happiness but, unfortunately that is not the reality of the situation. The reality of the situation is to the extent to which we have been able to carry Britain with us throughout the years in standing by the rights of the people of Gibraltar, that is the reality of the situation. The real issue at stake on this question, as fully recognised by the representative bodies, was not the removal of the guard which has created all this fuss, was not a military one, nor did the removal of the guard make any difference whatever to Britain's actual and legal sovereignty over Gibraltar. The real issue was purely a symbolic one which people took badly and which I am on record as having taken badly from the very beginning and which I disclosed at the time when I didn't want any misunderstanding about the matter and I disclosed the correspondence which had taken place. But it was for this reason alone that we regretted the British Government's decision. As far as we are concerned we consider that the matter has been done and finished, that business, there may be other things in the motion that are important but that particular issue has been finished because the Government together with the other representative bodies except the Gibraltar Trades Council, felt that the reply was satisfactory. But let us look at the main points of the Secretary of State's reply and let us remember that that reply took

the form not of an official memorandum or despatch but of a personal letter, as I said, from him. And let me also say that I am glad that the Hon Member gave credit that the memorandum tried to cover the points made in the motion. It would have been a nonsense to have called a meeting of representative bodies to represent what was in the motion or to represent something else that was in the motion. It was a substitute for the motion and in order that it should be a proper substitute for the motion we put in what was in the motion and, indeed, added more in the course of the debate. And when I said that the memorandum was signed by the Secretary of State I want to emphasise the difference that there is sometimes in official notifications from the Foreign Office as against political notifications or answers and though there is the normal phrase "Ministers feel that" it means, really, that the Minister has seen the papers. Anyhow, that is what the practice is that Ministers have seen the papers but it is a very different thing when the Secretary of State himself makes himself responsible for a reply. That, if anything, whatever the reply says is, if I may say so, a regard for the extent to which the questions of Gibraltar are dealt with at the very top. I remember in the difficult days of the restrictions, I never dealt with the Secretary of State, I dealt with either Mr Judd, with Judith Hart, with Hattersley, they were all Ministers of State they were not Secretaries of State. The first Secretary of State - I met them and I knew them - but the first Secretary of State that really started to get interested in Gibraltar was David Owen as Foreign Secretary, not anybody else. The rest were known and at high level meetings they came in but it was always left to a Minister, very much like many things are now left to Baroness Young who is responsible for Europe under the level of the Secretary of State. First of all, the reply tells us that the decision to remove the guard has no implications for Her Majesty's Government's commitment to the people of Gibraltar which as he says: "Ministers of successive British Governments" - not just the Conservative Government - "including the Prime Minister, have repeated on innumerable occasions". Well, I think, to be quite frank, that a close examination of the reply and the mention of the Prime Minister is very important because the Prime Minister has been in the forefront of defending clearly the position of the people of Gibraltar in Parliament on many occasions. She has often made it clear in the most direct and forthright manner that Britain will stand by the people of Gibraltar. Then, secondly, the Foreign Secretary states: "Her Majesty's Government have repeatedly made clear that the question of sovereignty will only be considered within the context of Her Majesty's commitment which extends to the whole of the territory of Gibraltar". I think that, again, may have been said before but in this context it is of particular importance because we were talking about the ceremonial guard next to the frontier. Therefore, I consider that those words are of particular significance. And this is also of particular significance in the light of the current or stagnant,

whatever one wants to call it, talks on the airport. It is very important, that phrase is particularly important when we know the difficulties we are having, certainly if you read the Spanish press, with the possible implications of any agreement in respect of the airport about which we have passed a resolution in the House which binds us in respect of the position of the elected Members of the House. This is a fresh and, if I may say so, refreshing statement of Britain's assertion of sovereignty over the isthmus which we hear continuously from the Spanish media that they question the sovereignty, this is appropriate and I think quite well timed. Then I would like to draw attention to the frontier gates, the reference made to the frontier gates. The memorandum addressed to the Secretary of State asked that the proposed removal of the gates be discarded. His reply on this is: "Our decision not to adopt the suggestion that the frontier gates may be removed was reached after consultation with you and took full account of local opinion. There are no plans to take up this proposal in the foreseeable future". Well, two points to note about this, the first one is that the proposal about the gates were dropped after the original consultations with me back in March or whenever it was and took full account of local opinion then. There has been, I think, and the Hon Member never ceases to mention the fact that there have been two occasions on which the advice given by me to the British Government has not been accepted. The one about the 24 hours to which I will come in a minute and on the question of the guard. If you take into account that I have been advising the British Government since 1954, that is, thirty-two years, and you say that my advice has not been taken on two occasions, I do not think that that is a bad record. My advice has been accepted on innumerable occasions throughout this period on a vast number and range of issues. I think it is remarkable that in thirty-two years there have only been these two cases, of course, taking into account the difference of approach in many matters and the reservations made at the time of the Lisbon Agreement and of the Brussels Agreement on sovereignty. That were reservations of my own, in one case jointly with the then Leader of the Opposition and, secondly, on my own. That does not mean that there have not been differences of approach with the British Government over the years, there are many differences of approach but in the case of the question of the two Agreements that I mentioned my reservations were made public, they were not just reservations made to the Foreign Office or to the Foreign Secretary. And we must, I think, keep a sense of proportion and if we have had this tiff with the British Government it does not, in my view, affect the substance of our relationship. On the two issues to which I have referred we continue to believe, as I have said, that the ceremonial guard should not have been removed but on the issue of the 24 hours which, in fact, was prompted by an earlier motion in this House which came from the then Opposition, led me to the other one, with hindsight now and having regard to the way things have gone since the opening

of the frontier, if we are to be totally honest, we ought to say that it is convenient for Gibraltar that that frontier should be open 24 hours. I know the principle was wrong in not having accepted it at the time, they had their reservations but, with hindsight, that frontier closed in circumstances that caused even the death of a well-known friend of all of us in order to get the frontier opened, Tony Cavilla, you will recall, died in an accident a few yards away from the frontier in order to be in time because the frontier closed at one o'clock. So that one, perhaps, deserves separate treatment. The second point I wish to make on the question of the proposal on the removal of the frontier gates relates to the sentence "There are no plans to take up this particular proposal in the foreseeable future". I hope I will be forgiven if after many years of dealing with this matter, that diplomatic language cannot go much further to say that it won't happen so long as you don't want them to happen. It cannot go much further than that. That is what that phrase means, in my judgement, having regard to the way in which these matters are dealt with at diplomatic level. We felt that the reply was a satisfactory one. Insofar as the Trades Council was concerned, their press release on the question really made two main points. The second paragraph of the release states that: "Although some assurances have been given, on some of the issues it is essential that Gibraltar seeks further assurances from the British Government to protect and maintain Gibraltar's British status for both its people and its territory". That may be very important but certainly that is not one of the things that worries the Leader of the Opposition in this case. The Leader of the Opposition says: "We have had that before, we have had it in the memorandum, there is nothing new in it". The British Government's commitment to the people has been stated many times in Parliament and elsewhere and I think it was done fairly recently in the House of Lords, a few days ago in the House of Lords. The second point in the Trades Council press release is contained in the last two paragraphs which state: "Furthermore the assurances given by Sir Geoffrey Howe that the views of the Gibraltar Government will continue to be regarded as important by British Ministers and Officials is of little consequence. The real issue at stake is that the wishes of the people of Gibraltar are paramount and not that their views be merely regarded as important". I think they have, with respect, missed the point. If what they want to mean in stating that is that they should do whatever we tell them then, of course, they have got a wrong concept of the situation. It is clear, therefore, from the stand taken by the present British Government and by their predecessors that the wishes of the people as to their future are paramount. It is also clear from what I have said that advice given from Gibraltar has not been accepted on only very rare occasions, the most recent example of the acceptance of my advice is contained in the Secretary of State's reply on the memorandum, that is, that it had been decided not to adopt the suggestion that the

frontier gates be removed. It is quite clear from the meeting of the representative bodies at which the draft memorandum was discussed that they all felt very strongly about the removal of the frontier guard. Yet all these bodies, with the exception of the Trades Council and the GSTP which unfortunately wasn't present, found the Secretary of State's reply to be a satisfactory response to our representations. When I returned from my last visit to Britain I was informed of statements made by the Hon Leader of the Opposition in a GBC interview. I have read a transcript of that interview and apart from the destructive and vague comments on the Secretary of State's reply, it was a tirade against me personally which, having regard to the manner in which he said we ought to go together on these matters, sounded to me rather a little electioneering since that has already been mentioned and let me tell you that the elections are pretty far away still. The point is how should relations between two friendly countries be conducted? The remarks of the Hon Leader of the Opposition in that interview were, if I may say so, an attempt precisely to avoid what I had felt might have been created if the House of Assembly had been recalled in the summer, create animosity between Gibraltarians and Britain. It may not have been his intention, certainly the words are very clearly liable to that interpretation. I had the opportunity of meeting Mr Albert McQuarrie when I was in London last month and he told me that he too was satisfied with the Secretary of State's reply to the letter sent to him by Mr McQuarrie which was made public here and which was in pretty stiff terms. Mr McQuarrie said that I could quote him to this effect and he added that he was particularly glad to note that the Union Jack at the frontier now flies twenty-four hours a day and that if it is floodlit at night thus making the Britishness of Gibraltar absolutely clear to all visitors arriving at the frontier at all hours. We all know Mr McQuarrie doesn't mince his words and he is a staunch supporter of Gibraltar against the interests even of his own party at times because he doesn't have any reluctance to make his position very clear whether the Foreign Office like it or not. So for those reasons there are two aspects of the motion that we cannot agree with now. We have no quarrel with the first part of the motion because that has already been expressed - "This House - notes that Her Majesty's Government has unilaterally decided to remove the ceremonial guard from the frontier with Spain in the knowledge" etc. That is a fact and we accept that as a fact and even though this motion was dated the 14th August, I think that that has not altered in any substantial way. I do not think having regard to the reply that we can live with the second paragraph of the motion because we accept the reply given by the Secretary of State as being one that will stand the test of time. I propose to move that paragraph 2 of the motion be amended to read: "welcomes the decision of the British Government, reached after consultation with the Chief Minister and having taken full account of local opinion, not to adopt the suggestion that the

frontier gates be removed, and the statement that there are no plans to take up this particular proposal in the foreseeable future". The third paragraph, again we could not live with that and I propose that the motion be amended by substituting it and saying: "regrets the decision to remove the ceremonial guard at the frontier but welcomes the assurances contained in the Secretary of State's reply to the memorandum addressed to him by the two political parties represented in the House of Assembly and by the main representative bodies in Gibraltar". We have no quarrel with paragraph (4), we do not propose to alter that, that is an on-going thought that is evident in all our manifestations and even though it was drafted in August it is still valid and it will continue to be valid and for that reason we will support that part of the motion. Mr Speaker, I have tried to summarise the views of the Government. The matter is too serious to attempt to make any political capital out of it and therefore I think the House deserves a full explanation and a full answer to the remarks of the Leader of the Opposition.

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

HON M A FEETHAM:

Mr Speaker, I am going to speak on the original motion.

MR SPEAKER:

You can speak on both, in other words, what I am saying is that if you are going to speak generally you are not going to have two bites at the cherry.

HON M A FEETHAM:

I accept that. Having listened to the Hon and Learned the Chief Minister's response to our motion, it can be considered to be a staunch defence of the view of the Government on the reply given by Sir Geoffrey which he is quite entitled to do. I, of course, fundamentally disagree with him and I shall give my reasons why I fundamentally disagree with him, because the issue of the memorandum itself was based in our thinking in its broadest possible terms on an attempt to approach the problem with unity from both sides of the House on a policy that could give us an opportunity and hope that what was happening around us and I am not limiting myself to taking a parochial view of the situation on Gibraltar's future but what was happening around us in every respect in terms of Gibraltar's relationship with Britain and in terms of the European Community situation that we were trying to do in that memorandum (a) make it clear that we were standing up against any rearguard out-flanking, if I may describe it in that manner, on the part of the Spanish Government, of infiltrating Gibraltar. We were also putting up a staunch defence of a very fundamental position for the people of Gibraltar which time and time again I have

to repeat despite the fact that we have a limited constitutional relationship in certain matters with the British Government and that is that I could never accept, neither would my colleagues ever accept that the people of Gibraltar have no right to self determination and Sir Geoffrey Howe has made it quite clear that the people of Gibraltar have no right to self determination. What Sir Geoffrey Howe has now reiterated is that he will stand by the preamble to the Constitution. In an interview on television, of which there is a record, a categorical question was asked to him and he maintained that reply on three occasions since then despite the fact that a memorandum has gone and come and we have had a reply and he still sticks to the same situation. Yes, on three different occasions, at least I have seen it reported on three different occasions, if I am not wrong I could be corrected, and there is no way that the people of Gibraltar will ever accept that the British Government should not give the people of Gibraltar the right to self determination in the same manner it has given everybody else and everywhere else where they have had a colony, no way will they accept that. Therefore in this memorandum where we made it quite clear that there was a commitment there which we did not dispute that the British Government were disputing anyway or that we felt that there was going to be a weakening of the preamble but what we were saying there as well was that we wanted them to respect our right to self determination and Sir Geoffrey Howe has made no reference to that at all. Neither should it catch us by surprise that there should be a reaffirmation that the British Government stand by sovereignty over the isthmus, we have never doubted that, that is something that we have never ever thought that they would step down from, we have never even questioned that. I don't think that is a satisfactory reply in that respect. But leaving that to one side, Mr Speaker, what was the response therefore by the Chief Minister to primarily the attitude towards this question about continuing good relations with Spain? His attitude was yes, there had to be good relations with Spain and that we are still - this is what the Chief Minister said if I may quote - we are talking about late September, he said that if there was any doubt - when he was in UK - he wouldn't have been there if there was any doubt that the situation was of a serious nature because he thought the climate then had been more friendly than when the discussions on the pensions. At that point in time, in mid-September, the Chief Minister was already accepting what was being basically put over by Sir Geoffrey Howe in his memorandum, at that point in time in his own mind.

HON CHIEF MINISTER:

At what point in time?

HON M A FEETHAM:

I am talking about late in September, I am not quite sure of the date because I am talking from memory, I haven't got such a good memory as he has. In UK he said that if he had any doubt he would not have been in London on the 4th October to speak to Sir Geoffrey Howe and the situation had been more friendly than with the Spanish pensions discussions of November, 1985, you said that. The Chief Minister continues to take a line which I respect. As I said from the very beginning, he is defending his point of view. I am talking from a far more fundamental point of view than the Chief Minister dares to go beyond and that is the difference between us. On the question of self determination we will never ever accept that we haven't got any right and it is about time that both sides of the House took that issue upon themselves and made it quite clear that there should be a categorical statement from the British Government that the people of Gibraltar have got the right to self determination, never mind the question of the preamble to the Constitution.

HON CHIEF MINISTER:

To what? .

HON M A FEETHAM:

Of the right to self determination.

HON CHIEF MINISTER:

Self determination to what?

HON M A FEETHAM:

The right that if ever we wish to exercise the right to self determination we should have that option. That is what we are saying should be clearly accepted by the British Government and that is why we are having so much difficulty and so much frustration felt in this House of Assembly which could do much, much better work in the area of foreign affairs if there was more determination to go along that path on the part of the AACR. But let me continue talking about the path that we are leading ourselves into because I am not trying to take a parochial view, the path that we are leading ourselves down. In our relationship with Britain clearly the Chief Minister doesn't want to take that stand, he doesn't believe it is necessary but the British Government on the other hand has accepted to discuss the question of sovereignty with the Spanish Government. What are we talking about when we are talking about sovereignty? We are talking about the possibility even though they are respecting the rights of the people of Gibraltar as set out in the preamble to the Constitution, they are still talking about overcoming all differences which includes sovereignty.

Where does that lead us when we talk about sovereignty, Mr Speaker, the two sides talking about sovereignty in its wider context? Where will that lead us in the wider context when the AACR starts talking about free association without explaining clearly where sovereignty would lie in that sort of situation and where the option to the right of self determination would be when they talk about comparability with the Cook Islands, for example, where, I understand, the Cook Islands have a unilateral option to independence if they wish to exercise it, so I understand and I stand to be corrected, but I think it goes as far as that. Earlier on this year and subject to an appointed date, we passed in this House what was termed to be the European Communities (Amendment) Bill where sovereignty is being passed more and more onto Europe and where there are very different points of view in the European Community as to whether this is a good thing or a bad thing but we have passed that and the appointed date will be presumably now that they have passed it in Britain yesterday we will soon get an appointed date in Gibraltar where we will all be part of what will lead us to one sovereign state of Europe. That is why I look upon these things further than the question of the relationship between Gibraltar and Britain and the British stand because I like to think that we can look at this in a wider context, how it affects us and why we have got to make a stand in this point in time. One of the staunchest opponents of the Bill was, as you well know, Lord Denning. Lord Denning, after accepting defeat said: "Gone are the days of national sovereignty to be replaced by European unity. Let us forget the issues that divide us, let us give the Single European Act our wholehearted support".

HON CHIEF MINISTER:

After having fought every heavily against it.

HON M A FEETHAM:

I accept that, he made a very strong staunch defence. But we, the GSLP in Gibraltar, did not accept it and you will recall that I made our little stand on that and we will not accept it or concede that that is in our best interests because we haven't got over our own problem of the decolonisation of Gibraltar. So not only do we have to contend now with the issue of sovereignty in our relationship with Britain and Britain's desire to discuss it with Spain and it may take ages, and I recall the Chief Minister saying "it may well have to be decided by future generations" or "it will be decided by future generations" or words to that effect and there are a lot of people, not only in Gibraltar, there are a lot of people elsewhere who believe that that is the path to take. This is where we part ways because I do not believe that knowing such a fundamental issue that faces us and such a grave issue that faces us as the rights of Gibraltarians where we haven't even got sovereignty vested in ourselves, that it can pass now not only from

Britain to Spain should Britain strike a deal but it will go on to Europe and we would still be a colony and be integrated through a different political course of action and Spain could take us over without even putting up a fight, it is a point of view which I want to put on record today and that is we will not go along with that and I think what we need to do is to look at our relationship as it stands today, look at our relationship as it stands with the European Community, try to find a common course of action on the question of the rights of the people of Gibraltar to self determination which is of vital importance and not abdicate it to future generations because history is made today by the people who are facing the problems today, not by those who are coming later otherwise the map of the world today would not be what it is. I was one of those Members on this side of the House who defended with a great deal of determination the question of this joint memorandum when we first discussed it. This was a blue print for a possibility of one difficult area that we are facing as a people, there was a possibility that if we stood our ground that if we were forceful enough, that if we could find a solution by working together that we could begin perhaps to resolve our foreign affairs issue despite the fact that we are constitutionally unable to speak or do certain things, if that side of the House and this side of the House were to get together positively on the issue of the rights of the people to self determination, I am sure that the British Government who are our best friends, and let us not forget that because I am not forgetting that, there will be nobody in Gibraltar whilst there is anybody on this side of the House and that side of the House that would ever try to undermine that relationship because we are around and you are around and I agree with something that was said by the Hon Minister for Economic Development yesterday in his own Party Conference, I don't want to repeat it, as regards certain people that want an accommodation. We will fight it and I thought, quite frankly, that this gave us an opportunity and I see no need today for the line that the Chief Minister has taken. I find it, quite frankly, disappointing and I was really surprised at the beginning, having taken the line that he took initially when he didn't want to come to the House, because nothing that has been said today couldn't have been said at the time, quite frankly, practically nothing, I am surprised that he didn't actually ask for the Public Gallery to be cleared so that he would still not give pleasure to those who would rejoice at our differences with the Foreign Office and other people in Gibraltar, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I think that in the first place I should clarify publicly how it was that the reply to the memorandum was conveyed. First of all, of course, the memorandum was sent to the Secretary of State through the Chief Minister, the Chief Minister acted as the spokesman in conveying the memorandum to the Secretary of State through

His Excellency the Governor, that is the normal procedure, and because that is how the memorandum was sent, the reply came in a similar fashion from the Governor to the Chief Minister - it so happened at the time that I was Acting for Sir Joshua because he was away - and the Governor asked me to consider how the memorandum could most conveniently, what arrangements should be made for the memorandum to be made public to be released to the media. My main concern was to try to ensure that the representative bodies did not learn about the memorandum through television, through radio or through the press, I thought that would have been wrong. But there was an element of urgency in having the memorandum made public, it had arrived on a Thursday, it could hardly be held over until after the week-end and therefore what I advised the Governor was that the memorandum should be made public, should be released to the media concurrently with its release to the representative bodies and that I would convene a meeting for that purpose. The earliest that that could be done to give people reasonable notice in order to be able to make arrangements to attend the meeting was the following afternoon which was a Friday. The Hon Mr Bossano asked me for a copy of the memorandum. It was not in my power, I had no authority to give him a copy of the memorandum because I was not making arrangements to release it to make it public, it was the Governor who was doing that and I had no authority to release that memorandum to the representative bodies in anticipation of it being made public. That was simply the position. Of course, with hindsight I regret that that was the issue which apparently was the main cause why the GSLP did not attend that meeting and with hindsight, I think, having regard to the extent that we had been able to go it together in drafting what was an eminently acceptable, well-drafted, well-reasoned memorandum which contained many important points, I think, with hindsight, yes, it was a pity that they weren't there to consider the reply and with the benefit of experience, had I been faced with a similar situation I would have gone back to the Governor and said either "Hold the reply until I am authorised to release it to the representative bodies" or "authorise me to release it at least to the GSLP who are perhaps more entitled than the other representative bodies to get the reply and I shall make arrangements for the other representative bodies to receive it the following day but give the GSLP an opportunity to come to the meeting prepared". There was no attempt to bulldoze the memorandum at the meeting and that was not the intention because it is far better to get a joint consensus of the memorandum or on the reaction to the reply than to have the situation that we have now. In going for this procedure of calling in the representative bodies and not arranging for a meeting of the House, the Government did not want to defuse the issue, did not want to camouflage the issue, the only concern was that the House should not become the focal point for an anti-British demonstration as would have been the case back in July. In the fourteen years that I have been a Member of this House an emergency meeting of the House has never been

called during the summer recess. We met on one occasion on 27th July but that was because an earlier meeting was adjourned because we knew that there would be something on the Dockyard package at the time. But there hasn't been an emergency meeting of the House and an emergency meeting of the House should be for something very, very serious. I am not saying that the question of the frontier guard was not serious, it is a serious issue but there could be matters of foreign affairs that could be much more serious than that and it is a question of relativity and I think we also have to be careful in the manner in which we approach things that we do not unnecessarily alarm people or lead them to believe that there is something more underhand or more suspicious happening than is actually the case. If a meeting of the House had been held would any greater interest have been evoked in a positive fashion than was actually the case in the procedure that was adopted? I say that because we had many committees involved in considering and discussing the matter, the Trades Council, the Chamber, Housewives' Association, they are all made up of individuals who participated through their committees in these deliberations and reported back to the representative bodies so it was a joint positive effort and we averted the creation of unnecessary animosity and I would like to pose the question whether would the reply have been any more satisfactory to our representations if the matter had been debated here at an emergency meeting? I doubt very much whether that would have been the case even if the motion now before the House, without any amendments, had been passed and conveyed to the Secretary of State even with copies of the Hansard. The Chief Minister made some reference about the fact that the reply comes from the Secretary of State himself and not from Ministers. I was remarking to him a few weeks ago when I was reading a book, it is part of a series of three books that have been written, one called "No Minister", "But, Chancellor" and this third one "With respect, Ambassador" and it is an in-depth study together with a series of interviews which are reproduced in this book about how the Foreign Office works and about how the Foreign Office conducts its affairs. Apparently, when it is said that Ministers in the Foreign Office consider this or consider that or are aggrieved about this or about that, what is really meant, what really happens is that there is a meeting of officials which is presided over by a Minister and, obviously, a Minister presiding a meeting of officials is very likely to be a Minister of State or one of the junior Ministers. I would imagine that in the case of Gibraltar other than in this very serious matter where we have got a reply from the Secretary of State, when we get a reply which the Government sometimes does, "Ministers consider that this and that", it is very likely to be a meeting of officials presided over by Baroness Young who has direct responsibility for Gibraltar or if it is a matter of development aid, presumably, it would have been presided over at the time by Timothy Raison. But that is just as a matter of interest so that Hon Members know what the view is. But there are a number of points,

of course, of considerable significance in the reply. I remember reading in a biography of Lord Carrington how on a number of issues, the Falklands, the question of the re-negotiations on the budget and, indeed, on many matters to do with the EEC, No.10, the Prime Minister and No.10, are by no means ad idem with officials in the Foreign Office. And in this biography of Carrington it is even said that there have been attempts by officials on occasions to torpedo, to work directly against the policy of the British Government on these issues as enunciated by the Prime Minister herself. But notice that in the case of Gibraltar a communication from the Secretary of State includes a mention of the Prime Minister herself and we all know how forthright her views are, how clearcut they are about Gibraltar. In fact, on the issue of self determination the Prime Minister herself has said, yes to independence, if Spain agreed. What I am saying is that the analysis that we should make of this reply to our memorandum should on balance be a positive one because it has got a number of features about it that are very positive and for the political Head of the Foreign Office, the Secretary of State, to be working as closely with the Prime Minister to have the same attitude fundamentally as the Prime Minister insofar as Gibraltar is concerned, I think is a matter that we should not consider lightly, it is in my view highly significant. At the second meeting of the representative bodies, I get the impression that the Leader of the Opposition was being somewhat disparaging about the members of the European Movement that attended, possibly then he qualified it slightly when he said: "Well, the European Movement cannot take a joint view because we are members of the European Movement, the GSLP, and we do not agree", but obviously the GSLP members of the European Movement were not part of the European Movement, they were not representing the European Movement there initially, the European Movement were being represented by independent persons and I can tell the Hon Leader of the Opposition that, in fact, one of the two members of the European Movement argued vigorously on the question of the interpretation, the interpretation that the Chief Minister today has rightly, in my view, put on the words 'foreseeable future', I think in diplomatic language, in parliamentary language, those of us who are involved in the business of politics we know that when you say that you do not think that something will be done in the foreseeable future you just don't contemplate that it is going to be done, it is not on, but she argued very vigorously about that and she took some convincing. The representative of the Chamber of Commerce, whose name I will not mention in the House, thought that it was perfectly acceptable, "there is nothing to argue about, what is all the fuss? We are getting a far better reply, a far more satisfactory reply than what we could ever dream of, what is all the fuss?" And I am not going to repeat here in the House what I said in another place last night about something else that he said about the people of Gibraltar on the question of the frontier guard. But as I say, that is how the matter went. The Government met half an hour

before, we considered the reply, in that half hour we took a view, I think it is the function of the Government to give leadership. We may not agree with the Opposition but the Government has a function to give leadership and we sincerely thought that it was a good reply and that it had many positive features to it, many positive aspects and that we should communicate those. The Hon Mr Feetham has made great play this afternoon on a very serious matter and that is the remarks of the Secretary of State about the question of self determination. When he was asked over television, I think, by Mr Clive Golt, Mr Clive Golt asked the Secretary of State: "Does that mean that the Gibraltarians have no right to self determination?" And the Secretary of State replied: "That is ruled out by the basis of the Treaty of Utrecht and, in a sense, since it is that Treaty which is the foundation of British sovereignty which is so important to the people of Gibraltar, you cannot take one half of the Treaty without taking the other half and the other half is that if Britain's sovereignty ever came to an end then it would revert to Spain". We have taken the view in the Government and the Chief Minister I am confident has communicated that view through the appropriate channels, that the Secretary of State made a fundamental error in those remarks about self determination. First of all, we do not accept that the people of Gibraltar have no right to self determination and the struggle since 1963 there, in the Piazza, was all about self determination so, first of all, we don't accept it even if he hadn't made a fundamental error. But he did make a fundamental error, I have no doubt. What I, am sure the Secretary of State had in mind was independence, that is probably what was at the back of his mind because Clive Golt then went on to say: "So the Gibraltarians have not got the right to self determination?" And he said: "Independence is not an option". Right, independence is not an option in his view though his boss, and she is the boss, the Prime Minister said: "Why not if Spain agreed?" Though I am sure that if you asked Sir Geoffrey: "Can they have independence if Spain agrees?" He will probably say: "Yes, of course, because the obstacle is the Treaty of Utrecht, the option clause which gives Spain first refusal". But I have got another argument as to why I think he was wrong and that is that really when the Referendum was held in 1967 what Britain was doing was giving the Gibraltarians the right to self determination in a limited sense because the option was either to remain under British sovereignty or to pass over to Spain but that was an exercise of self determination within those parameters. Having said and it being clear that we in this House do not agree with the Secretary of State that the people of Gibraltar have no right to self determination, the point that then arises is whether issue should be taken on the matter. I think, if the Hon Members of the Opposition have been agonising as they clearly have been about this matter since June, 1985, they ought to have come forward, they ought to have approached the Government, don't wait for the Government to come to you.

If you have views as I think Mr Feetham, qualms about it and if he is asserting today, affirming that jointly we should ask the British Government for a clear declaration on the matter that ought to have been done previously.

HON M A FEETHAM:

If the Hon Member will give way. We have asked for it in the memorandum. They have given no reply to it at all.

HON A J CANEPA:

The reply doesn't say 'self determination is out' because this is a careful and considered reply and it is clear from what I have read of the interview that what was in the Secretary of State's mind was independence and obviously in skirting around the issue I think what we have to take particular note of is the fact that the Secretary of State has not repeated his previous assertion. About the Chief Minister defending his point of view as vigorously as he has done and as he continues to do, well, why not? I think his point of view and his approach over the interests and the wishes of the Gibraltarians and in defence of their rights over the years prove to have been the correct approach. He has succeeded on the vast majority of matters in getting the British Government to work with us, by and large. What rebuffs have we had? The 24 hour issue over the frontier where we were set up by Mr Peter Isola and allowed ourselves to be bamboozled against our better judgement. On this issue of the frontier guard yet related to this we have managed to take them along with us on the question of the gates and the reservation that was entered into by the Chief Minister on the question of the discussion on sovereignty over the Brussels Agreement. But I think that looking back over such a long period the position of the Gibraltarians today in spite of everything that has happened in the last twenty-two or twenty-three years, their resolve, their identity as a people is no weaker, if anything it is stronger because it is on a better informed basis, perhaps in the early 1960's our reaction was an emotional one but today it isn't just that, it is not a question of emotion, it is a question of the Gibraltarians adopting the approach and the attitude that they adopt on the basis of information, on the basis of awareness, on the basis of maturity and that is what I think is the greatest achievement of the Chief Minister and of those of us who have supported him over the years in framing, in fashioning and nurturing the sense of identity of the people of Gibraltar, their awareness of what is important and their willingness to protest and resist about anything that goes against their interest. If we have made the fuss that we have made about the removal of the frontier guard what would not the people of Gibraltar be prepared to do if something serious was really at stake? And that is the thought that I would like to leave with Hon Members.

The House recessed at 5.10 pm.

The House resumed at 5.50 pm.

HON J E PILCHER:

Mr Speaker, I will be basing my intervention on the amendment and reserving my right to speak on the overall motion at a later stage. I would like to tackle the amendments very quickly, Mr Speaker, because I think that irrespective of what I am going to propose at the end of my very short intervention, we nevertheless have to answer both these amendments so that it lies in record what we feel about the two amendments in question. The first amendment is an amendment which removes our paragraph (2) and puts a new paragraph (2) which welcomes the decision of the British Government reached after consultation with the Chief Minister and having taken full account of local opinion, not to adopt the suggestion that the frontier gates be removed and the statement that there are no plans to take up this particular proposal in the foreseeable future. There are two points to be made on that, Mr Speaker. The first point is that this position was the exact position which was arrived at shortly after the announcement and which following a television interview given by the Hon and Learned the Chief Minister, he said that this particular proposal was on ice and that meant - I might misquote him - but he said: "It is like a mammoth on ice in the North Pole". This was, of course, before the memorandum so having said that it was on ice, having accepted that the thing was on ice and in the North Pole he then went with the memorandum which asks even further clarification. If what the Chief Minister is telling us is that 'in the foreseeable future' goes even further than the North Pole then, Mr Speaker, this is something that we cannot accept. I personally do not like the term 'in the foreseeable future'. I was a trade union convener in 1980 when the Chief Executive Royal Dockyards came to Gibraltar and said to us: "The Dockyards will continue to be open for the foreseeable future". In 1981 he came back to Gibraltar particularly to announce the closure. When I questioned him on this he said to me: "That is political talk" and I have to tell the Hon. Mr Canepa who has been a politician many, many more years than I have been that 'in the foreseeable future' can mean various things. If you don't want to do something but you know you have to do it you just say 'in the foreseeable future' because that leaves the door open for you to do it whenever you feel that you have to and 'in the foreseeable future' is a time factor which is not actually conditioned to anything, it is only conditioned to your own interpretation of that. That deals with the first amendment. The second amendment is our expression of concern that Her Majesty's Government might be interpreted as a weakening. That is changed to a section which regrets the decision of the removal of the ceremonial guard but then welcomes the assurances contained in the Secretary

of State's reply to the memorandum addressed to him but, of course, it is welcoming the assurances and it is welcoming the whole letter. The Hon Leader of the Opposition has made quite clear that the reply to the memorandum does not go far enough in actually determining the points that the memorandum asked for and therefore although we also welcome certain assurances and let it not be doubted at all that we welcome the assurance of the preamble to the Constitution, we welcome the assurance given by the Prime Minister herself, we welcome the fact that it is now clear that the territory of Gibraltar is accepted by them, it has never been doubted by us, but all these things we welcome but nevertheless we cannot welcome the whole of the reply because of the points raised by the Leader of the Opposition. But notwithstanding all that, Mr Speaker, we have, I think, on both sides of the House firmly placed on record our opinions about our initial paragraphs (2) and (3) and I have certainly placed on record our reaction to the amendments (2) and (3). What I would like to ask, Mr Speaker, is for the Hon and Learned the Chief Minister to withdraw the amendments on paragraphs (2) and (3) and we on this side of the House will withdraw our initial paragraphs (2) and (3). That will leave us open to actually discuss the main part of the motion, which I think we have already got a consensus on, and it is really paragraphs (1) and (4) of the motion that is the meat of the motion. Noting the removal of the frontier guard is still there and the other one is expressing our concern which we have already expressed on both sides and I think it is on record that we, certainly on this side, express our concern about the weakening of the Gibraltar position. Mr Speaker, with that I will end my contribution.

MR SPEAKER:

Perhaps then the Hon and Learned the Chief Minister will reply.

HON CHIEF MINISTER:

In the first place on the point made on the first amendment, the words 'on ice' was my wording, the words 'foreseeable future' is the Secretary of State's wording and I attach more importance to what he says about Gibraltar than what I say because he has got the last word on the matter for as long as he is Secretary of State, so that is why I attach more importance. I did say 'the matter should be put on ice', that was my advice and following on the representations in the memorandum, they said the wording that we have mentioned. I want to make quite clear that there is a difference in that, the first wording was mine and the second wording is the Secretary of State's. With regard to the other one, of course, everything is not negative and since the sentiments in the first and fourth paragraphs are common and we try to look for common ground in this House, I am quite happy but I am not quite sure whether what the Hon Mr Pilcher suggests is that

we do away with that and we go on happily on the other or we take a vote on the two points on which we are all agreed, are we going to carry on arguing about something we agree?

MR SPEAKER:

The position, from what I have heard, would be that if you agree to withdraw your amendments we will then have the motion as moved by the Hon the Leader of the Opposition and then an amendment will be moved by someone in the Opposition deleting paragraphs (2) and (3) of the original motion and then we will have paragraphs (1) and (4).

HON CHIEF MINISTER:

And that is going to be the end because one of the virtues about this is finishing quickly for the benefit of everybody.

MR SPEAKER:

May I take it then that the Hon and Learned the Chief Minister is withdrawing his amendments?

HON CHIEF MINISTER:

Yes, I do.

MR SPEAKER:

May I take it that he has the leave of the House to withdraw his amendments?

The Hon the Chief Minister obtained the leave of the House to withdraw his amendments.

MR SPEAKER:

Therefore we now stand as we stood when the Hon the Leader of the Opposition moved his original motion and I take it that there will be a Member of the Opposition moving an amendment.

HON J C PEREZ:

Mr Speaker, I would like to move an amendment to the motion by deleting paragraphs (2) and (3) and renumbering paragraph (4) as paragraph (2). There are a couple of things which I think need.....

HON CHIEF MINISTER:

If the Hon Member will give way. I wanted to make a statement at the same time in answer to something that Mr Feetham said purely for the purpose of accuracy. Mr Feetham said that this document contained all the issues on which we were ad idem and it was a pity we couldn't have pursued it together and he said that we were asking in the document

for the right of self determination. The petition doesn't say that, the petition takes it for granted that we have it, in fact, paragraph (4) says "We do not question the fundamental position of Her Majesty's Government that it will maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble", so, in fact, it is there and there has been no rebuttal. I wanted to make that clear because otherwise it would give the wrong impression. That is all and I hope that there will be no need to, apart from whatever remarks the Hon Mover of the last amendment can make, we can, in fact, call it a day.

HON J C PEREZ:

Mr Speaker, in moving the amendment let me say that at least there is a point in the new paragraph (2) which outside of the House was not satisfactorily replied by the Secretary of State and therefore it is a welcome sign that although the Members opposite have welcomed the reply of the Secretary of State that they should still be reaffirming the position adopted in the memorandum which we were unhappy about the omission on some of the aspects contained in the new clause (2). I think there are a couple of points that I need to clarify on the contribution by the Hon Mr Canepa over the calling of the emergency meeting of the House. It has been said this afternoon that the Government thought that it could create anti-British feeling and that that is why they opted for it. Let me say that one of the considerations taken in the party calling for the meeting of the House was that the Hon and Learned the Chief Minister at the time of the Brussels Agreement when there were demonstrations and when there was very high feeling, told us that the proper place to bring these things was at the meetings of the House of Assembly and that was taken into consideration when deciding to call an emergency meeting of the House. Taking into account that at the time of the Brussels Agreement the issue was, in my understanding, much more serious and could have led to much more anti-British feeling than what the guard issue might have led to, I would have thought that the stand taken by the Chief Minister in not calling a meeting of the House is unjustified with respect to the comments he had made previously over the Brussels Agreement. I had other things to say but since we have already reached agreement, only to remind Hon Members opposite because the Hon and Learned the Chief Minister said that the Leader of the Opposition wants to hold the reins of everything in respect of the future of Gibraltar or our relationship with Britain and I would remind him that for the first time, I think, in this House there was consensus on very important matters. We were all united on what we were asking for, it is not that we wanted something and they wanted something different and where we have differed is in the reply that has come back in very great essence because of the omissions in the reply rather than because of what the reply contained. One can agree with the reply

but it doesn't go far enough and that is why I am happy that the original paragraph (4) which is now paragraph (2) is contained there because there are things in that paragraph which, in my view, have been ignored by the Secretary of State and a reaffirmation by all the Members of the House who signed the memorandum originally is very important in that it is down on Hansard and it happens after the reply of the Secretary of State that we are saying "We are reminding you that what we said in the memorandum still stands and it is the House of Assembly and the elected representatives of the people of Gibraltar that are saying it". Thank you, Mr Speaker.

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

MR SPEAKER:

Does any other Member wish to say anything on the motion? Does the Hon Leader of the Opposition wish to reply?

HON J BOSSANO:

Let me say that I welcome the fact that we are able to carry the motion unanimously because, for the reasons I said before, the satisfaction that we felt at the joint memorandum was, we thought, a step forward and then we took a step back in the reaction to the letter of the Secretary of State. I know that the Hon and Learned the Chief Minister has said that it is a question of judgement to what extent that reply is satisfactory or not and I am grateful to the Minister for Economic Development who has said today that perhaps with the benefit of hindsight it might have been better if we had had an opportunity to look at it. Clearly, from our point of view we didn't expect the decision to be taken when people were handed the thing, this is why we just sent somebody to pick it up, perhaps otherwise we would have made the point there and then that we needed time to study it and that it was unfair to take a decision at that stage. I think I need also to put the record straight on the question of the representative bodies. The representative bodies have a useful function, Mr Speaker, if we want to sound opinion on issues and this is what I said before and I am repeating the same thing I said before because the Chief Minister and, to some extent, the Minister for Economic Development were creating the impression here which I have not created, that I am saying 'scrap the representative bodies'. But the people in the representative bodies are not politicians and I have no doubt that if we had gone with the reply of Sir Geoffrey Howe and got the representative bodies on their own and put the reply in front of them and they hadn't taken it back to look at it coldly and discuss it with anybody and we had said: "We feel very strongly that this is what we need to do and we feel very strongly that we should come out saying this is not satisfactory" and the Government

had not been there to put a contrary view, the odds are that the people there would have been convinced by our arguments, it is natural that they should be because they are representative bodies representing areas of the community just like it was quite obvious to us as it was to the Government in the first meeting that the Chamber of Commerce was lukewarm, shall we say, about the original memorandum and that consequently they would have been overjoyed at the reply whatever the reply. It was obvious to all of us who were there in the first meeting and we were not surprised by what the Minister has said about how satisfactory they found it. I think in a way it is symptomatic of our original position, that they found it so satisfactory perhaps is why we don't find it satisfactory. I take it if the Government was able to decide in half an hour that it was a satisfactory reply, fair enough. We certainly took more than half an hour to come to that decision ourselves. Perhaps if we had had the thing a couple of hours before the meeting we might have been able to give an initial reaction but, let's face it, the reality of it is that if our reactions have been as they have been on the Government and on our side, I don't think really we would have come to a different conclusion and even if we had spent more time it is obvious that we might still have parted ways. But the fact that we have gone the way we have on the motion notwithstanding our differences, I take it as an encouraging sign that there is the same desire on the part of the Government as there is on the part of the Opposition to try and see what are the possibilities of working together where we can work together on fundamental issues.

HON CHIEF MINISTER:

Before the Hon Member sits down I would like to clear a point. I wasn't here but the Ministers did not decide that it was a satisfactory reply in half an hour. They had had a meeting, the Ministers had met before they met the representative bodies.

HON J BOSSANO:

Well, half an hour was what the Minister for Economic Development said, I don't know whether it was taken literally but that is the impression we got, anyway. But I can tell the House that we certainly spent two or three hours in a committee meeting deciding whether the reply was enough or not enough and we came to the conclusion that it wasn't, that on the whole it was negative. The point that I am making is that notwithstanding that difference and notwithstanding the differences we may have on other matters as we have seen in a number of Bills and so forth in the House, we take that the position of the Government in withdrawing their amendment and we will withdraw the paragraphs is that there is still the will on that side of the House as there is on this side of the House to continue to see where we can work together on fundamental Gibraltar issues

whenever it is possible and I want to put on record that that is still our position. I think also one thing that we have not made reference to in the reply which I think again is necessary to put down for the record is, I gave a number of examples in opening on my motion of how Her Majesty's Government or the Secretary of State conveniently picked up things that were in the memorandum or even things that were not in the memorandum to say that they agreed with it and they conveniently omitted the things that were there which we wanted them to agree to. One of those was the reply that the specific question of the removal of the Spanish guard was, in the view of Sir Geoffrey Howe, one for the Spanish Government and that Her Majesty's Government had urged them to follow their lead and would continue to do so. We hadn't asked him to urge the Spanish Government to do anything, in fact, we had said in the memorandum the very opposite. We had said in the memorandum "the view of the people of Gibraltar would still be the same even if the Spanish guard had been removed" so we were saying to Sir Geoffrey Howe "this is the memorandum we are sending you and had the Spanish guard been removed we would still be sending you the memorandum". And he says to us "Well, the specific question of the removal of the Spanish guard is one for the Spanish Government". We haven't put a specific question about the Spanish guard. I don't know whether with all his years of experience the Chief Minister is able to read the opposite of what it looks like to me in this one as he does in the rest of the letter but to me it is quite clear that this is just a way of the British Government restating their position and this is why we find it unsatisfactory but we are happy that at the end of the day at least, if we are not able to agree with Sir Geoffrey Howe, we are able to agree on this one with the Government and that the motion will be carried unanimously.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary were absent from the Chamber.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I would like to move that the House meet on the 2nd December with the sole intention, if it is ready, to deal with the Committee Stage and amendments that will be brought to the Traffic Ordinance. If the draft is not ready then some of us will have to come here and adjourn and, in any case, unless something untoward happened the next full meeting of the House will be on the 16th December. But we will come on the 2nd December and if the amendments are ready we will proceed with those and with nothing else. I so move.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday 2nd December, 1986, at 10.30 am.

The adjournment of the House to Tuesday the 2nd December, 1986, at 10.30 am was taken at 7.00 pm on Wednesday the 5th November, 1986.

TUESDAY, THE 2ND DECEMBER, 1986

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, CBE, LVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon G Mascarenhas - Minister for Education, Sport and Postal Services

OPPOSITION:

The Hon J Bossano - Leader of the Opposition
The Hon J C Perez

ABSENT:

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 E Thistlethwaite QC - Attorney-General
The Hon B Traynor - Financial and Development Secretary
The Hon J E Pilcher
The Hon M A Feetham
The Hon Miss M I Montegriffo
The Hon J L Baldachino
The Hon R Mor

IN ATTENDANCE:

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

MR SPEAKER:

Gentlemen, we will resume the adjourned meeting.

HON CHIEF MINISTER:

Mr Speaker, you will recall that at the last meeting I indicated that there might be a possibility that the amendments to the Traffic (Amendment) Bill which has had First and Second Readings already, incorporating certain arrangements that have been arrived at between the Government and the Taxi Association, might be ready and we might have met today to deal with that only because there is a desire on all parts that that matter should be expedited. As it happens we have received a draft Bill which has not yet been considered but another factor has prevented us from proceeding and that is the question of judicial proceedings that have been instituted in the first place, one judicial review was heard and disposed of and then there is another one pending. As I indicated then the idea is that the adjourned proper meeting the last meeting of the year would be on the 16th December and I will so move but I would like to indicate that I understand that the 16th December is the same day that the court has fixed for the hearing of the judicial review so it might well be necessary to proceed and finish the Traffic Ordinance which provides for the working of the examination centre which is essential and leave the rest of the proposed amendments which, in any case, would have to be circulated and looked at by Hon Members and not just bring them here as amendments, with time. Having regard to those circumstances and anticipating one of the two things that could happen, either that we will be ready or that we wouldn't be ready, it has happened that we are not ready and there are reasons for not being ready and therefore I move that the House 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 10.40 am on Tuesday the 2nd December, 1986.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

16TH DECEMBER, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fourteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 16th December, 1986, at 10.30 a.m.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, 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 Zammit - Minister for Tourism
The Hon Major F J Dellipiani ED - Minister for Public Works
The Hon Dr R G Valarino - Minister for Labour and Social Security
The Hon J E 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 3rd November, 1986, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) The Biennial Report of the Department of Education for the period September, 1984 - August, 1986.
- (2) The Educational Awards (Amendment) Regulations, 1986.

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.3 of 1986/87).
- (2) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1986/87).
- (3) Supplementary Estimates Consolidated Fund (No.3 of 1986/87).

Ordered to lie.

ANSWERS TO QUESTIONS

MR SPEAKER:

I have been informed that Mr Pilcher is unable to attend due to circumstances beyond his control so we will defer the questions being asked by Mr Pilcher until later. Would you call the next question then.

HON J BOSSANO:

Mr Speaker, before I proceed with Question No. 261 I would like to make a brief statement which I brought to your notice regarding an incident that occurred last night which I believe is a matter of public importance and a matter which I think must give rise to concern for all Members of the House when I bring it to the notice of the House. Last night I was accosted outside my house by a young man who claimed to be unemployed and unable to live on the £45 supplementary benefit that he was receiving and he became abusive about Members on both sides of the House about the lack of concern for his plight. I remonstrated with him since he did not seem to be in full control of himself either because he was agitated or because he was perhaps in a state of inebriation, I am not sure which, and because I said to him that when he was in a more controlled state perhaps he should approach me and I would see whether there

was any grievance that should be brought to the Government's notice, I was physically assaulted. I don't hold the person concerned, Mr Speaker, responsible in the sense that I think that a situation like that is a symptom rather than the cause of an illness but it is something that, quite frankly, has sorely shaken my faith in human nature and my belief of the kind of society we have in Gibraltar. It is the kind of thing one hears about happening in the slums of New York not on one's doorstep in a Government Housing Estate and I feel that it is serious - I am sure Members on the opposite side may agree with me - that whatever our differences on matters of policy we are all here in this House out of a sense of service to the public and that one should find oneself at the end of physical aggression because of insufficiencies of the system must of necessity, I think, concern the House and it is something that we on both sides of the House must address ourselves to because it would appear to me that if Gibraltar has gone so far down the road of lack of security and civil disorder to the extent that this sort of situation can happen to a Member of the House and presumably to any other citizen, we must concern ourselves to ensure that these situations do not arise and we must also address ourselves to the sufficiency of our welfare system if we give rise to that degree of discontent that people feel so strongly. I am sorry that I have felt the need to interrupt the proceedings of the House to bring this but I really feel quite upset about the situation. As I said, I do not intend to take any proceedings against the individual but I believe the House should be aware of this and give it serious thought and that the Government will realise that this situation is something that all Members of the House must stand up and speak against and I am sure, Mr Speaker, you will look into the situation where the privileges or the protection of the Members of the House are in any way put at risk by an incident like this.

MR SPEAKER:

I must most certainly express my concern at the fact that such an incident has taken place and I am sure that the House joins me in expressing such concern. The incident has taken place outside the precincts of the House and therefore the privileges and protection granted to Members in the execution of their duties I don't think have been breached. As I say, it is a matter for concern and a matter to be looked into and I will most certainly take it up with both the Chief Minister and yourself at a later stage.

HON CHIEF MINISTER:

Mr Speaker, I naturally very much regret the incident. I don't think the reference to it is an opportunity to talk about the justice of the system or not, such as it is in Gibraltar. Everybody has a right to move

about his business without being interfered with whether he belongs to the Government or to the Opposition. Of course, Members of the Government and the Opposition in the eyes of the public have more responsibility than others and no doubt some excitement or other forms of upset at certain times make some people think that we are the cure for everything that goes on wrong in society. Certainly we very much regret the incident and we naturally are concerned that people should have recourse to this, whether justified or not, assault is never justified in law and we are very sorry. We are glad to see that he has survived reasonably well.

The House recessed at 1.00 p.m.

The House resumed at 2.45 p.m.

Answers to Questions continued.

THE ORDER OF THE DAY

MOTIONS

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. This is the Social Insurance (Amendment of Contributions and Benefits) Order, 1986.

MR SPEAKER:

Do you wish to speak on 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 33% for a single person. At the time of carrying out the review, the latest available Employment Survey was that for October, 1985, which gave the average weekly earnings as £133.99. On this basis it is proposed that the standard rate of Old Age Pension for 1987 to £67 (instead of £62.80) for a married couple and £44.70 (instead of £41.90) for a single person. These new rates represent increases of approximately 6.7%. 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. Similarly,

the benefits paid under the Supplementary Benefit Scheme will also be increased by approximately 6.7%. It should be noted that between October, 1984, and October, 1985, the index of retail prices only rose by 4%. The disparity between this increase and the increase in average earnings is mainly due to the exceptionally high level of overtime worked in the public sector as a result of the full opening of the frontier. It may therefore be necessary in the future to review the basis of the statutory formula for the calculation of old age pensions if reference to average earnings continues to present a distorted picture in relation to actual increases in the cost of living. The proposed increases in benefits are estimated to bring the total expenditure on the Social Insurance Fund for 1987 to £16.3m. This figure includes the cost of Spanish pensions at 1987 rates. I must make it perfectly clear, however, that in reviewing contributions no account has been taken of the Spanish pensioners entitlement to current rates of benefits. This is a matter which is still under discussion with the UK Government. The value of the Social Insurance Fund stood at £13.67m in April, 1986. Taking account of the £4.5m committed towards the cost of Spanish pensions, the balance of £9.17m represents well under two years expenditure on 'local' pensions at the proposed 1987 rates of benefit. It is therefore proposed to continue increasing contributions by an amount which will provide a surplus of income over expenditure on 'local' pensions. The increases in contributions proposed for 1987 are identical to the 1986 increases, i.e. £1.23 a week for an adult (£0.62 from the employer and £0.61 from the employee). This will produce an estimated surplus of income over 'local' expenditure of £443,465. In percentage terms the increases represent 9.2% as against 10% last year. Two other measures which it is proposed to take on social security are an amendment to the Social Insurance (Contributions) (Amendment) Regulations to allow a voluntary contributor to get credits if he becomes totally and permanently incapable of work. The other is an amendment to the Social Security (Non-Contributory and Unemployment Insurance) Ordinance to enable a person who becomes unemployed to obtain unemployment benefit if he is available and capable of work, even after being away from work as a result of his sickness for a long period. As I stated earlier in reply to a question, the amending legislation for this purpose is not yet ready and I propose to introduce a Bill to give effect to this measure at the next meeting of the House. Sir, I commend the motion to the House.

Mr Speaker 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 the new element that the Hon Member has introduced is the indication of a possible change of policy in the future calculation of pensions by reference to the index of retail prices as opposed to average earnings. I know that the Hon Member has made only a passing reference to this but it is, of course, an important matter of policy because there was a policy decision taken by the House - I think it was as far back as 1976 - to link, I think it was in response to a motion that I had moved in 1976 that the Government committed itself, Mr Speaker, to introducing this in the legislation in 1976 and, in fact, they did so when they were returned to Government after the 1976 election. I think it needs to be understood that when it was decided to follow this particular road it was in the knowledge that pensioners would be, in fact, protected by being given the best of the two options, that is to say, that where the cost of living was higher than the increase in average earnings pensions would be revalued according to the cost of living and where average earnings were increasing faster than the cost of living which essentially means where there is an improvement in the standard of living essentially one assumes because the amount of wealth being produced has increased and consequently a share of that wealth is being distributed through earnings, part of that wealth is transferred to pensioners and it is transferred to pensioners by the people who are working and I think that one should not forget that the Hon Member has said that although the increase at 6.7% is in excess of the rise in the index, the increase in the contribution at 9.2% is even greater. The mechanism which we support and which we would not like to see done away with is a mechanism which essentially ensures that if those who are at work improve their standard of living then they make a bigger contribution through their insurance so that part of that improvement in the standard of living is also obtained by the people who have in the past contributed to the economic activity of Gibraltar and who are now, as it were, dependent on the production of wealth by those who are employed. Therefore we want the Government to understand that if they are looking at that area and if they are contemplating that we will certainly be very loathe to see a departure from a policy which we consider to be a progressive policy which I welcomed in the House when I was here, my colleagues were not, but which we support and which we would like to see a continuation of.

HON A J CANEPA:

Mr Speaker, having been closely involved with the introduction of the present formula, in fact, I brought the legislation to the House in 1976, naturally I can say without hesitation that the matter is one which is very close to my heart and it is a progressive measure, it was then and it continues to be for as long as it is

naturally implemented and applied in the way that it has been and it is one that I would be very unhappy to see done away with. The Minister has indicated that some thought is to be given to the matter as to whether the basis of future increases should be strictly the movement in average earnings or whether they should be the movement in the index of retail prices. I think you could probably say that for some years now, certainly since the advent of the Thatcher Government in the United Kingdom except for 1979, I think that since then prices have probably moved less so than average earnings. The increase in prices, by and large, in the last six or seven years has been less than the increase in average earnings but certainly that was not the position as I remember in the middle 1970's when the rate of inflation even in Gibraltar was at least around 20% a year and higher than the increases in average earnings at the time and therefore had there been a formula being applied at the time, had it been on the basis of the index of retail prices, for some years the increases would have been greater. That is now what happens, for instance, with the other pensions which are index related. If they are index related according to the cost of living it is very difficult to predict over a period of time depending on the state of the world economy the measures that are adopted in Western Europe which are going to move more quickly. It so happens that in the last five or six years average earnings have tended to increase rather less so on average than the cost of living. As I say, I think it is a matter that can be looked at. I would hope that there would be, never in any case, any abandonment of the fundamental formula. In other words, that if there were to be a move to a cost of living formula that it wouldn't be a backward looking matter, it wouldn't be introduced retrospectively and therefore we were to say: "Had we had such a formula since 1976 pensions should only have increased by so much, they have now increased by much more than that, therefore we are ahead and for five or six years we didn't increase pensions". I don't think that that is realistic. The ultimate test in all this and let me say that personally my preference is unquestionably the present formula and that I would advocate for its continued use, the ultimate test is to what extent the labour force, to what extent contributors are prepared to continue to finance this level and to sustain this level of pensions because the increases have to be met by increases in contributions, there is no getting away from that. And whereas during the first six years or so after the introduction of the formula in 1976 we were increasing pensions in percentage terms by a bigger percentage than contributions, I think there has been a reverse of that position and in the last three or four years contributions have been increased in percentage terms substantially more than have the increases in pensions even though they are based on average earnings. What is now happening in Gibraltar, Mr Speaker, and

It is a matter that we should all dwell on and think carefully, is that you have got a labour force and therefore a number of contributors, the labour force is around 12,000, if you add the self-employed perhaps there are 12,500 or 13,000 contributors sustaining the pensions together with what the fund earns from investment, sustaining a very good level of pensions but with an ever increasing number of pensioners. I think that the number of pensioners is still increasing at more than the normal rate because the scheme has even now only been in operation for thirty-one years and therefore it takes a normal working lifetime, let us say from the age of eighteen to the age of sixty-five which is forty-seven years, it is not until the scheme has been in operation for forty-seven years that I would submit that you have reached at the normal peak that you would expect to reach of the highest number of pensioners but then you also have to take into account the added factor of longevity, people today are living to a greater age than was the case when the social insurance scheme started in 1955. There is an ever increasing burden on the contributors. I think the acid test is for how long are people prepared to sustain that. At the moment the social insurance contributions are allowable against taxation which is a fairly common practice in the EEC but what is not fairly as common is that not only do we allow contributions to be set off against tax but pensions are also tax free and I do not think that there is any country in Western Europe that has got that dual set-up, they either have one or the other. The fact is that if we continue to increase pensions at the rate that we have been doing for the last ten years they are going to be worth a great deal because a level of pension of £67 a week for a married couple tax free is worth a great deal more than that. Any married couple with children earning average earnings, say, £133, when you work out on £133 a week the amount of tax payable, the social insurance contribution you deduct it from that, the net figure is not that high by comparison. We are sustaining an ever increasingly larger number of retired people at a very comfortable level particularly if they have an additional pension. I am confident that we are still able to move ahead in the way that we have been because even now the total social insurance contribution as a percentage payable per week as a percentage of average earnings is far lower than what it is in the United Kingdom. I think that in the United Kingdom between employers' contribution and employees' they are paying something of the order of 13% or 14% of average earnings I think is being paid and we are much lower than that, probably half of that. I feel that there are a number of considerations that have to be kept at the back of our minds and I hope that we never reach a situation when, in fact, the burden on the labour force is an intolerable one and people are going to kick against it and are going to complain because they are going to say that married people with family responsibilities are being asked to bear the burden for the benefit of retired people, a burden that they feel is not justified.

Over the years retired people in Gibraltar were not that comfortably off, the level of pensions was low and you could hardly say that people could retire and live decently and comfortably on their old age pension even if they had another pension but we may well move over the next decade into that situation with more and more people being covered by occupational pension schemes, with the level of occupational pensions for people retiring, certainly from employment in the Crown because with the advent of parity naturally the level of occupational pensions is very, very much higher and with the improvement in social insurance pensions we have to be careful that we don't create a class of people aged over 60 or over 65 which is compared to people in employment far too comfortably well off. As I say, to sum up, whereas my view is that we can certainly or we should continue to follow these progressive policies for some years to come, I think the factors that I have mentioned should always be kept at the back of our minds and let us hope that the economy continues to grow and that we are able to afford this level. I certainly hope so because, as I said originally, it is a matter that is very close to my heart.

HON M A FEETHAM:

Mr Speaker, there is one point that I wanted to raise with regard to benefits and that is in the area of widows' benefit. As the law stands at the moment it will require a policy change. The impact, I think, would be insignificant as far as the Social Insurance Fund is concerned, but the fact that if Government accepts the change it will help the widow, in particular. I think it would be of great benefit if the Government were to reconsider. At the moment widows' benefit is paid if she is over the age of forty and I am wondering whether Government would consider waiving that age limit and having no age limit because if you look at the statistics available you will see that, in fact, the number of cases that arise are few and far between. We have had a couple of cases recently where because the widow was under forty nevertheless her late husband had made substantial contributions to the Social Insurance Fund and she missed out in that particular case. There was another case about two year's ago. It struck me at the time when representations were made to me on this matter which I took up with the Department, that it would be a good time at this time of the year when you are looking at benefits for Government to think again. I would accept it if statistics showed which fortunately enough it doesn't show, that we were having young men dying or older men leaving younger women as widows but this is not the case, it is the odd occasion and I don't think we ought to in any way victimise or discriminate against a young widow or anybody under forty and I am wondering whether the Government will reconsider its position on that.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, I thank the Hon Gentleman for his comments. He is talking about widows' pensions because it is now payable to a woman who is aged forty and has children at school. In the United Kingdom the age was forty-five and it was brought down to forty and they have followed our guidelines of widows aged forty who have children in school. It is usual that at forty at least one child is in school but as the Hon Member quite rightly points out, there have been two cases in the last two years and, in fact, the last one missed getting the widows' pension by a matter of months and mainly it was because her husband had died and they were in such a hurry to put the son in the husband's position at work that they removed the son from school and obviously she then didn't qualify for the widows' pension. It would probably be impractical to do away with it altogether but let me say that I will give due consideration to whether we can lower it for a number of years therefore trying to alleviate the problem so that these cases do not arise again. Thank you very much.

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, this is my second motion. 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 am sure that the motion has been circulated and leave is granted.

HON DR R G VALARINO:

Thank you, Sir. 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 6.7% as from the 1st January, 1987, in line with the increase in benefits under the Social Insurance Ordinance. Injury Benefit for a man with a dependent wife goes up from £47.46 to £50.47 per week, with additions for children; gratuity on death due to an industrial accident from £10,710 to £11,430 and likewise for a 100% disability (or a weekly pension of £40.60 instead of £38.15). The weekly contributions under this Ordinance currently stand at 22p (11p each from employer and employee).

Expenditure on benefits continues to increase and it is accordingly proposed to increase contributions for 1987 by 18%, i.e. 2p increase for each employer and employee. The value of the Employment Injuries Insurance Fund stood at £1,839,553.16 in April, 1986. I believe this figure was asked by the Hon the Leader of the Opposition last year. 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 note, Mr Speaker, that the Government this year is seeking an increase in the contribution to this particular Fund whereas in the past we have generally been told that the investment income of the Fund tended to be sufficient to meet the demand made on the funds. Is this an indication of an increase in the number of claimants, that is, an increase in the number of industrial injuries? I know that independent of the question of the provision of the benefit there is some concern about the apparent inadequacy of protection at work against industrial injury and I think both in the construction industry and in the commercial dockyard there has tended in the last year to eighteen months to have been a higher incidence of industrial injuries and industrial accidents then used to be the norm in the public sector and that used to be the norm in the Naval Dockyard. I think what is perfectly reasonable is for the House to make sure that it supports that the Fund should be in a healthy financial position to meet demands on it but it isn't, in fact, a fund where the less demands on it the better because unlike unemployment benefit and unlike old age pension, industrial injuries is something we can all do without so really it is a situation where we need to look at it from two angles, I think. One is to say, okay, if there are a lot of injuries let us make sure that we vote to increase the contributions so that there is money there but I think if we are finding that we are going to vote an 18% increase in contributions, that somehow seems to suggest that there is a pay-out in injuries which indicates a higher level of injuries since we are increasing the amount of benefit by 6%. I would welcome a comment from the Hon Mover of the motion if, in fact, what we are facing here is a need to increase contributions because there are more benefits paid out, i.e. because there have been more industrial injuries and industrial accidents.

MR SPEAKER:

Any other contributors? I will then call on the Mover to reply.

HON DR R G VALARINO:

Mr Speaker, Sir, the Hon Leader of the Opposition is perfectly right. There have been a greater number of accidents at work this year than has been in the past. This is one of the reasons why we have tried to bolster up the Fund but I agree totally with him as well that the less number of injuries at work the less amount we pay out so this is something that we have to in the future make sure but there have been certainly more injuries at work. He also mentioned the interest of the Fund as well and this, off the cuff and I think I am right, did not produce enough figures so therefore we are increasing it by 2p which is 1p basically more than we did last time in order to make the fund as healthy as possible. He is right as far as the first point he brought forward.

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

HON DR R G VALARINO:

Sir, this is the third and last motion I am moving before the House. 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, it will be taken as read, it has been circulated, anyway.

HON DR R G VALARINO:

Thank you, Sir. Sir, this is the third and last motion and deals with Unemployment Benefit. When these benefits were increased last year, the Hon Leader of the Opposition made a case for reviewing the whole basis of these payments, i.e. the length of time over which they were paid and the level of the benefits themselves. I have given these representations very careful consideration and have decided that there are not sufficiently good grounds for any change at this time. Quite apart from the financial aspects which would have represented a substantial increase in contributions if the period of unemployment benefit had been extended or the rates of benefit increased beyond the standard percentage. I have been guided by the following two major considerations: (1) the prime object of unemployment benefits is to tide a person over between one job and another. In the present climate of increased economic activity, I consider it highly unlikely that a person with a real will to work will be unable to find alternative employment within the present limit of three months; (2) while the level of payments should be adequate to meet basic living needs, benefits should not be increased to an extent which

make it attractive to be out of work for a period of time. I accordingly propose that these benefits should again be increased in line with the other increases, ie by about 6.7%. The basic weekly rate of this benefit will go up from £30.90 to £33 a week with increases of £16.50 for wife and £6.60 per child. Sir, I commend the motion to the House.

Mr Speaker 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, we can hardly be satisfied with the response of the Government to our request of last year. At least this year the Hon Member has remembered that we made a request which is more than can be said last year in respect of the previous year. I don't know how much thought he has given to it because it seems to me that the answer that he has given us indicates certain pre-conceived ideas about unemployment and suggests that people who are unemployed decide whether to stay unemployed or not to stay unemployed depending on the level of benefits that they get and we all know that for people who are extremely difficult to place in employment in any case when they run out of unemployment benefits they rely on social security so it isn't that when the thirteen weeks stop the situation ends there in terms of people being forced by starvation to work. The argument that people who want to work can find work doesn't really hold water because by definition those who do not want to work will not work independent of whether the benefit is for thirteen weeks or for longer. The reality of the situation as far as we are concerned, Mr Speaker, and the reason why we raised the matter last year and why we asked the Government to look at this situation was because our argument last year which the Minister has failed to give an answer to or address himself to was that the economy of Gibraltar in the last two years unlike the situation preceding the last two years, that is to say, until 1984 we had a relatively unchanging economy and a relatively unchanging demand for skills in the economy and therefore what we had essentially was a replacement market for labour skills with the Ministry of Defence making a demand for labour and essentially what the Labour Department had to supply or what the schools had to supply was replacements for people who retired. But if we are talking about an economy that is changing in character and an economy which as a result of that changing in character is expanding in the private sector and contracting in the public sector, then it is not so easy for people to move from one job to another and by comparison with the rest of Western Europe thirteen weeks unemployment benefit is very short and we have a situation where we felt last year and we felt the year before that what had served

us when we had a relatively unchanging economy would not serve us when we had an economy that was changing. We felt that a system which essentially was designed to meet temporary short-term unemployment which is the one we have got because you get thirteen weeks unemployment benefit after you have been employed for seven months and you get thirteen weeks unemployment benefit if you have been employed for thirty years and that is an unusual feature of our social security system. That is to say, we take it for granted implicitly in the kind of system we have devised that any reasonable person wanting to find work would find work in thirteen weeks, that is what is implicit in our legislation. And to some extent it was a valid thing to assume historically until the Naval Dockyard closed in 1984 because the reality of it was that the turnover of people in the 70% of the economy that was the official employers was enough to allow for the movement within that kind of period and the Employment Statistics of the period shows that people were, in fact, on the unemployment register either in the public sector between jobs or in the private sector when they were temporarily out of work primarily in the construction industry where there was termination of one contract and a gap before another contract was obtained and that was the kind of situation we had. I think we have got a situation now where the periods that people may spend unemployed may be longer because we may have a situation where the contraction and the expansion are not much and the situation as we see it at the moment, is that most of the expansion according to the Labour Statistics published in the Employment Surveys which even if they are not totally accurate we have been told by the Minister are considered to be indicative of trends and the trends there are that the expansion is primarily taking place by the importation of labour with the required skills and that there are at the same time people who are caught in a situation where in a very small way compared to the problems of major economies in Western Europe where the question of certain industries suddenly disappearing and people being left with obsolescent skills is a major problem, on a very small scale like everything else in Gibraltar we have an element of that. We thought that that required some thought being given to whether our system of social insurance was adequate to meet the needs of today's economy as it had been adequate to meet the needs of yesterday's economy. I don't think the Minister has, in fact, answered that problem which we put forward last year and we put forward the year before in a constructive spirit of saying to the Government: "Since you are going to come back in a year's time to review the situation, will you give some thought to whether this system still meets the needs as it did in the past?" The Hon Member has simply said that because the economy is expanding people shouldn't be unemployed. Well, the fact that the economy is expanding doesn't mean anything. We have a situation where there are already in Gibraltar

independent of the fact that there are 450 people registered as unemployed, skills which are just unobtainable in Gibraltar and there can be somebody who with all the will in the world cannot take the job because they don't have the right skills and some thought must be given to that and therefore our unemployment benefit situation must be geared to that. I also think that as far as the length for which it is payable and perhaps some thought of relating the length because in some respect what the Hon Member says about the system is, in fact, totally inaccurate. The system that we have got in Gibraltar is the easiest system to milk if somebody deliberately set out to do it. If somebody deliberately went out of their way to work for seven months and not work for three they actually make a profit out of the system because they have worked seven months and contributed seven months and then they spend three months not working and they get more in three months than they pay in in seven months and they are always in a net benefit position. The people we are concerned with are the people to whom unemployment is an undesirable state in which to find themselves and who through no fault of their own because they happen to be caught in an area of decline because the economy is in a state of transition, having never asked for unemployment find that they have contributed for thirty years and then that after three months the unemployment benefit runs out and those people certainly feel a sense of grievance and they cannot understand how they can be paying all their lives and never have claimed unemployment benefit and yet somebody else can have been on the dole and off the dole twenty times in thirty years and got much more benefit than they have. In other countries there tends to be a relationship between the length for which unemployment benefit is paid and the length for which contributions have been made and it is also quite common in many of the EEC social security systems for a period at least to relate the level of benefit to the wages that the person had when they were last employed and then it sort of scales down after the initial period on the basis that it comes as quite a shock to go down from earning £120 a week to earning £40 a week unemployed. Those considerations which have always been there in other systems could, I think, be argued did not make much sense in Gibraltar in the past. We thought last year, we still think today that they are considerations that need to be taken into account today because we are facing a new type of economic situation today, a situation that is making more demands on our labour market, a situation that requires greater flexibility from the workforce and a situation where the Government being responsible for managing the Unemployment Benefit Fund needs to be sure that the Fund is doing two things. That the Fund is providing a cushion and a protection for the contributors and also providing a useful mechanism in the smooth working of the labour market. I think those considerations, quite frankly have not been fully gone into by the Minister in the

fifty-two weeks that he has spent studying our proposals since he last came to the House and therefore we are going to abstain on this because we have not been persuaded by the answer that he has given us. We are not voting against because, of course, we are in favour of the benefits being increased and we would not want to give the wrong impression.

MR SPEAKER:

Are there any other contributors? Perhaps the Minister would wish to reply.

HON DR R G VALARINO:

Yes, Sir. I would just like to clear one little point because at times it is felt that when people apply for unemployment benefit they are paid for the thirteen weeks unemployment benefit and then they get nothing and I would like Members who may not be in the know that after the thirteen weeks unemployment benefit they are able to go on to the Supplementary Benefits Scheme which very often gives them more than the unemployment benefit but I take your initial point which you made that you feel, after talking for twenty minutes, but I take the initial point that you feel that the unemployment benefit as such is not large enough to cover them over the last three months. This is what I think you said, if I am correct.

HON J BOSSANO:

If the Hon Member will give way, I would like him to address himself, assuming there isn't a general election between now and November next year and he is going to come again in November with a further change in the legislation, I would like him to address to the system really. What I am saying to the Minister for Labour as Minister for Labour if you are looking at the way the labour market is now having to respond to the demands being made on the Gibraltar economy which is a new thing for us, then perhaps the system we have been operating in the past which suited us in the past may not be adequate for today's situation and therefore maybe we can learn some lessons about the way they do it in other places which before we didn't have to learn. I think the two obvious areas where we are different from everybody else is that the length for which benefit is paid bears no relation to the length for which contributions have been made except that there is a rigid rule. If you are a twenty-nine weeks contributor you get nothing, if you are thirty weeks you get three months but if you are thirty years you still get three months. That is one thing that is different about our system and it is a system that might have made sense when, in fact, unemployment was a temporary odd phenomenon in between one job and the other and it was unusual for it to last

longer than three months. The other thing is that there is, in fact, a well established practice in other places where the benefit is longer but where it is longer there is a higher rate initially and then it tends to come down. We have not got that system here. If the Minister wants to give us reasons for not having it he has got to do better than the reasons that he gave us because the reasons that he gave us was to say that if it was improved it would encourage people not to get a job and he has just told us that, in fact, at the moment they go on to supplementary benefit which is higher than unemployment benefit, what more encouragement can they have than that?

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 following Hon Member was absent from the Chamber:

The Hon J E Pilcher

The motion was accordingly passed.

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move the motion standing in my name that this House do approve the giving by His Excellency the Governor of retrospective effect to the Pensions (Amendment) Regulations, 1986. Mr Speaker, the Regulations are somewhat detailed, they have been circulated to Hon Members and I request that you allow me to dispense with the reading of the Regulations.

MR SPEAKER:

You are relieved of reading it.

HON ATTORNEY-GENERAL:

Mr Speaker, these Regulations are based on the motion passed by this House on the 9th July, 1986, and provide that any officer who has been in public service under the Government of Gibraltar continuously for not less than ten years and who satisfies the conditions set out in Regulation 5 of the Pensions Regulations may be granted a pension under that Regulation on his retirement from public service under the Government. Mr Speaker the Regulations are made retrospective to the 1st January, 1984, which is the approximate date on which Government accepted a claim made by the Transport and General Workers Union in this regard. Mr Speaker, the responsibility for the delay in bringing this legislation to the House must rest to a large extent with my Chambers who were informed of the matter as long ago as the 23rd November, 1983, and for this delay, Mr Speaker, I can only apologise and express my profound regret. Mr Speaker, I am told that at the present time there are seventy-three ex-employees likely to qualify for a pension as a result of this amendment to the Regulations. The initial cost of the implementation of the legislation in respect of the period 1st January, 1984, to 30th November, 1986, has been estimated to be in the region of £72,000. The recurrent annual liability in respect of the seventy-three employees is £71,175 and it is estimated that an average of five new Pension Awards will arise annually. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon the Attorney-General.

HON M A FEETHAM:

Mr Speaker, the Opposition, of course, welcomes the fact that these Regulations have now been brought to the House for approval retrospectively to the 1st January, 1984, though one point that I wish to take up with the Attorney-General is that I cannot accept that all the responsibility lies with him because of the load of work that his office has in not having produced these Regulations to the House before now because all we are talking about, basically, is just a slight amendment to the existing one and consequently I think that at the end of the day having pressed for these Regulations to be brought to the House, having pressed from this side of the House, I still cannot understand, quite frankly, why it has taken so long and why people have had to put up with hardship in the process when at the end of the day we are only talking about one slight amendment. Mr Speaker, that is not good enough. I am sure that having committed themselves, Mr Speaker, as far as the Government is concerned to, in fact, doing what they are doing today the question of money doesn't come into it because the commitment was there. I just thought I would take that point up because we have found ourselves in a position up to very recently and we are

still in dispute with the Government on the way they are handling the Bills where Bills are being rushed through the House in one meeting, all stages, and here is one particular case that has taken a number of motions and a number of questions from this side of the House for the matter to be brought and finalised. However, having said that, I have no doubt that a lot of people are going to be happy this Christmas to know that at long last they will be getting their pension and this has to be welcomed. At the end of it all the fact is that it is going to happen and that it should be welcomed. One of the things which hasn't been said by the Hon and Learned the Attorney-General is that as far as we are aware on this side of the House all the preparatory work has already taken place or should have taken place and no indication has been given on when people will be expecting to get their first pension payment. We would be very obliged if some indication could be given to this side of the House on when does one expect that the first payments will be made so as far as this side of the House is concerned, of course, we support and welcome this motion.

HON A J CANEPA:

Mr Speaker, when the Hon Member introduced his motion, not at the last meeting, at an earlier one, I think from the Government side we gave a fairly full explanation as to the reasons for the delays in bringing the matter to the House but at the last meeting he will recall that I gave certain personal assurances and I have carried them out. We did get clearance from ODA fairly readily and even whilst the last meeting of the House was in session I asked the relevant officers in the Establishment Division to set in motion the process of arranging for these pensions to be paid so I don't think that the usual delay that occurs when a person retires and applies for a pension should be a feature on this occasion. I cannot guarantee that people are going to get their retrospective payments before this Christmas but I am sure that they will get it before the following Christmas. Seriously, there is no reason why within a very short period of time, a matter of a few weeks, everyone shouldn't be paid. Everything is ready to go, the legislation will be appearing in the Gazette, the legislative authority is there and the arrangements are in hand. I will, myself, tomorrow, once the House has taken the motion through, I will check on that again and I may be able to give Members opposite an indication privately on when it is intended to pay them out.

HON CHIEF MINISTER:

This is a typical example of the frustration that you feel when you want to do something and you have your path full of difficulties and I am not going to repeat the difficulties that were spelt out by my colleague in respect of the original overall review of pensions

and so on. The funny thing about this is that the people who most need it are the people who haven't pressed so much as those who have already got a couple of pensions, one old age, one occupational pension, who qualify for the third pension and don't believe it. When you give them an assurance that it is going to happen they say: "Well, until I see it I won't believe it". Of course, they have been ably helped by the Opposition raising it so many times that they thought it might not be but here at last it is and I am very happy that we are able to do that. I know of a number of cases for whom it will be a great relief, for others it will be perhaps a little bonus but a lot of cases will find great relief together with their old age pensions, thirteen or fourteen years service for qualification and therefore I am very happy that we have been able to do this.

HON J BOSSANO:

I think there is one point, Mr Speaker, that needs to be made in relation to this. I thought I detected, in fact, in the motion that we moved in July this year that the Government finally became convinced that this was not as difficult to do as it had been made out. We are very glad to have this motion brought to the House, we acknowledge that we got a very clearcut and firm commitment from the Government in the last House that they would definitely make sure that it was here this time whatever needed to be done to get it here and they have delivered and we are glad not just because we have been pressing it but we are glad particularly, as the Hon and Learned Chief Minister has said, for the people who I am sure must have been lobbying him as they have been lobbying us and, of course, I am sure he knows that elderly people in particular get very anxious about these things. But it is also, I think, if we are totally honest with ourselves perhaps symptomatic of the reactions that one sometimes gets from Government which tends to give the Opposition and sometimes tends to give the average citizen the impression that it is easier for Governments to say automatically 'no' without really going into the details of whether it is really such a difficult thing to do because when the original motion was brought by me to the House three years ago, in November, 1983, I remember that we had a reply in December where the Government said: "Fine, we agree with the sentiments of the motion" - not an unusual reply as you are well aware of, Mr Speaker, usually it tends to precede the amendment deleting everything but they didn't on this occasion and then the Government came along and said "But the cost of this is so huge that it needs to be offset and therefore it can only be done as part of a reorganisation of the Pensions Scheme where elements in the Pensions Scheme applicable to non-industrials which are felt to be ever-generous compared to what is paid in other territories in public service pensions, will have to be reviewed whilst protecting the rights of those in service so that there is an offsetting element

to the cost". I disputed at the time that this was so and I think at the meeting in July this year when my colleague brought the motion once again to the House, the Hon and Learned the Chief Minister was rather surprised to learn that some of the proposals on the new Pensions Scheme were in some respects inferior to the MOD pensions and he said that he certainly wasn't very familiar with the details but it was not the Government's intention that that should be the case. We are now being told that we are talking about the number of new pensioners who will qualify for these reduced pensions because they are between ten and twenty years and with twenty years an industrial worker gets half pay and with ten years he would get a quarter of his pay so we are talking about people who will get between one-quarter and one-half of their pay and we are talking about five new pensioners a year and that the cost is £71,000 and we have got another pensions bill of public service pensions of the order of £3m. What kind of extra cost is it in a £3m pension bill to add five new pensioners with £5,000 more a year, five new pensioners a year with a quarter of their wages? In fact, the reaction of saying: "We are going to do something new and it is going to cost a lot of money" seems to me to have been a kind of instinctive reaction of saying no to a new demand without really sitting down and doing the homework and I felt that that, in my judgement I may be wrong, but I felt that that introduced an unnecessary delaying factor because, quite frankly, independent of how the matter is progressed with the Unified Pensions Scheme assuming that it is still the Government's intention to pursue that matter and that is a matter for the Government and the Staff Associations to discuss and negotiate, what we are doing now which we are doing back-dated three years we could have done then and we wouldn't have had the situation which caused a great deal of resentment, I think, within Government service that some unions felt that they were being put in the invidious position of because they were seeking changes to the Government proposals, being made out to be the culprits for the people who had retired without a pension not being able to get the pension that they would have got here because it was conditional on their saying 'yes' to something else and people felt and I can assure the Government that I know this from personal experience, that an unnecessary aggravating factor in that situation of negotiating the Government proposals was that people felt that they were being, to some extent, put under a pressure by making them feel guilty or making them feel morally responsible for the fact that in the first year twenty had left Government service without pensions and then in the second year the thing had grown and it was now forty and in the third year it got to sixty. I think if we had, in fact, done this at the time we could have perhaps made easier the climate within which the Government's proposals would have been looked at on their merits without this additional factor and I

am saying this because I hope that the Government will take it in the spirit in which I am putting it across that sometimes we do unnecessary damage to the cause that the Government does without perhaps thinking about it, unnecessary damage to its own cause by appearing to do these things.

HON CHIEF MINISTER:

If the Hon Member will give way before he finishes and again stating my lack of detailed knowledge on these matters, it is the inevitable result of expert advice that wants to carry everything in one umbrella. Whether they are together, there is cohesion or not or correlation or not and we have been living under that kind of difficulty for a while where we thought until the matter was cleared in a way, it was put to us in a package which was good for some and others would have to give something up but as quite rightly some people said 'we are not benefitting out of the other one'. But I can assure Hon Members that one feels frustration about these matters. I am glad to say that I am sure that very few people have missed out on time, let us say, very few people may have died since the 1st January, 1984, who would have been entitled to a pension and that the contribution is not going to be as simple as that. I think the numbers will grow up now particularly with the policy of retiring people earlier than they used to before indefinitely, they will qualify and they may be more prepared to do so now. I think that it is true that these matters create unnecessary friction particularly when you have the intention and you want to do it and you cannot do it, that is the difficulty.

HON J BOSSANO:

Well, I think the point on the question of the future cost of this, Mr Speaker, is that I think that what the Government may well discover is that we are talking about a group of people who are ...

HON CHIEF MINISTER:

I wasn't complaining about that, we are saying that it isn't just five thousand pounds a year, the thing will grow up but it doesn't matter, once we are in it we have to honour it.

HON J BOSSANO:

I accept that there isn't the same attention being given to cost now as there was three years ago when I brought it to the House but what I am saying is that, in fact, even there the Hon and Learned Member will find that it isn't going to be a situation that keeps on growing every year because, in fact, what we are talking about is the people between ten and twenty years service and I think as I have mentioned before, part of the problem is the old syndrome of collecting your gratuity at twenty years which is not happening anymore and therefore when we clear that backlog of people who have resigned and re-entered, I think what we will enter into is the people with twenty years and more service so it is a once and for all exercise I think that we are doing. I think the other point, of course, is that I am grateful for the intervention of the Hon Member and what he has said about the expert because then perhaps he will listen more carefully to my advice when I tell him he shouldn't rely so much on experts.

HON CHIEF MINISTER:

I am selective in the advice I take.

MR SPEAKER:

I will now ask the Mover to reply if he so wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, the only point I want to make is about the delay. I knew nothing about this matter until the motion in the House in July this year. After the motion I got my file out and I see there is a note by my predecessor dated the 23rd November, 1983, and this is why I took the responsibility for the delay, we certainly had done nothing since the 23rd November, 1983. With regard to the gazetting of the Regulations, I am hoping that they will appear in this Thursday's Gazette.

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

BILLS

FIRST AND SECOND READINGS

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1986

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the law to extend the obligations of owners of ships relating to the repatriation of masters and seamen, and relating to the registration of ships under the Merchant Shipping Ordinance and the Merchant Shipping Act, 1894, and to provide for an annual tonnage tax be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill - and I am glad that I don't have to read the whole title once again - be read a second time. I think, Mr Speaker, having regard to the fact that we are amending as well the relevant provisions of the Merchant Shipping Act, 1894, as they apply to Gibraltar, that it might be a good thing given the time lapse, if I were to give a short history of this Bill. It was in 1982, Sir, that the Department of Trade which was then responsible for shipping in the United Kingdom, it is now the Department of Transport, circulated a consultative document to the dependent territories in which they suggested three options for the development of their shipping registry. The three options were that they should have either a register of ships of all sizes and types requiring the allocation of substantial resources especially permanent qualified staff, secondly, that they should have a register limited to ships of less than 500 tons for which a small administration only would be required or, thirdly, that they should have no register at all. To enable the Government to arrive at the most appropriate of these three options, Mr Speaker, a delegation consisting of the then Deputy Governor, the then Senior Crown Counsel who is today Her Majesty's Attorney-General for Gibraltar, the Captain of the Port and myself visited London on the 30th November and the 1st December, 1983, to arrange a series of meetings and consultations. We met representatives of legal chambers who specialise in merchant shipping and in ship registry business, we met shipping brokers, the chairman of the Baltic Exchange and the General Council for British Shipping. Admiral Williams the then Governor was a great help and very instrumental in arranging many of these meetings, in fact, a lot of the legal advice that we got was free, totally and completely free. As a result we were able to take a decision, following the general election of 1984, to move towards becoming a full convention port, in other words, to decide that the

register for Gibraltar should be one of ships of all sizes and types in the knowledge that this would require the allocation of substantial resources and the employment, in particular, of qualified surveyors. The intervening period, a period of about two and a half years or so, has been taken up in discussing the gradings of these surveyors with the appropriate Staff Association, in recruiting them and therefore setting up a Marine Administration which at the moment meets the requirements of Gibraltar having regard to the size of our register but which if our register continues to grow at the rate which it has been doing may necessitate the recruitment of further surveyors. The intervening period has also been taken up in consultations with the Department of Transport in the United Kingdom about the draft legislation which has been brought to the House today. The main purpose behind this Bill, Mr Speaker, is really to improve our image as a registry port and hence the provision in the Bill to confer powers to refuse or revoke the registration of British ships. This is, in fact, to be found in Clause 3 of the Bill. At the moment, Sir, vessels are registered at this port in accordance with Part I of the Merchant Shipping Act of 1894 but under this Part no powers are conferred at the moment to the registrar to refuse or to revoke registration and by obtaining these powers, by acquiring the powers either to refuse registration or to revoke registration subsequently we are better able to control not only vessels already on our register but also those desiring to come onto our register in the future. In parallel with this, Mr Speaker, discussions are being held with Her Majesty's Government in order to have the various international safety of life at sea conventions extended to Gibraltar and having regard to this piece of legislation, having regard to the fact that we are setting up a proper Marine Administration, I think that there is every prospect that the response from Her Majesty's Government should be positive and that because of the important steps which we are taking to put matters on a sound and proper basis they will agree to extend these conventions to Gibraltar thereby resulting in our being constituted as a full convention port. The Bill also extends to owners certain obligations, Mr Speaker, these are to be found in Clause 2 of the Bill. Section 49 of our present Ordinance provides for the repatriation of the master or seamen belonging to a ship registered at this port who receives injury in the service of the ship or if they suffer from any illness. The amendment now before the House, however, extends the responsibility of repatriation to the owner's account and also to cases of shipwreck and to discharge when no blame can be attributed. In effect what this amendment does therefore is to bring our Ordinance in this particular respect in accord with International Labour Convention No. 23. The opportunity, Mr Speaker, finally, is being taken to make provision for the introduction of an annual tonnage tax. This is to be found in Clause 4 of the Bill and the tax would be payable by vessels in accordance with the scale laid down in the Bill. The intention is to provide funds to help offset the expenses which are incurred in establishing and maintaining our own Marine Administration. It is only intended to give the Bill, Mr Speaker, today,

First and Second Reading and thereby allow, during the intervening period, for any representations which the Shipping Association or any other person involved with shipping in Gibraltar may care to make but in respect of the tonnage tax I have consulted one of the members of the delegation who accompanied me to the Posidonia Exhibition in June who has a fairly thriving business on shipping registry and the reaction that I have had is that the sliding scale is considered to be reasonable, the tax is not too high and should not be a deterrent to further expansion of the shipping registry. 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? And having said so I would like to say that if there are going to be long contributions we had better leave it until tomorrow. There are going to be contributions?

HON J BOSSANO:

Yes.

MR SPEAKER:

Then perhaps we should now recess until tomorrow morning at 10 o'clock.

The House recessed at 4.45 p.m.

WEDNESDAY THE 17TH DECEMBER, 1986

The House resumed at 10.10 a.m.

MR SPEAKER:

I will remind the House that we are still on the Second Reading of the Merchant Shipping (Amendment) Ordinance and that the Mover, Mr Adolfo Canepa, has already moved the Second Reading and therefore we are now free to speak on the general principles and merits of the Bill.

HON M A FEETHAM:

Mr Speaker, we will be supporting the Bill but since it is not going to be taken through all stages at this meeting we will be taking up any amendments or reservations that we have on the Bill at the Committee Stage.

HON J BOSSANO:

We are supporting the Bill, Mr Speaker, as my colleague has said, on the understanding that what we are really talking about is ways of developing and improving the attractions of Gibraltar on the basis of increasing its role in ship

registration which, in fact, has in the last twelve months become very fashionable internationally and from what I read in the relevant press there seems to be a lot of other places doing the same thing and a lot of other places which seem to have been very successful already in establishing ship registries. We would like to have some indication of what is the growth that has already taken place because I think the Minister in introducing the Bill mentioned the growth that had taken place already but we don't know what that growth is. We also take note of the fact that the Hon Member has said that the tonnage tax being introduced is not considered to be uncompetitive with other territories and we would like clarification. Are we correct in assuming that in the existing situation there is to no tonnage tax or is it that we are actually increasing the tonnage tax?

MR SPEAKER:

There isn't.

HON J BOSSANO:

There isn't. Well, I would have thought then, Mr Speaker, that if there wasn't a tonnage tax at all it seems odd and this is why it is so important to see, well, how successful have we been in attracting ships here without any tax at all because presumably even if the rates that we are introducing are not too much out of line with other people's, presumably it will act as a disincentive to some who have come here because there wasn't any at all. If the feeling is, of course, that what we are likely to lose by introducing a tonnage tax is the kind of ships that nobody wants then clearly we are in favour of that because we believe that a lot of the ship registries dedicating themselves in this area are very conscious of the need to clean up their image and in Gibraltar we have already had a number of incidents of Gibraltar registered ships being arrested for non-payment of wages in foreign ports, we have had because we are in close contact with the people who run the international secretariat of the International Transport Workers' Federation in London where our ships are classified as flag of convenience, we know that Gibraltar in those circles has not got a very good name at the moment. I don't know if there is anything here, as I say, we shall be taking a closer look at it in the Committee Stage where we will be able to, between now and then, devote some time to see exactly what we are keeping on the old Merchant Shipping Ordinance and what we are changing but a number of European countries and, indeed, places like Liberia and Panama have been putting an age limit on the ships that they register. I don't know whether this is something that we have got here or in the existing Ordinance or that we are still planning to do. Clearly, that is one factor because there is a lot of evidence to show that there is a correlation between the safety at sea and the age of the ship and many, many of the situations leading to ships being shipwrecked or getting into trouble are with ships that

are over fifteen years old and there is a move in that direction to get shipping registries in places which have had a dubious name having their image improved. I think it is important that we get a fuller picture from the Government of what progress has been made in promoting ship registration in Gibraltar, how this is going to help it because we, of course, have supported that all along whenever the Government has brought the matter to the House as we have supported improving the facilities in Gibraltar to be able to keep an adequate check on the conditions on these ships and one imagines that what this will also do will be to make it possible for us to comply with the SOLAS Convention. Another matter which has been raised by us in the past where I think it was left somewhat undecided, Mr Speaker, was whether seamen sailing on Gibraltar registered ships were covered by our social insurance legislation as the social insurance legislation says they are and what we discovered was that notwithstanding the fact that the social insurance legislation says they are required to be insured, no action had ever been taken to get the employers to pay insurance. So, in fact, the employers were breaking the law, it had been overlooked and we made the point in the past, well, perhaps it didn't make any difference really when we had half a dozen ships on our registry but if we are talking about expanding the registry we have got to come to some decision as to whether the people on the ships should be covered by the social insurance legislation in Gibraltar or they should not be covered. What we cannot have is the law saying one thing and the practice saying another. I think my colleague also on another occasion asked whether they were covered for industrial injuries onboard ships and we got the answer that they were but clearly if they are not paying social insurance contributions they are not paying employment injuries contributions. These are, I think, important factors from the point of view not only of making sure that what the law says is what is happening but also from the point of view of the image that Gibraltar has as an international shipping registry because certainly it doesn't do the image of Gibraltar any good and it creates a lot of hostility towards Gibraltar registered ships if one hears through international trade union connections of seamen having accidents on a ship and then not getting any kind of protection because although we are saying here: "If a seaman is discharged he has to be repatriated", I am not sure how we actually monitor that and implement that if this happens in a foreign port on the other side of the world. If a seaman is discharged in South America on a Gibraltar registered ship he is breaking the Merchant Shipping Ordinance of 1986, so what do we do, send down the Attorney-General hotfoot to Panama to put matters right? Again we need to know exactly what it is we think we are going to achieve by putting that there in terms of ensuring that people do it. It may be that if we get complaints of them not doing it we can then de-register them or something like that but I think we want further clarification. We feel it is important that if Gibraltar is going to compete successfully with other people, one thing that will be an important ingredient in that is that it is seen by the International Transport Workers Movement

to which all seamen union and dockers unions are affiliated as a clean ship registry with good employers, with good conditions, with good protection because that means that Gibraltar then gets a good name and there is a bonus in registering in a place where your ships are not going to be interfered with.

MR SPEAKER:

Does any other Hon Member wish to speak on the general principles and merits of the Bill? I will then call on the Minister to reply.

HON A J CANEPA:

Mr Speaker, I welcome the general support on this Bill which has been expressed by the two Members of the Opposition who have spoken on the Second Reading. I would be grateful if any amendments are to be introduced, if we could get as much notice as possible in order that they be properly considered. I think it would be a great pity if in the case of a piece of legislation that has had such a lengthy gestation period, we have to consider amendments under the normal pressure which is imposed by time limitations of the sittings of the House. So I would be grateful if I could get an indication at an early a date as possible so that we can give the matter its proper attention. I should have mentioned, I think, during my address on the Second Reading of the Bill that there will be some subsidiary legislation to follow this up in the form of a Legal Notice, an Order to be made under the Merchant Shipping (Repatriation) Order. This will provide for certain categories of ships which the registrar shall refuse to register under Part 1 of the Merchant Shipping Act. For instance, any ship with a nuclear reactor; any passenger steamer or passenger ship save for those where the approval of the Governor to registration has been obtained; any cargo ship built or adapted to carrying bulk inflammable liquids, gases or chemicals; any ship the completion of the first construction of which occurred more than fifteen years before the commencement of the year in which application for registration under the Act is made save for those where the approval of the Governor to registration has been obtained, in other words, any ship which in the normal course of events is over fifteen years old we can refuse to register it unless, of course, the ship is in good condition and has so been surveyed and the registrar can feel it should be registered. The purpose behind all this, as the Hon Mr Bossano rightly indicates, is to avert danger of our being classified as a flag of convenience. He did mention one or two incidents that have occurred in the last two years and obviously we are anxious to avoid that because they do give Gibraltar a bad name and, indeed, land us in serious problems with the International Transport Worker's Federation. The growth of the registry has been quite remarkable in the last four years, it has grown from nothing to just over one hundred vessels in four years and one of the objectives behind the tonnage tax which at the moment there isn't any, all that

you have is a very low registration fee so perhaps we are a little bit too attractive at the moment and there is a danger of unsatisfactory ships being dumped on our registry to say the least. If we have a reasonable tonnage tax it will not deter bona fide owners who will find it advantageous to register under our flag but it might deter those who may wish to register very unsatisfactory vessels, so it does have that objective as well. On the question of repatriation of the crew, I am informed by the Captain of the Port that the terms of that will be written into a crew agreement between the owner and the crew. Naturally, monitoring and follow-up action is difficult. If crew are discharged at a port in Lower Patagonia it is very difficult to see what we can do from Gibraltar other than subsequently follow up complaints, that would be done but there and then, it would be impossible for the matter to be tackled at the root when it occurs, I think it is a physical impossibility. I didn't dwell too much, I only made some passing reference during my earlier address yesterday on the benefits of a growing shipping registry. Normal experience does indicate that there is a fairly high commercial spin-off. The Government is not too concerned about the amount of revenue that we derive from the growth of a shipping registry but there is considerable commercial spin-off for the legal profession and, indeed, there are people who are making a living out of this in shipping circles and I think that that is something to be welcomed because if an office is set up which is dedicated entirely to the growth of the shipping registry in Gibraltar, there is direct employment provided in that office. I am glad, Mr Speaker, that the Bill has general support, I have been very keen to bring this legislation to the House, I wish it had been possible to do it at an earlier date but for a variety of reasons it hasn't been possible but here it is and I do hope that between now and the next meeting we are able, if any amendments are desired we are only too willing to consider them in a positive light because we want to get the best possible piece of legislation. One final thing, I think the Hon Mr Bossano drew attention to the problem of the social insurance contributions. I am pretty certain that the matter is being followed up actively by the Department of Labour and Social Security. We are awaiting information from the United Kingdom before we start amending legislation, we may have to change the law because the position would seem to be that if members following EEC law, if members of the crew are not resident in Gibraltar and if the company is not based here and therefore they don't pay their wages here, the crew are not liable to social insurance contributions. This is unsatisfactory and we are trying to get the latest information from the UK with a view to bringing changes to the law. This is the latest position, I am informed by the Department of Labour and Social Security, but the matter is certainly actively being pursued at the moment. Mr Speaker, as I say again, I am grateful for the support we have received and I commend the Bill to the House.

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

HON A J CANEPA:

As I indicated yesterday, Mr Speaker, the intention is to take the Committee Stage and Third Reading of the Bill at the next meeting of the House.

THE LANDLORD AND TENANT (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

Mr Speaker, I shall not be proceeding with this Bill at this House, it will be put over probably to the next House.

MR SPEAKER:

You are withdrawing the First Reading.

HON ATTORNEY-GENERAL:

I am withdrawing the First Reading, yes.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1986

MR SPEAKER:

I am afraid that I have to call the attention of the Hon and Learned the Chief Minister that the mover of this Bill is not in the House.

HON CHIEF MINISTER:

I am very sorry to hear that, Mr Speaker. The new time-table today has been overlooked and I very much regret that. I can only take the Supplementary Appropriation Ordinance because I know what it is all about.

MR SPEAKER:

That one is also the Financial Secretary.

HON CHIEF MINISTER:

I am prepared to take that one for him, it is simple enough. Let that one be called.

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO. 3) ORDINANCE, 1986

At this stage the Financial and Development Secretary joined the meeting.

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, 1987, be read a first time.

Mr Speaker 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 read a second time. As Hon Members will see it is a very short Bill and in accordance with normal practice and convention I don't propose to make a speech on the matter.

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 PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance be read a first time.

Mr Speaker 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. As Hon Members will know this Bill was, in fact, foreshadowed earlier in the year and part of the provisions of the Bill have already been implemented in the sense that rate rebates for commercial premises which was, in fact, a measure announced in the Budget has already taken effect and the House has, in fact, voted a sum of money in respect of the rebates for this financial year. That is, Mr Speaker, one half of the Bill which is dealt with in the first part of the Bill. The remainder of the Bill is in respect of a proposal to set up a Rating Review Board as an alternative medium to the Court of First Instance, the existing procedure, for the purpose of hearing and determining objections to the Valuation List and the NAV included in that List. In dealing with the first part of the Bill, as the House will know, commercial revaluations of the List were normally carried out every five years and such a revaluation fell to be carried out in 1984/85. Because of the reopening

of the frontier the Government agreed to postpone the revaluation for two years. The revaluation was carried out for the 1986/87 Valuation List and resulted in great increases in rates. Two main factors accounted for those increases. Firstly, the abnormal length of time since the previous revaluation. Secondly, the opening of the border. Both these factors have prompted rises in the market rents which were then reflected in the revaluation. As the House will recall, the Chairman of the Chamber of Commerce made representations to Government on this fact and after a period of negotiations the Government agreed a number of measures. In the first place, to cushion the impact of the sharp increase in rates, it was agreed to grant relief to commercial ratepayers equivalent to 40% in 1986/87 and 20% in 1987/88 of the increases in rates. However, this relief would only be given if payment of rates bills was up-to-date. The Government also agreed, following the representations which were made, to provide for owner-occupied commercial properties to be revalued annually in future in order to avoid drastic increases and, in fact the legislation provides for that as well. The third measure which is, in fact, dealt with in that part of the Bill from Section 4 onwards, concerns the establishment of an Intermediate Review Board which will be created between, in effect, the Valuation Officer and the Courts. At present objectors to the Draft Valuation list can appeal to the Financial and Development Secretary who then may or may not make alterations to the List. When the final List is published objectors then have the right of appeal to the Court of First Instance and the amendments which are proposed provide for the objectors to the final List to appeal to the new Board. If after review by the Board the objector still feels aggrieved he can then appeal to the Court of First Instance. The decision to set up the Review Board was taken by Council of Ministers following the large number of objections, about 200 in all, to the last List although I understand that, in fact, none of them went to Court, I think I am right in saying that, and the objections were all dealt with in negotiations with the Valuation Officer who in this respect acts on behalf of the Financial and Development Secretary. I also know that there have not so far been many objections this year, this may have something to do with the fact that the overall increase in NAV is the aggregate increase in the light of the Valuation Officer's recent revaluation for 1987/88, represents an increase in total of about £100,000. Nevertheless, the Valuation Officer will be informing any objectors this year of the availability of the form of redress provided for in this legislation. As I said, only a handful of objections have so far been made and it is quite likely that these will also be dealt with by discussion and negotiation with the Valuation Officer without having to have regard to the procedures which are envisaged in Section 4 and subsequently of the Ordinance. The new NAV's for 1987/88 do not, of course, come into effect until April of 1987 so there

would be ample time for the various objections to be dealt with and, indeed, dealt with through the new Rating Board assuming that that will be set up in time for the measures to take effect. That in sum, Mr Speaker, is the purpose of this legislation which I commend 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:

Perhaps the first thing I need to say, Mr Speaker, is that we object to the Bill being taken in its totality in this meeting of the House. We have got a number of things we wish to raise, there may be some amendments that we will need to move and we need more time.

HON CHIEF MINISTER:

That is no problem. We have been selective in putting Bills for Committee Stage and Third Reading because of the importance of some of them and the element of time. The reason why we put this Bill for Committee Stage was because of the timing regarding the setting up of the Review Board but if there is a general consensus apart from that to the general principles of the Bill which in any case is beneficial to the people, then we can proceed to make the arrangements so that when the Bill is passed through Committee Stage and Third Reading we lose no time in proceeding to its implementation.

HON J BOSSANO:

Well, presumably, what the Government may need to be doing something about is the question of the Rating Review Board, I imagine.

HON CHIEF MINISTER:

That is right.

HON J BOSSANO:

We have got no objection to that. We are rather puzzled by this question of the Rating Review Board because as we understand it, Mr Speaker, the valuation as such seems to be a purely arithmetical relationship and not a matter of judgement. One can understand a valuer putting a value on a property if the property is being sold but it is difficult to say how ten months of rent can have different sums according to who does it because either it is ten months of rent or it is not ten months of rent and as we understand it the rating system which, in fact, we queried some time ago in respect of domestic

properties, whether the Government had the legal authority to do what they were doing and eventually, as far as we are concerned, we were proved right because the Government came and legislated explicitly saying 'the rates are going to be 60% of ten months rent' and the ten months rent is supposed to be because two months rent is the equivalent of the expenses of maintaining the property.

HON CHIEF MINISTER:

If the Hon Member will give way, I shall save him some time in this matter. That formula was set up for domestic dwellings only, it does not apply to this. The rent is an element in this but it does not apply. The Valuation Officer has the right to rate business premises having regard to the prevalence in the area of the value of other premises even though it does not reflect the rent.

MR SPEAKER:

And the size of the premises.

HON CHIEF MINISTER:

Yes, having regard to the size of the premises, the area and all that. It is a mathematical thing subject to a number of variations in respect of dwellings but in respect of business premises it is not so. He exercises an element of judgement in respect of the value having regard to the area, to recent lettings around the place and so on and therefore the new rent does not necessarily reflect ten times the monthly rent for valuation.

HON J BOSSANO:

As I understand it for domestic property what the valuer does is he determines the rate payable by Government by reference to what the Government would charge if the Government was the landlord. The difference between that is that he does not use the Government as a landlord as a yardstick for commercial properties, he uses market rents. But as I understand it it is still market rents so presumably the only dispute can be whether what the valuer says is the market rent is what somebody else is saying is the market rent. I would have thought that if there is a record of what rates are being paid which the valuer presumably has from all the other properties otherwise how does he arrive at it, I don't know how it is done then, Mr Speaker. Certainly, the Rating Review Board in principle is not something to which we object but the method of assessing the valuation, the Hon Member has mentioned that there were 200 objections and that none went to Court and that negotiations went on with the Valuation Officer. I think we would like to have some further explanation of how this system operates because if the principle is that if you object you cannot lose and you might gain then there ought to be really

2,000 objections if people use their loaf because presumably if everybody objects and then they enter into negotiations with the Valuation Officer at worst they finish off where they were when they started. In any case, I think, since we have been told in the past and the Government has defended on more than one occasion that the question of rates is not something where one can really say 'it is Government policy to charge rates at such and such a value' because it is really something that the Valuation Officer really is like an impartial person away from the Government as a Government who does his job according to the rules laid down, the clearer those rules are for everybody to understand them the better. That was the argument we were putting about domestic property initially, that the rules were far from clear and that it was possible to have more than one interpretation. I also think, Mr Speaker, that when it comes to the question of the rebate which is a matter of Government policy, the rebate that the Government is providing here seems to make it possible for a rebate to be given greater than the one that was announced it was intended to give. If that is not the intention perhaps I could get that explained. We are talking about a situation of the value attributed in the period 1987/88 being subject to the 20% rebate. The Hon Member has said that in the case of owner/occupiers the property will be revalued annually. Presumably, it means that we are giving the 20% not just to revaluation that took place in 1986/87 but also to any revaluation that takes place in 1987/88. That was not the intention as it was expressed here at the time.

HON CHIEF MINISTER:

That is not the effect.

HON J BOSSANO:

Surely, Mr Speaker, if the value in 1987/88 is in excess of the value in 1986/87 would the rebate apply to that part of the excess or would it not? Let us take a hypothetical figure. If the rateable value was £50 last year and is £100 this year, if there is no further change it would still be £100 in 1987/88. If it goes from £100 to £120 in 1987/88 my question is, would the rebate apply to the £50 difference from £50 to £100 or to the £70 difference from £50 to £120 because if it is to the latter then, in fact, the rebate is being applied to the second increase as well which was not the explanation originally given. I am asking whether that is the effect which appears to be the case when we are talking about two different periods and when we are saying an owner/occupier will be revalued annually whereas a tenant will be revalued quinquennially. The point made by the Financial and Development Secretary that the rebates have already been implemented puzzles me, Mr Speaker, because, in fact, if he already has authority to implement the rebates why do we need to change the law to give

him the authority to do it? We would have thought that he couldn't do it until the law was changed even if he anticipates doing it, in fact, we were rather surprised when the Bill came up because we had obtained the impression at Budget time that special legislation was not required and we thought, in fact, it was already being done on the basis simply of the announcement that had been made in the Budget, we hadn't realised that an amendment was required to the Public Health Ordinance and certainly we wouldn't have expected that it would take nine months to do it but then if we are told that it is already being implemented in the intervening period then that makes it even less comprehensible why we are needing to change the law. The Hon Member has mentioned that the total increase in the Valuation List is £100,000 for 1987/88 over 1986/87. Is he saying that the yield in rates is £100,000 or is he talking about the actual value going up by £100,000? And if he is talking about the actual value going up by £100,000, does it mean that the commercial dockyard is still not included in 1987/88 because it wasn't included in 1986/87 and it wasn't included in 1985/86 or does it mean that the estimated value of the commercial dockyard is less than £100,000? There is also the question of the objections. We feel that there ought to be some provision where it is possible to object because one disagrees like we try to do unsuccessfully, Mr Speaker, when we were objecting to the domestic premises being rated the way they were at the time, I think it was in 1984/85, what we found was that we were told that the objection that I had put in could not be considered and unfortunately I was told that when it was too late to do anything about it because I was not objecting as a ratepayer in respect of my own rates, I was making a general objection about how the rates had been calculated and it seemed to be related to whether I had a right to be aggrieved by what the Government was doing to all ratepayers rather than having to be aggrieved only by what they were doing to me as an individual and, therefore, we would not like to see a continuation of that system which limits the opportunity of objecting to the individual ratepayer in respect of his own rates because we tried to use the procedure for objection before we were unable to do it, if we are now looking at that section and substituting for it a new one then we shall seek to introduce there something that enables objections to be made independent of the fact that the individual making the objection is not the actual ratepayer which seems to be prevented by saying 'any person who is aggrieved as we were told in the past, anyway. I think that that covers most of the points.

HON CHIEF MINISTER:

Mr Speaker, I am glad to be able to say that my latest information on this doesn't vary very much from my recollection of the practice in the City Council where I was much more intimately connected with this. In the

first place, the word negotiation is perhaps not a very happy word to use. I thought that was the case, I have had it confirmed from the Valuation Officer, what happens in cases like that is that the valuation is disputed on facts on which it has been made, for example, the question of the measurement is questioned, the question of whether part of the premises is a store or part of the shop is questioned and then on a detailed examination of the particular premises they find that they are, in fact, very minimal in many cases, there are, in fact, changes which have not been reflected in the old valuation or the records kept in the Department for some reason or other and these are corrected at the instance and at the request of the ratepayer. So that the ratepayer normally, when he sees that his rates have gone up he finds out any way in which they can be reduced and in doing that he finds out whether the assessment is made on the correct measurements and whether certain aspects that were taken into account before have been taken into account or not. I am told that of the 200 who had objected there were 50 of which nothing could be done about it, the others were corrections. The other thing is that it has been a norm based on British Rating Law that in order to be able to value properly, certainly we are talking about business premises because the concept of areas and valuation in respect of dwellings has been done away with by the fast and hard rule of equivalent Government dwellings and in this we are dealing with business accommodation. The concept is, of course, that whilst you take note of any changes in the course of the year which reflect the new valuations, you carry out a general valuation every five years and then you divide the equity of it amongst all occupiers. But that is not in the law, that is in practice. There is nothing in the law that does that but by the amendment under Clause 3, Section 197 of the principal ordinance is amended by inserting immediately after the sub-section (1) the following new sub-section "In a draft valuation list there may be included a revised assessment of the net annual value of any hereditament not being a dwelling house, whether or not occupied by the owner, and not being a hereditament owned and occupied by the Crown". That, in fact, means that there can be a revaluation at anytime and that it will be a continuing process rather than having the upset that was caused of a revaluation after a while when there had been a depression and then suddenly premises started to take up value. It is very much like reviewing the cost of living every year and not doing that every five years and finding out that the increases are very big. That is the first concept that this will be able to avoid these big fluctuations in rent. But, first of all, I would like to stress that it is not done purely on rents, in fact, it is done on rental values realised in the vicinity by freely entered contracts between landlords and tenants in the immediate past before the new one is made. So that, in fact, if you are occupying a business premises which

is rented or a tenant is occupying business premises and then the landlord decides to occupy the premises because the tenant goes away or he has properly compensated him and so on, then it isn't judged by the rent that he would attribute himself to be paid but what is the value per square foot in the area of similar business accommodation. That is the criteria that is used, it isn't the criteria of rent. Rent is, of course, very important in putting the norm but if you make a new agreement and, in fact, this is something which one has got to look out for, it all depends on the extent to which other people are prepared to play ball with it and this deprives the possibility of that. If rent were the only criteria then you would have the incentive of paying money for a key without setting it out in the agreement and putting the rent at a low value and then paying rent at that low value. Well, that cannot happen because if there is a business premises contract at a very low rent it makes no difference if the rent around the district is higher than the norm of one with the other is established and that is per square foot and it will be on that value that the premises will be rated. Really, it is much more equitable in a way, in fact, it was like that in housing but for obvious historical reasons of the old dwellings that they were paying very small rents and very low rates that they had to be equalled with the rates of Government dwellings which were, to some extent, subsidised perhaps more before than they are now but that made it much more fair for those who had to pay rates and were paying a very small amount of rent in respect of a dwelling because it was rent controlled. Apart from legalising the agreement reached at the time when there was this great hullabaloo about the increases which was negotiated with the rates people and accepted, apart from legalising that it also takes advantage of having a continuing process of revaluation so that there are no big differences from one year to the other.

MR SPEAKER:

Are there any other contributors to the Second Reading of the Public Health Bill? Do you wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker, simply to answer one or two points, other than those which the Chief Minister has dealt with, raised by the Hon Leader of the Opposition. The first point I think was that the Hon Member was unclear as to whether the provisions in Section 2, that is to say, with regard to rebate would apply to this year's NAV's and rates or whether the 20% would apply to next year's increase on the NAV and I can confirm, after having discussed with my colleagues, both the Attorney-General and the Valuation Officer, that the Bill will only apply as far as this year's rates and

NAV is concerned, that is to say, the 20% will not apply to next year's increase with effect from the 1st April, 1987. That was the first point. The second point also on the question of rebates, he did raise the question of the need for this legislation referring to the fact that there was, of course, provision as I mentioned myself in the Budget. There has been some doubt about this, I must confess, we did provide in the Finance Bill for this particular measure, that is to say, the money was voted but it was felt subsequently that as we were, in fact, going to have the Bill, we would need the Bill to make the other changes, in particular the Rating Review Board, it would be advisable to include Clause 2 and to make matters absolutely clear. I think this is a belt and braces operation, we propose to move an amendment at the Committee Stage to say that Sections 2 and 3, I think, will take effect from the 1st April, 1986 to make the legal position clear. The Hon Member also raised the position of the dockyard and I have made enquiries into this, indeed, made enquiries before I came to this House knowing the Hon Leader of the Opposition's affectionate interest in such matters and it is true that the dockyard was not included in the current List but the Valuation Officer may at any time include during the course of the financial year, of course, he may at any time make alterations to the current List, that is to say, the List for 1986/87 and, needless to say, the occupier does have the right of objection, only he has the right of objection at that stage because it would not be a general right of objection. The occupier will have the right of objection and there would be the procedures for appeal, first of all, to the Financial Secretary and then, of course, under existing legislation to the Court of First Instance but provided those procedures are observed then the NAV and the rates in respect of that particular hereditament - and we are talking here about the dockyard - would be affected as from the beginning of the current year. So if I may sum up, the Hon Member can rest assured that all is not lost as far as the chances of GSL paying rates for 1986/87.

HON J BOSSANO:

Mr Speaker, one point, I also asked whether the £100,000 increase for 1987/88 mentioned by him was in yield of NAV and whether it included GSL or did not include GSL?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It does not, to the best of my knowledge, include GSL at the moment, Mr Speaker, because GSL is not in the current List.

HON J BOSSANO:

1987/88.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

1987/88.

HON J BOSSANO:

And the other point was, was he saying that the value of the List had gone up by £100,000 or the estimated yield had gone up by £100,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is, in fact, the yield.

HON CHIEF MINISTER:

You never talk in terms of money for valuation, we always talk in terms of what it produces.

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 will be taken at a subsequent meeting.

THE INSURANCE COMPANIES ORDINANCE, 1986

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to regulate and restrict the conduct of the business of insurance; for the licensing of insurers, the winding up of insurance companies and other matters ancillary thereto be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time. As a preliminary, Mr Speaker, to what I have to say, I might as well make the point now that the Government does not intend that this particular Bill should go through its Committee Stage at this meeting. The main object of the Bill, Sir, is to regulate the conduct of insurance businesses in Gibraltar and in so doing to ensure adequate protection for policy holders and beneficiaries. Thus the measures before the House are aimed at providing a healthy insurance industry for Gibraltar, enhancing the standing of local companies and Gibraltar's reputation as a financial centre. The

existing Ordinance is totally unsuitable for these purposes since its provisions are mainly confined simply to registration. There is no insurance authority or supervisory regime at present and the financial requirements in the existing legislation in no way provide adequate safeguards against insolvency. Not only that but new classes of insurance business have developed in recent years which are outside the scope of the Ordinance which remained untouched since 1954. The proposed legislation remedies these shortcomings and allows matters of detail to be covered by regulation such as the methods to be used in calculating the required margins of solvency, valuation of assets and liabilities, form and content of accounts and so on. A great deal of this reflects the experience and in some circumstances it must be said the traumas of the insurance industry and the supervisory authorities in the United Kingdom and elsewhere including ourselves during the past thirty years. The Bill will give effect to the EEC directives on life and non-life insurance but is basically modelled on UK legislation, that is to say, the 1982 UK Insurance Act. The proposals in the Bill have been discussed with the Department of Trade and Industry in the United Kingdom and also with the Finance Centre Group in Gibraltar and it is good to see so many of them here today. A major concern in these discussions has been to safeguard and provide for the development of a captive insurance centre which is a modern refinement of insurance techniques comprising companies set up so that they may take advantage of the Companies (Taxation and Concessions) Ordinance and handle the insurable risks, mainly non-life risks, of course, of their parent or associated group of companies. The new arrangements will provide encouragement for larger companies able to comply without difficulty with the new solvency requirements and in the case of established smaller companies there are general discretionary powers included in the Bill which should enable soundly-based companies to build up their solvency positions to required levels. The initial funding and subsequent solvency requirements so far only relate to direct insurance business. A more flexible regime is therefore possible for companies which only carry on re-insurance business and, again, re-insurance is another of the requirements in the insurance business which Gibraltar is well-placed to handle or will be well-laced to handle in the future but, of course, in competition with other centres. I should say something about the EEC Directives because this is a subject on which there has been a certain amount of commotion and I think perhaps some of it has been misplaced. Certainly the legislation conforms with the EEC Directives on life and non-life insurance matters and the detail of the Bill as Hon Members will have seen refers to the position of companies with their Head Office in another Member State or in a Member State at intervals throughout the text distinguishing between the position of these companies and companies with a Head Office not in a Member State because the requirements

under Community Law as regards authorisation supervision are different. But I think it would be wrong to think that the EEC Directives have in any sense meant that Gibraltar has to have this legislation. It is really quite wrong that Gibraltar should have a supervisory regime which is totally different to that of other EEC member States, that is to say, that we don't need this legislation. We do need this legislation with insurance as with banking, we need legislation which conforms with the best form of practice. We want to encourage first class institutions to come here and to develop and the sort of institutions we want to encourage actually expect because they are used to seeing modern up-dated legislation, they will expect us to have the legislation and the supervision which this Bill will confirm. That is really all I want to say in general terms about that, Mr Speaker. After that introduction I shall just briefly make comments on parts of the Bill. Part I deals mainly with matters of interpretation and specifies how contracts of insurance which includes ancillary risks are to be treated for the purpose of classification. It imposes restrictions on the use of the words 'insurance' and 'assurance' in company names. Part II of the Bill provides for the administration of the Bill and there are close parallels here with the Banking Ordinance. There will be a Commissioner of Insurance who will be assisted by the Insurance Advisory Committee consisting of the Insurance Supervisor and three fit and proper persons appointed by the Governor. The Finance Centre Group and the Chamber of Commerce will be consulted before appointments to the Committee are made. The Financial and Development Secretary will perform the functions of Commissioner for the time being. The provisions of the Bill as with the comparable Banking legislation, provides for the Financial and Development Secretary or the Insurance Commissioner to consult with the Committee in carrying out his functions under the legislation. Part III of the Bill imposes restrictions on the conduct of insurance business in Gibraltar and on the acquisition of controlling interests in licensed insurers. Except in certain defined circumstances, insurers will be prohibited from carrying on both long-term and general business. They are also prohibited from undertaking any business in Gibraltar which is not related to their insurance business. The Governor will also be able to prescribe classes of contracts or arrangements which, in his opinion, may prove unfavourable to the interests of policy holders. An example of this would be a contract where life insurance is linked to some highly speculative investments or other activity. Part IV deals with the procedure for obtaining licences, it specifies the criteria for determining applications, and Part V with the appointment of officers, auditors, agents, representatives of licensed insurers and with the preparation and submission of accounts and statements. I hope that Hon Members will feel that a great deal of this is really commonsense written into legislation. The difference, of course, is that with

modern legislation increasingly what would be regarded as commonsense administrative procedure is written into legislation. I think that development which is going on throughout Europe is, to some extent, a reflection of the fact that there is a European Commission and the basis of Community law is Gallic or Roman law rather than Anglo-Saxon law but that is my own view, perhaps some lawyers will disagree with me, I heard the Attorney-General grant. There is perhaps something I should say about accounting because this leads into Part VI of the Bill. Traditional forms of accounting do not lend themselves to the type of information breakdown which is required to assess properly the financial position of insurance companies and according to the accounts that will be required under regulations that will be made, will be specialised and will take account of regulations governing the valuation and admissibility of assets in common solvency standards throughout the Community. Part VI lays down the general requirements for licensed insurers to maintain adequate, technical and mathematical reserves, solvency margins and guarantee funds. Some of the terminology may be strange, in fact, the underlying principles are not so strange. As I have said, traditional conventional form of accounts are inadequate for insurance. An insurance company is perhaps more like a bank or a building society, that is to say, you have to measure streams of long-term income, long-term liabilities in the case of life insurance, you require different criteria than those which would be applicable to a company. An insurance company life insurance, for example, enters into long-term contracts, it invests the money received either from the initial premium or from premiums subsequently against a variety of risks and it calculates possible claims, maturities and other liabilities. The criteria required which will now be required by law will have to be phrased and defined accordingly. There is nothing new conceptually in this, a properly run insurance company will have been doing all this if it is running its affairs prudently of its own accord and so would a bank or a building society in the normal course of its business. What is new, of course, is that these will now be prescribed in law under the Bill and the regulations which are to be laid under the Bill will specify further such matters as the solvency margin, the minimum guarantee fund and, as I have said, the technical and mathematical reserves. Mathematical reserves, for example, is in effect, our old friend actuarial liabilities. The minimum guarantee fund is the initial capitalisation or funding required before a company can be set up and as Hon Members will have seen, there is a specific reference here to the amount required which is 800,000 ECU's - this is not a strange bird but, of course, this is the European Currency Unit - and at current rates of exchange this is approximately £587,000, that is for life business. For general business the minimum guarantee fund ranges from 200,000 ECU's to 400,000 ECU's depending on the classes of business carried on. In the case of pure

re-insurers, that is, companies restricting their business to re-insurance, the minimum guarantee fund for long-term or general business will be one-half of the amounts mentioned but special provisions will apply to pure re-insurers which are wholly-owned subsidiaries of insurers carrying on long-term business and which only carry on such re-insurance business as ceded to them by their parents and also for mutual companies. The solvency margins and guarantee funds are as laid down by the Community Directives. Solvency margin itself is, in fact, again quite a simple concept and would apply to a bank and certainly to a building society. A building society would be taking in money against various future streams of income but it must hold a reserve against fluctuations in business. The solvency margin in insurance is pretty much the same sort of thing. If one takes life insurance, the company will have on the one hand policies securing liabilities which will be calculated actuarially, on the other hand it will have investments, the investments plus the income from which should in theory, mathematically, correspond as with the bank, the bank has no deposits and assets of liabilities and the two balance each other, well, likewise with insurance but on top of that the company must maintain a fund which is untouchable, as it were, it is a reserve fund equal to about 4% or 5% of its risks.

HON J BOSSANO:

Can the Hon Member say if that is called the solvency margin?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is the solvency margin. If an insurer were to fail to keep to the required solvency margin he will have to submit a plan acceptable to the Commissioner for the restoration of a sound financial position, that is to say, he would have to retain profits and take other measures likely to restore the position over a short period of time. There are other provisions in the Bill which will require a licensed insurer to maintain in Gibraltar assets to a value equal to the whole or any specific proportion of the amount of its liabilities in respect of the Gibraltar business and may require a transfer of any part of such assets to an approved trustee. Insurers in Head Offices in Gibraltar must maintain solvency margins in respect of their entire business. There is, perhaps, something I should say about the supervision and authorisation of insurance companies. Insurers supervised by agreement in Gibraltar which is basically non-Community insurers who opt to be supervised in Gibraltar as distinct from elsewhere in the Community if they carry on business, will be required to maintain solvency margins in respect of their entire business and a solvency margin in respect of the business they carry on in the Community. I think

it would perhaps be easier if I say something about authorisation in general terms in the context of the discussions we have had with the Department of Trade and Industry on this matter because the consequences are quite important for Gibraltar. Initially we had and, in fact, this is one of the reasons for the delay in producing this legislation, the United Kingdom had some difficulty in recognising Gibraltar as a separate entity for the purpose of insurance supervision. The Community Directives on this matter only recognised the United Kingdom as a legal entity, that is to say, the United Kingdom and its dependent territories and there was, therefore, an initial problem which was essentially a legal and quasi constitutional problem in distinguishing between the UK and Gibraltar for this purpose. I am happy to say that this has been satisfactorily resolved and we have had discussions with the Commission on this particular point and they have taken a very sensible view, they have recognised Gibraltar's right and desire to carry out its own supervision and authorisation of insurance and this, indeed, may be a useful fact for any further dealings we may wish to have in comparable matters. The position is that while the United Kingdom is responsible in Community law for ensuring that Directives are implemented in Gibraltar as regards insurance, it is the responsibility of the Gibraltar authorities acting under the powers conferred on them by the Gibraltar Constitution Order of 1969 to enact relevant legislation within Gibraltar and likewise management of a system of supervision set up under this legislation will be a matter for the Gibraltar authorities. In this respect the position of Gibraltar, vis-a-vis the United Kingdom, will be analogous to that of a separate member State of the European Community. The relations between the United Kingdom and the Gibraltar supervisory authorities will therefore, in principle, be based on the normal protocols of collaboration annexed to the Directives. These protocols are arrangements whereby member States exchange information and they provide each other with information about insurance matters and, indeed, to assist each other with the supervision of companies. Any company established in a member State of the Community, including the United Kingdom, wishing to establish a branch or subsidiary in Gibraltar will need to apply to the Gibraltar authorities for authorisation. Similarly, any Gibraltar company wishing to establish a branch or subsidiary within the territory of a member State including the UK will need to apply to the authorities in that member State for authorisation. Nevertheless, under the insurance Directives and the Treaty, Gibraltar is treated as part of the UK for insurance purposes and therefore there may have to be consultation between us and the United Kingdom in the event of any difficulty with another member State who is unfamiliar with the terms I have just outlined. The Department of Trade in no sense wish to interfere with the operation of our legislation. They have said that in the case of

any difficulties the UK will use their best endeavours, if necessary through diplomatic channels, to persuade that authority to deal directly with the Gibraltar authorities. The UK will not itself become involved in the supervision of insurance companies in Gibraltar and any mediation with other member States on behalf of Gibraltar will be on the basis of the day-to-day exercise of supervision of Gibraltar is a matter for the Gibraltar authorities alone. I think that arrangement which we have after quite considerable dealing with the United Kingdom reached, Mr Speaker, is one which is satisfactory for Gibraltar. I don't wish to go into too much detail on the various other parts of the Bill, Mr Speaker. Very briefly, Part VII ...

HON J BOSSANO:

Could I interrupt the Hon Member before he passes on to something else? I am not very clear about one point, when he is talking about establishing branches, that is to say, a European Community insurer wanting to do business in another member State, is he saying that they require to be registered to set up a physical presence in the territory or they are actually required to be registered in order to do business, period? That is to say, what is to stop somebody who is resident in Gibraltar taking out insurance now with an insurance company from anywhere in the European Community and, presumably, vice versa? When he is talking about setting up a branch it really means establishing a physical presence there. There is nothing that is required in terms of the permission of the other country for the business to be conducted on the basis that they are taking out insurance with a Gibraltar office, say, from a client in UK or wherever, is that the case?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the Hon Member may be not distinguishing adequately between establishing a branch or a subsidiary and simply carrying on what is called service business, that is to say, we are here concerned with an insurance company which wants to establish itself in Gibraltar. We are not concerned with service business, that is to say, advertising by another insurance company elsewhere in another member State in Gibraltar 'Do business with me' in which case the individual would respond to an advertisement which might appear on the media elsewhere of a company which is established in another member State. All this legislation is concerned with companies which are registered, incorporated or established as branches or subsidiaries in Gibraltar.

HON J BOSSANO:

The point is that registration is not required to do business of the type that the Hon Member has mentioned which is, in fact, what I am talking about.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, registration is not. That would be governed in the United Kingdom, it is about to be governed by a totally different corpus of legislation, namely, the Financial Services Bill which is rather a different matter. Part VII, as I was about to say, Mr Speaker, contains special provisions concerning long-term business, contracts, accounts, actuarial investigations and disposal of assets. Part VIII requires statistical records to be kept in respect of certain types of co-insurance operations. Part IX introduces controls over the transfer of business. Part X enables the Commissioner and the Supervisor to obtain information concerning the carrying on of insurance business. Again, the procedures involved are similar and certainly conceptually similar to the requirements which, in the case of banks, for example, the banking supervisor would make on banks. The difference, again, is that they are rather more explicit in this particular legislation. Part XI deals with the question of appeals to the Supreme Court against the refusal or revocation of a licence, the imposition of any condition on the grant of a licence, the refusal of any approval or consent required under the Ordinance or a direction, determination or prohibition by the Commissioner or the failure of the Commissioner or the Supervisor to deal with an application within the prescribed time. The Court may confirm, reverse or vary the decision appealed against or may direct the Commissioner to take any action which, under the Ordinance, he has power to take. This, again, is a slightly novel but nevertheless necessary provision against administrative abuses. I think that one of the possible consequences of this particular legislation, indeed, this approach is that if the legislation and the regulation specify in great detail what the administration can do and this has the force of law, then I would hope it becomes less likely, if everybody observes the legislation, that you will have writs of certiorari, mandamus or prohibition because the administration and its officers have done the wrong thing. I think there is a benefit, at least I hope there is a benefit as a result of this although perhaps it won't be beneficial to the legal community in the terms of fees from such actions. Part XII, Mr Speaker, contains various incidental provisions including provisions enabling the Commissioner to grant exemptions as well as provisions for the making of subsidiary legislation and so on. Finally, Part XIII modifies the provisions of the Companies Ordinance in certain respects with regard to the winding up of insurance companies. This Part also repeals the existing Insurance Companies Ordinance and deals with the position of persons who are already involved in carrying on insurance business in Gibraltar. Such persons may continue to carry on business in such classes as they were previously regularly transacting for six months from the commencement of the Ordinance or pending the determination of an application

made within that period for a licence whichever is the shorter, or in cases where a person appeals against the refusal of a licence until the determination of the appeal. Persons who cease to be entitled to carry on insurance business are prohibited from entering into new contracts of insurance but may continue to carry on insurance business so far as it is necessary for the performance of their existing obligations. 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:

We are voting in favour of the Bill, Mr Speaker, and the explanation given by the Financial and Development Secretary of the fact that the Bill (a) meets the requirements of the European Community, and (b) is a good thing in itself anyway even if the requirement was not, there, I think, is sufficient and we certainly think that it is necessary, as we were saying in the case of the ship registration, to attract good quality business, even if they are a minority, one bad quality business can drag an awful lot of good quality business away and in the long run we tend to lose more than we gain and certainly the whole atmosphere of bad ship registration and bad insurance companies and bad this and bad that could leave behind a very nasty image which independent of the economics of the operation, certainly I think politically none of us want to give those who wish to detract from Gibraltar any ammunition for detracting from us and therefore we support it for all those reasons. So really the only things that we want is explanations about things which we are not clear about because it is a complicated piece of legislation, it isn't an area where we are experts. There has been a lot of comment of captive insurance companies in the past in the press and so on. How do they fit into this? Because I would imagine that if we are talking about share capital of £587,000 instead of what it is now which is £10,000 then it is difficult to see that growing and if it is an area that the Government feels does not suffer from a bad negative image and is still worth having then how do they fit into the picture? Are they required to comply with all the elements in the law or is there a special provision to deal with that situation? I notice in the Schedule it mentions pension fund management and it talks about where the pension fund manager is carrying on the business in addition to other insurance business and where the pension funds are not solely for the benefit of the company's officers and employees. I take it and I want confirmation, Mr Speaker, that in fact there is nothing here to stop any employer making

arrangements for a pension fund for his employees without either becoming an insurance company or being required to use an insurance company because, for example, using the insurance company to manage a pension fund may be worth doing provided what one has to pay the insurance company is not more than what one stands to gain by that expertise and certainly there are a number of small pension funds of local firms which I am aware who have done quite well on their own without the assistance of an insurance company and I want to be reassured that they are going to be able to continue doing so. I think also on the question of being able to do business in and out which partly has already been answered by the Financial and Development Secretary in the sense that people here will still be able to use any insurance company anywhere in the Community and presumably people in the rest of the Community will be able to use a Gibraltar registered company if they so choose simply by taking out a policy here, presumably, so when we are talking about the business happening in Gibraltar am I right therefore in thinking that if the insurance contract is done in Gibraltar that counts as Gibraltar business independent of the fact that the assets being insured may be somewhere else? I also think that we will need to have some clarification on whether, in fact, these things which appear to be possible under this legislation are in fact going to be possible now for the first time or whether they are possible already anyway? Clearly, the legislation we have got now obviously is legislation that was designed to have some sort of control over what was considered to be a domestic operation dealing with the right to set up some sort of insurance facility here. It was obvious that it was never envisaged, it is only a two page thing as I remember it, Mr Speaker, it was never envisaged to be the basis upon which multi-national insurance companies would be established and operate. Presumably this as a vehicle for such operations is on a par with anything that is available anywhere in the European Community and is modelled on the United Kingdom, we have been told, so clearly we are talking about a different situation altogether in what this creates. To what extent is that going to impact on the existing situation and we want to be reassured that it won't be detrimental to any small local companies who may have been here for a long time because, fine, we are doing all these things so that a reputable firm can come here and say: "This place seems to know what it is doing" which, I think, is part of the image building that takes place. If they come in a territory and they see that our legislation goes back to the time of Queen Victoria they then don't particularly like to be associated with an administration of that area because obviously people get nervous if they feel that their money is being looked after in a place where the authorities are not in a position to ensure that everything is being done properly and I think this is why, in fact, the ability to do it is the important thing. We may not

actually need to do much regulatory work, from my understanding of the situation, but I think people need to be reassured that there is such a machinery and therefore on that particular account - the Hon Member has mentioned a number of appointments - so will we take it that there will be a continuing strategy of strengthening that area of the Treasury or whatever it is to make sure that people are given the proper training and that there is the right environment in terms of attracting people into that area so that if they are called upon to do the work, obviously when things are going well there is no problem but when one reads in the press of other administrations like, for example, when the Isle of Man found itself caught short on its banking supervision and suddenly found that, in fact, they had been taking things more or less for granted, that nothing would go wrong and then suddenly they found something going seriously wrong and they had to do a major overhaul of their own machinery. I think it is important that if it has taken a very long time to get here that we are sure that now we are there we are in a position to deliver..

HON CHIEF MINISTER:

Mr Speaker, this is another Bill which has taken a considerable amount of time to get it through, a considerable amount of work has been done and it is one of four which are really necessary to put in order if we are going to maintain a good reputation as a finance centre and the sharks do not take advantage of old legislation which was meant for other times. The Insurance Ordinance was one such Ordinance of which one or two unscrupulous people took advantage giving generally a bad name to Gibraltar when, in fact, the circumstances were such that it was the reaction of the people themselves who brought the matter into disrepute. I will leave the Financial Secretary to reply to the points raised by the Hon Member about captive insurance companies but I would like to say that producing this Bill has meant a considerable amount of work by the Financial Secretary, by the Finance Sector Adviser and many other people in his office and I think I ought to point out that what the Financial and Development Secretary has said about the initial problem which was a quasi legal and constitutional problem was also, in my view, essentially a political problem in that what we were trying to do and what we have achieved to a considerable measure by the efforts of the Financial Secretary and the Finance Sector Adviser is to be allowed to run our business in our own way and to provide the necessary guarantees to ensure, as we did in the past, in fact, the good enforcement of exchange control in Gibraltar was one of the factors why we were able, as the only territory after the pound was floated in 1972, we were able to come back into the sterling area on the 1st January, 1973, at a time when Britain was ensuring that there was no

exodus of capital and extending the sterling area to Gibraltar then or rather restoring the position of the sterling area then was achieved as a result of our past record in the proper administration of exchange control and strengthening it for the future. Now it is a thing of the past except that there is a cloud as to the possibility of what might happen if there was a change of Government in England but even then they are thinking of other things rather than exchange control because it is something that looks very much as if we couldn't live without and it has been taken away after forty years and the world carries on thinking that it would be no problem. There are other factors in international finance that have a bigger effect on money values and things than the artificial one of exchange control which was introduced and was necessary to maintain the finances of a country at war and was extended for far too long. But the problem here has been essentially that we wanted to run this legislation ourselves and it has not been an easy task as it never is an easy task to acquire further responsibilities in the world today. It was not an easy task to be able to have our own administration and not be under the tutelage of the Department of Trade and Industry. That has not been easy and I would like to pay tribute to the Financial Secretary and to the Finance Sector Adviser for the excellent work that they have done and also backed as they knew they were of the political feeling behind that kind of approach. I think we also ought to give some credit to the - I am not being patronizing by saying some - but we should give credit to the Finance Centre Group who have contributed with their ideas and so on and no doubt they may want to look at the details between now and the Committee Stage and Third Reading. They have made a good contribution. They are interested also in the good name of Gibraltar for the running of the Finance Centre generally and I know that they have been waiting for this for too long and I know that it will be very welcome and will, I am sure, add not only to the good reputation that Gibraltar has as a finance centre but also to enhancing the business that can be produced from that which is already showing in other areas, a good source of employment for young people and employment for secretaries and other people who cannot or may not be able to qualify to take further education after their 'O' or their 'A' levels but who are now very well remunerated and well employed in all these offices that have cropped up and I think the insurance legislation, in particular, is one which has attracted and continues to attract a considerable amount of interest from outsiders. And as the Financial Secretary has rightly said, we have to compete with other centres but we seem to be doing that quite well in other respects and it is important that we should continue to do so and that people should be able to find in Gibraltar facilities which are comparable if not better than they can find in other places and find that perhaps the atmosphere is better and that they

can help to make the finance centre a much bigger part of the economy as we all aim that it will be. It is pleasing that there is support from the Opposition to this law because it is really a basic law which will stand the change of time and so on and which will enhance one of the aspects of the economy that has to substitute others that are being lost by reasons which are not ours, the reduction in defence spending not only in Gibraltar but as a result of defence spending generally and for that reason I think it is a good day for Gibraltar when the Third Reading of this Bill is taken which will lead to its enactment after the next meeting of the House.

MR SPEAKER:

Any other contributors? Does the Hon Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Very briefly, Mr Speaker, as the Leader of the Opposition has raised one or two points. I think one of them really concerns the impression of what is carrying on business in Gibraltar and I think I covered half of what he raised but if I could just amplify that. In fact, the phrase 'carrying on business' has never been adequately defined to anyone's satisfaction, I should perhaps say, but the understanding which has been reached is that carrying on business means three things in insurance terms. If you underwrite the risks, I am talking about Gibraltar now, if you are carrying on business in Gibraltar you underwrite the risks in Gibraltar, you receive the premiums in Gibraltar and you meet the claims in Gibraltar and that constitutes the establishment of an insurance company or a subsidiary and that is really what this Bill is all about. This does not prevent a person in Gibraltar from entering into a contract of insurance with the agent of a company which is established elsewhere but Clause 17(1) says: "No person shall carry on insurance business in Gibraltar except in compliance with a licence issued under this Ordinance"; (2) "No person shall solicit or endeavour to induce any other person in Gibraltar to enter into a contract of insurance other than with a licensed insurer or with an insurer which has its head office outside Gibraltar in a member State and is authorised to carry on insurance business in that State". That is to say, one is protecting the interests of the prospective policy holder by ensuring that an agent is the agent of a properly established insurance company and the Community legislation provides that there are reciprocal provisions in the laws of other member States. The other point raised by the Hon Member was how this will affect the future of captive insurance companies. I think I can say that it should not in any way impose a threat to captive companies. There are a number of captive companies at present who may not, in fact, meet the financial requirements laid down.

The legislation does, however, provide the Commissioner with the power to modify the requirements of the legislation in certain circumstances, this is Section 113, I believe, of the Bill which is a provision included in UK legislation and I would quote this very same clause in the context of the Hon Leader of the Opposition's other remarks about the future of the smaller companies in Gibraltar who are carrying on who are in existence. Again, the legislation does not impair the business of existing small companies because the modification requirements is possible under this particular clause. There is nothing in the legislation which prevents the form of pension fund management, there is no threat to the pension funds of existing companies. What the legislation applies to is the insurance companies who may carry out pension fund management but I would expect that most companies would wish their pension fund management if they are going to approach an insurance company, they would expect their pension fund management to be carried out by a licensed insurance company in any event so there is no threat whatsoever to pension fund management in the normal course of events. I have got a note here which says 'What is possible now?' I am not quite sure what I meant by this, it arose out of something which the Hon Leader of the Opposition said but he did say something about training and the Chief Minister has already made reference to this. It is certainly going to be an additional requirement and an additional burden on the civil service to meet the requirements under this legislation and in addition to what the Chief Minister has already very eloquently said about the subject, I would merely mention that there is one further word, it certainly doesn't apply to myself I am happy to say, but it may very well apply to the expertise and that is the question of remuneration. Experts do not come cheap. Having said that I would like seriously to join the Chief Minister and, indeed, join him wholeheartedly in what he has said about the work of the Financial Sector Adviser in carrying, in effect, the burden of preparing this legislation with the assistance of my Hon and Learned Friend and the legal advisers. He really has put in an enormous amount of work. I am very grateful to him and so I know are Government Ministers for the efforts he has devoted to this task and I would certainly like to associate myself with what the Chief Minister has said. I commend the Bill to the House, Mr Speaker.

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 subsequent meeting of the House.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: (1) The Supreme Court (Amendment) Bill, 1986; (2) The Trade Licensing (Amendment) Bill, 1986; (3) The Traffic (Amendment) Bill, 1986; and (4) The Supplementary Appropriation (1986/87) (No.3) Bill, 1986.

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

THE SUPREME COURT (AMENDMENT) BILL, 1986

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 1. of the Bill be amended by the deletion of the present Clause and the substitution of a new Clause reading: "1.(1) This Ordinance may be cited as the Supreme Court (Amendment) Ordinance, 1986. (2) This Ordinance shall come into operation on such day as may be prescribed by the Governor by notice published in the Gazette".

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.

Clauses 2 to 5 were agreed to and stood part of the Bill.

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

THE TRADE LICENSING (AMENDMENT) BILL, 1986

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

New Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I gave notice of an amendment, to add a new Clause to the Bill which would become Clause 3 to read: "Section 16(4) of the Trade Licensing Ordinance is amended by inserting immediately after the words "the applicant", the words "or any person deriving title from the applicant". Mr Chairman, by the existing Section 16(4) of the Trade Licensing Ordinance, a development aid licence granted under the Development Aid Ordinance may specify that the applicant for development aid is

entitled to a trade licence or a business licence under the Trade Licensing Ordinance. By this provision the development aid licence can only specify that the applicant for development aid, that is, the developer, is entitled to a trade or business licence. It cannot specify that any other person should be entitled to a licence. It cannot specify, for example, that a purchaser from the developer or another person deriving title from the developer is entitled to such a licence. This amendment changes that situation, Mr Chairman, and if it is accepted it will enable the development aid licence to specify that, for example, the first purchaser from the developer is entitled to a trade or business licence. It becomes important when you have a development, for example, of five shops. Under the present law it is the developer who is entitled to the trade or business licence and what we wish to do is to say that a purchaser from that developer can be entitled to a licence under the Trade Licensing Ordinance. That is the purpose of this amendment.

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

HON J BOSSANO:

We are opposing the amendment, Mr Chairman. Could I ask the Hon and Learned the Attorney-General, in fact, if in bringing this amendment to the House is he saying that until now the practice has not been to give tenants in new developments that have had a development aid licence the right to a trade licence?

HON A J CANEPA:

They have had it all the time.

HON J BOSSANO:

They have had it all the time although the law doesn't say it?

HON A J CANEPA:

They have had it all the time and not just the first tenant but subsequent tenants as well and therefore we have been losing an element of control and what we want to do now is, in order to continue to encourage development, that the first tenant should automatically get a trade licence but not subsequent tenants. That in the case of subsequent tenants they should have to apply to the Trade Licensing Authority to get a trade licence.

HON J BOSSANO:

That was not the impression we got from the Attorney-General, Mr Chairman. Are we actually restricting or expanding?

HON ATTORNEY-GENERAL:

We are expanding. We are really amending the law to cater for the existing practice which doesn't seem to be in accordance with the exact wording of the section. This has been pointed out.

HON A J CANEPA:

Am I wrong?

HON ATTORNEY-GENERAL:

Well, yes, apparently, Mr Chairman, licences have been granted.

HON J BOSSANO:

Had the Hon Minister for Economic Development and Trade been right we would have voted in favour but if the Hon and Learned the Attorney-General is right we are voting against.

HON CHIEF MINISTER:

The reason for the confusion is quite clear. The concept was considered.

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 following Hon Member was absent from the Chamber:

The Hon J E Pilcher

New Clause 3 stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) BILL, 1986

HON J C PEREZ:

Mr Chairman, just to say that in the general principles of the Bill we abstained and that we intend to abstain on the whole of the Committee Stage of the Bill.

Clauses 1 to 8

On a vote being taken on Clauses 1 to 8 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 following Hon Member was absent from the Chamber:

The Hon J E Pilcher

Clauses 1 to 8 stood part of the Bill.

Clause 9

HON M K FEATHERSTONE:

Sir, I beg to move an amendment to Clause 9 that Section 16H(1) should be deleted completely and substituted by: "A driving licence shall, unless previously revoked or surrendered, remain in force until the holder attains the age of 70". This will mean, Sir, that once you have passed your driving licence you will not have to worry about its expiry on a date which you never remember and find that you are out-of-date when the important time comes when a policeman asks to see your licence. You will have your licence in force until the age of 70 and it is proposed that the fee for such a licence will be £15 but where the person is aged 55 or over it will be paid at a pro rata rate of £1 per year.

MR SPEAKER:

May I ask for my own personal knowledge, existing licences will have to be renewed once when they expire now?

HON M K FEATHERSTONE:

When your existing licence expires you will get a new licence which will be valid till you are 70.

HON CHIEF MINISTER:

The present practice is that you renew the licence every three years and people always forget and when there is an accident and then they ask you for your licence you find out that you have just missed it by a few months or you are lucky that you have to renew it a week after. In England the practice is the one we are going to introduce now and I would like also to say that in this respect we have had strong representations from the Bench of Justices for a long time on this matter as well. It isn't a question of revenue really, we are not very much concerned with that, but anything which is not reviewed at a particular day of the year is bound to pass the notice of people and the idea was that you would renew it every ten years. Who is going to keep record when your licence expires unless you look at it every day? There may be the case of female drivers who may want to renew their photographs when twenty years have elapsed since they got their last licence.

HON J BOSSANO:

Perhaps they won't.

HON CHIEF MINISTER:

But I think it is a very sensible amendment. It means very little loss in revenue. It satisfies a requirement and it exonerates people from committing statutory offences unwittingly by being found that he is driving at a particular time because there happens to be an accident and you look at all the papers and you find that you cannot go and say: "May I renew it with retrospective effect?", at that time you are in default.

HON H J ZAMMITT:

May I add to what the Hon and Learned Chief Minister said, not only is it that but there are and I can speak with some knowledge on this, Mr Chairman, where a person totally unwittingly allowed his licence to expire for five years and only discovered this in attempting to hire a car whilst visiting England which was not detected and on his return to Gibraltar tried to renew the licence and because the licence had been expired for five years it could not be renewed, he had to undergo a driving

test. What happens is that the licence now prohibits you from hiring a car because on checking it you haven't got the driving experience that most driving firms ask for despite the fact that you may have been driving for the past thirty years and, according to our own laws, you couldn't even instruct somebody because your licence was only three months old when in fact you had thirty years experience. So there was an anomaly there, which was quite ridiculous and I am glad to see that all the very many other problems could be overcome in bringing it up to a more modern situation. Thank you, Sir.

HON J L BALDACHINO:

May I ask, Mr Chairman, does this mean that all licences independent of class will be valid up to the age of seventy?

HON M K FEATHERSTONE:

Other than public service vehicles, yes.

HON J L BALDACHINO:

Does that mean that we are going to have the licence changed, we are going to have two licences or is it only one?

HON M K FEATHERSTONE:

Yes, that is so. If, of course, if you qualify for a different class of vehicle then you will have to get an endorsement to your licence. For example, if you have categories B and C and then you qualify on heavy lorries then you will get an endorsement in the licence.

HON J C PEREZ:

Mr Chairman, having abstained already on the sections dealing with the MOT we can now see ourselves being able to support the amendment and the rest of the Bill.

MR SPEAKER:

Even though you abstained on Clauses 1 to 8.

HON J C PEREZ:

We have abstained from Clauses 1 to 8 which deals with the MOT and the rest of the Bill does not deal with MOT and therefore we can support the amendment and the rest of the Bill.

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

PRIVATE MEMBERS' MOTIONS

Clauses 10 to 23 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO. 3) BILL, 1986

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

Schedule

Consolidated Fund Schedule of Supplementary Estimates No.3 of 1986/87

Head 10 - House of Assembly, Subhead 5 - CPA Expenses

HON CHIEF MINISTER:

I would like to explain why this amount has come in as a supplementary and that is that as Hon Members opposite know, an invitation was issued to the CPA Executive Committee to hold their meeting in Gibraltar but at the time that that was done it was envisaged that it would be held after April and there would be provision in the Estimates for that. As it happens, it is going to take place in early March and therefore we have to make provision.

Head 10 - House of Assembly was agreed to.

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.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Supreme Court (Amendment) Bill, 1986, with amendment; the Trade Licensing (Amendment) Bill, 1986, with amendment; the Traffic (Amendment) Bill, 1986, with amendment, and the Supplementary Appropriation (1986/87) (No.3) Bill, 1986, 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 which was resolved in the affirmative and the Bills were read a third time and passed.

HON J BOSSANO:

Mr Speaker, I beg to move: "This House declares that the views and wishes of the people of Gibraltar in respect of the use of the Airport are: (a) that it should continue under the exclusive control of the British and Gibraltarian authorities and (b) that any flight from or to any foreign country should be governed by the rules applicable to international flights". I feel I do not need, in fact, Mr Speaker, to go on at any great length in introducing the motion to the House (a) because the text of the motion is self evident and therefore there is no need to explain what the motion means, it is obvious what the motion means, and (b) because the underlying arguments in support of this motion have already been put in the House in a previous motion which was carried unanimously. So therefore it isn't that we are introducing a new motion on a new policy that we are urging the Government to adopt. As far as we are concerned, there is continuity between this and what has been said before and, in fact, what the GSLP has been saying even before that because we put a motion on the same subject immediately after the election and I put one in 1980, Mr Speaker, when I was the only GSLP representative in the House. The importance of this is, of course, (a) the timing and (b) the effect that it has of providing reassurance to the people of Gibraltar. We have expressed what we believe to be an accurate reflection of what people feel from the feedback that we get as Members of the House and the views that we hear expressed to us and we are confident that what we consider to be an assessment of the situation is something that Members in the Government will know to be true and if they don't share our assessment then they must tell us that they are getting a different reaction from people, we don't see any reason why that should be so because, in fact, when we are talking about a reaction we are not talking about a reaction from the GSLP Members or the GSLP supporters, we get an equal reaction from people who candidly tell us that they do not support us, that they support the party in Government but that they feel strongly on this particular issue and people, for example, we got a reaction after the last motion on the subject which was carried unanimously, we got a reaction again from a cross section that people were happy to see that there was an issue which was so important to Gibraltar where there was a solid stand being taken by both sides and there was an identity of views. What do we really mean? We mean what the Hon and Learned the Chief Minister said in his contribution to the previous motion and what I have said in my contribution going back as far as 1980. As far as we are concerned, it isn't the nationality of the aircraft that is important, what is important is that the Gibraltar airfield should continue as it has continued until now and that the passengers that arrive in that airfield should be treated

in exactly the same way independent of their country of origin or independent of their nationality and that to do anything different, to give a privileged position to passengers originating in Spain or, to passengers of Spanish nationality originating in Spain is, in fact, to allow an anomalous situation to be created which is not normal and which would not be considered normal because Spain doesn't do it with its airports and Britain doesn't do it with her airports so why should we do, it with ours? That is the essence of our case and has been throughout and I think what we must send is a clear message that that is what the people of Gibraltar want us to say and it is better to say so openly and in public because then we are not breaking confidentiality, the Government doesn't have to say what views are put in privately, they can join with us in putting a public view and then it is up to others to draw their conclusions if they get a different feedback from any other quarter that is not a Gibraltarian quarter. The use of the airfield is clearly going to be a matter which is going to affect the potential for development of the surrounding area, there is no question about that, Mr Speaker, and it is, in fact, an enormous bargaining counter in the hands of the people of Gibraltar and we are convinced that our neighbours need access to that airport more than we need them using it. As it is the airport today is in difficulties on many occasions in coping with the number of flights we have because if we are talking about converting into a major international airport it needs a lot of money spending on it and it needs a lot of expansion in the handling facilities... I think, given the level of activity that is currently there, we don't see that we are in any great rush to change anything there as Gibraltarians. However, of course, if there are airlines from other countries interested in seeking landing rights here and they are going to make a contribution be it small or big to our economy, fine, why not, we have no objection. We don't wish to discriminate against anybody nor are we prepared to support privileged treatment for anybody. Really there is not much more that I need to say on the subject. I think the thing is self evident and I hope that we can, in fact, get a unanimous view on this occasion as well.

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

HON CHIEF MINISTER:

Mr Speaker, I thought the Hon Member would not be very long for the reasons I am going to give. I didn't think he would be so brief, I am quite prepared to make my contribution now. The motions of the Leader of the Opposition generally fall into one of two categories: those in which the Government removes all the words after "That" and those which the Government accepts fully or those in which the Government accepts partly as we did on

the last one on the question of the frontier guard where we made proposals for amendments in the second and third paragraphs and the Hon Member thought fit to withdraw his own so that our text would not go on record. We didn't mind because as far as we were concerned we were quite happy with the position. Today's motion falls into the latter category and the reason why we can accept motions of this kind without amendment is that they are, in effect, an endorsement of Government policies, or put another way, a vote of confidence on the Government. These motions are unnecessary and are presumably designed to create for the Opposition an image of the guardians of Gibraltar's interests. We can, however, show that the Opposition are, in fact, simply following where the Government has led. In this particular case, for instance, the Gibraltar Government was first represented at talks on air communications in August, 1985. The two principles set out in paragraphs (a) and (b) of the motion were then already the basis of the Gibraltar Government's policy in this matter. Sixteen months later, for the reasons of image to which I have referred, the Opposition produced a motion expressing the views and wishes of the people of Gibraltar which the Government has been pursuing all along. There are, however, two points which I should clarify. The first, in relation to paragraph (a) of the motion, is that there is no question, and there never has been any question in our minds of control of the airport being shared. What has been under discussion has been the question of cooperation in greater civilian use of the military airport for the mutual benefit of the people on the two sides of the border. It is obvious that an increase in the number of flights coming into Gibraltar would benefit Gibraltar's traders and Gibraltar's tourist industry as well as Gibraltar's finance centre. I presume that the Opposition agree with this objective. Such developments would also be of benefit to the adjoining region of Spain. I presume that the Opposition would not object to this consequential effect. As to paragraph (b) of the motion, I repeat that the principle referred to, that of abiding by the rules applicable to international flights, has been a major element in the Gibraltar Government's policy in this matter and will, of course, continue to be so. I find it difficult to conceive of any arrangement not in conformity with the rules applicable to international flights, which would be acceptable to the Government and people of Gibraltar. Nevertheless, should any proposals be forthcoming at any time in the future which might be acceptable and of benefit to the people of Gibraltar but which might, for some technicality, differ from the practice elsewhere, then it seems to me that the Government of the day in Gibraltar must remain free to consider these. I do not wish to be misunderstood in any way and will therefore stress, first, that the Government has all along stood by the principle that the rules applicable to international flights should govern flights to and from Gibraltar and will continue

to do so and, secondly, that I cannot conceive of any variation from those rules which would be acceptable to us. In purely hypothetical terms, however, and as a general principle, any Government whether it be of my party or of the party opposite or any other party, should not - indeed, cannot in practice - be bound forever. I thank the Leader of the Opposition for his endorsement of the Gibraltar Government's policies in the matter of air communications and I am sure that the people of Gibraltar will be glad to see that the Opposition agree with what we have been doing, although it has taken them a long time to get around to saying so.

HON J E PILCHER:

I am glad, Mr Speaker, for that which can only be termed a party political broadcast on behalf of the AACR. The realities are totally different. The realities are that I think the Hon Leader of the Opposition has brought out a motion that just clearly spells out what other motions have tried to do, certainly over the past three years since we have been in Opposition. The feedback that we have got from the public was a very clear feedback that sometimes ordinary people - and I am not saying that we are not ordinary people - can be confused by different words and different meanings and definitions to words and the feedback that we got was that the other motions that we have passed, the definitions of those motions could be altered to mean different things at different points in time. Therefore the reality of the situation was that we wanted to bring a motion to the House to expose quite clearly what was in the thoughts of the Opposition in Gibraltar and, I think, what is quite clearly in the minds of all the Gibraltarians. That doesn't mean that the Opposition is following the lead of the Government or vice versa. If that is the position of the Government vis-a-vis the negotiations which they are having with a third party to discuss the use of the airfield then by all means that is a very clearcut position and a position that certainly they won't find any opposition from this side of the House. But we are not participants to those decisions nor are we behind the closed doors that are making the decisions and since we don't accept that there should be confidentiality in a thing that is as clear as the future use of our airfield, then we cannot accept that confidentiality and it is not a motion that accepts the lead of the Gibraltar Government, it is a motion that ties not the Gibraltar Government but the House of Assembly which is where the whole of the people of Gibraltar are represented, that is what this motion is. There are various things that immediately come to mind because the Hon and Learned the Chief Minister started saying that he fully endorsed the motion, that there were three types of motions that we brought, he said two but then he exposed three. One that they change everything after "That", one that they fully endorse

and one that they partially endorse. Well, there are no other motions left, those are the only three types of motions we can bring to the House, it has to be one of those three.

HON CHIEF MINISTER:

No, there is a fourth one, and that is rejection.

HON J E PILCHER:

The Government would never reject our motions, they just change it after the word "That" but, anyhow, that is pure semantics, Mr Speaker. But then after having said that he fully endorsed it, he then qualified that in a way that we honestly, at least I am speaking on my behalf from this side of the House, I honestly had followed him until then but then lost him. He said that then the Government was free to consider this in consultation with a third party if something changed and technicalities were different and I cannot conceive, well 'cannot conceive' is like 'foreseeable future', they are words that don't tie them down to anything: 'I cannot conceive', 'if there is general agreement', 'we are free to consider', well, all those words are words that leave the door open for a change in the future. When we say: "On Wednesday the 17th December you said this", he then stands up and says: "No, I said 'I cannot conceive this'" or 'I couldn't conceive this' or 'that in general agreement we couldn't do that' but 'that the Government was free to consider that'. They are fully supporting the motion but putting so many qualifications as to make the motion not worth the piece of paper it is written on. The Government can fully agree to this motion and then, of course they are free to consider whatever they like, of course that they cannot conceive at this stage any change in that, but I think the underlying theme is that if there is any change to this they have got to come back to this House of Assembly and tell us and the people of Gibraltar what has changed from a 'cannot conceive one' to a position that they have to conceive one. At no stage did they say that although that was part and parcel of the last motion. But I just want to clear that up so that perhaps the next speaker from the Government side can actually tell us that their full support means exactly that, full support for this motion and if there is a change then they would come back with another motion on the Government side saying what has been the change. I think that is the basis of the motion. I don't want really to expound a lot because, I think, we seem to agree on the words, we thank the Government for putting these positions, it is a position that the whole of Gibraltar feel, it is not a question of being divided, we just want to tie the thing down to such a position that there won't be changes and then like pure semantics we will be told: "No, we didn't say this, we said the other".

This is a situation which we do not agree from this side of the House. We believe in plain speaking, we have always believed in plain speaking and politics to us means exactly that, saying what you feel and meaning what you say not qualifying things that you neither mean what you say nor you say what you mean.

HON CHIEF MINISTER:

If the Hon Member will give way. I think he is misinterpreting that. What I have said is that there may be a technicality at any time in the future and, of course, it would have to be considered here. But you may find that there are many aspects of international flights that might surprise people and might be considered to be different to what the Hon Member thinks. That is what I am saying and I was saying that not only in respect of the Government but any Government in the future.

HON J E PILCHER:

We accept that and if there is any such technicality that seems on the surface not to be a good thing then I am glad for the intervention of the Hon and Learned Chief Minister which has cleared up that they have an intention to bring it back to the House, that is accepted.

HON CHIEF MINISTER:

If there was anything for the rest of the time of this Government, if we didn't raise it and you felt it was against it you would bring it so the Government, if it thinks it is doing something right must come here and say so.

HON J E PILCHER:

But there is a fundamental difference, Mr Speaker, since it is the Government that are the people who have got to be signatories to the agreement and it is the Government as well that controls the sittings of the House we might be in a position to bring a motion after the event which is not what we want and that is the point to make.

HON CHIEF MINISTER:

We will have to take the responsibility.

HON J E PILCHER:

That is precisely what we are asking the Government not to do. That if they can fully support this and if there is any change that is seen publicly or by us to be a change from this, that they should air it openly and publicly before a decision is arrived at. The other minor point that he raised, for example, in paragraph (a) of the motion is, of course, we are in agreement

that there should be more flights that produce results for the tourist industry and the finance centre and if as a result of that they also produce benefits for the adjoining regions in Spain, of course, the Opposition is more than happy to support an agreement that arrives at that. 'Create images of guardians of Gibraltar', well, that is not the business which the Opposition is here to do. The Opposition is here to bring motions of how they see it and if those motions happen to concur with Government policy and Government thinking, well, so be it. It shows people outside Gibraltar that on matters like the Gibraltar airfield there is not a Government and an Opposition with different views, it shows people outside Gibraltar, third parties, that there is a consensus view on the matter and it is not that we want to be branded as guardians, it is that we feel that this is important and that is why we bring motions of this nature to the House for the House to support it because when the House supports it the whole of Gibraltar supports it. Thank you, Mr Speaker.

HON A J CANEPA:

Very briefly, Mr Speaker, I just want to say that I have no doubt in my mind that in respect of air communications, the use of the airfield, the Government, the Opposition and, indeed, the whole of the people of Gibraltar as a whole are ad idem. Sometimes the kind of community that we are, the fact that we are a very closely knit community, brings great deal of pressures and problems as the Hon the Leader of the Opposition said the other evening in the conduct of our public affairs because we are very close to the people and it subjects us to a great deal of pressure. But it does have the other advantage and the advantage is that one has constant contact with the people at every stage, in the street, at one's work, and one does get an opportunity to discuss matters with people and we know exactly how people feel. There is a great deal of disquiet, there is a great deal of worry and concern about the future of the airfield and many people are under a misconception. I think they are afraid that there is a deal about to be struck and that it is going to be imposed on us, that is not the case, we are not in that situation at all. I don't think that a deal is imminent and the fact that there is no representative of the Government of Gibraltar because the former Administrative Secretary has withdrawn from the technical talks does not mean that we are not fully informed or kept in the picture of what is going on. Naturally, the Gibraltar delegation when we met the Secretary of State at the beginning of last week, the matter of air communications came up and it was discussed to the extent that it needed to be discussed. So people need not be afraid in that respect. I also very often tell people generally but I will say so more in this connection, we in the Government and, indeed, in the House, we get paid to think amongst other things and

to analyse matters and the public should not think that the elected Members and, certainly not the Government, do not reflect their feelings that we don't share their views and their concerns. We naturally do, we are Gibraltarians like they are and certainly on the airport we are 100% reflecting the concern and the fears that people have. The parameters within which progress is to be made, if it is to be made, on the question of the airfield are well laid down, they are well understood and I am sure that they are those parameters that the people feel they want to see in order to ensure that they have the necessary safeguards. And the principles which are in this motion and which we can fully endorse merely reflect the consistent policy that we have been following on this matter all along.

The House recessed at 1.00 pm.

The House resumed at 3:10 pm.

HON M A FEETHAM:

Mr Speaker, I must say that I was very disappointed this morning in the speech of the Hon and Learned the Chief Minister. I am quite pleased that, in fact, the Hon Mr Canepa made a contribution because I think it brought the issue in hand to the realities. I thought that the Chief Minister's speech was rather naive and it is most unfortunate that I should take issue with him on it especially when Christmas is just round the corner but I am afraid that I am going to have to take issue with the Chief Minister on this matter. In fact, the speech reminded me of one of the sayings of a famous Spanish comedian, and that is what makes so many people listen to the programme and that is that when an incident happens he says: "Me he quedao pasmao, compa, pasmao", and, quite frankly, the Chief Minister has left me completely flabbergasted. I don't know whether it is his strongest point or his weakest point and that is that in his support of a motion you get the distinct feeling he is not quite supporting it and not opposing it all in one go. He seems to leave so many doors open all along that one wonders whether that is his strongest point or his weakest point, quite frankly, it depends on what side of the House you are in. Obviously, one of the problems of taking that position is that it creates confusion in the minds of the people we are trying to reassure and that, I believe, and I am sure my colleagues on this side of the House believe, is his weakest point because what are we trying to do with this motion? What we are trying to do with this motion is express the feelings of the people of Gibraltar on a vital issue. Why are we expressing the feeling time and time again? Because regardless of what the Gibraltar Government may say and the people of Gibraltar may say the realities are that the question of the airport has already been accepted

as a matter for discussion between the Spanish and the British Governments as a result of the Brussels Agreement and as a result of a bilateral agreement between both countries and therefore whether we like it or not the fact that Mr Ron Sindon was here this morning, if it wasn't an important issue and if it wasn't an issue which was being discussed or he didn't have anything else to do, I accept that, all he had to do was get a copy of what has been said here later on and send it off to the Foreign Office. But the realities are that there is a Brussels Agreement which talks about aviation and an area which has been singled out as a possibility for mutual benefit is the airport. The trouble is, as I see it, Mr Speaker, that Britain in its effort to appease the Spanish claim to the isthmus is trying to find a formula which fits in and which will allow this joint cooperation to take place and we as the third party with the most important say in the matter clearly have to show what our feelings are and what the views of the representatives of the people of Gibraltar are and there is a certain amount of inconsistency in the Chief Minister because he hasn't been quite as clearcut in his rejection of the possibility of joint use because it is really a very simple issue. We are saying here that it should continue under the exclusive control of the British and Gibraltar authorities and that is an important fundamental issue so there is really no need to go along and discuss that issue with the Spanish Government at all. And whilst we on our side have been very clear on that issue, I think that the Gibraltar Government owes it to the people of Gibraltar to be clearcut because there is no need to be so technical or leaving doors open which may not need to be left open just in case, again, as they say in Spanish "kicks por si pega" and you have to find a way out of the situation, there is no need for that because our position is very clear and your position, I feel, ought to be as clearcut. Certainly it is clearcut when I hear the Hon Mr Canepa speak because I think he tends to reflect the feeling of the people of Gibraltar and I think the Chief Minister tries to overdo his defence of given situations where perhaps he ought to be more clearcut and all you need to do

HON CHIEF MINISTER:

Clearcut on what?

HON M A FEETHAM:

You ought to be more clearcut in your position.

HON CHIEF MINISTER:

On what?

HON M A FEETHAM:

On this issue.

HON CHIEF MINISTER:

But we are voting in favour.

HON M A FETHAM:

All you need to do, and I am not going to give way to the Chief Minister so if you will allow me to continue.

HON CHIEF MINISTER:

I couldn't hear you.

HON M A FEETHAM:

But if you will allow me to continue, I am not going to give way. All you need to say is that on the question of the airport no more discussions will take place because we are against it. That is what the people of Gibraltar want to hear. But there is no way that we will accept that the Chief Minister should say that we are endorsing the Gibraltar Government's policy on the matter. We are not endorsing the Gibraltar Government's policy on the matter. We are endorsing the views of the people of Gibraltar on the matter which is clearcut and united through every sector of the community and that is the message we ought to be giving to the British Government because whether the Chief Minister likes it or not, and we are in no position to know but I can guarantee you that we are likely to be correct, proposals have been thrown back and forth on the issue of the airport and therefore we ought to be unequivocal on this issue. I will never accept that the Chief Minister should, in any way, play politics on an issue like this because I got the distinct feeling again that this was one of those speeches where perhaps somebody had written it for the Chief Minister, placed it in front of him and he has delivered it without knowing the consequences of the speech.

HON CHIEF MINISTER:

If you will give way I will tell you that it was prepared in Madrid.

HON M A FEETHAM:

No, I am not giving way, or he may have written it without really giving it much importance and I think that, quite frankly, he has done a disservice to the Opposition to have taken the attitude that he has taken. Furthermore, let us be quite clear on this side of the House as well because issues have to be discussed and people ought to know the position clearly especially on fundamental issues. We believe that the airport has got a contribution to play in the development of an area regardless of

the political views you may take, an airport servicing an area will assist in the development not only of our own prospects but the prospects of the other side. As far as we are concerned it is an asset for everybody to use and therefore I see no reason why we should be so mysterious, why we should be going around in circles on this issue and the British Government ought to be told, if it hasn't been told already and we have said it many, many times, that there is no need to be discussing at all any form of deal with Spain on the airport because we do not (a) accept that they have got any sovereignty claim on the isthmus, and (b) because there is no need to do any deal because the airport will of its own bat serve to help develop the surrounding area so it should be up to Spain whether they want to make use of the airport or not make use of the airport under international agreements in relation to flights coming in and out of Gibraltar as any other country. I think that if we are so keen in developing this for the mutual benefit of the area, we on our side, the Gibraltar Government and the British Government, ought to be getting together and looking at ways of developing our own airport in the international arena so that we get flights coming into Gibraltar because they can still go across into Spain, they may want to stay in Gibraltar or they can go over if it is going to be of benefit to us. It is going to be of mutual benefit to the surrounding area of that there is no doubt at all. Mr Speaker, why then, finally, do we bring this motion to the House? Certainly not to have an argument about it but certainly to take up issue with the Chief Minister if he is not fair in his delivery and perhaps not quite as clearcut as one would like him to be and therefore that is why I prompted myself, in fact, after having heard him make his delivery of coming out and saying what I have said, Mr Speaker. I think that when they meet tomorrow or the day after, whatever proposals are there, whatever discussions take place, nobody is going to be able to deliver them in any way unless he has got the full support of the people of Gibraltar and as far as the people of Gibraltar are concerned, the airport is there for development of our own economy and assisting the surrounding area if need be, it is up to them if they want to make use of it, and, secondly, that if we need to have any more flights coming in it is up to us in the same way as we are developing the finance centre in areas of insurance and in areas of company legislation, it is up to us to take the initiative and use the airport and expand flights into Gibraltar and get on with the job of representation with the civil aviation authorities and see in which way we can, perhaps, do that. And once we have done that, once we have taken that road, I think that it will be difficult for Spain to reject the possibility of using the resources in Gibraltar for their own benefit and for the benefit of the people of Spain across the frontier. That is the line that I think we ought to be taking so that everybody knows exactly how we stand, Mr Speaker.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, like my colleague who has just spoken I cannot ignore the reaction of the Chief Minister to the motion which I must say I look upon more in sorrow than in anger. I feel that there is nothing in this motion to suggest that it has been brought to the House in anything other than the same spirit that all the previous ones have been brought, some of which have been supported by the Government and some of which have not but it has never been suggested to us that in bringing the motion to the House we were passing a vote of confidence in the Government or setting up ourselves as the guardian angels of the conscience of Gibraltar or of the Government. The purpose of the motion was as I explained in my introductory speech and the response of the Hon Mr Canepa was, in fact, satisfactory from our point of view in giving the kind of message that we think people want to get from us, preferably from both sides of the House. If they cannot get it from both sides of the House then they will get it from this side of the House. We have got a responsibility to the people who put us here to make sure that we are actually reflecting what they want us to reflect provided we agree that we are doing the right thing and the same responsibility lies with the AACR on that side. The only way we can discharge that duty is by bringing motions to the House. The fact that we have voted in support of a number of Bills in this House doesn't mean we are giving a vote of confidence in the Government because if we were we would disband the GSLP and join the AACR. The reality is that there are things that they have done, some of which after a lot of prodding from us, some of which on their own initiative and we agree with them. And we agree with them because on the merits of the case we feel that it is a good thing that is being done independent of whether the initial idea has come from them or come from us and therefore, for example, there is no way we could say they have brought a piece of legislation on social insurance today which we are satisfied is going to be a good thing for Gibraltar's economic development and we have been pushing them to do it. No, we have been asking questions about what was being done to comply with EEC Directives. As far as we are concerned, the work on that piece of legislation has been done by them, fine. Equally, it is true that we have been pushing them on the amendment to the Pensions Ordinance since 1983 and it is equally true that on the airfield the first time a motion was brought here in 1980 it was defeated fourteen votes to one. And the policy that we are advocating now is virtually identical. We can go back in Hansard - which will be easier once we have

got the index but even without it - and we can check the contributions that I have made on this subject and there is very little change over the years. The Government is now saying, particularly in the last motion in the last meeting which debated this, is now saying something which in some instances represent word for word what I have myself said at the time when it was unacceptable to the Government. Fine, we are not saying they have become GSLP. If we are able to see each other's point of view on different issues and convince each other's point of view, that is what parliamentary democracy is supposed to be all about, it is not just a talking shop. We are supposed to be capable of influencing each other's thinking to some degree in these debates. It appears that we are, in fact, still on the same wavelength on the airport and we are glad that that is the case not because we can then go out and say: "We have wiped the deck with the Government and we have forced them to accept this". No, we cannot do that, they have got an in-built majority. It is nonsense for the Chief Minister to say that in a previous motion when we discussed the issue connected with the removal of the frontier guard, I didn't want to accept his amendment, therefore, I withdrew part of the motion. That is nonsense because he could have introduced his amendment eight votes to seven whether I wanted to or not independent of what I withdrew, by amending the motion to add whatever he wanted to add to it and there is nothing I could have done about it. We both agreed that it was preferable to pass the motion unanimously. And if it was not possible and we would then not have been able to support it, it was preferable to do the second and, as I understood it, at the time it wasn't something that we were trying to do to disguise anything. Everybody in Gibraltar even before the broadcasting, Mr Speaker, get a fairly clear idea of what the respective positions of the parties are by what we say in the House and by what eventually filters out of the House to the man in the street. I am surprised that the Hon and Learned the Chief Minister now indicates that he didn't like the way we had handled the last motion, we thought we had been in agreement on that as well. On this occasion, of course, the fact that he seemed upset by our having brought the motion here would suggest that there was something in it that he doesn't like but if he likes the motion then one cannot understand what upsets him about it. Of course, the motion clearly sets out to do something. It sets out to reassure people here that they have got nothing to worry out irrespective of what they hear in Telediario or read anywhere else and I think we need to do that, however many times it needs to be done it needs to be done and people feel reassured when they hear that the Government and the Opposition have come out of the House with a united stand because whether the Government likes it or not, we are seen as being more hawkish on the issue than they are and therefore people say: "Well,

if the AACR and the GSLP are talking in the same language on this one then there is a more solid front". That is a good thing, it is not a bad thing. People are not saying: "The GSLP has done a takeover of the Government", what they are saying is that if the Government has been able to satisfy the Opposition on this issue then they feel less worried. That is an important part of the role of an Opposition, that we are seen as playing a positive role in Gibraltar in that we don't just go against the Government for the sake of being negative or obstructive and that we are able on some issues to come out with a common position even though there are many, many other issues on which we disagree. The other thing, of course, is that the message is not just one intended to be internal. We also want to send the message externally that whatever other people may be thinking this is what reflects the position of the people of Gibraltar and this is why there is a certain inconsistency in the fact that the Government agrees with us here and agrees with the view that we put. We are not saying: "We are putting it", we are not saying it is our view, it is a shared view that they share with us and we share with them and we share with the rest of the Gibraltarians which would make the holding of special talks to discuss special arrangements unnecessary. Let us forget that we are against the Brussels Agreement for a moment. In any case if you are holding discussions with another party it is because you want to do a special kind of arrangement with that other party. If tomorrow there was an application for a Portuguese airline to run a service from Lisbon to Gibraltar one imagines that there wouldn't have to be technical talks, the Foreign Secretary meeting Doctor Soares or anything else, the thing would be dealt with through the normal Civil Aviation Rules and the aircraft would be given landing rights and so forth like we have had charter flights from Denmark, it didn't require a diplomatic mission to Denmark to get charter flights. So therefore the indications that there are technical talks and that there are talks coming up are on the basis that there are strong pointers to the imminence of a special deal which we all know what it is however secret and confidential it may be, we all know what it is and the deal is for an air terminal on that frontier which will enable people to walk into the plane from the Spanish side without technically setting foot in Gibraltar. That is what the Spaniards want, that is what they have wanted all along, they have leaked it all over the place, we all know it but it is supposed to be a big secret. Well, it is not what the people of Gibraltar want and it is certainly not what we want and if we are reassured that it is not what the Government of Gibraltar wants independent of who else wants it, if it is not what the Government of Gibraltar wants then we feel safer and I think people outside feel safer and the Government knows that we may quarrel with them on other issues but if we have to close ranks and stand up and make a common stand

on this one, they know they can count on us. They have been able to count on us on other occasions and they still can independent of any other differences that we may have. I hope that that reassures the Hon and Learned the Chief Minister that he misread the motive in his original reaction. I don't know whether it is that he is now, with the passage of time, finding it more difficult to sit on the fence, Mr Speaker, than he has been prone to.

HON CHIEF MINISTER:

Which fence?

HON J BOSSANO:

Well, the fence that he has been normally commonly attributed to be sitting on. I would not be surprised because today he demonstrated he is now having difficulty in sitting on the edge of the chair in the House of Assembly since he toppled off that, so maybe that is a symptom that he is going to topple off the fence and if he is, we hope he topples in the direction we want him to.

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

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I move that the House do now adjourn sine die.

MR SPEAKER:

In proposing the question may I take this opportunity as I have done for the last seventeen years, to wish all the Members of the House, the Clerk, the staff of the House, the Hansard recording team and, of course, the media, to wish them a happy Christmas and a very prosperous New Year.

HON CHIEF MINISTER:

You do so on behalf of all Members.

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

The adjournment of the House sine die was taken at 3.35pm on Wednesday the 17th December, 1986.