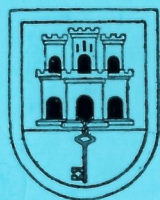


GIBRALTAR

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 viabilities. 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 Gibraltarian 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.