

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

28TH JANUARY, 1986

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

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

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

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

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

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

DOCUMENTS LAID

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

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

HON CHIEF MINISTER:

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

Ordered to lie.

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

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

Ordered to lie.

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

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

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

#### THE ORDER OF THE DAY

#### MINISTERIAL STATEMENTS

MR SPEAKER:

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

HON CHIEF MINISTER:

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

MR SPEAKER:

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

HON A J CANEPA:

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

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

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

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

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

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

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

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

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

HON J BOSSANO:

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

HON A J CANEPA:

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

HON J BOSSANO:

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

HON A J CANEPA:

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

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

HON J BOSSANO:

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

HON A J CANEPA:

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

HON J BOSSANO:

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

HON A J CANEPA:

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

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

HON J BOSSANO:

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

HON A J CANEPA:

In hearing appeals.

MR SPEAKER:

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

HON G MASCARENHAS:

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

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

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

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

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

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

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

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

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

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

HON J BOSSANO:

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

HON G MASCARENHAS:

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

HON J BOSSANO:

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

HON G MASCARENHAS:

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

HON CHIEF MINISTER:

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

MR SPEAKER:

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

#### BILLS

#### FIRST AND SECOND READINGS

#### SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

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

HON J BOSSANO:

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

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

#### THE EMPLOYMENT (AMENDMENT) ORDINANCE, 1986

HON DR R G VALARINO:

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

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

#### SECOND READING

HON DR R G VALARINO:

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

MR SPEAKER:

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

HON J BOSSANO:

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

HON M A FEETHAM:

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

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

HON DR R G VALARINO:

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

#### THE SUPREME COURT (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

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

#### SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

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

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

#### THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) ORDINANCE, 1986

HON ATTORNEY-GENERAL:

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

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

#### SECOND READING

HON ATTORNEY-GENERAL:

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

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

MR SPEAKER:

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

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

MINISTERIAL STATEMENTS

MR SPEAKER:

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

HON CHIEF MINISTER:

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

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

The terms of reference are as follows:

To investigate and enquire into:

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

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



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

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

HON J C PEREZ:

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

The House recessed at 5.05 pm.

The House resumed at 5.45 pm.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that this House should resolve itself into Committee to consider the following Bills clause by clause:-

The Elections (Amendment) Bill, 1985, and

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

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

#### THE ELECTIONS (AMENDMENT) BILL, 1985

##### Clause 1

HON CHIEF MINISTER:

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

MR SPEAKER:

Which will be called ultimately.

HON CHIEF MINISTER:

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

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

##### Clause 2

HON CHIEF MINISTER:

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

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

HON J BOSSANO:

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

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

HON CHIEF MINISTER:

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

HON ATTORNEY-GENERAL:

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

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

HON J BOSSANO:

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

HON ATTORNEY-GENERAL:

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

HON J BOSSANO:

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

HON ATTORNEY-GENERAL:

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

HON CHIEF MINISTER:

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

HON J BOSSANO:

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

HON ATTORNEY-GENERAL:

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

HON J BOSSANO:

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

HON ATTORNEY-GENERAL:

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

HON J BOSSANO:

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

HON ATTORNEY-GENERAL:

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

HON CHIEF MINISTER:

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

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

#### The Long Title

HON CHIEF MINISTER:

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

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

#### THE BIRTHS AND DEATHS REGISTRATION (AMENDMENT) BILL, 1986

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

#### Clause 7

HON ATTORNEY-GENERAL:

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

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

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

THIRD READING

HON ATTORNEY-GENERAL:

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

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

PRIVATE MEMBERS' MOTIONS

HON J C PEREZ:

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

HON CHIEF MINISTER:

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

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

The House recessed at 6.20 pm.

WEDNESDAY THE 29TH JANUARY, 1986

The House resumed at 10.45 am.

HON R MOR:

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

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

MR SPEAKER:

A statement made by whom?

HON R MOR:

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

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

HON A J CANEPA:

Part of the £1m, not the whole of it.

HON R MOR:

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

MR SPEAKER:

I was Speaker.

HON R MOR:

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

MR SPEAKER:

The date of that meeting is March?

HON R MOR:

It would have been around March.

MR SPEAKER:

March, 1971?

HON R MOR:

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

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

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

HON CHIEF MINISTER:

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

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

HON R MOR:

You don't know it all.

HON CHIEF MINISTER:

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



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

HON J BOSSANO:

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

HON CHIEF MINISTER:

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

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

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

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

HON M A FEETHAM:

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

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

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

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

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

HON CHIEF MINISTER:

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

HON J BOSSANO:

It may well be next time.

HON M A FEETHAM:

Mr Speaker, I have got nothing else to say.

HON DR R G VALARINO:

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

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

HON J C PEREZ:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

HON J BOSSANO:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

HON J E PILCHER:

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

HON A J CANEPA:

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

HON J E PILCHER:

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

HON A J CANEPA:

He should have asked the Department.

HON J E PILCHER:

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

HON CHIEF MINISTER:

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

HON J E PILCHER:

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

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

HON CHIEF MINISTER:

Anything but that.

HON J E PILCHER:

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

HON A J CANEPA:

We say that today.

HON J E PILCHER:

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

HON MAJOR F J DELLIPIANI:

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

HON M A FEETHAM:

As Felipe Gonzalez.

HON MAJOR F J DELLIPIANI:

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

HON J L BALDACHINO:

Mr Speaker . . . . .

HON MAJOR F J DELLIPIANI:

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

HON J BOSSANO:

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



HON MAJOR F J DELLIPIANI:

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

HON J L BALDACHINO:

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

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

HON M K FEATHERSTONE:

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

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

HON J BOSSANO:

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

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

HON CHIEF MINISTER:

It makes no difference. I have eternal youth.

HON J BOSSANO:

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

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

Actuary that tells us what the cost of pensions in the United Kingdom are to the year 2000 and one should not be able to have information about one's own Pension Fund to which one is contributing in Gibraltar and I think, really, the Government is in an indefensible position and I wonder what they would have said if they had asked for the actuaries report in 1970 and they had been refused by the then Government. The other peculiarity is the question of the cost when we had a question earlier on as to how the cost of the pensions were arrived at, Mr Speaker, and we were told that they were arrived at, in fact, by the actual numbers of claims that had been received and they hadn't been assessed. In fact, the calculation published by the Government didn't show that, the Government said publicly that in arriving at the amount that had to be paid, they had worked on certain assumptions. They had assumed that pensioners had an average of 23 contributions per year and that there were 4,200 pensioners and that an average of 23 contributions per year would produce an average pension of £30 and that £30 by 52 by 4,200 produced £6½m. That is the Government public statement of how they have calculated their liability, nothing to do with claims, nothing to do with the British Government Actuary. I am sure the United Kingdom Actuary would never support this calculation.

HON A J CANEPA:

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

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

HON J BOSSANO:

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

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

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

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

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

HON A J CANEPA:

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

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

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

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

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



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

HON J BOSSANO:

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

HON A J CANEPA:

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

HON J BOSSANO:

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

HON A J CANEPA:

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

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

MR SPEAKER:

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

HON R MOR:

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

HON A J CANEPA:

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

HON R MOR:

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

HON A J CANEPA:

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

HON R MOR:

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

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

HON A J CANEPA:

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

HON R MOR:

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

HON A J CANEPA:

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

HON R MOR:

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

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

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

The following Hon Members voted against:

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

The following Hon Member abstained:

The Hon B Traynor

The following Hon Members were absent from the Chamber:

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

The motion was accordingly defeated.

ADJOURNMENT

HON CHIEF MINISTER:

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

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

The adjournment of the House sine die was taken at 1.40 pm on Wednesday the 29th January, 1986.