

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

10TH FEBRUARY, 1987

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 10th February, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, CBE, LVO, QC, JP-Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon 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 16th December 1986, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.4 of 1986/87).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.5 of 1986/87).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.3 of 1986/87).
- (4) Supplementary Estimates Consolidated Fund (No.4 of 1986/87).
- (5) Supplementary Estimates Improvement and Development Fund (No.3 of 1986/87).
- (6) The Annual Report and Accounts of the Gibraltar Broadcasting Corporation - 1985-86.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I would like to make a statement on the Government's decision to seek supplementary funds for financial assistance to Gibraltar Shiprepair Limited.

I had hoped that the GSL Accounts for 1985, as well as the Price Waterhouse report, would have been available to this House in time for the matter to be debated comprehensively. The GSL Accounts have been closed and certified by GSL's auditors but are currently with the Principal Auditor for certification and a report thereon. The final version of the Price Waterhouse consultancy report has only recently been made available to the Government and an abridged version, which would exclude commercially sensitive information only is being prepared for publication. Both documents will nevertheless be made available to the Opposition in time for the next meeting of this House; indeed, I will arrange for the Price Waterhouse report to be circulated to members opposite as soon as this is received in Gibraltar. In the absence of this information, I therefore propose to highlight some of the more important points arising from the consultancy.

First of all, I would like to retrace the background to GSL's funding problem. Mr Speaker, Hon Members will recall that in answer to a series of questions in this House, it was explained that the Government had originally sought an additional £3.5m from Her Majesty's Government in January, 1986. In the event, the ODA agreed in April, 1986, to provide £2.4m towards capital expenditure commitments. Shortly afterwards, and in the wake of the GSL strike, we appointed Price Waterhouse to undertake a consultancy study which would involve, inter alia, identifying the additional financial resources required by the Company, assuming that its long-term viability was a realistic prospect. In the light of this, I again took up the matter with the British Government in an attempt to obtain their agreement to sharing some part of this financial burden. I regret to say that the ODA consider their £2.4m contribution to be final, and no further additional funds will be forthcoming notwithstanding the findings of the consultancy. Nevertheless the funding problem had to be addressed immediately in terms of what the company could find from internal cost savings and other measures and what the Gibraltar Government was prepared to contribute to enable the company to continue trading. The findings of the Price Waterhouse report were central to this issue. In the meantime, and as already explained in this House, the GSL Board had to complete the 1985 Accounts by the end of the year and satisfy their auditors that the company would continue to be a 'going concern' over the ensuing twelve months. In other words, the company had to obtain assurances that sufficient funds would be forthcoming to continue trading during 1987.

This has been the sequence of events. In considering GSL's funding needs, the Government has taken due account of the main conclusions and recommendations of the Price Waterhouse consultancy. These can be summarised as follows:-

- (a) the consultants see no reason to doubt that it is possible to operate a commercially viable shiprepair yard;
- (b) the company will require additional funds amounting to £5.6m over the next three years which will enable it to reach profitability. Some £4m is earmarked for capital expenditure;
- (c) a senior financial executive at board level should be appointed to take control of the financial management of the company. In conjunction with this GSL should;
 - (i) urgently resolve the problems associated with the implementation of the computer systems;
 - (ii) establish a realistic and appropriate financial and management reporting system to ensure that the board is informed of progress against plan and budget;
 - (iii) review the training requirements of staff in the finance department;
- (d) the company should conduct as a high priority a comprehensive review of its overhead costs with particular attention on maintenance and consumables, energy and water costs and indirect staffing costs;
- (e) the company should continue to direct attention and managerial resources to increasing labour productivity, training and developing supervisory staff and increasing communication within GSL to maintain a positive industrial relations atmosphere.

These are the key recommendations in a report which has looked at all the operating activities of the yard, particularly employment and industrial relations; training; marketing and business viability; estimating, tendering and contract control; labour productivity, operational performance and shipyard facilities and a review of the original 1983 APA proposals. The consultants do not envisage any further growth in GSL employment and suggest that in the longer-term the company should consider shifting the balance of the workforce to a smaller full-time workforce in common with the practice operating in UK shiprepair yards. The report highlights the success in obtaining commercial work of a

type suited to the capabilities of the yard and concludes that GSL's marketing has been effective and realistic. It considers that the company's estimating and tendering procedures are as advanced as other shiprepair yards and that contract performance has shown signs of improvement. In general terms, the consultants believe that the current state of the facilities at GSL is substantially in line with targets set out in the original proposals and explain that there is no evidence of overprovisioning in terms of capital equipment. The scope for improving efficiency at GSL is substantial through improved supervisory effectiveness and increased capital expenditure. The report also points to the poor state of the yard's infrastructure and facilities on handover. It is clear from the recommendations that there is criticism of the management of overheads and ineffective time and the finance function generally. This relates in particular to the computer systems and the production of adequate financial information. In this regard, I would like to state that the Government is satisfied with the steps taken by the GSL Board to ensure that the managers take the necessary corrective action.

I now turn to the funding requirement. The Government has studied the consultants' findings as well as GSL's own proposals carefully. The latest available cash-flow projection reveals a shortfall for 1987 in the region of £2m, after allowing for savings in overheads and other costs of some £1m. Of this, around £1m is required soon, and the remaining tranche later in the year. The Government has decided to inject up to £2m of equity capital by way of subscription for additional shares in GSL. This should enable the company to move towards a break-even position in 1987, the target date envisaged in the restructuring programme that was contained in the 1983 Dockyard Agreement. The Government's contribution is to meet GSL's essential working capital and capital expenditure requirements for 1987.

I must emphasise that it makes no allowance for increases in wages and salaries. Nor is the Government prepared to provide additional funds to meet the cost of pay settlements in the yard, in whole or in part. The Government is already prepared to make a very substantial contribution to ensure the continued operation of GSL thus securing the jobs of those who are committed to the running of the yard and to those, particularly the apprentices, who look to the yard for their future employment. The cost of future pay settlements must be the responsibility of management having regard to productivity and to what the company can afford in containing its costs in difficult financial circumstances and in a highly competitive market.

The Government's decision to make a further financial contribution to the Company by way of increased equity participation does not imply Government acquiescence in the view that GSL will need subsidy in the longer term. The Price Waterhouse Report does not itself support that view, neither would this be regarded as a desirable basis for running the yard by either the Chairman or the Managing Director. I should add that the Chairman and the Board have expressed their confidence that, given certain adjustments that need to be made to the scale and nature of the Company's operations, continuance of the improved relations between management and workforce, and moderation in wage claims, there is every reason to look forward to a position towards profitability for the Company in 1988 and subsequent years.

Finally, Mr Speaker, I would like to add that 1987 should mark a turning point in the Company's fortunes. The programme of assured RFA work will continue throughout the year at its peak level. The level of commercial work will grow as the Company establishes itself further in the market place. The Government is confident that it is important to provide additional funds to help such a major industry to find its feet and secure its viability at such a crucial stage in its development. The Government believes in the future viability of GSL and, in particular, in the efforts being made by the many employees whose living depends on the running of the yard. We owe it to them to give the Company the chance to succeed. Admittedly, it is going to cost Gibraltar more, but it is Gibraltar which will benefit in the end.

MR SPEAKER:

As I always do, I will allow the Hon the Leader of the Opposition to make a short reply.

HON J BOSSANO:

Mr Speaker, I think this one requires a very long reply unless I make it a very short one. I think the statement made by the Hon and Learned Member we will want to digest because we do not believe in an off the cuff response and we will certainly want to ask quite a number of questions of clarification on the statement. Clearly, what the Chief Minister has said in this statement would indicate that what we are embarking upon now with Gibraltar money is an attempt to carry out a salvage operation of a business which is in its infancy, a business which is barely two years old, Mr Speaker. Normally, when one brings in management consultants to find out what is wrong with a business it is because the business has been run

by a particular firm for a very long time very badly and they need experts brought in to tell them how to do it which is precisely what Appledore is engaged as a consultant to do in other shipyards in other parts of the world. They are brought in to tell other people what was being done wrong and it seems that there are a number of things which the consultants say need to be done to make the place efficient and that is what we have been paying Appledore £300,000 for because they were the experts and they were going to advise and train local managers on how to run an efficient shipyard and I would have thought that on the basis of some of the elements contained in the Chief Minister's statement there is more than ample justification for terminating the Appledore contract. If an ordinary worker was guilty of far less than losing this kind of money and requiring this kind of subsidy, he would be hard put not to find himself at the end of a dole queue, Mr Speaker, within GSL and in many other places. I honestly think that with the same people running the operation in more or less the same way, the Government has got little on which to back its optimism about profitability in 1988. I also think that, of course, when the Government is saying that they expect to break even in 1987 as was originally envisaged, they have conveniently forgotten to mention that the breakeven point was supposed to happen after an accumulated loss of £5½m and if I am not mistaken we are now talking, although the figure has not been mentioned by the Hon and Learned the Chief Minister, of accumulated losses nearer £8m. I would also think it is important to remind the Hon and Learned Member in his reference to wages that the position of the Government initially when it was urging Gibraltarians to take up employment in the yard was that if they were prepared to put in a fair day's work they could expect to get a fair day's wages comparable with what other employers were paying in Gibraltar and I think the criteria that the wage demands there will keep in tune with the rest of Gibraltar is something that has to be faced as a reality of life and that people there would expect it because we are talking about a volume of work apparently unchanged, from what I can gather, since we are told that the projections are close to the original projections but with a smaller workforce. In fact, not only is the workforce producing the amount of work envisaged but less numbers of workers than originally envisaged are producing the same amount of work so certainly I don't know how much more efficiency or productivity is required but there doesn't seem to be a major shortfall in that area. I think also in terms of the profitability in 1988, I am not sure whether the Hon and Learned Member is saying in his statement that there is a projection for a level of profit in 1988, if there is we would like to know what is the projection on the profit in 1988 and the projection of the sales in 1988 so that we know on what the Government is basing its belief that it will not need to put

more money in 1988 again.

HON. CHIEF MINISTER:

I am grateful to the Hon Leader of the Opposition for those brief remarks and I say that because a lot more can be discussed more informally in the Committee Stage of the Appropriation Bill where the money is being asked to be voted. Mr Speaker, you made the point and I reiterate the point that the statement is not like other statements of policy in the air but a statement which refers to something which will become mechanical and practical in the later part of the proceedings here where we will be able, at Committee Stage, to answer more in detail matters that are mentioned in the general statements. The reference to 1988 has been arrived at, or rather, the prospects have been arrived at on the basis of the latest business plan for 1987 which has just now been produced by the Board. It is a revised one on the previous one. The question of it being a salvage operation in business in its infancy, well, it is an operation to salvage the yard and it is true that it has only been going for a short while but we cannot completely disregard the unfortunate and chequered life of the first years of the yard and, in fact, even before the operation started as being a disturbing element for which I am not attributing any blame at all, just as a statement of pure fact that the activities of the yard for the first eighteen months or so was not what would normally have been expected and therefore that has been a deterrent to many things. I will not say anything more about the question of the failure of the consultants and the managers to run the yard than what I have said in my statement, but let it be made quite clear that the Board take a very serious view of some of the mistakes or lack of efficiency and are actively taking steps to that effect which it would not be in the public interest at this stage to reveal. I am prepared to give the Leader of the Opposition some indication of what is intended but I can assure Members opposite that the Government has not gone into this on the basis of paying and keeping the thing quiet for the time being. I would like to pay particular tribute to the Chairman of the Board, Mr Peter Simonis. He has tackled and taken this job on, he has attempted. I say attempted because I hope he will be successful to discipline the managers to some extent into areas which have gradually become more obvious and I have every confidence that he will be able to put things right. He is very much on the way of doing so but I would be less than frank if I were to say that the matter has been finally settled but I can assure Hon Members opposite that without his confident trust in his ability and the ability of the yard to perform and his determination to put things right, we would not be here in this House asking the House to vote money to give help to an

industry which I still think with great confidence that it has a future and it is the mainstay of quite a number of people not only who happen to be employed in the yard but who are committed because they found that as their first job after the closure of the dockyard and are fully committed to making the yard as their own to succeed. It is on that basis that the idea about 1988 was based, on the business plan for 1987 and on the prospects having regard to those areas I have mentioned in my report. For the moment I think, Mr Speaker, I have dealt with the main areas of that. If it were only that statement I would want to give more detail but since we are going to debate this at length I don't think I can add anything more and, of course, we will be taking the Committee Stage, perhaps, tomorrow and it will give Hon Members an opportunity of looking through what is, of course, a very carefully prepared statement to try and be as open and as clear and as frank and as sincere to the House as it is my duty to do.

HON J BOSSANO:

Mr Speaker, I asked a specific thing about the profitability in 1988. Is the Hon Member saying that he will be able to give me that information?

HON CHIEF MINISTER:

I don't know what I will be able to give in detail but generally I was saying that it was based on the prospects of the 1987 business plan and the future corrective measures that are intended but we may be able to give more detail in Committee Stage.

HON J BOSSANO:

Mr Speaker, we haven't seen the plan to which the Hon and Learned Member is referring.

HON CHIEF MINISTER:

Nor have I, I have just received it but I am confident with a letter which accompanies the report which I have received since sitting in the House that it is a very realistic business plan and shows good prospects. I will read the letter and look through the plan between now and tomorrow and be able to give more information to the Hon Member. I think, at this stage, in general terms, I would be misleading the House if I said anymore than what I have a feeling that that is the basis on which not only the business plan but the very thorough examination of the accounts that has been made by Price Waterhouse.

MR SPEAKER:

I am sure that Mr Bossano would like to know whether he is going to get sight of the report.

HON J BOSSANO:

Independent of that, Mr Speaker, I am asking one simple question. The Hon Member has said that the Government is putting money in to enable the yard to reach break even in 1987 and because they have reason to believe that the yard will be profitable in 1988. We would like to know if they have reason to believe that it is going to be profitable in 1988 and if you will recall, Mr Speaker, when we had the original proposals submitted by Appledore there was a figure of the volume of sales in 1988 and the profit in 1988 and the numbers employed in 1988. We have now been told that there will be no further growth in the workforce but we don't know what implications no further growth in the workforce has for the profit in 1988 or the sales in 1988. We would like to have an answer to that specific and simple question. What is the projection for sales and what is the projection for profit for 1988? If we cannot get it now we would like to have it at a later stage.

HON CHIEF MINISTER:

In the first place, normally of course the business plan would not be a matter for publication but I shall try to get as much information in that respect between now and the time that we discuss the matter in Committee Stage to try and satisfy the Hon Member, if I don't I will be sorry but I will certainly make a fair and honest attempt at satisfying his worry.

MR SPEAKER:

You are not going to debate the statement but you can ask any question you like on clarification and may I say before you feel that I am muzzling the Opposition which I have already been told once today, that that has been the procedure and the Hon Leader of the Opposition knows that what I am saying is completely and utterly correct. As a matter of fact, I remember calling the attention of Mr Restano once on this particular point. You are free to ask any question you want to ask for the purpose of clarification but you are not entitled to do more than that at this stage.

HON J E PILCHER:

Mr Speaker, I accept that but that is why I said that I would not like my original question to be answered in this.

fashion because now the Hon and Learned the Chief Minister and my Hon Colleague the Leader of the Opposition have both had a bite at the statement and I have got various supplementaries I wanted to ask on the initial question which now I am not given a chance to ask.

MR SPEAKER:

I commiserate with the Hon Member but the Hon Member had his option at Question Time and he insisted on having the question answered and the Government refused to answer it. There is nothing one can do about it and just because the Government refused to answer the question at its proper time it doesn't give the Member a right now to ask the same questions.

HON J E PILCHER:

I accept that, Mr Speaker, and obviously the Bill has got to be passed, the Appropriation Bill as well, we will have a chance to have many bites at this but there is a point of the accounts.

HON CHIEF MINISTER:

If the Hon Member will give way. The question would have been very easily answered and very insincerely answered and that would have been the end. The question was: 'Can Government confirm that GSL have now received assurances of financial support?' And I could easily have said: 'Yes, Sir, they have received assurances and I will be giving details later'.

HON J E PILCHER:

I would have stood up, Mr Speaker, and said: 'Why therefore are not the GSL accounts here today in this House?'

HON CHIEF MINISTER:

And then I would have explained that as I did here.

MR SPEAKER:

We will go on to motions now.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

With your permission, Mr Speaker, and the indulgence of the House, I would like to withdraw the motion standing in my name.

The reason for this is that since the terms of the motion, that is to say, the substance was agreed by Council of Ministers and the preparation of the motion, in the wording of it an inaccuracy has crept in and therefore I think it would be preferable for me to withdraw the motion and represent it at the next meeting of the House.

BILLS

FIRST AND SECOND READINGS

THE MEDICAL (GROUP PRACTICE SCHEME) (AMENDMENT) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Medical (Group Practice Scheme) 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. This is a very simple Bill which is, basically, to increase the amount of payment to the Group Medical Scheme from 55p to 70p per week for the normal weekly payers and an appropriate increase for people who pay annually. It is regretted, Sir, that this was not brought before the House in the December meeting and I do apologise for that but it was owing to a slip up somewhere in the machinery of Government that we didn't bring it in time. When we come to the Committee Stage, Sir, I propose to delete the subsections 2(2) and 3(2) which would have brought the Bill into effect with retrospection. We are not now going to ask for retrospection in this Bill. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

I will grant the Hon Member that he has taken some of the wind out of the sails. I think that certainly our view on the Bill does change substantially if there isn't the question of the

thing being done retrospectively. We thought that independent of the purpose for which the Bill was being brought in terms of raising money for this particular service, the concept of increasing charges retrospectively in itself raises important issues of principle which we felt very strongly we could not support independent of the merits of the Bill and that would have been enough to commit us to voting against. Therefore I think I can say that in the light of the fact that that objection is now removed by what the Hon Member has said, we reserve our position on the support provided that he can convince us that the charges at the level that are going to be introduced are warranted as on other occasions we have supported when the Government has convinced us of the necessity.

MR SPEAKER:

Is there any other contributor? Does the Minister wish to reply?

HON M K FEATHERSTONE:

No, Sir.

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

HON M K FEATHERSTONE:

Sir, I have the Honour to move that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

This was agreed to.

THE LABOUR FROM ABROAD (ACCOMMODATION) (AMENDMENT) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Labour From Abroad (Accommodation) Ordinance (Ordinance 1971 No.5) 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, following representations from the Moroccan Workers' Association, landlords and other bodies interested in the welfare of non-EEC nationals in Gibraltar, the Government undertook a study of the Labour from Abroad (Accommodation) Ordinance, the rules made thereunder and their application under present day circumstances. As a result of the studies undertaken it was found that of the dwellings registered under the Ordinance the ones requiring most attention were those housing five or more occupiers who were not of the same family. This is where you had, perhaps, eight or nine different Moroccan nationals all residing in the same accommodation. Likewise, those dwellings used by a single family unit, namely, husband, wife and their children or by not more than four occupiers of the same family, are invariably very well kept and routine inspections of such flats were open to misinterpretation and resentment, it gave the wrong impression that non-EEC nationals were being discriminated against. Sir, the object of the Labour From Abroad (Accommodation) (Amendment) Ordinance is therefore to restrict the application of the main Ordinance and rules to the larger hostel type of accommodation and at the same time release from registration the smaller flat type of dwellings let as accommodation to non-EEC nationals with their families. These results are intended by Clause 2 of the Bill which provides the definition of registerable premises and redefines the meaning of 'worker' for the purpose of the Ordinance. Clause 3 amends Section 4 of the main Ordinance and sets down the premises which will require registration, namely, those housing five or more workers or two or more workers any one of more of whom is accompanied by his wife. Clauses 4 to 7 are consequential amendments resulting from the main changes previously explained and need no detailed explanation. Sir, although the original Ordinance rules provided much needed control to the time when no such legislation existed and conditions required urgent control to be introduced in the interests of public health, the present situation is now such that the stringent measures so necessary pre-1971 can be relaxed without prejudicing our community's health since full hygiene control will continue to be retained in those premises where they are more likely to be needed, that is, the larger Hostel type of accommodation. I would add, Sir, for the persons in town especially those in the Action for Housing that those houses which now become decontrolled from this Ordinance will fall under the Landlord and Tenant Ordinance and therefore they will remain rent controlled as hitherto. I commend the Bill to the House, Sir.

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 MISS M I MONTECRIFFO:

Mr Speaker, speaking from a public health angle the GSLP is opposed to this Bill purely and simply because we are taking a retrograde step. Whereas we have today public health inspectors requiring any one person in rented accommodation to have minimum standards of hygiene, we are now allowing a maximum of four workers to live in accommodation which does not require inspection by health authorities. This type of situation is inferior, Mr Speaker, to that generally required in Gibraltar and most certainly when today we are hearing medical and health officials complain about Gibraltar's density problems and how it helps to spread diseases we are definitely not improving the situation and therefore, Mr Speaker, for this one reason alone we are opposed to this Bill.

MR SPEAKER:

Any other contributors? Does the Hon Minister wish to reply?

HON M K FEATHERSTONE:

I can only say, Sir, that from all the inspections that we have done over the last few years, cases where four or less workers have been residing together we have found no complaints of hygiene whatsoever. The main troubles have been where there have been perhaps because there is rather a grasping landlord, a large number of persons put into rather small accommodation. I feel that it is rather regrettable that the Opposition cannot support this which I think is a measure of improvement in a modern situation.

HON J BOSSANO:

If the Hon Member will give way. Can he say how the thing is an improvement? What is he saying, that in the intervening period since legislation was brought in the danger to public health that was perceived from lack of sanitary facilities and overcrowding situations no longer exist? Is he saying that?

HON M K FEATHERSTONE:

In the instances where there have been four or less persons

we have not found any evidence of overcrowding or lack of hygiene facilities, we have found that their facilities have been reasonably good given the general standard of hygiene in Gibraltar.

HON J BOSSANO:

Mr Speaker, have we understood the proposals right in the sense that if today, for example, a room is rented which under the existing provisions can only accommodate one person because it has to be fifty square feet, now since he does not require registration unless there are five or more, four people can be put into that room and that will be perfectly legal, are we right in thinking that that is a consequence of the law?

HON M K FEATHERSTONE:

We have not found evidence that that is the case, in the instances of four people or less we have found that up to the present their accommodation is reasonably satisfactory taking into account the general condition of living accommodation in Gibraltar.

HON J BOSSANO:

Mr Speaker, I am afraid the Hon Member is not answering the point that I am asking him and I think it is important that we have it clarified at this stage because that is one of the direct implications that we see which is negative in this Bill as has been explained by my colleague. At the moment, as we understand it, if a room is going to be rented under the Labour from Abroad (Accommodation) Ordinance it is measured and the maximum number of people that can be accommodated is stipulated by the Public Health Department. Are we right in thinking that that will only happen if more than five people are going to be affected but that, in fact, a room that today is limited to one by the Health Department will in future be able to be used quite legally by four people? Are we right in thinking that because, of course, if today it is limited today the Minister can go and he will find nothing wrong. We are talking about the effect of the Bill which we consider negative. Are we right in saying that that is a possible consequence or are we wrong?

HON M K FEATHERSTONE:

It is a possible consequence, yes, Sir, but not a probable consequence.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON M K FEATHERSTONE:

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

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

THE SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE) (AMENDMENT) ORDINANCE, 1987

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Social Security (Non-Contributory Benefits and Unemployment Insurance) 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. As the law stands at present there is a time limit of six months during which a person may obtain unemployment benefit after becoming unemployed. At the meeting of the House held on the 16th December, 1986, in the course of my speech on the review of social insurance benefits for the current year, I stated that as a result of representations received I would be introducing amending legislation to enable a person who became unemployed to obtain unemployment benefit if he is available and capable of work even after being away from work for a long period as a result of sickness. As a result of an unexpected delay in the printing of the amending legislation and in response to the suggestion from the Hon Mr R Mor, I also agreed to consider introducing the amending legislation with retrospective effect. The Bill now before the House is designed to give effect to the foregoing as from the 1st day of July, 1986. 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 R MOR:

Mr Speaker, on behalf of the Opposition I would like to welcome the Bill which we will definitely be supporting. This case arose as a result of someone who had been in employment for thirty years and had been contributing all this time to social insurance. It then happened that he was medically retired but before he was finally retired he had been nine months away on sick leave and when he applied for a job, at the time there was no other type of job which he could take on, when he claimed unemployment benefit this was denied because as the Hon Member has just said, the regulations stated that he had to be in employment prior to final discharge. The odd thing about this case is that, in fact, the doctor who certified this person unfit for his old job is the Hon Minister for Labour and Social Security himself so we had a case where the Hon Member was making this person unemployed on the one hand and stopping his unemployment benefit on the other. I am pleased that I was able to convince the Department that an anomaly existed there and I am most grateful that the matter has been settled.

MR SPEAKER:

Does the Hon Member wish to reply?

HON DR R G VALARINO:

No, Sir.

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

HON DR R G VALARINO:

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

This was agreed to.

THE SHIP AGENTS (REGISTRATION) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the registration and certain other matters relating to the carrying on of the business of ship agents be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this is the legislation about which I spoke during the Second Reading of the Trade Licensing (Amendment) Bill and Hon Members will recall that that Bill removed the necessity for a business licence to carry on business as a ship agent. Mr Speaker, the Bill establishes a Ship Agents Board consisting of the Captain of the Port as Chairman, a lawyer and two other members appointed by the Governor. The Ship Agents Board is required to establish and maintain a Register of Ship Agents. A person is qualified for registration as a ship agent if he satisfies the Board that he has sufficient training and practical experience to carry on business as a ship agent in a competent manner; that he has sufficient knowledge of the English language to comprehend and to execute the documents and communications which form part of the normal business of a ship agent, and that he has a permanent

place of business in Gibraltar. Persons convicted and sentenced to a term of imprisonment for fraud or dishonesty and undischarged bankrupts are disqualified from obtaining registration. All registered ship agents are required to keep proper books of account in Gibraltar; to have those accounts audited annually, and to enter into a bond in the sum of £15,000 to ensure the payment of all Port dues and the expenses and costs of repatriation of crew members of any ship for which he is acting as agent. Any ship agent who fails to comply with these requirements, Mr Speaker, will - subject to the safeguards set out in Clause 14 of the Bill - be struck off the Register as will any ship agent who becomes a bankrupt or is convicted and sentenced to a term of imprisonment for fraud or dishonesty or, indeed, who ceases to be qualified for registration. Mr Speaker, when we reach the Committee Stage I propose to amend Clause 13 of the Bill to give the Board a discretionary - as distinct from a mandatory - power to strike off the register persons who have not carried on business or who have ceased to carry on business as ship agents for a period of twelve months. Clause 15 of the Bill gives a right of appeal to the Governor of persons whose application for registration has been refused and to persons who have been struck off the Register. Clause 17 of the Bill protects existing ship agents who have been carrying on business as ship agents in Gibraltar for three or more years and who apply for registration within three months of the Ordinance coming into force. Clause 18 of the Bill makes it an offence, inter alia, to carry on business as a ship agent without being registered under the Ordinance. The offence is punishable by a fine of £1,000 and to a fine of £20 for each day during which the offence continues. The Bill has been seen by the Gibraltar Ship Agents Association and subject to two of the three amendments which I propose to move in Committee are approved by them. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, the Opposition will be voting in support of the Bill. If I recall correctly, Mr Speaker, the consequence of the Ship Agents (Registration) Ordinance, 1987, is as a direct result of us requiring to deregister the ship agents from the Trade Licensing Ordinance which allowed them to operate within Gibraltar under a trade licence obtained through the Trade Licensing Committee and which was in conflict with the Treaty of Rome and as a consequence of that it left this particular

sector of our community vulnerable to competition from outside. Whilst the Opposition's position with respect to our membership of the EEC and the need for protection is well known and I keep on repeating, that was one of the prices that we had to pay. We are now looking at a Bill which doesn't give us the same protection as one would have had under the Trade Licensing Ordinance insofar that under the Trade Licensing Ordinance there are two particular clauses which are of prime importance which is of public interest and the needs of the community being adequately catered for. Under this piece of legislation, provided they meet the rules they will be able to register. There is, of course, a difference. As happens in all Bills, unless we carefully consider the 'impact; you will always find that perhaps in the same way that there are mediocre lawyers there are also very good lawyers who will find a way round the rules therefore I find that perhaps whilst we are supporting this, the Bill itself ultimately doesn't provide us with the sort of protection that the ship agents wanted which we are supporting. Having said that, there are one or two points in the Bill which I would like to seek clarification on. The Bill says that the Ordinance shall come into operation on such date as the Governor may by notice in the Gazette appoint and at the same time throughout the Bill it refers to the Government. As I think I understand it, I stand to be corrected, under the interpretation clause the Governor means Council of Ministers. Does that mean that also Clause 2 where the Governor may by notice in the Gazette appoint, also refers to the Council of Ministers in this case?

HON ATTORNEY-GENERAL:

Yes.

HON M A FEETHAM:

The other point I want to clarify is, is it something that ought to be given serious consideration whereby we are actually appointing the Governor, in this case the Minister or Council of Ministers, to be the people responsible for listening to an appeal from an aggrieved person?

HON ATTORNEY-GENERAL:

If the Hon Member will give way. Insofar as appeals are concerned, that is the Governor personally because he listens to appeals and hears appeals from the statutory body but in the normal course of events except for the purposes of appeal, Governor means either Governor in Gibraltar Council for a non-defined domestic matter or Governor in Council of Ministers for a defined domestic matter and, of course, the registration

of shipping agents is a defined domestic matter. But when it comes to listening to an appeal the Governor sits as the appellant authority against it, if you like, decisions made in this case by the Ship Agents Registration Board.

HON M A FEETHAM:

So what we are saying is that any person who is aggrieved by a decision of the Board may appeal against the decision to His Excellency the Governor?

HON ATTORNEY-GENERAL:

Yes, that's it.

HON M A FEETHAM:

The other thing, Mr Speaker, is that on the question of the costs of an appeal, I think that we have already.....

HON ATTORNEY-GENERAL:

That is the amendment for the Committee Stage which I have given notice of.

HON M A FEETHAM:

Is the Attorney-General satisfied that, in fact, the Governor should have the responsibility for deciding a matter of costs involved in appeals? I am not very well informed about the judicial process but it seems to me that he may find himself in a dilemma there.

MR SPEAKER:

With respect, we are discussing the general principles. Have you finished your contribution?

HON M A FEETHAM:

Yes. I wanted to clarify a few points having spoken on the general principles.

MR SPEAKER:

No, that is what I don't want. You have finished your contribution, he will take notes and he will answer in due course.

HON A J CANEPA:

Mr Speaker, the Hon Member is quite right when he says that

this Bill is a direct consequence of the fact that the requirement that shipping agents should have a trade licence was in conflict with the so-called standstill provisions of the EEC, not so much the Treaty of Rome but the standstill provisions whereby after accession to the EEC, Member States should not enact more restrictive legislation in this field. But it does show, this Bill does go a long way to prove that there are ways of protecting certain sectors and businesses which would otherwise be totally vulnerable to EEC requirements, there are ways of protecting them from these requirements. Other Member States do it, in this case we have modelled and tailor-made our legislation but modelled it on legislation existing in Italy and therefore if Italy as a Member State is free to enact this sort of legislation and not be in conflict with the requirements of the EEC, we should be quite certain that we ourselves will not be in conflict either. The Bill is the result of very close cooperation which there has been on the matter between the Government and the Gibraltar Shipping Association, very close consultation at the political level and very close consultation in the process of drafting the legislation as between the Attorney-General and representatives of the Shipping Association. I think I should publicly express our gratitude to the Gibraltar Shipping Association for the great deal of hard work that they have put, particularly in researching the matter, in providing information to the Government on the basis of which we have been able to draft the legislation. The Attorney-General has referred to one or two other amendments that are going to be made at Committee Stage and I think that in particular many of us who were somewhat crestfallen at the fact that the Trade Licensing Ordinance had to be amended to delete from the Schedule, shipping agents can today take some comfort in the fact that we have gone a long way to protect these businesses in Gibraltar.

HON J BOSSANO:

Mr Speaker, when the Government amended the Trade Licensing Ordinance to delete from the Schedule the registration, we voted against and we voted against on the basis of our objection to removing protection for local businesses because we believe, as a general principle, that the vast majority of businesses in Gibraltar, whether we are talking about ship agents or most other things, have a very small domestic market and generally are businesses that are of very low capitalisation compared to other places because we are talking about Gibraltar not being a nation and consequently they are not in a strong position to withstand competition from outside, from stronger, better organised, more powerful businesses capable, if necessary, and if they should so wish, to withstand losses in order to capture that local market. That has been a concern of ours

going back to 1980 when we have been pressing for changes in our membership of the European Community to take account of our size. Therefore we voted against the deletion and at the time the Hon and Learned the Chief Minister indicated that ways of protecting this particular sector of the business community in another shape which would not conflict with Community law were being explored. But we understand that very recently one of those seeking the protection has willingly allowed the wolf in the door from which he was seeking protection and consequently we, quite frankly, don't see why the House of Assembly should legislate not to protect local business but under the guise of protecting local business to enhance the realisable value of local business because if we are concerned that areas of local business were concerned not just because of the people who earn their living there but for wider political considerations of Gibraltar as a whole and of the need to have important parts of our business life in Gibraltar and of our economy in Gibraltar in the hands of people who care about Gibraltar and who have a stake in Gibraltar and who have got their roots here. But if what we are going to do is to say: 'We make it very difficult for outsiders to come in so that the people who are here already seeking the protection of the House can then exact a higher price and sell out to the outsider against whom they claim to be wanting protection', then quite frankly, we might as well be in the business of printing money for a select group of people. This is not new in the sense that just as it appears to have happened according to our information in this instance, it has tended to happen on more than one occasion in the past under the Trade Licensing Ordinance where we have had lobbies being mounted to oppose the issue of licences and no sooner has the lobby succeeded than the people mounting the lobby have then gone back to negotiate and sell out to the people against whom they have mounted the lobby and we don't really think that that is the purpose of our seeking protection for Gibraltar and for Gibraltarians and for local businesses and we don't like being used in this way on this side of the House. Therefore it concerns us because if the information that we have is accurate they have hardly waited for the ink to be dry on the thing before they have struck a deal allowing in the firm that was apparently such a threat to everybody. We all know that we are talking about a Spanish firm, I think it is called Maritima del Estrecho, that that firm has been pressing, that the firm was able to demonstrate that the inclusion of ship agents post-1973 conflicted with the requirements of Community law of not being able to add new businesses to the Schedule, just like it does with transport contracting which at the last meeting of the House was not deleted from the Schedule but which we know and the Government admitted at the time when the Trade Licensing Ordinance was being amended that that would, in fact, have to go eventually and that the moment that it is

challenged, in fact, I believe the Trade Licensing Committee has already had it pointed out to them that if somebody comes along asking for a transport contractors licence notwithstanding the fact that it is still in the law they shouldn't really reject it because if the person appeals they will win the appeal. If the Government were to come to us and say: 'We have now got a Transport Contracting Ordinance in substitution of what there was in the Schedule and that Ordinance is going to require directors who are conversant with the Laws of Gibraltar and who must consequently speak English; vehicles that have passed the MOT test and consequently have got to be registered here', and all sorts of things which are not in restraint of trade but which every European country does. Every European country complies with the principles of the philosophy of free trade but then designs domestic law which de facto give an advantage to indigenous businesses. But the purpose of that is not for indigenous businesses to up the price and sell out. And if all the broken down lorries in Gibraltar were then as a result of our passing such a law to be sold as if if they were straight off the conveyor belt then we wouldn't want to have any part of that law and certainly we don't like that this should be happening and this is why there was some hesitation when my Hon Colleague spoke at the beginning and said we were supporting the Bill because the principle of the Bill of protecting the local business community and local jobs and local people, we are in favour of that and the Government will find support from us for that principle and this is why we opposed the removal of the original item in the Schedule because even though we were being told that something else was being looked at, we thought, well, what happens in the interregnum? At the moment and until this law is passed, presumably anybody today can set up as a shipping agent without the need to register because this is not yet law and without a trade licence because it is being removed from the Ordinance. The only thing is that if that happened, as we see it, the only thing that would not apply to such an entry would be the transitional period because presumably they would not have been there for three years and therefore they would have to comply with all the items in the law once it came in so we would have gained nothing by trying to preempt the law. If the entity that was seeking to come in and which caused such panic in the ranks of ship agents is now already in, it means that the threat is there and now is irreversible. And if they have done it by buying one was because they must have looked at the cost of buying in and at the cost of meeting these requirements then it must have been cheaper to buy in. It makes a nonsense of the sentiment expressed by the Minister for Economic Development of if we get our heads together we will find another way of protecting it because it seems that the person who is being protected is no longer a shipping agent, he has now gone. And the others

are not protected because one assumes we are not just talking about a firm coming in and I think the reason why local businesses, certainly from my knowledge of them and I don't pretend to be very au fait with everything that goes on in the business community but from my knowledge of them, the main argument and the main strength of the argument of the local businesses when they have been resisting the entry of competitors from outside be it from UK or anywhere else, has been in fact the resources available. We know, for example, that if Dragados y Construcciones chose to do it they would capture the entire market in Gibraltar. Why? Because, of course, they are one of the biggest firms in Spain and they have got access to a backup across the border which Taylor Woodrow hasn't which has got its backup in the United Kingdom. And certainly when compared to local small firms the local small firms are just not in the same league at all. It is that kind of concern for the economy coming under their control and it is a concern that we may feel here in a small scale but it is a concern that is felt on a bigger scale in nations like Britain and nations like Spain about the operations of multinationals. When people are looking at the same kind of problem in UK when trade unionists look at this problem and it is an area where there is often concurrence of views between businessmen and trade unionists, they look at it on the basis that the multinational looking at its business in UK from a distance tends to take a more cold return on assets view. We all know that the small businesses in Gibraltar is not an anonymous distant entity in many, many cases because there is a family commitment to that business and the employees may have been working for them for years. If you put that kind of situation against the tougher more demanding and more efficient organisation with a lot of capital behind them, quite frankly, a lot of businesses in Gibraltar would be very hard put to survive like a lot of businesses, as I said, in the United Kingdom faced with multinational corporation from the United States or elsewhere have gone under and they have been wiped out. I think we feel the need to record this because, quite frankly, if the information that we have got is accurate and we have no reason to suppose that it would be otherwise, why should somebody invent a story like that, then it seems to us that the goodwill and the support of the House for this Bill looking after the interests of the people in the business but looking after the interests of the community at the same time - we are not here to protect individual sectors of the business community, we do it in the context, as far as I am concerned, and that I imagine must apply and must influence the thinking of the Government the same as it does ours because there is no conflict of interest between what is good for that sector of business and what is good for Gibraltar as a whole and to find that, in fact, having one that way, the Government having taken the trouble that they

have taken on this occasion to consult all those involved which the Minister for Economic Development has said, one of those being consulted was simply putting the arguments as part of his strengthening his bargaining hat and certainly it leaves a very bad taste behind. We committed ourselves in principle to supporting the Bill but we don't like the way that it has gone if it is like that.

HON CHIEF MINISTER:

Mr Speaker, I think that the Hon Member has mixed up two different things completely. There is always scope when there is a limitation of any business activity, there is always the scope for somebody who has got either a licence or a trade licence of some kind, if it is in demand and there are limitations on it, to exploit his assets. I don't know what the Hon Member is referring to, I have just heard a very vague rumour, I can assure the Hon Member I don't know the details at all though I wasn't surprised when I heard him say that, that does not mean that the rest of the community must not be protected. There may have been one company that wanted to establish and kicked up all hell but if you don't do this then there will be a host of companies who would want to do it and I don't feel they will find a host of local companies who are prepared to sell out for the purpose of making an immediate profit. Hon Members opposite will not remember but we used to have what was called a Trade Restriction Ordinance which was a Licensing Ordinance that only gave licences for businesses or rather that people who were not Gibraltarians were not able to establish themselves without a licence and therefore a section of the community which is very prominent now in the electronic trade and so on, started putting up fronts. There were people within our community who were prepared to receive not just to sell licences, just to apply for it and that is even worse because at least somebody who sells an asset is selling something he has got. In that case he was selling his name or his birthright if you could call it that and therefore in the end it was a mockery because the whole of the Trade Restriction Ordinance which used to be called - it had a number of names and a number of limitations - people couldn't set up a business in Gibraltar before EEC and all that, who were not Gibraltarians or British Subjects. And there were people who were lending their name and made an appearance occasionally, if at all, perhaps the Hon Mr Feetham remembers that, and that was done everyday. It led eventually to the Trade Licensing Ordinance whereby everybody had to have a licence on a different criteria which was the requirement of the Community. If I may say so, with respect, the same thing happened with people who are holders of taxi licences. A taxi licence to the Government means nothing except a taxi licence but we all know that taxi licences change hands for a

considerable amount. Why? Because they are limited and therefore the people who are in the trade are interested that this should be limited. The same with victuallers licence, every time there is an application for a new licence for a tavern you get objections from the Gibraltar Licensed Victuallers Association but immediately the licence is granted that fellow joins the Licensing Association and joins the next lot when another one comes along and asks for a licence and that, I think, is natural in this kind of trade in Gibraltar and the limitations of Gibraltar and therefore what we have done in an honest attempt and with the help, as my Hon Colleague has said, with the help of the people who are in the trade for years, whose livelihood belongs to that, who I am sure would wish to carry on their business and carry on their family business and their children carry on their business as they have carried on for years, would very much like to carry on unmolested and are not going to sell what they have built over the years. Maybe their circumstances occasionally change, people die, the younger people don't want to carry on a business and they have a realisable asset and that is maybe what is happening. But that is no reason why we should not try and avoid the free for all that the obligation under the EEC - it is all very well for people in the Opposition to oppose the withdrawal of the restriction in the Trade Licensing Ordinance, we were doing it because otherwise we might have landed in the European Court and ended after a considerable amount of money by being ordered to do it. The Government has to comply with what it thinks is its obligation, some of them reluctantly because we know that it deprives protection which was there before but within those difficulties we try to ameliorate the damage by correcting this, I do not think for one moment that the fact that there may or may not have been one transfer of one licence alters the general principle that we must protect the trade that has served Gibraltar well over the years and which I am sure will continue to do so and which I am sure the help that they have given us to draw up these rules have been meant in good faith to try and protect themselves and not just to be able to try and barter out their rights. One other point, it is true that the Bill states a date on which it will become effective and Hon Members will remember that when we passed the amendment to the Trade Licensing Ordinance taking away the protection of shipping agents, was also subject to a date and it is obvious that what we want to do is bring in the two laws at the same time so that the protection goes along side by side with the necessity to comply with EEC regulations.

MR SPEAKER:

Are there any other contributors? Does the Hon Mover wish to reply?

HON ATTORNEY-GENERAL:

No, Mr Speaker, except to deal with the point about the costs. I cannot imagine the Governor exercising the power to award costs under Clause 15(2)(b) unless the appellant asks for costs and unless the Governor is so advised by the Attorney-General of the day when in considering the appeal, he is naturally able to seek advice from the Attorney-General of the day and I would prefer to keep it in. I am very easy about it but in case there is an application for costs under the appeal the Governor could consider the matter in consultation with the Attorney-General, it is neither here nor there.

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) (NO.2) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance to make provision for penalties for offences contrary to sections 159(1), 160 and 161 and to make the obtaining of supplementary or other pecuniary benefits from Government by means of any false representation, an offence, 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, the principal object of this Bill is to create a new criminal offence of making a false statement or producing a false document for the purpose of obtaining supplementary or other pecuniary benefits from Government. Clause 3 of the Bill, Mr Speaker, is modelled on Section 21 of the Supplementary Benefits Act, 1976, of the United Kingdom. At present offences of dishonestly obtaining or attempting to obtain supplementary benefits have been charged under section

196 of the Criminal Offences Ordinance as obtaining or attempting to obtain property by deception. The offence of obtaining or attempting to obtain property by deception is an extremely serious one in that it is punishable by imprisonment for ten years; it gives the accused the right of trial by jury and it requires a dishonest intent or an intent to defraud the Government of the money. This Bill, Mr Speaker, does away with all that in that the punishment is limited to three months imprisonment and to a fine of £400; the charges can only be tried in the Magistrates' Court, and it is not necessary for the defendant to have a dishonest intent or an intent to defraud the Government, the making of a false statement in itself is sufficient to create this offence. Mr Speaker, you might think this is a radical departure from the criminal law but it is the position in the United Kingdom and this is what happened in a fairly recent case which was tried in the Supreme Court. The defendant in that case altered a voucher for £9.70 to read £19.70 and she did this in the belief that this would cause the cashier to query the amount and thus enable the accused to complain to the officials who would come along to query that, to complain about the small amount of supplementary benefit that she was receiving. Mr Speaker, the cashier didn't query the amount, the cashier paid out the £19.70 and the defendant promptly pocketed this £19.70, £10 more than she was entitled to. She went to trial in the Supreme Court and was acquitted by the jury on the grounds - and this is according to the Chronicle - that she lacked the intent to defraud the Government of the sum of £10. She made a false statement, that was accepted, but she did it because she really wanted to complain to the officials about the low amount of supplementary benefit which she had been paid. This Bill cuts across all this, Mr Speaker, and we think it is a good idea. Clause 2 of the Bill, Mr Speaker, clears up a mistake made in the 1984 edition of the laws. It doesn't change the law in any respect. The new section 163 contained in Clause 2 sets out the penalties which were contained in section 138 of the 1974 reprint of the Criminal Offences Ordinance. In compiling the 1984 revision the Commissioner failed to provide for the existing penalty of ten years imprisonment for offences other than arson under section 159(1) and also the penalties under sections 160 and 161 and this Clause 2 of the Bill, Mr Speaker, corrects that defect. 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 R MOR:

Mr Speaker, accepting some of the value of the arguments put forward by the Hon Attorney-General, we are not entirely satisfied whether this Bill is necessary. Our concern is mainly based on section 196(a) under Clause 3, subsection 1(a), for example, Mr Speaker, says: 'Any person who makes any statement or representation which he knows to be false is guilty of an offence'. A bit further down, subsection 2(b), it says: 'The absence of an intention to defraud the Government shall not afford a defence to a person charged under this section'. This latter subsection, Mr Speaker, would appear at first sight to make the previous section superfluous since even if the individual is not aware that he is making a false statement he can still be found guilty because the absence of an intention can still be interpreted as an offence. What is perhaps dangerous to my mind about this Bill is that in most cases of supplementary benefits, elderly persons are involved and it is quite common to find that they fail to understand intricate legislation. You can therefore have a situation, Mr Speaker, where an elderly lady could be receiving supplementary benefit and it is possible that her children and grandchildren could be maintaining her by chipping in some cash every week to make her life more comfortable. This is quite common in Gibraltar. In accordance with this Bill, Mr Speaker, this lady could be breaking the law not only because she is not declaring an income but because in all probability it would not enter her imagination that the extra cash she was receiving from her family is, in fact, an income. But according to this Bill, Mr Speaker, she would be guilty of an offence liable to imprisonment for three months and also to a fine of £400. We may therefore find ourselves with a stream of old ladies queuing up outside the Magistrates' Court to be convicted. There will also be many cases of single parents, for example, or separated couples whose ignorance of the law may make them consider that any income received from their ex-husbands is perhaps in order to act as a punishment for him and not as an income for her and they may well not consider that this income has to be declared. Again, Mr Speaker, these cases would be guilty under this Bill. The supplementary benefits system is a discretionary system and we feel that if the Government has any cause to doubt whether a person is entitled to supplementary benefits it should be investigated thoroughly and should have failed to meet the conditions required, that the punishment should be that the supplementary benefits should be withdrawn. In this respect I think the Government should perhaps explain how persons for supplementary benefits are identified in the first place and, if there is a necessity for this Bill because the system is being abused, perhaps I might suggest that the Government is not being thorough enough in their investigations and

finding out whether persons should be entitled or not to supplementary benefits. As I said, Mr Speaker, we are not happy at all about this Bill and unless we are otherwise convinced we will not be voting in favour.

MR SPEAKER:

Are there any other contributors? Does the Hon Mover wish to reply?

HON ATTORNEY-GENERAL:

Yes, Mr Speaker. The Hon Member doesn't give much credit to the Attorney-General of the day who is responsible for prosecutions. I hope that no Attorney-General would prosecute in the case of old ladies who genuinely didn't understand and who genuinely made a mistake and even if the Attorney-General of the day was a hard nut and hard enough to do that, I think we can rely on our Stipendiary Magistrate in Gibraltar who wouldn't find such a person with such a genuine excuse guilty of a criminal offence. A statement is a false statement, why was it made? And if the person says: 'because I didn't understand, I honestly didn't know that I had to take into account the £10 a week that my daughter gave me', I think that person would in all probability either would not be proceeded with by the Attorney-General of the day or would be acquitted by the Stipendiary Magistrate of Gibraltar.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance, 1986, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, I will make a very short speech on the general principles of this Bill as the Bill does not involve matters of general principle. Nevertheless, speaking on the general principles of the Bill, Mr Speaker, I would say that while it is perhaps surprising that the democratic process requires as a matter of principle the Bill to be presented to the House in these circumstances, purely for the purpose of correcting printing errors, I would nevertheless expect the House to support the underlying democratic principle of bringing such a Bill to the House and, indeed, support the general principle of correcting errors in the printing process of the Bill even though these do not affect matters of general principle. I would therefore commend the general principle as well as the details of the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

I am not sure now that such weighty matters have been raised whether I shouldn't make an equally impressive speech to that of the Financial and Development Secretary but I think, on balance, we will just vote it, Mr Speaker.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the first three Clauses of the Bill and the number of the subsequent consequential amendments relate to a measure which was announced in the 1986 Budget where I said in my speech that it was proposed to provide for individuals with no income earned in or derived from Gibraltar, to be taxed on passive income remitted from abroad. I regret that it has taken so long to bring the Bill before the House but the consequential amendments to the Income Tax Ordinance had to be considered in detail. The remaining sections of the Bill are largely tidying-up amendments to remove, for example, inequities in the treatment of husband and wife for tax purposes where relief is obtained by them in connection with a house purchase. However, the main measure in the Bill is, as I have described, designed to encourage certain classes of individuals who elect to be taxed in Gibraltar on what is generally termed 'passive income', that is, income earned abroad and remitted to Gibraltar. It thus distinguishes between such individuals who are to be called 'resident individuals' on the one hand and those 'non-resident individuals' on the other hand who do not elect to be taxed on their worldwide income or passive income who, of course, are not domiciled in Gibraltar and have not earned income here and who are allowed to reside here for up to six months in any tax year to preserve their exemption from Gibraltar tax and those are the non-resident individuals. On the other hand, non-residents

are able to earn interest on deposits made, with a Gibraltar bank or building society or income from a trust and this facility will also be extended to the new class of 'resident individuals'. This is provided for in the Ordinance in section 3. Resident individuals will be entitled to most of the allowances for which ordinarily resident individuals are eligible but not all these allowances. They will not be allowed to benefit from the £2,000 capital allowance on the first purchase of a home, this of course is confined to Gibraltar residents. As the Bill stands, they will be able to claim mortgage tax relief if they take out a loan to finance the purchase of their property. It is perhaps for consideration whether they should be allowed to enjoy that particular allowance. It will be noted that the minimum qualifying limit for tax purposes is described as assessable income of £20,000. Originally the figure was put or the advice we received from the Finance Centre Group who were, I must acknowledge, the original sponsors of this proposal, the original figure was £10,000 and we raised it to £20,000 because the new class of individuals will be entitled to the normal run of allowances and I think one can make calculations that if, for example, they were eligible for the married persons' allowances or children's allowances, for the one-sixth of income life insurance allowance and also, shall we say, they took out a loan of £50,000 and were therefore eligible for tax relief on the interest payable, the figure of £20,000 would be reduced, perhaps not to as little as £10,000 but certainly would be reduced to as little as £10,000 or would certainly be reduced effectively by the allowances they obtain. However, as I said, the question of allowances is certainly for consideration and I would not wish to be dogmatic on it and I think one would naturally wish to hear the views of Hon Members on this particular point. I am afraid, Mr Speaker, that the Bill does nothing for those who are ordinarily resident, domiciled and working in Gibraltar and will continue to pay tax on earned income in Gibraltar or, indeed, earnings from abroad. Indeed, the Bill specifically blocks in section 2, subsection (ii)(c) any attempt by those who are ordinarily resident and domiciled in Gibraltar to take advantage of the new measures by sneaking off to Sotogrande for a year or so and then returning to declare themselves as neither ordinarily resident nor domiciled here but resident. The provision which relates to in section 2 (ii)(c), the qualifying period of six years is intended to prevent that happening. As explained in the memorandum to the Bill, the remaining measures are of a relatively minor nature. It is worth mentioning that Clause 11 was in a small way a measure similar to that which is now proposed in this Bill inasmuch as it was an attempt to encourage expatriates and others to build homes in Gibraltar and attain tax concessions as a result. This measure is now

superfluous and the financial provisions are out-of-date and it is therefore to be repealed. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, as the Hon Member has said here we have a Bill which intends to introduce several amendments to the Income Tax Ordinance, primarily designed, however, to extend the existing tax concessions available to non-residents to a new class of persons destined to be classified, if the amendments become law, as resident individuals. This resident individual will join the ranks of the ever-growing persons defined for income tax purposes. I refer, of course, to residents, ordinary residents, non-residents, permitted persons, non-resident individuals and now, of course, the resident individual. The aim of the Bill, we are told is to attract investors and to contribute to the economic development of the country. Mr Speaker, all proposed legislation has to be taken seriously, some, of course, have to be taken more seriously than others depending on the impact and effect it has on the community. When I looked at the Bill in front of us today and read that its intentions were to attract new investors to Gibraltar and to contribute to our economic development, my immediate reaction naturally was, here was a worthy Bill that required careful attention, particularly as well because it may indicate to the House and to the people of Gibraltar some thinking of Government's economic policy in the sphere of finance for the future, especially now with an election due on or before next January. When one talks about investors and developers we all listen and politicians obviously more than most. This Bill, Mr Speaker, defines a resident individual as an individual who is not a Gibraltarian; is neither ordinarily resident nor domiciled in Gibraltar; has not for a period of six years prior to the date of his application to be treated as a resident individual been either ordinarily resident or domiciled in Gibraltar; has subsequent to the 1st day of July, 1986, purchased for the first time ever a house or a flat in Gibraltar for his residential occupation; in any year of assessment resides in such house or flat for not less than 30 days; does not carry on, exercise or undertake in Gibraltar any trade, business, profession, vocation or employment (other than as a director of a qualifying company or of an exempt company within the meaning of the Companies (Taxation and

Concessions) Ordinance); in any year of assessment is in receipt of an assessable income of not less than £20,000 remitted to Gibraltar from sources outside Gibraltar. This new resident individual would be eligible, Mr Speaker, as defined for tax concessions hereto available only to non-residents.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Would the Hon Member give way because he has repeated that particular phrase and I don't think it is true because the concessions extended to non-residents are of a totally different order. They do not pay tax, that is an equally important point, whereas the new class of resident individual will pay tax.

HON M A FEETHAM:

Mr Speaker, I am actually stating the situation as I see it and as it has been explained in the memorandum and I will explain why somewhere along the way I will part ways with Government thinking on this Bill. I do not intend to repeat all these tax concessions but will refer to some of them during the course of my contribution. However, these tax concessions, as I see them, are contained in Section 7(1), 7(1)AA, 7(1)FF and 7(1)KK of the Income Tax Ordinance. At this point, Mr Speaker, I begin to part ways, as I said previously, with the Government because having intrigued me with the intentions of the main part of the Bill, it is now clear that on closer scrutiny the Bill is, in my opinion, a collection of highfalutin words which contrary to attracting investors and assisting our economic development it will only contribute to us incurring the cost of the printing material and the amount of time the Attorney-General and others may have spent on it because the Bill is, in my opinion, utter nonsense and has no logic to it. First, Mr Speaker, allow me to take to task the essence of the Bill, that it is something that is going to make a difference to investment in Gibraltar. Are we saying that we have to do things to attract investors because there are not enough investors? Is it not a contradiction of what the Minister for Economic Development has said that the problem is not one of attracting investors but controlling it and being more selective? So what are we talking about? What the Government is saying is that anybody that comes in and buys a flat and has an income of £20,000 does not pay tax on the interest received in a bank account. That is, of course, complete nonsense.

HON CHIEF MINISTER:

That is what you say.

HON M A FEETHAM:

This is what the Bill actually says and you will have plenty of time to answer. Will the resident individual pay tax on the £20,000? If so, why should anybody with £20,000 come into Gibraltar so that he can put his money into the Gibraltar Building Society free of tax where already the first £500 is free of tax and pay tax on the £20,000. Because as a non-resident, Mr Speaker, he does not pay tax at the moment. A non-resident only pays tax on money received in Gibraltar whereas a resident pays tax on his world income. Is a resident individual paying tax on his world income or paying tax on the money he receives in Gibraltar? That is the real issue, not this part of the Bill. In my view, this is simply exempting from tax interest received on bank deposits and building societies. On top of this we are making it retrospective to the 1st July, 1986. How many people from the 1st July, 1986, have bought houses in Gibraltar, have £20,000 and will qualify as resident individuals? How many people are we legislating for? We also need to question what would be the position of a resident individual who bought a flat, had £20,000 and did not occupy it for, say, thirty days? Let us say he occupied it for twenty days in a year, how would his tax position then be? What happens in this case? How does his tax position change or, Mr Speaker, supposing he spends thirty days but only has £19,000, how does his tax position change? Does he, in this case, pay more or less tax as the law stands now with this amendment? Would he become then a resident or a non-resident? If somebody spends twenty days in Gibraltar, Mr Speaker, this does not make him a resident in Gibraltar so he is a non-resident. If he is a non-resident he has already got all these tax concessions because what the Government is doing is extending, Mr Speaker, as the Financial Secretary has said and it is in the explanatory memorandum, to the new category of resident individuals the concessions already enjoyed by non-residents. If you have a flat in Gibraltar and you come here and you spend a month a year on holiday in your flat, you do not have £20,000, you are a non-resident of Gibraltar so you are entitled to the tax concessions outlined in Section 7(1) and so on. Suppose, Mr Speaker, as an example, that somebody today has a flat in Ocean Heights, we know that there are flats owned by people not living in Gibraltar, and who rent them but at the same time may use the flats themselves for a month's holiday once a year, what is their position today before this law comes in? What do they pay tax on? Are they classified as resident or non-resident? Surely, you cannot classify a person as a resident just because he has a flat in Gibraltar and spends a month in it. If he is not a resident, Mr Speaker, the new sections applies to whom? If it already applies to people who have bought flats, what is the Government talking about somebody who has bought a flat for the first time since 1st January, 1986? Is there anything

In the existing law that says that if you own a flat in Gibraltar and you come and spend a month in it you have become a resident of Gibraltar? What does this amendment do? In my view it does nothing. All it seems to do, perhaps, is, Mr Speaker, to benefit one or two people who have bought themselves a flat, who may happen to have £20,000 who are paying tax on the bank interest and who have successfully lobbied Ministers to change the law. If that is what has happened, we are passing a law, Mr Speaker, when we have lots of other laws to be brought to the House when the Attorney-General has enough time to deal with it. And here we have one law that seems to affect no one or, perhaps, one or two people. But there is certainly, in my mind, no justification at all for saying that this is going to attract new investors to Gibraltar or produce development. There is nothing in this Bill to say that people have to invest £20,000 in Gibraltar. Looking at this Bill from another angle, Mr Speaker, which the Hon Financial Secretary slightly touched upon and that was the representations from the Finance Centre and one assumes that in the process of consultation what has happened is that the Finance Centre Group have urged Government to produce this piece of legislation and this is an attempt to assimilate Gibraltar with the Isle of Man and Channel Islands situation. If this is the case and if I am right, the fundamental mistake in this Bill, Mr Speaker, is that we cannot compare like with like. The Isle of Man, Jersey and Guernsey are not covered by the EEC Free Movement of Labour. They can therefore restrict immigration and they can say that only people with £20,000 are allowed in. We are not in a position to do that because under Community law anybody can come into Gibraltar even if they are penniless. It is, of course, discriminatory what they are doing in the Isle of Man, Jersey and Guernsey but they are allowed to be discriminatory because they are not covered by the Treaty of Rome in this respect because they are not full members of the EEC. But we certainly cannot say, for example, to a Frenchman who wants to come to Gibraltar that he has to have £20,000, we certainly cannot do that. We are in actual fact, Mr Speaker, introducing discriminatory legislation ourselves with this Bill because what we are saying is if a foreigner comes to Gibraltar and meets the conditions, he gets one treatment and a Gibraltarian who may have happened to be away from Gibraltar for a long time, say, hypothetically, twenty years or more and comes back and meets these conditions, he is treated differently so we are actually discriminating against Gibraltarians and we don't think that this should happen either. If this is going to attract investors as Government says, why should we not want Gibraltarians? Why should we want other investors, foreign investors and not Gibraltarians? Why should Gibraltarians, Mr Speaker, who have been away for many years not take advantage of this law if it is such a good thing? It seems

that because world income is charged to people who ordinarily resident, this law says that any person who is not ordinarily resident is a non-resident. One has to ask another question in this respect, Mr Speaker. What is somebody who is ordinarily resident today as the law stands? Would somebody that met the conditions as the law stands now of having a house in Gibraltar, spend a month in the house and spend £20,000, what would he be classified now without this new piece of legislation? Would he be a non-resident or would he be an ordinarily resident? Is the Government saying that if somebody has a house here which he rents out as a holiday flat and which he uses once a year to take a holiday in Gibraltar that that makes him ordinarily resident? It is these conflicting questions, Mr Speaker, that need to be answered by the Government. That is all I need to say on the main part of the Bill, Mr Speaker, because what we are questioning, in fact, is whether the Bill does what it says it does and whether the Bill is necessary at all, which is more important. Unless we are clear on this part of the Bill that it does what it says it does, then we are not going to support it and if we don't support it, Mr Speaker, let's make it quite clear, we are committing ourselves to repealing it if ever we get into Government. I want to concentrate on the other aspects of the Bill which is not of any relevance to the resident individuals saga when we come to the Committee Stage, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I would like to say, first of all, that I am not going to fight this Bill tooth and nail and that I do not consider that the matter is either as controversial or as difficult as it has been made out by the Hon Mr Feetham. To me the concept is quite simple. There are a cadre of very wealthy people with a considerable amount of income who have to satisfy their own countries that they are paying tax in a different place and if they certify that then they are exempt from paying tax in their own country where they get their income. It pays these people, according to the understanding that I have, and let me say that as far as I am concerned, I have not been lobbied by anybody, I haven't even seen but I know that they are the representations made by the Finance Centre Group but I have not been lobbied by anybody on this matter and it is of no consequence to me in any way, as far as I am concerned, whether it is passed or not. I have no interest to declare or anything at all except that the concept was attractive in the sense and I know already that there is need for people who live in the vicinity with a lot of money to spend money in Gibraltar and are attracted to do so and my understanding of the situation is that quite a number, mainly from the Scandinavian countries who have got big fortunes and so on, who if they satisfy their own country and that they are taxable in this way here, do not have to pay any tax in

their own country. I think Australia has got similar legislation to this one, if I am correct in remembering, and the idea is purely that if you bring in a limited amount of money and you own property in Gibraltar you have to pay tax on that amount that you receive. It is not correct, according to my interpretation of the law, that Gibraltarans are allowed, provided the Financial Secretary certifies that it is a Gibraltarian who qualifies. I am sorry the Attorney-General is not here because, after all, he has drafted this Bill and he should answer those details. Though it says 'resident individual means an individual who is not a Gibraltarian', before you do that you see the definition of 'Gibraltarian', it is: "a person registered as a Gibraltarian under the Gibraltarian Status Ordinance, or a person who is entitled to be so registered under that Ordinance, but does not mean a person in respect of whom there is in force an order of the Financial and Development Secretary under section 16 of the Companies (Taxation and Concessions) Ordinance that such a person shall not be treated as a Gibraltarian for the purposes of this Ordinance". So that, in fact, for the purposes of the benefit anybody, including a Gibraltarian who may have spent all his years in America, can equally qualify under this if he satisfies the Financial Secretary that that is so. I stand to be corrected by the Attorney-General when we come to the Committee Stage but I think that to bring in a bit of a jingoistic attitude to this and talk about rights of other people and not rights to our people I think that it is a misconception. I think that given equal circumstances to anybody else then that right is not deprived to Gibraltarians, that is my understanding of the matter. With regard to the other details, it is true that one of the other interesting features of this matter is that it will encourage the building of small flats at high cost and I think to some extent part of it is already geared to this and those are the small flats that have been built in what is called Neptune House next to the extension of the Marina Bay. It is precisely these kind of people, particularly people who are also linked with yachting and so on that have made representations about this matter as a good way of making a contribution towards Gibraltar and at the same time getting an advantage for it. When we come to the Committee Stage I will look at the matter in more detail and deal with the matters raised by the Hon Mr Feetham who had a very detailed prepared statement which I will read with interest between now and the Committee Stage because we do not propose to take the Committee Stage in this session because we understand that there are also representations to be made on the matter and the matter is far too important to try and get it through, there is no immediate hurry in any case and if there are representations to be made we shall be happy to consider them. The concept on which I certainly approach this matter is on the clear and simple terms that I have described which, according to the

Attorney-General or the draftsman in the Legal Department, require the somewhat complicated provisions in the Income Tax (Amendment) Ordinance.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

Mr Speaker, the reaction of the Hon and learned the Chief Minister indicates that the Government is not, in fact, committed to this Bill as a matter of a major policy decision and that the Government is prepared in the light of the arguments that are being put from this side of the House to reconsider their position at the Committee Stage or possibly to amend.

HON CHIEF MINISTER:

No, if the Hon Member will give way, I haven't said that. What I have said is that I would not be able to deal with the points raised by Mr Feetham here but they deserve a reply and an answer and that that will be given at the Committee Stage. I was only speaking for myself to say that though it is, of course, a matter of Government policy to encourage the question of the Finance Centre in whichever way it is reasonably possible and that is an aim of policy, generally, this is one of those measures. There is no reason to say: 'Have we got enough in the Finance Centre?' I don't think that in that respect so long as the legislation is reasonable and acceptable generally, that we should shirk at extending it, in fact, we should try and extend it. What I was saying is that I am not going to fight tooth and nail for every clause of this Bill because I would like to consider the points that have been raised by the Hon Member. I think that is a sincere and simple approach to the matter and it is not a matter of a whip or anything like that.

HON J BOSSANO:

I am grateful for that response because, in fact, we have got strong objections in principle to the Bill and we have also got objections in terms of the logic and the practicality of the Bill. At one stage my colleague was saying that all that we are doing in the Bill, apparently, is allowing people who own property in Gibraltar which they occupy for a minimum of thirty days and have an income of £20,000 which they bring to Gibraltar and on which presumably they would be taxed and not on the rest, to be treated as non-residents. First of all, the question arises are they not already treated as non-residents? That is to say, if there is already somebody that

has a flat which he occupies for thirty days a year, is he treated as a resident or as a non-resident? I will give way because that was the question asked and we haven't had an answer on that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As a non-resident if he has no income arising in or derived from or earned in Gibraltar and he has a flat here and spends thirty days he would be a non-resident.

HON J BOSSANO:

We are looking at this thing logically and we say to ourselves: there is this class of individual who is an individual who is not working in Gibraltar, he is not involved in employment in Gibraltar, he has bought a flat in Gibraltar, he occupies that flat for thirty days a year and he brings in £20,000 and he is now a non-resident and he is entitled to all the concessions of a non-resident. We are now declaring that person a resident individual which means he then loses all the concessions of a non-resident and we then legislate to give him all the concessions of a non-resident which he had before we made him a resident individual. We want an explanation as to why we are going, first of all, to take somebody out of the category of non-resident and then put him back unless, in fact, the explanation lies and it would appear to lie in what the Hon and Learned the Chief Minister has said, that as a non-resident who is entitled to all the concessions of a non-resident he is not able to claim tax relief somewhere else.

HON CHIEF MINISTER:

If the Hon Member will give way. The difference is also in the fact that in this case he must declare £20,000 to be taxable in Gibraltar whereas the case he previously mentioned, he can have a flat, he can live for thirty days here, he may not bring a penny and leaves nothing in Gibraltar.

HON J BOSSANO:

The position then, Mr Speaker, is that perhaps we see the Finance Centre in a different light from this kind of manoeuvre, quite frankly. In Gibraltar for many, many years the concept of the tax haven was prevalent and there is something about tax havens which attracts a certain amount of hostility from other people in other countries and other administrations because, in fact, there is a difference between a Finance Centre which is a centre from which you are providing a service to people in a worldwide market and you are charging those people for the service that you are

providing and another thing is to create an artificial residence so that somebody can claim to be resident in Gibraltar when he is not really resident in Gibraltar, he is treated by us as a non-resident, for the privilege of allowing him to use our legislation to evade or avoid tax somewhere else. That kind of development of the Finance Centre we believe we can do without and we believe that that kind of development of the Finance Centre is a kind of development of the Finance Centre that eventually attracts hostile negative reaction from the people in the territory who are losing tax to you and we believe that Gibraltar has got a potential as a Finance Centre without having to go down that road for a start. Secondly, this is retrospective legislation. By definition, if the situation is that this is going to give a concession to people who would otherwise be taxed, one must assume that there are people who have been caught by the present legislation in the current financial year who will be taken out of it as a result of this. It is an important principle which we are establishing about taxing or not taxing or exempting people retrospectively to last July and that is an important issue on principle which we cannot just simply say we go along with without being given very compelling reasons whilst my colleague said: 'How many of these people are there? For how many people are we passing a law?' There might be one Scandinavian living in the Marina who has been lobbying everybody for this law to be passed, so what do we do, we legislate in Gibraltar so that one Scandinavian can get out of paying income tax in wherever he should be paying income tax. Surely, the House of Assembly has got much more pressing things on which to legislate in Gibraltar than that and certainly the pressure on the Hon and Learned Attorney-General's Chambers has been such that many other people have had to wait in the queue before the legislation that affected them acquired the necessary priority. The Hon and Learned the Chief Minister says that we are talking about very wealthy people. Obviously, the Finance Centre Group wasn't talking about very wealthy people if they were pressing for people with incomes of £10,000 because I can assure the Hon Member that a very large proportion of the people he employs in the Gibraltar Government earn £10,000. The Finance Centre Group who made the original case were trying to attract a group of people who would bring to Gibraltar £10,000, that is what the Hon Financial and Development Secretary has told us, and he has told us that although he raised it to £20,000, because at the same time as he raised it to £20,000 he gave all the reliefs that are available to ordinarily resident people, the net effect would be that even if they had a gross amount of £20,000, by the time all the reliefs were taken out they wouldn't be very far off the £10,000. So we are talking about people declaring £10,000 and paying, presumably, £2,000. On £10,000 one pays, what

30%, so £3,000. Some are saying: here we are legislating because we are going to attract investment to Gibraltar and we are going to attract people to Gibraltar and we are going to enable them to claim to be resident in Gibraltar when they are not really resident in Gibraltar, they buy a house in Gibraltar which uses up space of which we are very short which they can occupy then for one month a year and keep empty eleven months a year although we are desperately short of space, and they contribute to Government finances £3,000. I don't know what they will contribute to the people in the Finance Centre Group, there may be much more in it for them than that but looking at the Government and why the Government is doing it and whether we should support the Government and whether we would do it if we were there, we need to look at the £3,000, Mr Speaker. The £3,000 in £22m that the Government collects in income tax, in a total Government revenue of £70m, if we have to go to this length to attract income to Government coffers of £3,000 a year how many Scandinavians are we going to have to put into pigeon holes in order to start making a dent into our income tax? We will have to have them in all the filing cabinets in the Secretariat, Mr Speaker.

HON CHIEF MINISTER:

I must ask the Finance Centre Group to lobby the Hon Members and tell them what it is all about, they know better.

HON J BOSSANO:

I also think, Mr Speaker, that the question of the payment of interest, the non-taxable interest would mean presumably that the resident individual would, in fact, wish to put his money in a local account and not have to pay interest on that. As far as that is concerned, when it comes to building societies the Government knows that we have, in fact, supported the £500 tax free and that at the time of the £500 we said we would be prepared to support, if necessary making it all tax free if that would make the bringing of money into building societies and their availability of mortgage finance more of a possibility and we thought it was consistent with the encouragement on home ownership. At the time we were told by the Financial and Development Secretary and we have not been told anything different since - I am not sure whether it was the Hon Member or his predecessor, I think it might have been his predecessor, but it is the same Government as I always remind him - we were told that there was no point, Mr Speaker, in giving a bigger concession to attract more money into building societies because, in fact, the building societies couldn't lend the money they were getting already and consequently all that the building society would do would then be putting the money out into the

gilt-edged market. So therefore if the situation has changed then if there is anything that needs reviewing surely it is the £500 for local people because on the one hand, and I think as a matter again of policy, our own approach to this is that sometimes the Government seems, Gibraltar seems on the one hand to draft legislation to attract people to bring their money here from other places to avoid paying taxes in other places and yet we have another side of legislation which pushes people to do it to us by going off somewhere else and using tax havens somewhere else and avoiding paying tax here. And, of course, I imagine that there is an equally powerful Finance Centre Group lobbying some other legislatures somewhere to draft legislation so that Gibraltarians can find ways of not paying tax here and taking their money there and while the money is being taken from here to Timbuktu and back they are all making a tidy commission on the passage of money backwards and forwards. If, in fact, the Government is in a position to relax elements in the Income Tax Ordinance which will make local businessmen or working people who have got savings, make them retain their savings here rather than export them, we think that is an important road to follow and we will support that approach because we feel that not only is it good to have money coming in for investment but that it is better to have money coming in from investment from our own people because the investment has, if you like, a self-enhancing effect. I think the Gibraltarian is attached to the place and if he has got his money here then it increases his attachment. The outside fine, he may bring the money in today but it is not, I mean certainly the kind of money we are talking about is not going to make a significant difference to Government finances as I think is obvious from the figures that I have quoted, Mr Speaker, but certainly again the underlying dangers of looking towards relying on this kind of money and this kind of business is that there are a number of territories doing it that as well as attracting attention and disapproval the more successful you are, you are also competing for a limited market and there is already evidence, for example, I think it is on things like ship registration where suddenly it has become a fairly fashionable thing and it seems that Panama is having to lower their fees because Liberia is doing because Cyprus is doing it because Malta is doing it and there is a limited number of ships to be registered and, of course, once you get everybody lowering their fees in order to take away the ships from each other, they all finish up having gone through a very expensive exercise and getting very little return. And anything like this where people haven't got their roots here, if they use Gibraltar as a base except for the odd person that may have connections with Gibraltar and prefers Gibraltar because he likes the place, if it is the attraction of the legislation we create which is essentially creating an artificial kind of tax haven rather than a solid kind of Finance Centre, is money that is hot and is here today

and gone tomorrow. We think the Government should take a much closer and a second look at this legislation.

MR SPEAKER:

Any other contributors? Does the Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker, I don't propose to reply. As the Chief Minister said, there will be an opportunity for detailed discussion at the Committee Stage.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

The House recessed at 7.25 pm.

WEDNESDAY THE 11TH FEBRUARY, 1987

The House resumed at 10.40 am.

THE GIBRALTAR SHIPREPAIR LIMITED (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Shiprepair Limited Ordinance (Ordinance 1983 No.46) be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of the Bill is described in the explanatory memorandum. With the further grant of £2.4m being made available by HMG, it has become necessary to raise the limit of £28m included in section 6 of the 1985 Ordinance and a balance we think it preferable not to identify or state any finite sum or limit in making the amendment. However, subsection (3) still of the main Ordinance, still ensures that any further sum of money that HMG might feel to make available would still be paid into the GSL Special Fund. Likewise any monies voted by this House as referred to in the Chief Minister's recent statement which take the form of equity participation, would also be paid into the Special Fund by transfer from the Consolidated Fund when the House had voted the necessary funds. The other changes are largely of a technical nature but nevertheless important. The Hon Leader of the Opposition, amongst Members on the other side of the House, will certainly recall that the drafting of section 6 of the main Ordinance gave rise to difficulty at the time and has caused problems since mainly because ODA funds have been used for two distinct purposes and also because of the practical difficulty in complying precisely with the terms of section 6, namely, the requirement to match the drawdown of ODA money with the issue of shares to a corresponding value. It was thus necessary to have recourse to the facility provided for in section 10(i)(e) of the Public Finance (Control and Audit) Ordinance as means of overcoming that difficulty. Subsections (4) and (5) in the amendment will distinguish between these two uses of the monies in the Fund more precisely. A further problem was that as a result of what appears to have been a quirk in the drafting, the shares purchased by the Government in return for monies released from the Special Fund could not, as the existing Ordinance was drafted, be held by the GSL Special Fund but had to be held by the Consolidated Fund and this is not considered satisfactory. The possibly fluctuating

value of the Government's shareholding in GSL is not something which should be featured in fluctuating Consolidated Fund balances. The problem was highlighted in the Principal Auditor's Report on the 1984/85 Accounts of the Government. The Principal Auditor did not much like the decision to show the Government holding in GSL as a footnote to the balance sheet and here again, for the avoidance of any further doubt and as a sensible measure in its own right, we have thought it better to legislate specifically for the Government shareholding to remain part of the GSL Special Fund and not be transferred to the Consolidated Fund. The House will, however, have noted that it is the Consolidated Fund which will benefit in any future distribution of profits or dividends when GSL begin to make these. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, I think at the outset I should say that the Opposition will be voting against the Bill. There are various points that I would like to raise but I think I will start with the most important of these which really is the backbone of why the Opposition will be voting against the Bill. I think, if I may take the Hon Financial and Development Secretary on the contribution made by his predecessor, I don't think it was his predecessor, I think it was Mr Montado at the time, when the GSL Special Fund was first brought to the House, the Bill was first brought to the House and where he said: 'Furthermore, in the event of there being further finance required additional to the £28m - and at this stage, of course, I am putting this as a hypothetical question' - little did he know - 'because there is no question of more than £28m being required as of now. We are only talking about £28m but in that event and in that contingency then clearly the Government would bring the matter before the House either through a borrowing Bill or through some other medium and there would be further opportunity to discuss the affairs of the company'. I think, Mr Speaker, if we take away the limit and I accept that obviously there has to be a change in the £28m because the £28m is not £28m anymore and the Hon Financial and Development Secretary knows quite well that we do not agree with his definition of what he can or cannot do under the Public Finance (Control and Audit) Ordinance, section 10(i)(e) where he has been, as far as we are concerned, moving money to and from the Fund we thought, and we still maintain, illegally, since we think that this should have been, the injection of capital through the shares

should have been at the same time as the company was spending the money but we have made the point before and we know how the Hon Financial and Development Secretary feels about this. In any case, I think if we take away the limit this then gives the Government the right to put into the GSL Fund whatever money would come to their disposal, for example, if ODA gave them more money and up to now the eloquence of the Hon and Learned Chief Minister has failed because he isn't getting any more money, but should he get any more money from ODA he doesn't have to amend the Ordinance in order to put the money into the GSL Fund and therefore the House would not have a chance to debate under the guise of this Bill. Obviously, we could bring a private Member's motion or we could discuss it under the ODA blanket but we could not discuss it under this Bill. In the same way, if the Financial and Development Secretary decided to again implement clause 10(i)(e), he could then pass in more money into the GSL Fund without it being discussed in this House under the guise of this Bill. I think this is very important because it seems to us that when this was discussed - and I am talking about the previous Opposition - great pains were taken by the Government to show them that there would be total check and that this is why they were putting the £28m and any change would be brought to the House and, I think, under the guise of this £2.4m extra from ODA, they are now taking away the limit and I think, especially after the statement of the Chief Minister yesterday which I will answer under the Appropriation Bill, it is very likely that this will go up from £30.4m to £32.4m and then in the next two years with the other £5.6m it will go up even further and I think that the purpose of this Fund was particularly to bring it to the notice of the House so that the thing could be discussed here every time GSL as a public company needed more funds. I think that is the main thrust of the argument of the Opposition, we would not like to see the limit taken away even though I accept that it is perhaps a better form because the Government don't have to come back here every time they want to change it but having already got the £2.4m and having already advised the Opposition and the Government of Gibraltar that they want to put in this year another £2m, there is nothing stopping them putting the limit up to £32.4m and then at a later stage bringing it back to the House to change because it is really a simple amendment to change that limit. I think it is certainly not the right time, at this stage, to bring a Bill taking off the limit. When the Appropriation Bill comes to the House as it will do some time this morning, I will show the discontent of the Opposition side at the way that the Government of Gibraltar have handled the whole sequence of GSL and certainly the Opposition would not, at this stage, perhaps if GSL had been treated differently, if GSL was today making a profit, if GSL had showed us that they deserve our

confidence, then perhaps it would be a different matter but under the situation that we are today and under the Price Waterhouse Report, there is no way, Mr Speaker, that the Opposition are just going to sit back and accept that the Government takes the limit without there being a chance of us to have a bite at the Bill every time the Government want to push the money up. That is, I think, Mr Speaker, in general, the point that I would like to make. There are also a number of other smaller points. One, I think, Mr Speaker, the fact that if you look at subsections (4) and (5) on the one hand and I accept that this makes it clearer, under the old legislation it wasn't really very clear what moneys were going where and I think this is an amendment that was put by the Attorney-General, in fact, from a comment made by the now Leader of the Opposition, then one of the Members of the Opposition. But I think if you look at that, on the one hand, subsection (4) where 'there shall be charged upon the Fund such moneys' - obviously an expenditure of assets - and you look at subsection (5): 'Moneys standing to the credit of the Fund and not applied for the purposes of subsection (4) shall be invested in shares in the company!'. What happens to the unallocated money? Obviously the Government do not think that there will be any unallocated money, if you either buy for the property of the shares there can be no money left over, it must be either in one place or the other, there cannot be any floating money at all. That was one of the points I wanted to raise. The other is a point which I think is an anomaly which the Government is creating under subsection (6) which is that they are going to create a Fund, similar to other Special Funds that the Government own, but the profits of which will go into the Consolidated Fund. This is a precedence not having been done anywhere else in the Government finance. If you have a Special Fund like the Social Insurance Fund, the profit of the shares go back into the Fund and if you have moneys in the Consolidated Fund the profits of that money goes back into the Consolidated Fund, so I think this is creating a precedent where you have a Fund on its own and the profits that go back into the Consolidated Fund. This is an anomaly which the Opposition are not happy with but certainly when the Committee Stage comes through the Hon Leader of the Opposition, who is obviously the financial wizard on this side of the House, will be making that point. Again another point to be made under subsection (6) where it says: 'shall be, and shall be deemed always to be have been' - which means that we are back-dating the fact that this Special Fund is and will always have been irrespective of the fact that in 1984/85 following the Attorney-General's opinion on the contentious issues, and I am reading from the annual accounts of the Government of Gibraltar, of the contentious issues of the treatment of Gibraltar Shiprepair Limited in the accounts, the value of these shares £9,906,000 have been credited to the Consolidated

Fund and you will notice a statement for the accounts now include..... What we are doing is back-dating and then taking it all out as if it has never been there in the first place which I think is a situation which is not acceptable to this side of the House. Certainly I cannot leave the opportunity untaken to say that really the question of profit on the shares of GSL is an academic point, Mr Speaker, I think, particularly when it comes to the presence of the Financial and Development Secretary in this House. The Financial and Development Secretary will never see any profit going from the GSL Fund to the Consolidated Fund. I don't think at the rate that we are going any of us will see it but certainly the Financial and Development Secretary will not see it, it is academic but, nevertheless, an anomaly which we are not happy with in the Opposition. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, there is only one point I wish to deal with and that is the question of the limitation of the Fund. I don't think that there is any argument in the fact that moneys can be put into the Fund without advice or without discussion here. If, in fact, we get a grant from ODA in the future, if we were to be able to get a grant from ODA in the future, nobody would be happier than me to come and announce it in the House and say that is additional to the amount already allotted. And if it is money that had to be put in by this House as we are proposing to do now for the reasons that I have stated in great detail, then we need the authority of the House. In any case, there is a very serious and strict control of the amount that could be put into the Fund and it cannot be done without the House being aware. First of all, no Government is going to deny information to the House that money has been given by ODA, very much the opposite, we would all be happy if we were able to say 'we can put in another £2.4m or £3.5m' or whatever, and certainly as was shown in the statement and as is shown in the supplementary provision which is required which will be argued later, we would not have done that without coming to the House to ask for it. I think the point maybe quite academic from a practical point of view and really, as far as I am concerned, it doesn't matter whether you limit it to £40m or £35m or whatever it is so long as it is a realistic figure that will look to the future and doesn't have to come in an administrative matter for an amendment to the legislation.

HON J BOSSANO:

Mr Speaker, the Hon and Learned the Chief Minister has only answered one point and it is, in fact, the point that is not acceptable to us because precisely the opportunity that the House would have to debate the matter on each and every

occasion that more money was required was the argument that was used for putting the £28m limit originally. Everything that he has said about money having to be voted or him making an announcement here, all those arguments he has used in the last five minutes he could have used when the initial Bill was brought to the House and the initial limit of the £28m was provided, exactly the same arguments applied then as apply now. But then he used the opposite argument; then he used when the Opposition at the time actually was asking not for the ceiling to be altered, the Opposition at the time was actually asking for each item of expenditure to have to be approved by the House and I remember the Hon Member saying - we have got the Hansard here - but I do remember him saying: 'We can come to the House and say we want to vote £40,000 for a crane and then we go back and then we come back and we say 'Now we want to vote £1m for a computer'. We are not saying that but what we are saying is the concept of the wisdom of the way the money is being used whether we are talking about money granted to Gibraltar by Her Majesty's Government or money raised from the Gibraltarians, from the working population of Gibraltar by the Government of Gibraltar, the wisdom of that money being used in a particular way is something that the House has got a legitimate right to have to debate because that is one of the principal functions of a Parliament, the control of expenditure, and this gives us an opportunity to do it in a way which is perhaps possible to have a fuller debate on just that one issue because, okay, we are going to talk about the £1m subsidy that the Government is granting in the Committee Stage as part of the Supplementary Estimates but, I think in the Gibrepair Bill when it was brought to the House it was brought to the House on the basis that it was the major vehicle which would enable matters concerning the company, the company's accounts and the company's performance and the company's financing to be debated. And what the Government is saying is: 'Okay, we are now taking away the ceiling' which means that they are creating a situation which from a normal concept of running a business is totally absurd. They are creating a legal vehicle which technically allows GSL to have unlimited capital. We have no ceiling on the capital, there may be a ceiling in the Articles of Association of the company, I don't know, but in the legislation that the Government is seeking to amend there is no ceiling on the capital base of GSL and therefore if GSL loses £5m in a year the Government of Gibraltar gives it £5m and £5m of shares are issued and the company is now instead of being worth £28m is now worth £32m and if the following year they lose £10m and the company gets £10m from the Government it has to issue ten million shares, it cannot do anything else because the law says, without any limit, every penny has got to be used for the purchase of shares, that is the proposal of the Government so the company is now worth £42m. The more money it loses the more the company is

worth. It is an inversion of all concepts of shareholding and of equity in a company. You don't finance losses in a company by issuing shares, you may finance capital spending, you may finance expansion, Mr Speaker, but I cannot imagine any company going to the Stock Exchange and saying: 'We want to raise new capital from new shareholders to cover our losses' and every year we come back and we issue more shares to cover our losses. This is what the Government is trying to do because it is quite obvious to us that in the statement of the Hon and Learned the Chief Minister he mentions problems of investment, he talks about a figure of £5.6m being required in three years. So we are not just talking here about voting later on today in the House £1m more and the shares being increased, presumably they are going to be increased from £28m to £30.4m because of the £2.4m from ODA. I don't know whether all the £2.4m is for shares or some of it is for capital refurbishment so some of it might not come out of the shareholding but let us say that £2m out of the £2.4m is for shares rather than for expenditure on the buildings which are owned by the Government, we would then go from £28m to £30m. We then have the £1m that is in the Supplementary Appropriation Bill so we now go to £31m. We have already had an indication that later on this year they will need a further £1m so we go to £32m and in the Hon and Learned Chief Minister's statement he is saying that at this stage the company estimates that it requires £5.6m over three years.

HON CHIEF MINISTER:

If the Hon Member will give way. What I said was that that was the recommendation of the Price Waterhouse Report in respect of capital infrastructure because of the deteriorated state in which the yard had been handed over.

HON J BOSSANO:

In fact, the Government is not saying that it is committed to providing that? Well, that is peculiar because I think the Hon Member stated.....

HON CHIEF MINISTER:

I said that that is the Report of the consultants and we haven't reached the stage where we have considered that, we said that we wanted to have the situation for this year established and hope for the financial position to be better and I promised the Hon Member that I would give him some idea in the Committee Stage of why I was saying that 1988 might show break even or show a profit. As far as I can remember what I was stating was the Report of the consultants of what they said, in fact, what they said, in my view, the ideal or the extra capital required but that is not necessarily something that has to be

done now if it has to be done at all. I didn't say that we would be coming for that kind of money here, all I said was that the Report stated that it would require another £5.6m I summarised the Report, at page 2 at the bottom and I said: 'These can be summarised' - and I was talking about giving an advance information of what is in the Price Waterhouse Report which we haven't discussed, we haven't gone in depth into it because it is not available. When Members opposite have it available we will discuss it and take all the consequences of argument. But what I was stating there and it would not have been honest to have refrained from mentioning what the Report will say because it was unfavourable in the sense that they indicated that £5.6m was required. It says: 'The company will require additional funds amounting to £5.6m over the next three years which will enable it to reach profitability. Some £4m is earmarked for capital expenditure'.

HON J BOSSANO:

Mr Speaker, I am grateful to the Hon Member, that is precisely the point that I am making. If the company requires according to the experts on whom we have spent £100,000, £5.6m to reach profitability over the next three years, then by removing the ceiling from the share capital what we are doing is enabling the company if the Government of the day, whoever it is, in the next three years decided to put £5.6m in, to do so without having to come back to the House and say: 'We are now increasing the share capital from this to this', therefore we are creating the vehicle, as I have said, that the capital base of the company can be increased whenever the company requires a cash injection. When companies are in trouble they normally finance their cash flow problems by an expansion not on their equity base but of their gearing through loans because then when they get out of their cash flow problem they redeem the loans and their equity base is intact. If every time a company had a deficit it issued more shares then the capitalisation of those companies would increase in nominal terms but, of course, every time you increase it in nominal terms since you are showing on your balance sheet an accumulated deficit, the value of the shares goes down so it is a nonsense because what would happen in that case, Mr Speaker, would be that if you have £28m of shares and the company loses money, so you give the company money to cover the loss, the company issues shares with the money. In your books you have got now £30m but, of course, the company in its books is showing an accumulated deficit in its asset base against the issue of its share capital and in terms of asset per share you still have £28m. So you now have got £30m of nominal shares worth £28m because the £2m of losses are not there. Therefore what the Financial Secretary was saying about the shares not being revalued in the Consolidated Fund, the Fund would presumably have to appear when the audited

accounts of the Government appear and we have all the Special Funds which shows as well as income and expenditure of the Funds the assets and the liabilities, we would then have a situation where that Fund would show shares to a nominal value of so and so and to a real value of so and so depending on the valuation on the balance sheet of the company. It is a ridiculous way to run a business if I may say so, with all respect to the Government, Mr Speaker.

HON CHIEF MINISTER:

The point is that the £28m worth of shares was the £28m grant by the Government. The asset itself has never been valued as an asset and therefore the £28m was the amount of money that was spent but surely the asset is worth, I am not arguing for the purpose of increasing it but for the purpose of the argument, the asset has never been valued in the sense of what value it has for other use so that really the idea of the value of the shares of £28m was equated to the amount of money that the British Government was putting in.

HON J BOSSANO:

Yes, in fact, Mr Speaker, the asset is not valued at all because the asset belongs to the Government of Gibraltar and does not form part, the assets that we are talking about are the assets owned by the company which are stocks of materials, and cranes and office equipment and the computer.

HON CHIEF MINISTER:

And land.

HON J BOSSANO:

No, the land belongs to the Government of Gibraltar, it is not part of the £28m.

MR SPEAKER:

The lease, I imagine.

HON J BOSSANO:

The Government owns the land and the buildings and is leasing it at a peppercorn rent and that does not form part of the £28m, that land might be worth £100m but it doesn't form any part of this at all. What we are talking about here is the £28m has been spent for two things; it has been spent in repairing the place, in buying equipment and in covering losses, that is what the £28m have been spent on. Part of

that £28m is in shares, something like £18m and £10m is in investment by the Government on its own expenditure. The Hon Financial and Development Secretary is shaking his head, it might be £15m and £13m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. In summing up, Mr Speaker, I didn't propose to reply to the debate but I will attempt to give some figures so as to attempt to shed some light on the figures which have been tossed around.

HON J BOSSANO:

Well, I have sat down because, Mr Speaker, if I am not right in saying that the £28m is split up in two proportions which is what the law provides, that is, it can be used for two things: to purchase shares in GSL and to pay for the refurbishment of buildings owned by the Government of Gibraltar so presumably the £3.3m which I believe the No.1 Dock cost, that was not paid for by GSL because No.1 Dock does not belong to GSL, No.1 Dock belongs to the Government of Gibraltar and is rented free of rent to GSL and therefore the Government of Gibraltar out of the Gibraltar Shiprepair Limited Fund used £3.3m theoretically to pay Shand, in practice we know that Shand was paid by GSL and we were questioning at the time how it was being done and on that occasion since the Financial and Development Secretary couldn't take refuge in the Public Finance (Control and Audit) Ordinance, he took refuge in the fact that GSL was acting as his agent and paid Shand although to all intents and purposes they were acting as if they were their own masters and not the Hon Member's agent but that was the subterfuge he invented to explain that particular anomaly at that particular time. But as I understand it, and I am willing to give way to him if I am wrong, the £28m is split between the two elements of the order of - I don't know the exact figures, I haven't seen any accounts since 1984 so I don't know what happened in terms of share issue in 1985 or 1986 and we are now in 1987 so I am not as up-to-date on the situation as the Hon Member might be - but my understanding was that the order of break-up of the £28m was something like £17m or £18m was going to be the issued share capital of GSL and something like £10m or £11m was going to be the refurbishment of the yard on the assets owned by the Government of Gibraltar and, in fact, as the Hon Member knows, when the original Bill was brought to the House I was the one who said to the Government that if they issued £28m for shares the thing would be even more anachronistic because you would then have a situation where GSL had technically issued £10m of shares to their landlord in order to spend the money that they received from the shares on repairing the landlord's buildings. And how would they show

that in their own balance sheet? If they couldn't depreciate the building how did they depreciate the paint on the building? Because the building is not an asset owned by GSL and it was in consideration of that argument that, in fact, in the Committee Stage the Bill was changed by the Government and presumably the argument must still hold water because the Hon Member is not attempting to change that, he is attempting to separate those two functions to make the distinction clearer, that is what he has just said. I don't know what light he intends to shed but I am prepared to always give way to him and let him shed what light he wants. We therefore are questioning that when the Bill was brought to the House when the £28m was allocated to this Fund, it was clearly on the basis of a policy decision defended by the Government when the Hon and Learned Member came back from his meeting in UK with the British Government and having reached the agreement on the commercialisation of the dockyard, defended subsequently in an election in 1984 that £28m was going to be spent in a particular way because it was the best way in which to spend £28m for the benefit of Gibraltar and for the benefit of the people who were made redundant and in their judgement, having studied all the arguments, having studied all the papers, having studied all the reports, then came to the conclusion that that was the best way to spend the £28m. We, having studied the same information came to a different conclusion. We both went to an election, we both tried to persuade the electorate and they won the argument and they got the backing. Fine, but now we are not talking about £28m and therefore we feel that you shouldn't say: 'the argument that applied to £28m applies equally to £30m, to £40m, to £100m', no, it doesn't, you come back and you say: 'Instead of £28m we are making it £30m but things have changed since we passed the original law and we still feel that it is still a sound argument and that what held good for £28m still holds good for £30m' and then we put £30m instead of £28m or £40m or £50m or whatever figure the Government thinks. But at the moment what the Government is saying is: 'No ceiling'. Therefore no ceiling, as far as we are concerned, is not on and we will not accept that. We are not in a position to say to the Government: 'We would accept a ceiling of £35m instead of £28m because at the end of the day we wouldn't be doing it this way, anyway'. I am questioning a number of things. Apart from that particular point of principle which we feel very strongly about and we think that if the Government is going to be consistent with the arguments it used when the original Bill was brought to the House, then they ought to come back and say: 'Since, for example, Price Waterhouse has talked about a figure of £5.6m then the ceiling consistent with the Report of the experts ought to be £34m, which is adding the £5.6m to the £28m. The Government is not committed to doing it but it is making provision for the possibility of doing it up to what the

experts have recommended'. That would be, I would have thought, a consistent argument for the Government to put in the light of what they have put in the past. As far as we are concerned, it would meet that point of principle which we are objecting to but in any case what I am saying is that if I was looking at GSL as a business owned by Gibraltar of which we had the responsibility of overseeing, we would not wish that business to be financed in terms of its runnings costs by increasing doses of share capital. We would not wish to do it that way. We would wish to do it, if we had to do it and let us make it clear that notwithstanding all our objections to the initial concept and notwithstanding all our reservations about the way it has been handled by the Appledore managers, we do not want the yard to close and 800 people to be out of work tomorrow and like any situation once the situation exists whatever the objections you had to it being created we have now to live with a situation that is there now. The government is now and we and Gibraltar is now caught with GSL as it now stands. If GSL now needs money, well, then we don't think it should be done by simply increasing the share capital and, of course, the fact that the Government may put the money in the Fund with the law as it stands and with the law as it is intended to stand means they cannot do it any other way. The film in the Appropriation Bill is, in fact, an appropriation to this Fund, not an appropriation to GSL so once they put it in there the only thing they can do with it to make the money available to GSL is exchange it for shares. Perhaps if the Government give some thought to the arguments that we are putting it might be something they would need to take into account if they are going to provide any further money after this film, I imagine that now it is too late to do anything different at this stage even if they give any weight to the arguments that we are putting but I think it is something they may bear in mind since clearly this is not the first time they are going to have to come to the House for money. What I would say to the Government, Mr Speaker, is that we are going to be voting against this Bill. We are against assistance from the Government being necessarily through share issues, we think from a commercial point of view that is not a very sound principle upon which to work. As my colleague has said, we do not agree with the change in moving the shares as assets into the Fund from the Consolidated Fund. I think when the audited accounts were produced in the House and there was the reference to the correspondence between the Attorney-General and the Auditor, if I recall, I was then told by the Hon Financial and Development Secretary that they were thinking of coming up with something in the presentation of the Consolidated Fund which met the objections of the Auditor. Let me say that we agree entirely with the Auditor that the principle is exactly the same whether you are talking about the £1,000 share capital of the Quarry Company or £20m share capital of GSL and if you spend public money in buying shares

and that is part of your Consolidated Fund then whether the shares are worth one penny or £1m the principle is the same so we agree with his analysis and not with the response of the Government. We also thought that there was a lot of commonsense in the approach of the Auditor that the Consolidated Fund should, in fact, show its composition and that instead of there being simply a global sum there it should show how much of that was money, how much was unrealisable assets like shares in the Quarry Company and shares in GSL and how much was uncollected and possibly non-collectable debts because that gives you a much better picture of the liquidity position of the Government and of the reality of the solidity of those reserves. In theory, fine, if you have £1,000 in your reserves in a Quarry Company which is bankrupt or in a commercial dockyard that loses £3m a year, big deal, and therefore we can see the logic of separating that but we cannot see the logic of saying 'We are going to do something here' which is in conflict clearly with the provisions of the Public Finance (Control and Audit) Ordinance and therefore for the avoidance of that we say: 'Although it is in conflict we are going to do it'. And it is an anomalous situation to have the Fund holding the investments and the income of the investments going to the Consolidated Fund. We argued, in fact, in the Improvement and Development Fund, we argued, the Financial and Development Secretary said we were not right and then he went and did it which is something he quite frequently does. We are grateful to him for doing it even if we are not so grateful for his refusal to admit it. In the Improvement and Development Fund we argued that if the Government was putting £2m or £3m which I think we had in 1985/86 into the Fund and the money wasn't spent, then the return on that money should go to the Improvement and Development Fund and not to the Consolidated Fund. At the time the Financial Secretary refused to accept the point but, in fact, in the revised estimates and in the final figures there was an interest payment income to the Improvement and Development Fund which reflected the fact that the Fund was in surplus. He argued at the time that the Improvement and Development Fund was different from every other Special Fund and that therefore that argument might apply to other Special Funds but not to the Improvement and Development Fund because the Improvement and Development Fund in any case was funded by contributions from the general revenue and from the Consolidated Fund and that therefore by virtue of that it was really only the capital side of expenditure as opposed to recurrent expenditure. We acknowledged the validity of that argument because in fact as you know, Mr Speaker, we have moved from the recurrent estimates things like Public Works Non-Recurrent and a number of capital items were moved into the Improvement and Development Fund so you could argue, to some extent, as the Hon Member was doing, that the Improvement and Development Fund and the Consolidated Fund really are two sides of the

same coin. But this is not the case here and therefore we are creating a precedent in the way that we manage the Special Funds, in this case which does not exist in any other case of any other Special Fund other than the Improvement and Development Fund and that the exceptional arguments in the case of the Improvement and Development Fund have been put by the Hon Financial and Development Secretary and notwithstanding that, the Improvement and Development Fund today receives a return on unused capital which is credited to the Fund itself. Although there is a stronger argument in the Improvement and Development Fund than there is in any other one, even in the Improvement and Development Fund the Government has considered the point which is in the opposite direction to what they want to do here. I know that it is academic, as my Friend and Colleague the Hon Mr Pilcher has said, because the only thing that we are talking about is whether the dividends on the £20m share capital paid by GSL when it is in a position, if ever, to pay dividends should go to this Fund or should go to the Consolidated Fund but, of course, however academic it may be, a point of principle is being raised in this Bill and the Government, as far as we are concerned, are implicitly defending one principle and we are explicitly defending the opposite and we have to say that we do not agree with this, that we do not think they should do it and that certainly we would not go along with it as a Government, we would change that. And if and when GSL ever makes a profit and starts paying dividends there might be a different way of holding those shares or it might be kept in a different way of managing in a different way but certainly we would prefer that for as long as the situation is as it is and for as long as we are talking about a Special Fund under the Public Finance (Control and Audit) Ordinance, then we should not depart from the proviso in Section 23. We should apply it the same as we do it to every other Special Fund.

MR SPEAKER:

Any other contributors? I will then call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker, I just thought it would be important by way of clarification and I think it is certainly important for the record of the proceedings of the House regardless of how it is reported in the media, if I were to say something about the distinction between money spent on purchase of shares and the money spent on Government assets. The House will recall that yesterday, in answer to a question by the Hon Mr Pilcher, I gave a figure of £28.9m as being the total

paid out of or on account of the Gibraltar Shiprepair Ltd Fund as at 31st December, 1986, and I think that the House would wish to know that of that £28.9m, £21.2m would be in respect of the purchase of shares and £7.7m in respect of Government assets. With the additional funds being made available both by ODA and the Government with a further injection of equity capital, the total amount which is likely to be paid out to GSL approaches a figure of £33m and while I cannot at this stage give a precise division between the purchase of shares and expenditure on Government assets, I would expect it to be of the order of £24m for the purchase of shares and £9m for the expenditure on Government assets. I perhaps ought also to explain that in balance sheet terms the £24m capitalisation representing shareholders funds would be eroded by the losses made by the company and so one would expect a figure of £14m or £15m to appear as the reduced capital balance in the balance sheet as at the end of 1987. I think that is really all I wish to say on the matter of figures but I felt that it was important to put the record straight. Just two points I might add. First, I wouldn't agree with the Hon Leader of the Opposition that this particular means of financing is uncommon and that it would be more normal for a company to seek loan capital. I think one has a situation in which a company is under-capitalised for whatever reason and the additional amount is required for business development. It is, of course, not to cover losses but for working capital purposes. The company may very well have to have recourse to short term facilities depending on the incidence of payments by MOD in particular for RFA work and in those circumstances I would expect the company to seek short term bank facilities against receivable which is normal company practice. My final point, Mr Speaker, is that I do not think it is anomalous for a Government Special Fund to hold investments as the Hon Leader of the Opposition said, indeed I could point to a number of the Government Special Funds which do hold investments.

HON J BOSSANO:

I haven't said that, Mr Speaker. I haven't said it is anomalous for a government Special Fund to hold investments. It would be nonsense, all I have got to do is go through the Auditor's Report and there are innumerable Special Funds holding investments. I am saying it is anomalous for the income of the investment not to go to that Special Fund and that is what the Hon Member expects to provide here.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think there are also instances where the income from Special Funds are transferred to the Consolidated Fund.

HON J BOSSANO:

Yes, Mr Speaker, they are transferred by the Government from one Fund to another. The Hon Member doesn't need to change the law to do that, he can do that already. How can he say to the House that it is not anomalous, that it is not new, that it is happening already and that he is going to change the law to be able to do it for the first time? What does he think we are, idiots in this House?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I am sorry, I don't accept that particular construction at all, Mr Speaker, I was explaining a point in answer to the Hon Gentleman, I am sorry he is so seized of the correctness of what I said that he finds it necessary to contradict me. I have nothing more to say in speaking on the Bill, Mr Speaker, I commend it to the House.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1986/87) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time and in accordance with convention as it is a Supplementary Appropriation Bill I do not propose to make a speech.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Insurance Companies Bill, 1986; the Merchant Shipping (Amendment) Bill, 1986; the Public Health (Amendment) Bill, 1986; the Medical (Group Practice Scheme) (Amendment) Bill, 1987; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1987; the Ship Agents (Registration) Bill, 1987; the Criminal Offences (Amendment) (No.2) Bill, 1987; the Imports and

Exports (Amendment) Bill, 1987; the Gibraltar Shiprepair Limited (Amendment) Bill, 1987; and the Supplementary Appropriation (1986/87) Bill, 1987.

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

THE INSURANCE COMPANIES BILL, 1986

Clause 1

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that Clause 1 be amended by deleting the figures '1986' and substituting therefor the figures '1987'.

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

Clauses 2 to 8 were agreed to and stood part of the Bill.

Clause 9

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman I have one amendment which is purely typographical. It is on page 391, Clause 9(4), the second line, 'an appointed member or an alternate member unless he dies, resigns or removed from office under section 15' - that should read '13' not '15'.

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

Clauses 10 to 36 were agreed to and stood part of the Bill.

Clause 37

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have an amendment to suggest to Clause 37, Mr Chairman, page 399. The amendment is to delete the words 'its expiration by effluxion of time or'. So the clause would then read: 'A licensed insurer shall surrender his licence to the Secretary within 48 hours of its revocation under section 106'.

HON J BOSSANO:

Mr Chairman, can I ask the Hon Member why?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

This would be a tidying up amendment, Mr Chairman.

HON J BOSSANO:

I don't see that it is a tidying up amendment. What the law proposed by the Government originally said was that an insurance who has got a licence with a time limit, as I understand it and where the licence expires because of the time limit put on it, he hands the licence in and now they want to take that out. There is nothing tidying up about it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is no condition attached to the duration of the licence so to that extent it is a redundancy.

MR SPEAKER:

In other words, it cannot expire by effluxion of time because there is no time limit on the licence.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is right.

Mr Speaker then put the question which was resolved in the affirmative and Clause 37, as amended, was agreed to and stood part of the Bill.

Clauses 38 to 49 were agreed to and stood part of the Bill.

Clause 50

HON J BOSSANO:

There is an amendment on Clause 56. The amendment the Government proposes on Clause 56 involves a principle which we want to raise in connection with sections 50 and 52 and, indeed, we are opposed to the amendment to 56 because, in fact, the principle that we are talking about is the principle of disclosure of information and it seems that the Government is seeking to amend the Ordinance now to reduce the requirement for disclosure of information and we don't think the requirement goes far enough. If we look at Clause 52, Mr Chairman, in 52(b) there is a reference to every published account and balance sheet having to be submitted to the supervisor. The Hon Financial and Development Secretary has just given me a reason for amending Section 37 because there we had a proviso that the licence should be returned in 48 hours after it expires because

of the time limit and there is no time limit so the thing is redundant. Here we have a proviso requiring every published annual account to be submitted and there is no requirement to publish annual accounts. There is no requirement to publish, am I right?

HON FINANCIAL AND DEVELOPMENT SECRETARY: .

Is the Hon Member referring to requirement to publish under the Companies Ordinance or is he referring under this Ordinance?

HON J BOSSANO:

There is no requirement to publish under either Ordinance so therefore what are we talking about? The Hon Member can explain to me why the other one was redundant and had to be removed and here we have a situation which says: 'every published account has to be submitted' and no such thing exists. We think there ought to be published accounts. We think there ought to be published accounts under the Companies Ordinance as required by the Fourth Directive and we have been told by the Hon Financial and Development Secretary that insurance companies registered under the Insurance Companies Ordinance do not have to comply with the requirements of the Companies Ordinance and the Fourth Directive on company law. If we are going to have as indeed we will have to have, because we are in conflict with the European Community law, as we will have to have a requirement in the company law of Gibraltar when the Companies Ordinance eventually comes to this House, a requirement that any company registered in Gibraltar should have its accounts available to the public surely, if that applies to every company it ought to apply even moreso to an insurance company because an insurance company is trading with people's money and therefore it should be possible for those accounts to be available to people. In section 56 we have a proviso that says that the shareholder of a company is entitled on application to receive the copies of the accounts, surely, that is a very unusual proviso. Why should the owner of a company have to make an application to find out whether his company is making a profit or loss? The normal thing in every company law that I have ever come across is that the companies are required to send accounts to their shareholders not that the shareholders should have to apply for those accounts. It is one thing to say if a member of the public wants to know what the accounts are let the member of the public apply for it because you cannot say to a company: 'You have got to send a copy of your accounts to every household in Gibraltar'. I would have thought the normal thing would be that companies should be required to send their accounts to

their shareholders and to their policy holders, it is certainly normal practice, as far as I am aware, with UK insurance companies, in fact, it is considered desirable because it reassures the policy holder of the soundness of the company in which his money is so even without the requirement most companies do it. If we don't have a requirement the good companies and the solid, well-financed and respectable companies would still do it, they are doing it already and the whole purpose of the legislation which we supported in the general principles of the Bill, Mr Chairman, was that it was intended to create a more modern piece of legislation which would not allow people to come into Gibraltar and use Gibraltar as a base for insurance and then give Gibraltar a bad name because they were not adequately capitalised or adequately controlled or whatever. This is intended to drive away the less reputable companies and keep Gibraltar as an attractive place for reputable companies. I would submit, Mr Chairman, that reputable good companies as a matter of normal practice send their shareholders and their policy holders accounts and therefore by not requiring everybody to do it we are creating a loophole that can only be there for the less reputable ones which we are not interested in encouraging. That applies in respect of clause 56 and I would therefore say that if we have got references in section 52 to publish annual accounts it must be because it was the intention at the back of the person who drafted this that somewhere along the line there ought to be a requirement to publish and certainly I would say if we don't want to have the requirement to publish then there ought to be a requirement that the accounts should be available on application if somebody wants to apply to a company and say: 'Can I have a copy of your annual accounts?' You can certainly do that with any insurer registered in UK, you write off to the company headquarters or to the company registrar and you get a copy. If we don't want to make them have to publish and print here in Gibraltar to save people that expense then I really believe it ought to be available to the public, that is the concept in company law in the EEC, we shall have to comply with that if we are not doing it today in the Companies Ordinance, I do not believe that we should now be saying: 'We have modernised our law on Insurance Companies and brought it up-to-date' and we are not doing in the Insurance Companies' - which is an even more sensitive and important area 'what we will be doing in terms of disclosure of information in the Companies Ordinance'. Therefore I believe there is a deficiency here that needs to be corrected and preferably, from our point of view, quite frankly, we would prefer a requirement for publication of the annual accounts and the balance sheet, that is what we would prefer. If the Government feels that that is going too far and that is going to be too onerous, then at least we would expect that the accounts and the balance sheets that are audited should be available on application if somebody wants

to write to the company and say: 'Can I have a copy of your accounts?' Certainly in UK if you want to take out a policy, with a company and you want to say to yourself 'Well, I am going to see how sound the company is before I make up my mind', you certainly write to the company and you have no problem getting it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I agree this is an important point. Perhaps I can start by addressing myself to the point about company law. The EEC Directives on company law do not apply to insurance companies, that is to say, the Fourth Directive on company accounts does not apply to insurance companies. I think it is important to establish that in view of what the Hon Member said about the propriety of doing something differently for insurance companies from what might be done in the case of non-insurance companies, other companies. The position of insurance companies and, indeed, other financial institutions, is covered by the appropriate directives on insurance companies and other financial institutions in much the same way in Gibraltar we have insurance legislation and we have banking legislation. The other point I should say is that the insurance directives do not themselves prescribe the form of accounts of insurance companies. I would certainly expect insurance companies to publish their accounts of their own accord. Naturally, we, the Government and the supervisory authority, would wish to see their accounts. We would also wish to see a lot more, I think that is another important point to bear in mind that the exercise of the supervisory role does mean that the Government supervisor will require of an insurance company a lot more and many more different things than would be required of an ordinary company because of the completely different nature of its operations. The legislation as drafted provides for every published annual account, this is in section 52, and balance sheet and the report thereon by the auditor.....

MR SPEAKER:

Is the terminology 'published' defined in the Ordinance?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

'Published' is published, that is to say, as the Ordinance stands it is a voluntary act on the part.....

MR SPEAKER:

In other words, perhaps we might clear this, what you are saying is if a company decides and opts to publish then they have got to send it in otherwise they don't.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Correct, Mr Chairman, but as the Ordinance stands there is no requirement in the case of the insurance company to publish.

MR SPEAKER:

And if they do.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If they do what is shown here necessarily follows.

HON J BOSSANO:

Mr Chairman, I am grateful for all the other things he is saying but I have made a very clear and specific point. The Hon Member seems to be trying to reassure me about the aspects of the supervisory function which we are not questioning. What we are saying is we want the accounts published, that is what we are saying, and he is saying that at the moment they are not requiring it but that they would like to see it happening. I am glad to hear him say they would like to see it happening, we would like to make it happen.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I said that we, representing the Government, would certainly wish to see them. The question as I see it is whether the Insurance Companies Ordinance should place on a company the requirement to publish accounts. We are really straying on to the territory of Clause 56 where, as you know, Mr Chairman, we have an amendment.

MR SPEAKER:

We have come to the particular part we are considering now so we can generalise..

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are a number of points here. It is conceivable that the publication of certain information about the activities of an insurance company certain classes of business would be prejudicial to that company's interests, it would perhaps expose it to unfair competition from a competitor on whom there was not placed a similar requirement. I would like the Hon Member to reflect on this, we are talking about a Gibraltar established and registered company which inevitably is going to be a fairly small company and its activities which may be revealed in certain parts of its accounts will therefore be readily identifiable to a competitor. In certain circumstances that might

be harmful if a Gibraltar company which is competing with a company which is competing with a company registered overseas, perhaps a much larger company with a more substantial asset base and which can in many ways conceal from a competitor the nature of its activities. I think this is the point which we have very much in mind in moving the amendment. I should further add, Mr Chairman, that the particular amendment which we are proposing is one which follows almost word for word the comparable provision in the United Kingdom Insurance Act. The point here is that if it is thought fit to give the Secretary of State powers to agree to the withholding of certain information in the revenue accounts of a life insurance company in the much wider context of the United Kingdom operation then I think it not unreasonable to provide for a similar discretionary power for the Commissioner of Insurance in the much smaller world of Gibraltar. That really is the purpose behind the proviso to Clause 56 which I propose to move.

HON J BOSSANO:

The Hon Member is talking a lot of rubbish, Mr Chairman. First of all, he stands up to say that he agrees and that he would like to see the accounts published in reference to section 52 but he admits that there is no proviso for publishing the accounts after consultation because he was beginning to say that there was a proviso to publish the accounts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way after having accused me of rubbish I think I am entitled to be quite precise about what I said. I said that if accounts are published by an insurance company then the Government would certainly wish to see them and that is the purpose of Clause 52.

HON J BOSSANO:

Mr Chairman, if the accounts are published there is no question of the Government wishing to see them, if they are published all they have got to do is get them and they see them. They are going to legislate saying that if they are published they get a copy of the published accounts but by implication any sensible person would assume that if you say 'every published account must be submitted' it is because published accounts exist. It is not an unreasonable deduction and it is exactly the same argument as the Hon Member used five minutes ago for amending section 37. If in section 37 it says 'the licence has to be returned when it expires' it is reasonable to assume that there are licences which expire. The Hon Member comes along and says: 'No, we are taking this out' and I

said: 'Why? and he says: 'Because it is redundant because, in fact, licences do not have a time limit', so why have a provision in the law that says 'that every licence that expires has to be returned' when licences do not expire?' Why have a provision in the law that says: 'Every published account must be submitted' when published accounts do not exist? Because he thought they existed and then he finds they don't exist and when he stood up, with all respect to the Hon Member, he can listen to the tape when he finishes here, he will listen to himself saying that they would like to see accounts published. He wasn't saying they would like to have published accounts submitted, I know that, that was there since the law was first published in the green paper, from December I know that they wanted that. But the point is that the Government supervisory authorities are entitled to the accounts whether published or not published anyway by their supervisory function, he has already told me that, he has already told me that they have got access to much more information and much more control in the rest of the supervisory role apart from that section and I am talking about publishing the accounts. He has now stood up, first of all, I thought in response to the point that we are making in this section to tell me how we could get the accounts published and he finishes up defending the amendment to section 56 which is the reason why I was telling him that he was talking a lot of rubbish, Mr Chairman, because what section 56 does, whether he intends it to do or not, is deprive shareholders of their rights and we will certainly not go along with the Government passing a law that says that a shareholder can be deprived of the right to know how his business is doing which he owns if the Commissioner is convinced that it is good for the business. Who is the Commissioner to tell me in my business that I cannot know how much profit I am making because he thinks it is good for me not to know? That is what he is legislating or doesn't he realise that? Mr Chairman, section 56 says: 'Every shareholder is entitled to receive free of charge a copy of the accounts and the balance sheet on application'. We say every shareholder ought to be entitled to receive a copy without having to apply for it. If you have got a business and there are shareholders in that business, in every business, in every part of the world, in every legislature, you require the management and the directors of that business to send accounts to their owners, to tell their owners whether the business is making money or losing money so we think that the owner should not have to apply to receive that information. The Government then comes with a proviso amending that to take away what we consider to be a limitation on shareholders rights and put an even bigger limitation to say that if the Commissioner considers that the disclosure of the information is prejudicial to the business then the business doesn't have to comply with that law. Surely, how

can the Commissioner - that means that if I am the manager of an insurance company and I can persuade the Commissioner that I shouldn't have to tell the owners of the business that they are losing money because it might be prejudicial to my keeping my job, the Commissioner can then say that I don't have to tell the shareholders. How can that be? How can we legislate depriving shareholders of the right to that information? We have got fundamental objections to the amendment proposed by the Hon Member to clause 56 unless the Hon Member tells me that what I read there is not what is intended to do. Sometimes I am not entirely sure because I read English as normal people read English not as lawyers read it and if this doesn't say what it seems to say let us have an explanation but if it says what it seems to say then the Government is saying and has just said: 'We are now putting a caveat on the proviso of section 56 about copies of accounts in order to protect Gibraltar insurances from competitors but the people who can apply are the shareholders of the company not the competitors of the company. Is there something that I am interpreting wrong that the Hon Member wants to correct me on?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I haven't actually moved the amendment yet, Mr Chairman, and I was proposing to make a slight variation when I do move it which I think would be of significance and cover at least part of the point which the Hon Member has raised because it refers to the position of shareholders but when I do move the amendment I will have something to say about that.

HON J BOSSANO:

Mr Chairman, the Hon Member stood up to talk about my requirement, my request for more disclosure and he went straight on to the amendment to defend less disclosure and he has made no reference to this point until now. When he stood up all he did was defend the amendment to clause 56, he has not answered why the Government doesn't agree with publication of accounts if it doesn't agree. Does the Government agree that insurers should publish accounts or not? We think they should, if they don't agree we will not support this Bill. We are in favour of the principles of the Bill and have been all along, we are in favour because we think it is a good thing to have controls which drive away bad businesses. We think good companies already publish their accounts, we think if you want to go to a reputable insurance and you want to make up your mind before you take out a policy whether the company that is going to sell you a policy or the company to which you are going to put your life savings is in a good or a bad state, it is not an unreasonable thing to go to the company and say: 'I want to know how well you are doing because I don't want to put my

money in or take a policy with you and then you go bust', as an individual policy holder. We are in favour of disclosure of information. This Bill by implication in some of its sections, ie 52(b), assumes that the disclosure of information is already an existing proviso which it isn't. We think it is a nonsense to say: 'Every published account must be submitted' but nobody has to publish accounts. That point has not been answered by the Hon Member, the Hon Member has stood up and defended an amendment to Clause 56 and when I refuted his defence of that amendment he has now told me that the amendment itself is going to be amended. We will see what the amendment to the amendment says when we come to it but at the moment we want to know why they do not support publication of accounts and if they do then we want it included in the law.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think I would agree with the Hon Member that it is reasonable for a policy holder to see the company accounts, that is to say, the profit and loss and the balance sheet, and I hope that that will take care of the perhaps cross purpose argument we were having over what the Government wishes to see. There is, however, a risk, we feel that disclosure of certain information, what I said about classes of business, in the case of a small company would be prejudicial and this is really the purpose of the proviso which we propose to add to clause 56. On the other hand, I think it is probably unnecessary to make the proviso apply to shareholders of a company, in fact it is probably unnecessary and unreasonable, so in moving the amendment I propose to delete the reference to a shareholder and if I might move the amendment to Clause 56 as it now stands it would read as follows: 'A proviso be added

HON J BOSSANO:

No, Mr Chairman, the Hon Member is not answering any of the arguments I am putting forward and therefore I will then propose myself an amendment to section 52. He keeps on going back to section 56 and we are not happy that section 56 as it stands goes far enough, we are not happy. He is then amending it to make it go even less far. That is no answer to what we are putting. We are saying to him the limitation as it exists today in the proposed section 56 is that a shareholder should have to apply for the accounts. He then comes with a proviso that can make the Commissioner deprive the shareholder of the accounts and he uses that to answer my arguments about section 52 which is what we are talking about now. We will deal with this amendment to section 56 when he has to move that amendment to section 56 and we have to vote on it and I think it is legitimate to point out the inconsistency in philosophy and in

approach between what he wants to do to amend section 56 and what we are asking him to do to amend section 52 but I still haven't had an answer about what is the Government policy in section 52. The Financial Secretary is not really at the end politically responsible. We are saying politically we want accounts published. We are telling the Hon Member if we were there he would be instructed to include that by us politically. What is the answer? If the Government answer is they don't agree with our policy, fine, they out vote us and we vote against. If they agree with our policy then, fine, we will wait for them to produce an amendment and we will support it otherwise we move the amendment because the arguments are not being answered. There are just a lot of nodding of heads and shaking of heads but no answers.

HON CHIEF MINISTER:

What would be the Hon Member's proposal with regard to Clause 52?

HON J BOSSANO:

On Clause 52 there is a reference to the publication of the annual accounts and balance sheet, what we are really talking about is the profit and loss account. What we would prefer is a requirement that every registered insurer should publish annual accounts and we can have that by adding a subclause that says that the insurer shall publish annual accounts and balance sheet and submit them to the Supervisor. That would be our ideal preference. If the Government feels that it cannot go that far then there ought to be a reference to the annual accounts and balance sheet should be available on application but that is a more complicated proviso. We would prefer a simple and straightforward proviso which says in the reference to publish annual accounts a requirement that they should be published.

HON CHIEF MINISTER:

I think that might be cured by taking away the word 'on application' in Clause 56.

HON J BOSSANO:

We are not talking about Clause 56, we are talking about Clause 52, Mr Chairman. I accept that that is cured by deleting 'on application', in fact, we would simply remove that and that would correct that position. We don't think that it ought to be on application in Clause 56, definitely. But in Clause 52.....

HON CHIEF MINISTER:

There is a difficulty, I don't know I might be speaking out of turn but I am speaking purely from facts, from experience and from something that the Financial Secretary said this morning and that is there is no obligation under the European directive to publish accounts on insurance companies. There is an obligation which we have to meet sometime in a certain particular way of a directive to publish accounts of limited companies that are not insurance companies. If there is an obligation on one and we are trying to avoid it for obvious reasons or trying to ameliorate it because otherwise half of the work of the Finance Centre might not be forthcoming and there is no obligation under the EEC to publish accounts, then I personally would be satisfied if the accounts are available (a) to the Commissioner and perhaps to the supervisor, and (b) to the shareholders.

HON J BOSSANO:

Mr Chairman, I am glad the Hon and Learned Member has spoken because now we are talking about policy. We support publication of accounts, let us be clear about that. Secondly, we have a law in front of us brought by the Government which by implication suggests that published accounts will exist because it says that they have to be submitted to the supervisor. It says: 'Every published account has to be submitted to the supervisor' but if we don't want accounts to be published why do we legislate requiring them to be submitted? Therefore by implication and I think, quite frankly, the initial reaction I had from the Government benches when we first raised it was to say that I was wrong, that they had to be published. It struck me when we went through the legislation we couldn't find where the requirement for publication existed but we thought maybe we had missed it, maybe it is drafted in a particular way which we have not understood, it is not there. Then having looked at this we said, well, clearly it was the intention in somebody's mind that there ought to be something there otherwise why put this here, why say, 'Give me a copy of every published account but you don't have to publish'? Nobody is going to publish unless they have to. We say to the Government already reputable insurance companies do publish their accounts, reputable insurance companies do send accounts to people who want to take out policies with them because that is part of the selling of the reputable company. The reputable company says: 'Take your policy out with me because look how well my business is managed'. If the whole philosophy of bringing the legislation was precisely that and if we welcomed it at the time and we welcomed all the work of the Finance Centre supervisor and all the work that had gone into this preparation, then what we are saying is consis-

tent with those principles, which we support, we welcomed it when the Government brought it to the House and we said we would be voting in favour of this Bill for those reasons, then we are saying there is an inconsistency and the inconsistency should be cured now at the Committee Stage and it is no good keeping on going back to Clause 56, we haven't got to Clause 56 yet. The Clause 56 issue is a different one. Section 56 deprives an owner of a right to know how his business is doing and that is nonsense, you cannot tell an owner of his business that somebody else must give him permission to know whether his business is making money or losing money so it is a totally separate issue. On this one we wish to see in the Insurance Companies Ordinance a requirement on a registered insurer to publish their profit and loss and their balance sheet, we think that is a reasonable thing. We think people should know if they are using an insurance company if the insurance company is losing money or not, it is an important part. Okay, we have got adequate supervision and so forth but the consumer is entitled and the public is entitled to that information and the whole concept in European legislation is clearly in that direction. I cannot for one moment accept, whatever the Hon Member may say, that there can be anything in the UK legislation that allows a Minister of State to say 'a shareholder is not entitled to know whether the business is losing money or making money', that is why I said it was rubbish before when the Hon Member said that. Nor can I believe that even if there isn't a specific requirement on insurance companies, it is compatible with the clear spirit of Community law that people should not know. The whole concept is for more and more disclosure of information in the community. There may be an area of small companies which are not trading companies for which the Government may need and want to do some kind of special arrangements which is compatible with Community law but which just doesn't drive them elsewhere but that is not really the issue now and certainly when and if we come to the Companies Ordinance we will look at that, I think, on the merits of the case and on the basis of whether we are talking about companies doing business here in Gibraltar where I think a consumer is entitled to know if he is using somebody to do his shopping, the profit margins that that person is making. Why shouldn't he know?

MR SPEAKER:

Purely because I have a legalistic mind, perhaps the provision of Clause 52, subclause (b) is for the insurance authority to be able to verify that the published accounts correspond to the proper accounts of the company and that they have not been published in such a way that do not correspond with the true accounts. I am saying that perhaps the requirements of Clause 52(b) is to enable the Insurance Supervisor to verify that the

accounts which are published correspond with the true accounts of the company.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Correct, Sir, and of course it does refer to every published account outside Gibraltar. Could I make a proposal in the light of what the Hon Leader of the Opposition said in the discussion we have had and that is to move an amendment to Clause 50. If I can just describe the purpose of the amendment before giving the details. We would add something, perhaps to subclause (2) to Section 50 on annual accounts and say: 'Every licensed insurer shall publish the profit and loss account and a balance sheet prepared in accordance with subsection (1)(c) and (d) of this section'. That being the case, Mr Chairman, I think we would need a consequential amendment to Clause 56 and the terms of that would be that 'Any shareholder or policy holder should be entitled, on application, to receive free of charge a copy of the latest annual accounts and the balance sheet and the Auditor's Report thereon'.

MR SPEAKER:

Could we then have a written amendment to Clause 50.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I would move as follows: To add a new subsection (2) to Clause 50 to read as follows: 'Every licensed insurer shall publish the profit and loss account and the balance sheet prepared in accordance with subsection (1)(c) and (d) of this section'.

HON ATTORNEY-GENERAL:

And the existing subsection (2) to be remembered subsection (3).

HON FINANCIAL AND DEVELOPMENT SECRETARY:

And then the consequential amendment, Mr Chairman, to section 56.

MR SPEAKER:

We will come to that in due course, let us do it by stages. Does any Hon Member wish to speak on this amendment?

HON J BOSSANO:

Only to welcome it.

Mr. Speaker put the question which was resolved in the affirmative and Clause 50, as amended, was agreed to and stood part of the Bill.

Clauses 51 to 55 were agreed to and stood part of the Bill.

Clause 56

HON FINANCIAL AND DEVELOPMENT SECRETARY:

What I propose is that Clause 56 should end at the words 'Auditor's report thereon' in the fourth line. This will simply make it a requirement for every shareholder and policy holder to receive the copies of the accounts free of charge. To take away the words 'on application'.

HON J BOSSANO:

The position is that we have now got a requirement for the companies to publish their accounts in Clause 50 and therefore what we are talking about is every shareholder and every policy holder being sent a copy of the latest published accounts. Again, if we don't, by implication we might be saying that the shareholder and the policy holder should be sent the accounts before they are published.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think that is a fair point and I think we need an amendment instead of just saying 'copy of the latest annual accounts and balance sheet', to read 'the latest published annual accounts'.

HON J BOSSANO:

Because the latest might be more recent than before they are published.

MR SPEAKER:

May I be clear on Clause 56. You are then doing away with the amendments of which you gave notice and you wish to amend Clause 56 by the deletion of the words 'on application' on the third line and the deletion of all the words after the word 'thereon' in the fourth line. Is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

But also to introduce in the third line where it says 'latest annual accounts' to read 'latest published annual accounts'.

Mr Speaker put the question which was resolved in the affirmative and Clause 56, as amended, was agreed to and stood part of the Bill.

Clause 57 was agreed to and stood part of the Bill.

Clause 58

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We have a small amendment, Mr Chairman. On Clause 58(3) on page 406, substitute 'its technical reserves' by 'the technical reserves'.

Mr Speaker put the question which was resolved in the affirmative and Clause 58, as amended, was agreed to and stood part of the Bill.

Clause 59 was agreed to and stood part of the Bill.

Clause 60

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Again a typing error, I think, in Clause 60, subclause (1) on page 407, '69' should read '59'.

Mr Speaker put the question which was resolved in the affirmative and Clause 60, as amended, was agreed to and stood part of the Bill.

Clauses 60 to 122 were agreed to and stood part of the Bill.

Schedules 1 to 4 were agreed to and stood part of the Bill.

Schedule 5

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I would move that the formula which is shown at the bottom of page 444, the formula $\frac{b \times c}{a} - \frac{200}{c}$ I move that this read $\frac{b \times c}{a} - 200$ otherwise one might get some rather funny results.

Mr Speaker put the question which was resolved in the affirmative and Schedule 5, as amended, was agreed to and stood part of the Bill.

Schedules 6 and 7 were agreed to and stood part of the Bill.

Schedule 8

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is an amendment here, Mr Chairman, that paragraph 2(1)(b) in Schedule 8 which appears on page 448, the amendment is that 2(1)(b) should read as follows: 'any ten or more holders of long-term business policies who individually own a policy or policies have an aggregate surrender value of not less than £100,000'. The contingency is remote and it is arguable whether it is necessary but the only circumstances in which policies would have a value is those policies which are concerned with long-term life business. It simply would not apply in the case of other classes of business. That is the purpose of the amendment.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Purely a typographical amendment, Mr Chairman, again in Schedule 8 in paragraph 2(2)(e) to insert a fullstop after the words 'United Kingdom' and delete the words at present appearing after 'Kingdom', that is to say, 'or in the country of its incorporation'.

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

Schedule 8, as amended, was agreed to and stood part of the Bill.

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

THE MERCHANT SHIPPING (AMENDMENT) BILL, 1986

HON J BOSSANO:

Mr Chairman, if I may be allowed, when this Bill was brought to the House before, we asked for the Bill to be left to a subsequent meeting of the House to enable us to study its implications further and, in fact, suggest amendments. Since then the whole question of the adequacy of the Gibraltar Register has been highlighted by the tragic sinking of the 'Syneta' over Christmas and there has been a great deal of airing of the growth of the Gibraltar register in the UK Parliament and in the UK press and we have been in touch with people at the other end, both in the Seamen's Union and in the Labour Defence spokesman on employment. We have, therefore, in the light of that and after going back to the original

Ordinance, come to the conclusion that more time is required for this. We have asked the Government to defer the Committee Stage from this House and they have not been willing to do so and therefore we are voting against these provisions and we shall certainly be making clear publicly our opposition to the present legislation and our opposition to the adequacy of the present level of control. In an earlier part of the session, Mr Chairman, we tried to get the Government to give us a clear-cut answer on the registration of seafarers, on keeping crew lists and on keeping records of who is serving on Gibraltar ships and I think the Government was, first of all, saying that it was not a requirement of the existing Merchant Shipping Ordinance which we believe it is, secondly, that they would have to study it further to find out whether it is. I don't know whether they have now been able to study it further and agree with us that it is but clearly, if it is and it is not being complied with - we believe it is - and if it is and it is not being complied with, this thing has now been under consideration for twenty-three years. The Government announced in the December, 1964, budget that as a matter of urgency they were reviewing the Merchant Shipping Ordinance and they were bringing an expert from UK and they were thinking of expanding the use of the Gibraltar registry, the budget speech of December, 1964, and here we are in 1987 with a Bill that amends the Merchant Shipping Ordinance and still leaves a £5 fine if somebody doesn't comply with the requirement of registering or recruiting seafarers in one of Her Majesty's dominions - because the law still talks in that terminology - so if a Gibraltar registered ship enters one of Her Majesty's dominions which presumably it is us and Hong Kong until 1997 and, perhaps, the odd Ascension Island and whatever, then the law as it stands says that the recruitment of a seafarer must be done in the presence of a Customs official and that a report must come back to the authorities in Gibraltar of the engagement of that seafarer and if they don't do it they are fined £5. Whatever measures there are there to protect the conditions under which seafarers are recruited for Gibraltar ships, there is nothing in this Bill that the Government is bringing to amend the existing law to bring the existing law up-to-date and surely that is the purpose of this. Surely the Government doesn't want to come back in three months time with another amending Bill to the Merchant Shipping Ordinance.

HON A J CANEPA:

If necessary, yes.

HON J BOSSANO:

I thought that the Hon Member in presenting this in December had said that this was the result of a very lengthy period of

consultation, debate, matters being taken up and that now finally.....

HON A J CANEPA:

But not going back to December, 1964.

HON J BOSSANO:

The Hon Member wasn't here in December, 1964 but the AACR was in Government in 1964.

HON CHIEF MINISTER:

I will explain what 1964 was about.

HON J BOSSANO:

And in 1964 was when they announced the initiative and this, as far as I am concerned, is the culmination of that initiative. I don't know whether I am talking nonsense, presumably the Hon Member and his colleagues do not have the monopoly of talking nonsense in this House, Mr Chairman.

HON A J CANEPA:

Mr Chairman, if the Hon Member will give way. He has had the lion's share of this meeting of the House, he has been speaking to the House virtually for a day and half and he doesn't always get things correct. I explained when I moved the Second Reading of the Bill what the history of the Bill was. I made reference to a consultative document that had been issued by the Department of Trade and Industry as it then was responsible for shipping matters to dependent territories. That is the genesis of the Bill, nothing to do with what happened between 1964 or 1983 or 1984 which the Chief Minister himself will explain in a moment. That is the genesis of the Bill, the consultative document in which we were asked to react and to say how we wanted to go about the development of the shipping registry, on what footing did we want to put that. I explained that, the matter is in the Hansard, I have got a copy of the Hansard which I am sure the Hon Members of the Opposition have as well, there is nothing else to it.

HON J BOSSANO:

As far as I am concerned, Mr Speaker, the Government announced the intention in the budget of 1964 of exploring the possibility of developing the Gibraltar register and then many, many years later as a result of that consultative document they took advice

and they took a policy decision which was to go for a full registry which would have the full requirements under the UK initiative of saying 'dependent territories will either have a registry that has only got pleasure boats and whatever, a registry that is limited to a certain size of vessel or a full registry'. They decided to go for a full registry but the idea of that possibility had been floating about for a long time without coming to any fruition until this happened and this, as far as we were concerned, was the result like the Insurance Companies, like the Banking Ordinance and like other areas, of a long period of study and analysis to bring the legislation up-to-date. We don't think this brings the legislation up-to-date at all. Having looked back at the legislation in depth, we find the existing legislation not only full of out-dated things but also not being complied with and we do not agree with laws not being complied with. First of all, they didn't seem to be sure yesterday whether the existing Merchant Shipping Ordinance requires crew lists to be kept. It is obvious that it should. If we have got a situation of somebody being protected in this law as far as repatriation is concerned, we are introducing better protection for seafarers when it comes to repatriation, fine, we agree with that. We don't believe that Gibraltar registered ships should be pirate ships and we do not believe that they should be allowed to abandon their crew in some godforsaken place but we need to have a record in Gibraltar of who the crew is. I would have thought that was axiomatic.

HON CHIEF MINISTER:

If the Hon Member can arrange to sit down and allow me to say something.

MR SPEAKER:

I was going to suggest that since this is a matter of policy that can be discussed by Members, it is five to one.

HON CHIEF MINISTER:

What I have to say will not take long, unless we have a speech of three-quarters of an hour from the Leader of the Opposition. I want to deal with two matters, I will be leaving it to the Minister responsible for the Bill to say what the Government's reaction is to the proposals. In the first place I want to deal with the question of the 1964 proposal. That has nothing whatever to do with what is being considered now. I am sure that you, Mr Chairman, will remember that in 1964 was really the beginning of what later became the exempt companies system because in 1964 we were under great pressure from a company performing in great numbers in the Hong Kong area to make

registered ships exempt ships for the purpose of tax and get a revenue from it and there was legislation then, if I remember rightly, where that happened and where we got ourselves into a lot of trouble because whilst we maintained, as I remember, the principle of British captains of a ship and so on, ships were being detained all over Asia registered in Gibraltar exempt with non-British captains and we were asked to give exempt certificates for the ship to go from one place to another in order to get a British captain that would take over the ship and so on. I remember that perfectly clearly. Then it was found that that was really a flop and from that we went on to the exempt company idea which was not in existence and which arose in 1966, I imagine, and that led to the idea about exempt ships as exempt companies in the concept of if you hold a ship in Gibraltar that doesn't trade within Gibraltar, within so many miles of Gibraltar, you don't pay tax on the profits and that was done. At that time there was no question of making an overall shipping registry so that process has really nothing to do with the other one, nothing at all. There was a move to change but for different reasons. I am glad I can remember to be able to tell the House otherwise, like so many other things, it might have gone as if what the Hon Member was assuming had happened was true, it wasn't, it was not correct. He can look back on what I am telling him and he will find that I am speaking from memory which the further away it seems the better you remember as you get older. The other thing that I want to say and this is a matter of principle for future avoiding of problems and that is, if I may say so with respect, it is not good enough when, in fact, at the last meeting Mr Feetham said that he welcomed the Bill, he said: 'We will be supporting the Bill but since it is not going to be taken through all stages at this meeting we will be taking up any amendments or reservations that we have on the Bill at the Committee Stage'. It isn't good enough for relations between the Opposition and the Government that if they want a major change in the programme that one of the Members of the Opposition should ring my Personal Assistant. If, in fact, the Leader of the Opposition has got very good reason for anything to do with the business of the House, the Leader of the Opposition knows that I am quite accessible, he can give me the reasons, I will decide on them or study them with my colleagues and due consideration will be given to it. We have no Whip, we are not big enough to have Whips to deal with the business of the House but I think the least that the Leader of the Opposition could have done or even perhaps the Member who was seeking that, was not just leave a message to say: 'Please tell the Chief Minister that we want this Bill postponed to another meeting'. I don't think that that tends to get one in the right attitude because one has not had the opportunity of debating or discussing whether the reasons are good or not. He did say because of the

sinking of the 'Syneta'. Well, I will leave my colleague to deal with that aspect because I am not really in charge of the Bill and he is in charge of the Bill.

HON M A FEETHAM:

Mr Chairman, quite frankly, I am amazed because my approach to this particular Bill in the context of the Merchant Shipping Ordinance has been one of trying to assist and help in ensuring that the result of whatever we do with this Bill was going to help promote to the outside world that Gibraltar was not purely a flag of convenience but that Gibraltar had a high class of registry because what we want to attract is the right type of business and I am sure that Gibraltar has got the potential in that area to do so. When I said originally that we were going to support this Bill, that was the genuine thinking behind it, there certainly wasn't any other ulterior motive.

HON CHIEF MINISTER:

Of course, I accept that.

HON M A FEETHAM:

Having said that and having asked for further time in the sense that I did say we would want to raise matters at the Committee Stage, something happened which overlapped in the sense that there was a major reaction in the UK and let me tell you now and let me inform the House that I happened to be in UK at the time over that Christmas period and let me inform the Government that I did a great deal of work to ensure that the criticisms that were being levied at the Government.....

HON A J CANEPA:

And Mr Prescott who kept on repeating them a month later.

HON M A FEETHAM:

I am not giving way.

HON A J CANEPA:

We are in Committee.

HON M A FEETHAM:

I am not giving way because, quite frankly, I am being quite sincere in what I am saying and there is no need to fight amongst each other about this. It just happened that I was

in UK at the time and I felt very, very upset despite the fact and regardless of the tremendous tragedy of the sinking of the Synetta, I was very, very upset that we were being bandied about in such a manner without the people knowing the facts and I took it upon myself in consultation with my colleagues and I did everything possible to defend the Gibraltar point of view. And in doing so, as happens in these things, things start coming up, questions are asked and one needs to supply the answers and when one tries to supply the answers, Mr Chairman, at the same time one has to be sure that in doing so or in assisting in defending Gibraltar's problem that we are not going to have any backlashes later, Mr Chairman, when I got back to Gibraltar I said to my colleagues: 'We have got a Bill which we are supporting which doesn't go far enough because research had been done to the Gibraltar Merchant Shipping Ordinance which clearly is going to be continued to be thrown at our faces if we are now saying that as a result of a consultative document we are proceeding to amend the legislation which is of a' - I think the Hon Minister quoted to me yesterday it was an urgent piece of legislation - 'if as a result of that we are going to have later a comeback'. Therefore, my colleagues agreed that I should make an approach which I did, first of all, to the Hon Learned Attorney-General. I said: 'I am not sure how I should deal with this but would you advise me that I am asking for more time because I want to look at this certainly in greater depth' because I knew what the arguments that had been put to me in UK were and clearly there were some valid arguments being put. I was advised that I should approach the Chief Minister on the matter. Quite frankly, my colleague who had other matters to deal with, we never gave it the thought that perhaps the channel of communications should be the Leader of the Opposition having to speak directly to the Chief Minister. I did it, quite frankly and quite sincerely. I rang up the Chief Minister to speak to him and, of course, now I know presumably that I haven't got access to the Chief Minister as a Member of the Opposition.

HON CHIEF MINISTER:

That is nonsense, what I said was that I only got a message that you had left a message.

HON M A FEETHAM:

I will now tell you what the message was, Mr Chairman.

HON CHIEF MINISTER:

Never that you wanted to talk to me.

HON M A FEETHAM:

I will tell you what the message was, Mr Chairman.

HON CHIEF MINISTER:

I am accessible to everybody.

HON M A FEETHAM:

The message was that in the light of the developments I felt we needed more time to discuss and to look at this in depth and that we would like it to be left for a later stage and that we would be coming up with information in due course and you would have got that information in due course. This is not a case, Mr Speaker, that we are being preventive, I can assure you, it was not my intention. I have been back and forth with this legislation comparing it with situations that exist in the Isle of Wight as a result of the ICS being in contact with me, I have been looking at all sorts of regulations and I did a certain amount of work. There is still more work to be done but in any case the Government has decided in their wisdom not to accept and consequently we are constrained and that is what disappoints me because on a personal note I have tried to be always in this House as constructive as possible, quite frankly, and I have always tried to seek information and assist in whatever way one can be constructive for the benefit of Gibraltar. As you can see I can supply information where I have had arguments with people about Gibraltar, where I have put on record that we are doing our best and as a result of that I wanted to bring amendments to the Merchant Shipping Ordinance. It is not possible because the Government has not given me an opportunity to do so and from that point of view we are not voting in favour because I think we need a broader approach.

HON A J CANEPA:

With respect, Mr Chairman, I don't think that it ought to be left till this afternoon to answer some of the points. Perhaps we can come back a bit later if I have my say now. I would urge you to allow me to answer the points that have been raised this morning. May I deal, first of all, with the question of the agreements with the crew. The answer that I gave to the question that was asked by the Hon Member yesterday was based on the material that I got from the Captain of the Port and I have to go, as all Ministers do, by the material that you are provided with when you come to the House at Question Time. If the Hon the Attorney-General advises me that Sections 12 and 13 of the Merchant Shipping Ordinance require that in entering into an agreement with every seaman there is a requirement that

as a result crew lists should be kept with all the necessary ancillary information, then the registrar of shipping, the Captain of the Port, will have to comply with that. He will either get a directive from the administration or, if that is not enough, he will get a political directive and will have to comply with that. But for that it must be clearly established at the Government or I have to be advised that that is the position. If I am only advised to the contrary by a civil servant then I need a different sort of advice from the Government's Legal Adviser. But then it will be complied with and I gave a solemn undertaking in the House this morning. If that is what the Captain of the Port should be doing then he will jolly well have to do it regardless of what his own personal opinion may be. I hope that disposes of that point. I don't know what good work Mr Feetham tried to do and I am prepared to accept that he did try his best at Christmas time to repair the damage and the image, the very bad image that was being created. As far as his friends in the Labour Party are concerned, it was not very effective because when the Chief Minister and I were in London round about the 13th January, we saw Mr John Prescott on television, during breakfast television, repeating the same sort of thing that he had been repeating at the time of the tragedy that we in Gibraltar had heard about. He didn't change at all. The fact that there was a Bill before the House didn't make any difference and we have not been successful in getting it across to the media that the Government had a Bill before the House, that the Government proposed to enact legislation. One thing is to propose the.....

HON J BOSSANO:

If the Hon Member will give way.

HON A J CANEPA:

No, I am not giving way.

HON J BOSSANO:

I have actually given way to everybody else.

HON A J CANEPA:

You have not given way to me and I hold the floor.

HON J BOSSANO:

The reality is that the Hon Member hasn't satisfied Mr Prescott or us.

HON A J CANEPA:

We are in Committee and you have every opportunity to get up and answer me and I will answer you as well. Don't do what you accuse me often of doing.

HON J BOSSANO:

What is that? What is it that I accuse the Hon Member of doing?

HON A J CANEPA:

One thing is to have an intent to legislate and legislation may or may not see the light of day, months may go by, years may go by, and another thing is to have a Bill before the House which has been given First and Second Reading and we have not been able to get that published in the United Kingdom media, not even in Lloyds List has that been published after I myself told the journalists who came to Gibraltar that the Bill was before the House and we have not succeeded because it suits Mr John Prescott to make political capital to use Gibraltar in order to try to hit at the Conservative Government and at the Department of Transport. This Bill has been cleared by the Department of Transport, it therefore has the approval of the British Government. If we have not been able to make earlier progress on the matter it is because we were not able to move more quickly with the Department of Transport and the Department of Transport has been rather quiet about the whole thing because the blame cannot be put at our door. But that political capital is being made by Mr Prescott I don't doubt. That Mr Prescott or the National Union of Seamen or the International Transport Federation or what have you don't like to see ships flagging out with a British flag and registering in Hong Kong, in Gibraltar or what have you that I don't doubt, of course they don't want that and that is part of the reason why they are antagonistic to the development of the Gibraltar shipping registry no matter whether we are whiter than white, that is a fact of life.

HON J BOSSANO:

We are not whiter than white.

HON A J CANEPA:

The fact is that every impression was given by the Opposition at the last meeting of the House that they were content with the Bill. Even if in the United Kingdom Mr Feetham has found information or reaction that would indicate that more needs to be done, he has had five weeks in which to submit concrete amendments for the Government's consideration and that has

not been done. I, in the Government, have to move within five days, sometimes within five hours the Government has to mobilise itself in order to take decisions and get things done. I would submit that for a Member of the Opposition who has five weeks in which to consider views that is ample time and the legislation is required and should become law regardless of the Syneta incident. It is now overdue and that is why I said casually to the Hon Mr Feetham yesterday evening when he asked me that it is becoming urgent. It is necessary for Gibraltar to legislate because it is something that we need to do, something that makes sense that we do and something that will help us in clearing up part of the bad image that we are getting. It could well be that as a result of this legislation some of the ships will be removed from the register. It could well be that as a result of the annual tonnage tax some of the owners may not wish to have their ships registered in Gibraltar and that is all to the good and we can avoid some of the dumping of old ships. I have no doubt that it is necessary to have this, the legislation should have gone through at the last meeting not at this one, it was needed. The Syneta - whatever comes out of that inquiry, and we have got an inquiry, and presumably it is open to the National Union of Seamen to make representations to the Department of Transport for these to be communicated to the inspector carrying on the inquiry or directed to the Gibraltar Government to make their views felt about what needs to be done. There is no difficulty if as a result of the inquiry further amending legislation is required, in bringing a new Bill to the House and taking it as quickly as possible as may be required through all stages, there is no difficulty whatsoever. What we cannot have is that this Bill should just remain before the House like the Sex Discrimination Bill has been for three and a half years now and that nothing should happen because we are awaiting information or Hon Members are awaiting information from the NUS or from the Labour Party or what have you before we move ahead with the legislation.

HON J BOSSANO:

If the Hon Member will give way, is he saying we are responsible for the Sex Discrimination Bill being held up?

HON A J CANEPA:

I can give a solemn assurance that if further amending legislation is required as a result of the inquiry being held, the Government will leave no stone unturned in order to bring that immediately to the House, there is no difficulty. The Attorney-General's Chambers, fortunately, are now being staffed at the adequate level and I am sure that he would be prepared to underline, to endorse the undertaking that I had given that the legislation will be brought to the House immediately.

MR SPEAKER:

I think this is an appropriate time to recess until this afternoon a quarter past three.

The House recessed at 1.20 pm

The House resumed at 3.20 pm.

MR SPEAKER:

I would remind the House that we are still at the Committee Stage of the Merchant Shipping (Amendment) Ordinance, 1987, and we have debated this morning at some considerable length whether we should proceed with the Bill or not.

HON CHIEF MINISTER:

Mr Chairman, I would like, having regard to the hassle just before lunch, to reiterate what my colleague said that, first of all, we are awaiting anxiously the report of the inquiry, that that will certainly be made public and certainly the Opposition will have a copy as soon as we get it and that if arising out of that or because of anything surrounding on that we can improve this piece of legislation we shall do so without any delay.

HON M A FEETHAM:

Mr Chairman, I think that because of what happened we actually went at cross purposes. In fact, the points that we were trying to make have a bearing on the Syneta tragedy but have no actual bearing on the general context on the points that we were trying to make and that is that we wanted to approach the Merchant Shipping Ordinance on a broad basis so that we do a clean-up exercise once and for all, so that when we are accused unfairly from certain quarters that the Gibraltar registry is not up to the sort of standard that one would like it to be and that we are attracting to Gibraltar ship owners that one doesn't want to have, that on that basis one could stand up and say: 'No, you are wrong'. What has happened is that that is not the case and what we are doing with this Bill is a step forward that doesn't go far enough and it has been highlighted unfortunately as it happens when there is a tragedy that all sorts of things come into play which are totally unnecessary and that is why the inquiry on the Syneta, I am sure, that what will emerge will have no great bearing, in my opinion, - and this is a personal opinion - of the actual thrust of the Merchant Shipping Ordinance in Gibraltar. I think it will show a different light altogether. The other point I wish to make is that whilst we can privately, and I think this is important because one tries to make friends in

the British Parliament and that whilst there may be difference of views on certain issues between the representatives of Gibraltar and the representatives of constituencies in UK in the shape of MP's, it is always best that when you have an argument with MP's who may not agree with you on a particular point of view, not to make it a public issue as far as possible and not to accuse MP's harshly. Mr John Prescott happens to be a National Union of Seaman's sponsored Member of Parliament and he can get things wrong as much as I can get things wrong, as much as the Chief Minister can get things wrong, but to accuse him harshly in the sort of manner that unfortunately the Hon Minister for Economic Development has done, I think is going too far and certainly going too far if we think in terms of Mr Prescott being, in fact, the Opposition spokesman for employment in the House and if there were to be a Labour Government in office he would be, of course, the Minister for Employment and the man who is, in fact, leading the getting Britain back to work policy of the Labour Party. So we are not talking about an opportunist and we are certainly not talking about the type of politician that one doesn't want to have as a friend, Mr Chairman, and I thought I wanted to clear that one up.

HON A J CANEPA:

Just a personal matter. I just want to make it clear that the people who have elected me and whom I represent are the people of Gibraltar. I am not elected nor sponsored by any Trade Union either in Gibraltar or in Great Britain and if in defending the people of Gibraltar or anything to do with Gibraltar where we are unfairly criticised, I have to criticise a British Member of Parliament I have no hesitation in doing so whether he belongs to the Opposition or to the Government. I don't criticise Mr Prescott for making the statements that he made initially, I don't do that. What I criticise him for is for repeating those statements mistakenly, incorrectly, on the basis of wrong information three weeks later, that is what I criticise him for.

HON J BOSSANO:

Mr Chairman, we have all been elected by the people of Gibraltar to look after the interests of the people of Gibraltar and obviously those of us on this side think that those on that side are doing a very bad job of looking after the interests of the people of Gibraltar. Mr Prescott has not criticised the people of Gibraltar, Mr Prescott has criticised the way the Government of Gibraltar fails to protect seafarers sailing on Gibraltar registered ships and we think that the Government of Gibraltar does a great disservice to the people of Gibraltar if it allows pirates

who are not Gibraltarians, who do not vote for the Hon Member opposite, who have got no interest in Gibraltar, to use Gibraltar because they can line the pockets of a few lawyers because that is the only benefit Gibraltar gets from all these registered companies and, in fact, they didn't even pay a tonnage tax until this amendment had been brought to the House. One can understand the people who have got the ships as brass plates in their offices obviously wanting those ships to be here independent of whether they are rust buckets which are a danger to themselves, to those sailing them and to everybody else. Mr Prescott is perfectly entitled to criticise the British Government who is responsible for Gibraltar because Gibraltar is a British dependent territory, for allowing Gibraltar to be used for that and for the same reason he criticises other British dependencies and when you are talking about an independent place, for example, like Cyprus which is now a prominent flag of convenience where the situation now in Cyprus is that Greek shipowners are moving to Cyprus because the Greek Government is becoming too demanding for Greek shipowners. Clearly, Cyprus as an independent republic cannot be criticised in terms of the British Government and the Opposition in Parliament but Gibraltar and Hong Kong can because the British Government has got a responsibility and this is why we have had a reaction from the British Government of hesitating to allow the freedom to places like Bermuda and Gibraltar to be used to escape the requirements being introduced in European legislatures and we are in a particularly vulnerable position because on the one hand we are constantly harping on our right to vote in the European Parliament, we are not in the third world, we are bringing our legislation up to the European standards, well then, quite frankly, it is like this other business of the other legislation when we were looking at people avoiding tax, say, in another part of the European Community or in Northern Europe in order to come to Gibraltar and what they contribute to the public purse is £3,000 a year. We would say that is more negative than positive. If we are going to do anything that upsets other people certainly don't do it for £3,000 a year and if we are going to do something that upsets other people and so far the shipping registry we don't know what it has produced, we have seen the figures of the numbers of ships but because the Syneta went down a lot of attention was attracted to Gibraltar. It isn't that the things that were wrong happened because of the Syneta, it is like everything else in life, Mr Chairman. When the wall collapsed in Casemates the Government suddenly realised that there was a glaring omission in our legislation when it came to demolition and they set up an inquiry and they have since said that they are going to bring in legislation to put it right. That wasn't the fault of the wall in Casemates and it certainly wasn't the fault of anybody but when something happens it crystallises the issue, it draws attention to the issue. What happened

since the last meeting of the House and this one? We publicly said that we supported the principle of the Bill in terms of the Bill being an attempt to up-date the legislation in Gibraltar so as to expand the registry with bona fide ship-owners interested in Gibraltar for reasons other than to escape the requirements of other places. If what people want to use Gibraltar for is to get out of an obligation to treat their workers well, to pay them decent wages, to have safe ships, to have safe manning levels, then we don't want those ships here and there is a correlation, certainly, between industrial injuries and manning levels, obviously. The fewer crew you have got on a ship the greater the risk of an accident because you are stretched and we have asked many, many times if people are by law entitled to injury benefit how can we just say we are studying the matter? And we keep on studying it for however many years we want and people can get maimed and killed and it doesn't matter, we are still studying the matter. This is not good enough. When we brought the matter up in the House we drew attention to this. A week before the Syneta went down I was saying to the Government: 'Are we going to have to wait till something happens before we do something about the protection that the law gives to people against industrial injury?' My Hon Colleague had asked that question and the Minister for Labour had confirmed that seafarers engaged in Gibraltar registered ships are protected against accidents at work but that they don't pay. We said in the last House that because we were taking the Committee Stage at a later stage we would devote some time to see exactly what we are keeping in the old Merchant Shipping Ordinance and what we are changing and here we have a Bill that was supposed to be the result of a lot of hard work by a lot of people bringing us up-to-date, a lot of meetings, negotiations discussions and finally we were bringing the law up to a satisfactory standard which would enable us to satisfy the Department of Trade in UK and get the registry of Gibraltar in a proper footing. We take this two and a half pages of amending legislation and we compare it with a volume of legislation going back to 1894 and what do we find? That we are changing practically nothing. We are talking about legislation which covers a multiplicity of things, forget introducing new measures. I don't think anybody in the Government has ever looked at this legislation and I don't think anybody in the Government has got the foggiest idea how to go about ensuring compliance with this legislation and, certainly, even if you were enforcing compliance the whole legislation clearly hasn't been looked at for such a long time that it is today considerably cheaper to dis-regard it all and risk being caught and paying a £5 fine or a £50 fine than to attempt to implement anything. If I was a ship owner in Gibraltar I would simply get the Merchant Shipping Ordinance of Gibraltar and stick it in the waste paper basket and risk it and if somebody ever gets round to pulling me up ^{for} failure to comply with anything in the law and actually manages to get me to

Court, I plead guilty and I pay my £50. Are we saying that the amending legislation that we are bringing to the House does anything to cure that? Not at all. We are not talking about us coming to the Government and saying to them: 'You have left something out and we are now going to move an amendment'. Having said what we said in the last House, having since then because of the reaction in UK, sent off for information, having been told all the legislation that there is in UK and all the legislation that there is in other administrations, having sent them copies of our Ordinances for them to look at, we have come to the conclusion that, quite frankly, it is not a question of us proposing an amendment to the Bill before the House, the whole thing needs to be changed fundamentally and therefore what we are saying, as far as we are concerned, let us do a thorough job of up-dating the Merchant Shipping Ordinance because we certainly don't think that the Bill the Government has brought does anything at all. What does it actually do? Let us see what the provisions of the Bill are.

HON CHIEF MINISTER:

Mr Chairman, we are in Committee but how long can we go on talking about the merits of a Bill which is in Committee?

MR SPEAKER:

I have given some thought to that and I was coming to the stage when I was going to say something. I have most certainly been more liberal than I should have been in Committee with this particular Bill.

HON CHIEF MINISTER:

I want to make a few points but if I have to wait until tea time to do it then I will have lost the strength of my thoughts.

MR SPEAKER:

The position is as follows. We are now considering the Bill in Committee clause by clause but as a result of what has transpired between the First and Second Reading and the Committee Stage of the Bill, I felt that it is only right that the House should be given an opportunity to touch upon the matters which are pertinent. I entirely and utterly agree that we have got to the stage now when we have to come to a decision whether we proceed with the Bill in Committee or not and then consider the matters exclusively which are dealt in the Bill clause by clause. I entirely agree with the comments made by the Hon and Learned the Chief Minister. We have been talking on this Bill basically on the general principles for about an hour and a half.

HON CHIEF MINISTER:

I want to address myself to the points raised by the person who suggested we should leave the Committee Stage.

HON J BOSSANO:

Mr Chairman, the Government's reaction to us suggesting that it needed longer was as if we had said 'We need longer to consider the amendments to the Merchant Shipping Ordinance because the Syneta has sunk'. The obvious answer is that because the Syneta has sunk a lot of attention has been drawn to a lot of things which we certainly hadn't thought of and which presumably the Government might not have thought of but, in any case, what I am saying to the Government is that what we did say in the last House is very clear. We said: 'Between now and the Committee Stage we will be able to devote some time to seeing exactly what we are keeping in the Merchant Shipping Ordinance and what we are changing'. And what I am saying is we are changing very little, we are keeping an awful lot, we are not complying with any of the things that we are keeping, and this is yet another example of the way that the Government treats legislation in Gibraltar where, quite frankly, we have got laws in the Statute Book which we are not paying attention to.

MR SPEAKER:

I think the position in the last hour and a half is clear; the position is very clear as far as I am concerned from what I have heard. The Opposition feels that the Bill should not be proceeded with because the Merchant Shipping Ordinance requires extensive amendments or redrafting for the purposes of meeting modern requirements. The Government, I think, has made it quite clear that they feel that the Bill must be proceeded with because it brings up the Merchant Shipping Ordinance to a certain level and have given an undertaking that if further amendments are needed by the Ordinance they will not hesitate to bring them but they feel that it is better to proceed with the Bill and to amend the Bill to such an extent as to improve the situation. The position is crystallised and I don't think anything that is going to be said now is going to change the position of either the Government or the Opposition.

HON CHIEF MINISTER:

Mr Chairman, first of all, there are one or two things I want to dispose of, I am not going to answer the Hon Member. Let me tell you that in this session he seemed to be attempting to emulate his predecessors Bob Peliza and Maurice Xiberras about the time that he has taken in the course of the time we have

been sitting and which he has had the floor. We haven't got the records but we will look at them and see whether in fact he has achieved that at this meeting or whether that is still to come. What the Leader of the Opposition has a habit of doing is making an assumption and then after that talking as if that was the truth in everything. He has said, and it has nothing to do with this, that all we were doing in the Income Tax Ordinance is getting a few people to pay £5,000 a year in tax. I explained to him and I told him I would give him more details, that that was not the case but he acts as if that were true and unless we say that is not correct, we have to clear that, then it remains as Bossano truth and then, of course, that means so many thousands of people who think that that is the bible. If the Hon Member was trying to make some aspersion by saying that this legislation was for the benefit of a few lawyers, attempting to smear my profession or myself, I would like to rebut that and say that as far as I am concerned, as a lawyer, we have had to send away people who came to Gibraltar at the beginning and got the goodwill of the Hon Leader of the Opposition and took him for a ride.

HON J BOSSANO:

If the Hon Member will give way. I have no way of knowing whether he engages in registering ships or not but what I know is that the ships that do get registered get registered by lawyers, that I know.

HON CHIEF MINISTER:

Yes, of course. Anyhow, we had assurances here from people that they were going to comply that satisfied the Hon Member, tried to satisfy us that they were going to use Gibraltar shipping register and the Hon Member was quoted as being satisfied, no doubt, he was also taken for a ride and told that certain things would happen that have not happened and we have had yesterday morning after having invited those concerned to suggest amendments, a three page letter suggesting amendments yesterday morning when they were written in December and the reason for saying that it should not be taken here was not because as very rightly Hon Members have gone into the matter and think that it has to be wider, it was because of the sinking of the Syneta which we did not correct and there are very great dangers in following that part and I am only dealing with that and that is all, first of all, there will be people who will never believe us however much we may try and there are people who have the habit of pursuing a course and the particular Member of Parliament who sponsored this campaign, of course, was himself an official of the National Union of Seamen but the attitude not only of him but of many others, first of all, the paper said that they were going to talk to the FCO about

the situation in Gibraltar, others to go to the Ministry of Transport. None of them thought of approaching the Government of Gibraltar which has the matter before the House. No, they still treat us like colonials from London, even Labour Members not just Conservative Members. They think that we are just subjects of whatever Whitehall decides when, in fact, it is not entirely true. The other thing is that having announced and made public, though it unfortunately hasn't got to the media, that we had legislation, giving up that legislation at this stage could be interpreted as having been eyewash at the time we said that and we said it sincerely and we think that we are right in saying that we had legislation because one of the things that that piece of legislation does and I am not saying that it is going to be exhaustive but if the Hon Member had thought of that before the Syneta and said: 'There is more in this than meets the eye, let us do a lot of research, please don't carry on with the Bill, we are going to give you material', I would have said: 'Delighted, let us see what we can do'. That is still open even after we pass the law. I invite the Hon Members opposite to give us the information that will give Gibraltar more respectability than what we think we are doing to try and bring to the shipping register with this Bill. I entirely agree with the Hon Mr Feetham and I don't think that there is any suggestion on the part of my colleague about it, that we don't care about the colour of MP's political stand in the United Kingdom so long as they are on our side but we do care if some people are reticent to consider the realities and it was not as he has said. The original outburst which was in all the papers but the fact that five or six weeks after, after there had been an appointment of an investigation, that was completely out of turn but I can at the same time say, in all fairness to that broadcast, that it was not done to hit at Gibraltar alone because that broadcast - I remember it perfectly clearly - had Mr Prescott speaking and below all the flags of convenience or so-called flags of convenience. The Gibraltar flag wasn't there, probably they couldn't get one, sometimes it is difficult. Therefore it was an attack, it was taking advantage with or without reason because we don't know the outcome of the inquiry, it was taking advantage of the death of twelve people to try and boost up a campaign against other people, we were the sufferers. Gibraltar was then being used politically or tactically or whatever it was, I am not saying politically with an ulterior motive, but the decision of what has happened was being used to hit not only at us but at all flags of convenience and we had to suffer. We were in the box for that without reason because we had advised the Board of Trade and, in fact, we invited the Board of Trade to nominate one of their regular inquiries. For those reasons I think we do no harm in putting up-to-date part of the legislation. There is a lot in it which is there and let me tell the Hon Member that some people have had experience of the

Merchant Shipping Ordinance, I certainly had considerable experience during the war years when I was concerned with defending sailors who were going in the convoys and we had to see that the Merchant Shipping Ordinance was applied and let me tell the Hon Member that there is more - maybe the fines are out-of-date - but there is a lot of very good stuff in the Shipping Ordinance if only we apply it and we have just discovered that it is not being applied because of an administrative mess-up because out of 113 ships there are only 42 crew lists but we are going to put that right pretty quickly.

HON A J CANEPA: .

Mr Chairman, may I just clarify the reference that the Chief Minister has made about representations received. A few days after the Bill received First and Second Reading which I think was on the 16th December, on the 19th December I got a letter letterheaded 'The Gibraltar Shipowners' Association' - I have never heard of them, the first time I ever heard of them - complaining that they had not been consulted by the Government in the drafting of the legislation and that the first they had known about the Bill was when they saw it in the Gazette. I didn't say that I had never heard of them, I wasn't rude enough to say 'You have never been anywhere near the Government, you haven't presented your credentials, you haven't made an attempt to get recognition, I never even knew that you existed'. I just said: 'Thank you very much for your letter. I note that you are interested in submitting a memorandum to the Government. Please note that it is intended that the Bill will go into Committee in the February meeting of the House and will then become law'. I don't know whether he thought that it will then become law meaning then become law after February, perhaps the parliamentary language was not understood because I heard nothing further about it until I walked into the House yesterday morning when on the table there was letter by hand containing a memorandum from the so-called Gibraltar Shipowners' Association. Just to show ones even handedness, I just wrote back to him immediately saying: 'I wrote to you on such and such a date. I invited you to submit a memorandum. The Bill is going into Committee tomorrow, I am sure that in the time-scale that you have left me you can hardly expect that the Government should give proper consideration to the matter or defer the consideration of the Bill because I have received a memorandum this morning'. It is a memorandum that I haven't read fully but obviously what is going into the Bill they don't like and they would wish to have a number of amendments. I think that that at least is indicative of the open manner, of the fair minded way in which one is approaching this business.

HON CHIEF MINISTER:

I would just like to finish up by saying that 5, Library Ramp from where that letter comes has nothing to do with 3, Library Ramp.

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 1(1) be amended by deleting the figures '1986' and inserting the figures '1987'.

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

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

The following Hon Members voted against:

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

Clause 1, as amended, stood part of the Bill.

Clauses 2 and 3.

On a vote being taken on Clauses 2 and 3 the following Hon Members voted in favour:

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

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

The following Hon Members voted against:

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

Clauses 2 and 3 stood part of the Bill.

Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I have given notice of an amendment which I would like to make to the new section 222A(1) in Clause 4. The purpose of this amendment, Mr Chairman, is really to cover the period between the date of the Ordinance coming into force and the 31st December, 1987, insofar as the payment of tonnage tax is concerned. We have covered every other aspect of the section except the transitional period between the date of coming into force of the Ordinance and the 31st December, 1987, and this amendment which I have given notice covers the period up to 31st December, 1987.

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

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

The following Hon Members voted against:

The Hon H L Baldachino
The Hon J Bossano
The Hon M A Feetham

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

Clause 4, as amended, stood part of the Bill.

Clause 5

On a vote being taken on Clause 5 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 5 stood part of the Bill.

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Long Title stood part of the Bill.

THE PUBLIC HEALTH (AMENDMENT) BILL, 1987

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move to amend Clause 1, to make the existing Clause 1 to read subclause (1).

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In the Second Reading speech I said that we would be introducing amendments at Committee Stage to give effect to Clauses 2 and 3 on the 1st April, 1986, but it is true that we haven't actually given you formal notice, Mr Chairman, I apologise for that.

HON ATTORNEY-GENERAL:

So the existing Clause 1 to be made subclause (1); the date '1986' to be amended to '1987', Mr Chairman, and the new subclause (2) of Clause 1 to read: 'Sections 2 and 3 shall be deemed to have come into operation on the 1st day of April, 1986'.

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

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

Clause 5

HON J BOSSANO:

Mr Chairman, I think I raised it in the general principles of the Bill and really it is the question of who can actually challenge a valuation in the Valuation List? It says here: 'Any person aggrieved'. Surely a person can be aggrieved

because he believes that - I am going back to the problem that I had originally when I raised the question of how the calculation of the Valuation List was being done as a matter of policy and I thought that after an exchange of correspondence with the Government I was told: 'If you are not happy with it then object through the proper channels'. I followed the proper channels and at the end of the day I found that the proper channels didn't cover that eventuality because I was not complaining as somebody who was being required to pay and saying 'I am being asked to pay too much', I was complaining as a matter of general principle. What I would like is, since we are amending the Bill, to amend it in a way that will permit that kind of challenge to the Valuation List to be made and the complaint to be heard.

HON CHIEF MINISTER:

I think the main difficulty there is that it must be a person aggrieved, it doesn't matter if he does it on behalf of somebody else but it must be in respect of a particular valuation not of the whole List. That is why there are appeals against the decision and you go to the Supreme Court and so on. The fact is you object to a particular valuation, if you object to the whole List then, I think, this is the place to do it at the time of the fixing of rates and so on. I don't think that the general public can go and say: 'Because I don't like one I challenge the whole of the Valuation List'. You may say: 'I live in a place like this, this year is passed. I have been in touch with somebody who was the same as me, it has gone up and I want to object because it may happen again', that is a different thing. What I think is basic to rating law, if I remember rightly from my City Council days, is that what you can challenge is the particular valuation of a particular tenement not the philosophy that goes to making the List.

HON J BOSSANO:

Who can challenge it? That is the point. Does it mean that the person living in that tenancy is the only one that can challenge it?

HON CHIEF MINISTER:

No, but it has to be in respect of one valuation. Anybody can be aggrieved.

HON J BOSSANO:

Mr Chairman, I tried to do it first of all, politically, that

is to say, I raised it in the House and I was told at Question Time in the House that it wasn't a matter for the Government because the Government didn't intervene in the valuation and that therefore what I should do was wait until the thing was published and then within the statutory period put in my objection. I did that, I waited as advised by the Government. When I did it at the final day when the thing closed and there was nothing else I could do about it, I was then told that because I had objected to the valuation of all domestic properties in Gibraltar it was not an admissible thing.

MR SPEAKER:

It must be an objection to a particular tenement.

HON CHIEF MINISTER:

That is what I am saying.

HON J BOSSANO:

But what I am trying to find out is who decides who is aggrieved in order to comply with the legislation?

HON CHIEF MINISTER:

The person aggrieved.

HON J BOSSANO:

But if I come along and I say: 'I am aggrieved because Sir Joshua Hassan is being rated too low', am I entitled to be aggrieved by it or not?

HON ATTORNEY-GENERAL:

I think, Mr Chairman, it is the person personally aggrieved by the inclusion in the Valuation List.

HON CHIEF MINISTER:

It is not very easy because normally you don't object to people being rated low, you object to people being rated high and you can always say: 'I am prepared to fight your cause, here you are, sign the paper, I am aggrieved and I will fight your case'. You can do that.

Clause 5 was agreed to and stood part of the Bill.

Clauses 6 and 7 were agreed to and stood part of the Bill.

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

THE MEDICAL (GROUP PRACTICE SCHEME) (AMENDMENT) BILL, 1987

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

Clause 2

HON M K FEATHERSTONE:

Sir, I beg to move that Clause 2, subsection (2) be deleted and that consequentially the expression '(1)' be also deleted from the Bill.

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

Clause 3

HON M K FEATHERSTONE:

Sir, I beg to move in a similar way that Clause 3(2) be deleted from the Bill and that Clause 3(1) become Clause 3.

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

HON J BOSSANO:

Mr Chairman, in raising the contribution from 55p to 70p for employers and employees, I think we are talking about an increase in the region of 27% I believe, and given the figures we were given in Question Time that the current yield is £765,000, we are talking about presumably revenue going up to something in excess of £900,000 a year. We are spending £400,000, that means that we are collecting under the Group Practice Medical Scheme contributions £½m more than we are spending.

HON CHIEF MINISTER:

No, I think the Hon Member has got the figures wrong. The question was exclusive of prescriptions, that is the main thing of the cost of prescriptions.

HON J BOSSANO:

Is the Hon Member then saying that there is a subsidy? Our understanding of the Group Practice Medical Scheme was that

when prescription charges were introduced it was introduced to lessen the element of subsidy which we are making from general revenue which is the money we are voting, there is a supplementary vote in this House in the Appropriation Bill, but the purpose of the contributions it says in the existing Clause 5 in the Ordinance: 'Contributions for the purpose of providing funds required for the scheme, contributions and fees shall be paid by registered persons in accordance with the provisions of this section'. We have always understood since the thing was initiated that we were charging contributions to pay for the cost of running the scheme which needs to pay, possibly, for the doctors that we employ in the Health Centre and so forth but the prescription charges are to be paid for part of the cost of the medicines and the part of the cost of the medicine that isn't paid by the prescription charges is paid out of general revenue by the general body of taxpayers not by the remaining contributors to the scheme. As we understood it, it was never the intention to have contributions paying for the cost of the medicines for the people who are ill because then you have got a cross subsidy from people who are infrequently ill to people who are frequently ill from within the scheme itself.

HON CHIEF MINISTER:

I may be wrong, I am sorry.

HON J BOSSANO:

That is how we understood it and therefore in looking at the way the scheme has been increasing in costs to operate, we are talking about a situation where between 1983 and 1986 it went up by £60,000 in one year and then in the following year it went up by £20,000 so it seems to us that an increase in charges for the GPMS of the order of 27% means an increase in revenue yield of £150,000/£160,000 which is about four or five times what costs have been going up by recently. As far as we are concerned, we think that the law requires that the money that is raised in contributions is for funds for the scheme not for anything else, you cannot use that money for anything else. As far as we are concerned, the Government provides under different legislation, for charging for prescriptions and they can charge for prescriptions the whole cost of the prescription or part of the cost of the prescription. They are charging part of the cost of that prescription and I think the last time it was raised was in the budget. But this is for running the GPMS and already we are bringing in something like £360,000 more than we are spending already without increasing anything so why do we want to increase it by so much this year?

HON M K FEATHERSTONE:

Sir, I think the Hon Member has got it wrong. The way the estimates are worked for the GPMS is that it includes the cost of administration, the doctors, etc, and the cost of prescriptions and if you take the total cost of the administration and the prescriptions you will find that we are always running at a deficit which is then subsidised from the general Consolidated Fund. The cost of prescriptions has gone up very considerably, this year it is estimated it will reach £945,000 and you will see later on in the Bill for supplementary estimates that we are asking for a certain measure of money to pay the cost of prescriptions and it is to meet this cost that the increase, basically, in the GPMS has been made.

HON J BOSSANO:

Mr Chairman, from my recollection of when the Government brought the scheme to the House initially which is a considerable time, I think I am going back to something like 1973, when I think, in fact, there were no prescription charges at all initially, it was free medicines, they introduced the Bill on the basis that section 5 would provide the funds for the operation of the scheme, for the running of the Health Centre and for paying the doctors and the nurses and that medicine was going to be free. And then at a later stage they came back and they said: 'Because the cost of the medicines is running higher than we expected, we are now asking people to start making a contribution towards medicines but not from the funds for the scheme but related directly to how much medicines they make use of', and I think it started off with 20p and it is now £1.50 or whatever it is. This is why when we asked earlier on in anticipation of looking at this, we wanted to have an idea of what was the yield from contributions at the moment and what was the expenditure of running the scheme. To some extent we have had a situation where for some time last year we had people complaining about the insufficiency of doctors and whatever. If the Government says: 'I am going to employ one more doctor and I am going to raise the fee by 5p to pay for the doctor', I think there is an equation there. But, quite frankly, the medicines is not so easy to relate because if you have got a flu epidemic then you'll certainly get a jump in the use of medicines. You are paying a standard fee as a subscriber to the scheme. We understand the purpose of section 5 to be to provide funds for running the scheme and the prescription charges is a matter of Government policy where you have free medicines in the health service or different health services do it in different ways. I believe, for example, in Spain they actually give you a 70% discount and you go to have the prescription done and then what you do is you pay 30% of the

price of the medicines and the state pays 70% but the health service as such, where there is a contribution towards the health service as we have in Gibraltar it is for the running of that service as we understand it and this is what we understand was the purpose of section 5 and this is what we would expect to be amending now, increasing the contribution because, of course, these things don't stay static, every year they go up. Why 27%, why not 25% or 30%? What is the logic of this particular sum of money? Is it just a figure picked out of a hat or what?

HON M K FEATHERSTONE:

Sir, I think the Hon Member has been labouring under a misapprehension in his interpretation of section 5. It has always been the system that the cost of prescriptions came out of the moneys collected in the Group Practice Scheme. The reason it is 27% is simply that it was a neat numbering of figures from 55p to 70p rather than say from 55p to 69p. It was a rounding up exercise to make it to the nearest 5p. But the increase basically is for the increase in the cost of drugs. This was the same with the last increase two years ago, it was also because drugs were increasing so drastically, it was not basically a great increase in the cost of administration. The administrative costs although they have been increasing over the last few years, has been a minimal increase in comparison to the increase in the cost of drugs.

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

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

The following Hon Members abstained:

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

Clause 3, as amended, stood part of the Bill.

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

THE SOCIAL SECURITY (NON-CONTRIBUTORY BENEFITS AND UNEMPLOYMENT INSURANCE) (AMENDMENT) BILL, 1987

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

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

THE SHIP AGENTS (REGISTRATION) BILL, 1987

Clauses 1 to 12 were agreed to and stood part of the Bill.

Clause 13

HON ATTORNEY-GENERAL:

I beg to move, Mr Chairman, that the existing provisions of Clause 13 should become subclause (1) and should be amended by omitting paragraph (c) and re-lettering (d) as (c). And then adding after subclause (1) a new subclause (2): 'If a registered person has not carried on the business of a ship agent within the period of 12 months beginning on the date on which his application for registration was granted, or has ceased to carry on such business for a period of 12 months, the Board may direct the Registrar to delete the name and particulars of that person from the register'.

Mr Speaker put the question which was resolved in the affirmative and Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14 was agreed to and stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

To amend, Mr Chairman, in subclause (2)(b) to omit the words 'costs or expenses by any party to' and to substitute the words 'the costs of'. So that subclause (b) reads: 'Gives such directions as the Governor may think fit for the payment of the costs of the appeal'.

Mr Speaker put the question which was resolved in the affirmative and Clause 15, as amended, was agreed to and stood part of the Bill.

Clause 16 was agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Just one slight amendment here, Mr Chairman, on Clause 17(1)(a) which reads: 'A person who - (a) has been carrying on the business of a ship agent for a continuous period', I would like to amend that to read: 'A person who - (a) has been carrying on in Gibraltar the business of a ship agent'. I think that is rather an important amendment.

Mr Speaker put the question which was resolved in the affirmative and Clause 17, as amended was agreed to and stood part of the Bill.

Clauses 18 and 19 were agreed to and stood part of the Bill.

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

THE CRIMINAL OFFENCES (AMENDMENT) (NO.2) BILL, 1987

Clause 1

HON ATTORNEY-GENERAL:

To delete the expression '(No.2)', it is the Criminal Offences (Amendment) Ordinance, 1987.

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

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

Clause 3

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

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

The following Hon Members voted against:

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

Clause 3 stood part of the Bill.

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

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1987

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE GIBRALTAR SHIPREPAIR LIMITED (AMENDMENT) BILL, 1987

Clauses 1 and 2

On a vote being taken on Clauses 1 and 2 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clauses 1 and 2 stood part of the Bill

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Long Title stood part of the Bill.

THE SUPPLEMENTARY APPROPRIATION (1986/87) BILL, 1987

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No.4 of 1986/87.

Head 12 - Income Tax Office was agreed to.

Head 13 - Judicial (2) Magistrates' and Coroner's Courts was agreed to.

Head 15 - Law Officers

HON J BOSSANO:

Mr Chairman, we are in fact going to abstain on this vote and I will explain why. I think perhaps it is appropriate to put on record the high regard in which we hold the Hon Member opposite and how sorry we are at hearing of his decision because I think

he has been able to persuade many of us that for him Gibraltar has become his second or, perhaps, even his first home. But, of course, in everything that we do we try to be consistent and therefore we are breaking with consistency by abstaining as a reflection of our high regard for him because we would have voted against if it hadn't been him. Because we voted against the law introduced by Mr Mackay as Financial Secretary, at least I did, which made the payment of short-term gratuity on completion of contract non-taxable. It is not because we feel that it is wrong that they should not pay tax it is because we feel it is wrong that they should be the only ones not to pay tax. That is to say, there are many other public servants and there are many other people, I can tell the House of somebody who lost his employment two weeks ago, a Moroccan labourer with the Ministry of Defence, with ten kids who out of £5,000 gratuity has had to pay £1,500 in income tax. We feel that is wrong, we were not able to persuade the Government to make short-term gratuities non-taxable in Gibraltar as they are in the United Kingdom. In Britain these gratuities are not taxable for anybody. The Government was only willing to make a concession in respect of employees who obtained their gratuity after twenty years service because to continue in service would not enhance their gratuity. But, in fact, we have many hundreds of people who have worked for the Government of Gibraltar or the DOE or the MOD who have left their employment either for personal reasons or because they were made redundant recently, we had hundreds of people made redundant by the MOD, who didn't pay tax on their redundancy but who had to pay tax on their gratuity because they hadn't done twenty years. We feel that is wrong, we felt it was wrong all along and we feel that it compounds the wrongness if you then have a select group of public officers also paid out of public funds, who get a bigger gratuity after three years and they don't have to pay tax and we found it particularly objectionable at the time because, in fact, the person moving the law at that time, the then Financial Secretary, was legislating for himself preferential tax treatment which he was not prepared to share with anybody else and we have been consistently opposed to this and consistently voted against such provision whenever it has come up and therefore in this case we are making a major sacrifice of conscience because of our appreciation for our colleague across the road and we are going to abstain on the vote.

On a vote being taken on Head 15 - Law Officers the following Hon Members voted in favour:

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

The Hon C Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon B Traynor

The following Hon Members abstained:

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

Head 15 - Law Officers was passed.

Head 16 - Medical and Health Services was agreed to.

Head 17 - Police was agreed to.

Head 25 - Treasury

HON J E PILCHER:

Mr Chairman, I think on various occasions during this House we have mentioned that, in fact, our main contribution on CSL and, in fact, our main contribution on the statement read out by the Hon and Learned Chief Minister yesterday would come when we actually discussed the firm that the Government is going to give to Gibraltar Shiprepair Limited. If I may, Mr Chairman, I would like to start off by emphasising a point made by the Hon the Leader of the Opposition yesterday which was that we totally accept that the Government went to an election and, in fact, won an election and one of their major points of the election was the fact that they would use the £28m to start a Gibrepair operation and that, I think, that has to be said because I think we have throughout accepted that Gibrepair is there to stay and although we have differences of opinion in this House in how we treat the matters arising from CSL and there have been many difference of opinion and, obviously, there will continue to be many differences of opinion, I think I want to put down on record the fact that we accept that Gibrepair is there to stay. However, having said that, there are only two parts on the statement made by the Hon and Learned Chief Minister yesterday which I can accept. I think the two parts that I can accept in the whole of the statement are: (1) the final part of his statement when he said: 'The Government believes in the

future viability of GSL and, in particular, in the efforts being made by the many employees whose living depends on the running of the yard. We owe it to them, to the company, the chance to succeed. Admittedly, it is going to cost Gibraltar more but it is Gibraltar which will benefit in the end'. For this reason, Mr Chairman, we will not be voting against the money but rather abstaining, we cannot vote in favour of the money for reasons which I will explain in a moment. I think for this reason and the reason that the Government is making a contribution to ensure the continued operation of GSL thus securing the jobs of those who are committed to the running of the yard and, particularly, to apprentices who look to the yard for their future employment. I think if we were on that side of the House faced with the same problem, I think there is no question whatsoever that the money had to be put in and has to be put in to safeguard people's jobs. That is something which I wanted immediately to clear so that when I do start criticising the Government and various other factors, there is no misapprehension and no misunderstanding in anybody's mind that that is what the GSLP, as a matter of policy, have always viewed. I think there is one anomaly, however, in the fact that although the Government say that they are prepared to do this for the employees of GSL, there is however one anomaly which I must emphasise because I am somewhat perplexed because although the Government are going to make this contribution, they then go on to say: 'I must emphasise that it makes no allowance for increase in wages and salaries nor is the Government prepared to provide additional funds to meet the cost of pay settlements in the yard in whole or in part. The Government is already prepared to make a very substantial contribution' and then it talks about 'it is up to the managers and the productivity as to what the company can afford in containing its costs to difficult finance circumstances and in a highly competitive market'. This, I think, is a contradiction in terms because we all know that the employees in the Gibraltar Shiprepair Limited do not want to be treated differently as any other employer of the private sector and therefore they would like, obviously, their salary and their wages to be equitable to that of the private sector and if as everybody in the House accepts that these people are making a very large contribution and they are prepared to work, I think I can only emphasise what the Hon Leader of the Opposition said yesterday which is a fair day's wage for a fair day's work. I think there is a bit of a contradiction there because it seems to me that if the company have financial difficulties and the £2m, well, I think that we are voting and certainly another £1m which the Hon and Learned Chief Minister has announced will be given later on in the year, if there is no provision for wages and the company is in financial difficulties then I think it is very difficult for the company to be able to pay out or to meet pay settlements. Obviously, that is a different matter which I just wanted to clear and perhaps the Chief Minister later on can make

a contribution. But I think that, Mr Chairman, is where the Government and the Opposition take their own paths. First of all, I would like to say because it is mentioned in the second paragraph of the Chief Minister's statement, I have to make a comment on GSL's accounts. Mr Chairman, I cannot let the opportunity pass because when the Government brought the GSL Fund to the House they took great pains to show the then Opposition and the then Opposition included today's Leader of the Opposition, how it was that they were going to control both financially and in policy matters etc, the operation of GSL and one of the aspects and it was and, in fact, this is where the Hon Leader of the Opposition spoke yesterday about the cranes because the then Opposition - and I must say immediately this is not the philosophy of the Opposition today - wanted to get involved in the day-to-day expenses of the company, whether they should buy ten pencils or twenty pencils and one crane or two cranes, that is not the philosophy of this Opposition. But certainly what the Chief Minister then continued to say is and always had been the philosophy of this side of the House and he said: 'And therefore I think that the way that we propose to do it is the most practical and the most correct way and it is subject to the scrutiny of the House when the accounts are laid on the table at the end of each year'. Mr Chairman, we are now at the start of 1987 and we still haven't had the accounts of 1986 and I think I know the reason why it is although as a layman I have great pains in understanding how the 1985 accounts cannot be brought before the House because the company has to show that it has money to pay for the next twelve months of trading when the company has already been trading in 1986 and we are now in 1987. I take it it is a particular aspect of accountancy which certainly baffles me because the company has already been trading for the next fourteen months after the accounts were closed. I must stress the point because the basis of the whole of the argument of the Opposition is that no control whatsoever has been exercised from this House into the dealings and the wheelings, and I use my words carefully, of the Gibraltar Shiprepair Limited. One point that I also have to make as regards paragraph 2 of the statement of the Chief Minister is that we have had a report on what the Price Waterhouse Report says. We are also told that there will be an abridged version made available to the Members of the Opposition and I think made public. Be from the Opposition side or at least I myself, and I was given the privilege in confidence to see the management contract, would like to see an unabridged version of the Price Waterhouse Report on a purely confidential basis. I have made the point, I did make the point for very, very long that I wanted to see the management agreement and I was always told it was in confidence but eventually I was shown it and I would like the same treatment because all that the Government is saying is that there are parts which are commercially sensitive information like the

management contract was. I go on to paragraph 3 of the statement which says: 'First of all, I would like to retrace the background to GSL's funding problem'. So would I but I am going to do it in a different way than the Chief Minister. The problems of GSL's funding lie on, first of all, the ODA resistance to give us money after the £28m and we have heard this morning at least we heard yesterday that of the £5.6m, £4m is earmarked for capital expenditure and I think, if I am not mistaken, the Chief Minister at the time did say that if we needed more money after the £28m and it could be proved that it was because of situations which were not directly relevant to Gibraltar and the Gibraltar Government, then that money he would try to make sure that it came from the British Government. Even if we don't talk about the £2m now, even if we don't talk about the £5.6m, those £4m which are for capital expenditure certainly are as part of the money which the UK Government should put into GSL. Certainly the problem has been and, again, I liked very much the Hon Financial and Development Secretary's way of saying how it was that the Chief Minister asked for money so I will repeat it, obviously there was a lot of resistance to the Chief Minister's eloquence and as a result of which there is no more money for GSL even in the face of the Price Waterhouse Report which earmarks, for example, the £4m for capital expenditure.

HON CHIEF MINISTER:

I am sorry, I don't want to break the trend because I am very interested and I shall have a lot to say about what the Hon Member is saying and I am very interested in what he is saying. Let me make it quite clear that the last request for help directly to the Secretary of State was made before the Price Waterhouse Report was available.

HON J E PILCHER:

I think, somewhere in the statement it does mention that there was no more money. I will look for it and obviously find it later on but somewhere in the statement it said that no more money was coming despite the findings of the Price Waterhouse Report I think but it is only a minor point, I take the point made. As far as we are concerned, the GSL's funding problem lies with the fact that nobody has had any virtual financial control of the company. That is where we depart from the philosophy and the background that the Hon and Learned the Chief Minister told us was the GSL's funding problem. The controller which was at the heart of that control which was going to be exercised by the Government was not appointed until, I think, middle or later 1986, June 1986. We have on many, many occasions brought situations to this House where we thought that the company was dishing out money or that moneys

were disappearing in what we thought was a strange situation and until I think the latter part of last year all the questions that I have asked and there have been hundreds of questions that I have asked in this House, were merely rebuffed with the Government not wanting to take either political responsibility for it or even the Financial and Development Secretary, the then Chairman of the Board, telling us that we should refer it to the company. I will give you specifics because those specifics are mentioned today by the Price Waterhouse Report. The matter of the computers I think we raised in early 1986 in a question and we were told 'There is nothing wrong with the computers, there is nothing wrong with the computer operators'. Price Waterhouse today is saying part of their problem with funding is that they have got a disastrous computer system, at least if you read between the lines that is what they are saying. We brought to the House a situation which we thought was - I won't use the word 'fraud' but very close to it, the scrap, the MOD cranes, we were told by the Financial and Development Secretary he wouldn't even look at it and when the Financial and Development Secretary speaks in this House he speaks on behalf of the Government so the Government were not prepared to look at what was at that time a £70,000 contract although we know today that following certain decisions there are people looking at the question of scrap in the GSL and I think the findings of that report will eventually show that we were right at that time. I think it is not a question of just saying, well, GSL's funding problem is because the series of industrial action. What is at the heart of the funding problem is the inability of Government to even want to control and I take the - I am becoming a bit like the Leader of the Opposition the only difference is that he memorises them and I have to read them - but I will take the House back again to the discussion on the 18th October, First and Second Reading of the GSL Bill where the Hon Financial and Development Secretary which I see Mr Montado was the then Hon Financial and Development Secretary Acting and he is sitting behind the Hon Financial and Development Secretary today, talked of 'The division of responsibilities will be defined to enable the Government as the sole or majority shareholder not only to give reasonable control over the activities of Gibraltar Ship-repair Limited in a situation where the company might not be acting in the best interests of Gibraltar. Indeed, there are overriding provisions in the Articles of Association which give the Government the power to remove directors' etc. And if that wasn't clear enough and it seems not clear enough to the then Opposition which kept on for another two hours harping over the control, Mr Montado again said: 'I think we have to ensure that there is full accountability and control and that this House is aware of everything that goes on in that dockyard. There is a lot of money going into it and precisely on other matters such as funding procedures we intend to regularise that so that the House will also be in a position to challenge, to

discuss and to see how things go. I have to, I think, repeat that we have made a lot of effort in ensuring that we have as much control over the new enterprise as possible'. We come to a situation today where the Price Waterhouse Report talks of 'A senior financial executive at Board level should be appointed to control the financial management of the company, urgently resolve the problems associated with computer, establishing realistic and appropriate financial and management reporting system, review the trading requirements. The company should conduct as a high priority a comprehensive review in its overheads, attention on maintenance and consumable energy, water. The company should continue to direct attention at managerial resources to increase in labour productivity, training', and the Chief Minister has - and I cannot find another word - the audacity to say that he gives all the credit in the world to Mr Peter Simonis and the Board of GSL who for the past two years have not known that all these things were going on and if Mr Peter Simonis like the Chief Minister told us yesterday, is now in a position where he wants to discipline his managers he should have tried to do that to Abbott two years ago instead of taking his side like he did from the very beginning. All I can say is, having read from the Hansard and we all know in this House and people outside who have followed the proceedings of this House, know that the Government of Gibraltar have taken no political responsibility whatsoever, not in financial matters, not in policy directives, in absolutely nothing and if this were any other House in any other part of the world the Government would be facing a vote of no confidence today for the way they have managed GSL. In paragraph 5: 'The consultants do not envisage any further growth in GSL employment and suggest that in the longer-term the company should consider shifting the balance of the workforce to a smaller full-time workforce in common with the practice operating in UK shiprepair yards'. We should tell you 'we told you so' but we are not going to.

HON CHIEF MINISTER:

You are.

HON J E PILCHER:

The reality is that this, again, is one of the points which I expect will be fully explained either in the abridged or the full version of the Price Waterhouse Report. Obviously, it means that GSL should not continue to employ people but should aim for a smaller workforce but the realisation of that and the reasons for that, obviously it is not enough just to make that point and obviously if we are looking at the key recommendations, employment, industrial relations, training, marketing, business viabilities, estimating, obviously was a very, very small summary which the Chief Minister gave us yesterday and I

accept that that was only his only intention, to give us a small summary. But certainly that point I am leaving in abeyance at this stage until we get either the abridged version when we will be looking particularly at employment within GSL because of other factors and other points that we have been raising over the last couple of months like, for example, the decrease in local labour, the increase in Spanish labour and non-EEC labour, EEC labour in general. I think that point has to be made. Another point that has to be made is what I term myself at this stage a red herring because I have heard this so often that it is now to my mind certainly a red herring and this is the fact that the Report also points to the poor state of the yard's infrastructure and facilities on handover. I was at the time and I still am working at the yard and Appledore's representative and everybody came to look at that yard so if the yard was in a poor state they should have noticed that and in any case they have been saying that over the past two years. We have probably spent the £5.6m, £4m is for assets and we will still be told about the poor infrastructure. They put in a bid, they put in what they considered a submission and they said that they would run the place with £28m and that that was needed for capital expenditure and they got it wrong and we should be saying today here 'they got it wrong', we shouldn't be excusing them for having got it wrong and it seems to me that that is what we are doing because every time we talk about capital expenditure.....

HON CHIEF MINISTER:

Accusing whom?

HON J E PILCHER:

Excusing. Instead of excusing Appledore. It seems to me that this is the case because he is saying 'The Report also points to the poor state of the yard's infrastructure'. Everybody knows that, they have known that for the past three years but the reality is that this also they got wrong. In summarising that first part I think certainly I have no confidence at all in the way that the situation in general has been handled. The Leader of the Opposition made the point yesterday, I think there is enough information here to sack Appledore than we are ever likely to have anywhere in the world for anybody who has wanted to sack anybody. Secondly, the confidence in the Board is wavering, at least my confidence in the Board. And, thirdly, our confidence in the Government who said what they were going to do but, of course, we heard the Hon Mr Canepa this morning saying that the Government can take five weeks or five hours, the reality is that the Government takes fifty years to do anything and this is one of the proofs, they have already been with this three years and they still don't have any control whatso-

ever and perhaps today marks a change but we'll see. I take it that we will be here for the next year or until the election criticising the Government for doing exactly what they have done up to now, nothing. I think it is a very important, it is certainly very important, we all accept that GSL is important to the economy of Gibraltar, to employment to a lot of people and we just cannot run a business because, after all, it is a business in that fashion. Obviously, the fact that GSL needs £2m, £1m at this stage and another £1m later on in the year for allowing for savings in overheads and other costs, we say that this is a direct result of mismanagement of both Appledore and the Gibraltar Government. My wife asked me why I had a smile on my face when I was reading this last night and I think every time I read it a smile appears on my face. We are giving them £2m but neither the Chairman nor the managing director think that that is the way of running a business. Anybody in the world would be more than happy if every time they had a loss they got £2m but they have the audacity to say 'neither the Chairman nor the managing director accept that there will be a need to subsidise the company and they don't like this subsidy'. We are paying £300,000 for Appledore to manage and on top of that they are going to give them £2m this year. Of course, that is not a desirable way to run a business. I think on the last part of my contribution, at least until, obviously, I hear what other Members have to say, we have heard because we also read it in the press, about a business plan for 1987. This marvellous plan that will produce profits in 1988. My mind goes back to the beautiful projections and assumptions of Appledore in 1984 which would produce a profit this year with a break even last year. That has not materialised. Why should I have any confidence that in a year's time the Financial and Development Secretary will not be saying to me as he has, not only in this House but in previous Houses that there are changing circumstances and the assumptions made then are not acceptable today. Why that should not be the case in a year's time or in two year's time, there is certainly a lack of confidence on this side of the House that anything produced by Appledore will ever work. But in any case we do not have the faith in the managers of the company that that side of the House has and therefore we would like to be able to see the business plan for 1987 before we vote in favour of spending money on the company because we are not just saying 'Aye' here, we are spending £2m more of the people of Gibraltar's money. I think it is important not only just to change the law which allows the limit to go or to just sit here and decide to give them another £1m but to explain why it is that we are giving them £1m and to say: 'Well, we are giving them £1m because in the business plan for 1987 we see that it is going to be a rosier picture'. We also want to see that before we vote in favour and that is why we cannot vote in favour. I have told you why I cannot vote against because of the employees and I am now

telling you why I cannot vote in favour so we are going to abstain. It is important for us to see that business plan, just as we were able to see the assumptions because we can then come back to this House and criticise when those assumptions of that plan are not adhered to. Of course we want to see it, whether the Government gives it to us is another matter but I think if they don't it just shows that they don't want us to see what we can then criticise the company for not being able to meet. As far as the 1987 programme is concerned, of course 1987 is going to be a good year for the company, nobody ever thought that it wouldn't be. RFA work is peaking this year and of course it will be a good year if the hidden subsidy of £14m is going to appear this year in 1987, in an election year, may I say but, of course, that has nothing to do with it, it is just a pure coincidence it is going to appear this year but that is not the concern, the concern is what will happen and we have expressed this concern in this House, what will happen when the RFA hidden subsidy terminates. That is when the company will have to stand on its own two feet and we have seen no sign at all either through accounts that we haven't seen and on the information and certainly on the report. We will read the full report and perhaps we will have a different view but today I am only reacting to the statement of the Chief Minister. For all those reasons, Mr Chairman, I can only say that the Opposition abstains but that certainly I have neither confidence on either the Government, the Board or the managers because they have shown me, the Opposition and the people of Gibraltar that at no time have they really had Gibraltar's interests at heart. Thank you, Mr Chairman.

MR SPEAKER:

I think this debate will continue a bit longer and as it is five past five we will now recess for tea.

The House recessed at 5.05 pm.

The House resumed at 5.35 pm.

MR SPEAKER:

I will remind the House that we are still at the Committee Stage of the Supplementary Appropriation Bill.

HON CHIEF MINISTER:

Mr Chairman, I would like to make a few comments on the intervention of Mr Pilcher who, typical to the philosophy that they have followed, has not surprised me but if I may say so and without attempting to be patronizing, I think he has gathered

the fact of the summing up of his years of concern about this matter in reasonable terms in the sense that he has classified the various objections that the Opposition have had though, of course, with some notable omissions which I will try to correct by putting an element of balance in the debate. In the first place he said that, of course, the election was won by us and it was quite clear that the people had agreed to that and they accepted that; in fact, they said that at the time. But my view is that they never accepted it, they never accepted it because they thought, obviously, that they were right and, obviously, that the electorate was wrong in having chosen us, in the question having been made an issue of the election that the electorate was wrong in doing that and that has been reflected in the attitude taken by Hon Members opposite sometimes in one capacity and sometimes in another. Let me say, first of all, that I am not here to defend Appledore, very much the opposite. I think events have shown that up to the time of the general strike things could have gone very differently if, on the one hand, there had been a more receptive management and if, on the other hand, there had been less hostility on the part of the unions. That is all history now and, as I say, I am not making any apologies for anybody except to defend the attitude of the Government. For example, one question, the question of infrastructure which was laid great stress on. It was quite clear and this has been used by me as often as I can and, in fact, I may say so that perhaps one of the reasons why we were able to get the £2.4m was because of the stress made on that. That was basically a very grievous attitude to which Gibraltar was submitted by being handed over a yard which they either knew, those who were doing the negotiations or those at ground level, either knew or ought to have known that the yard had been neglected for over forty years and nothing had been done. You will say: 'You should have known, you should have carried out a survey', true, that was done also but the infrastructure was so poor that some of the things do not come up and are not noticed until they are tested. It is like living in a house in the summer time, you don't know that the roofs are leaky until it rains and this is one of the aspects of the matter which has, I think, been at the root of the difficulties that we have run into or rather, one of them because the first one was, of course, the question of the management. I would like to know, perhaps I will be told, why whilst the managers were not employing anybody therefore they were not subject to industrial action, the unions blacked their entrance into the dockyard. They lost time even if it was on the question of looking at the infrastructure, they were not allowed to get near the place that they had been appointed to manage. All these are factors, I am not saying there isn't, like in everything else in life, there isn't one point alone or one factor alone that you can blame all that happened to this or the other, it is always a combination of factors some of which some people are responsible of one side - I am just speaking generally - and the other one on the other

side. We have to look at the matter as it has developed. True, there has been a difference, apart from the background that I have given, there has been a difference of approach to the matter to what Hon Members opposite would have done had they been elected. In the first place, they would have sacked Appledore. I don't know whether they would have been able to get the £28m without Appledore, I can assure you and I say this from my experience and my colleague was with me when we saw the Prime Minister, that at that time if it hadn't been because the British Government had faith in the fact that it would be Appledore who would be able because no doubt they were convinced by their report that they were the people who could save the yard, we wouldn't have got the £28m. The point made by the Leader of the Opposition from time to time that that is £28m Gibraltar money, give it to me I can run it my own way and I can use it much better, with the greatest respect that is utter nonsense. That money wouldn't have come at all, it only came because they, those who were paying the money, those who had been convinced from proposing the grant aid situation to Gibraltar which would have been unacceptable or which was mooted at the time or a conversant situation for a commercial yard at a time when the frontier was closed and there was very little possibility of employment and there was a big labour force that would be left unemployed, those who decided that that money was available for conversion made up their minds because they thought they had good managers who would do it. Experience has shown, certainly up to last summer when the strike, unfortunately, came on top of us but like everything else you have to have a big event to try and change courses somehow and everybody changed course up to then, we do not think that we got value for our money and we expressed that. But the great difference in philosophy - I was coming to it - that we did not think and we do not think today that it was the function of the Government to run the yard. Mention has been made about the consultancy fee or the management fee of £300,000. That is what they were paid to do to run the yard. That was in the contract and that is what they should have done, that they did it badly, that there was a confrontation that was responsible - without saying who was responsible - there was a continuous confrontation which damaged considerably not only the image of the yard but even the workforce, the whole development of the business of the yard, that is quite obvious and we are still suffering from that. One other thing and that is I did explain in my statement, the reference was made about the fact that the accounts were not ready and I did say in my statement that I hoped that they would be able to and we will have a debate on the accounts then. I think we ought to try and divide these things as they come because otherwise every time we have a discussion we ought to try and look at them as they come, on the merits rather than go back all the time - I am not complaining that we are going back all the time now,

but that next time when we have the accounts we will speak from now on as to the future otherwise instead of putting our heads together and see what solutions can be found, we are going to find ourselves more at odds with each much to the detriment of the people - I was very happy to hear the Hon Mr Pilcher say that they share the sentiments expressed in the last paragraph of my statement. I didn't expect any different but I am grateful for his having made it so clear because I think that is the main concern that has guided the Government in doing what may or may not be unpopular but the main concern is that we believe that we owe it to the people who are trying to make a go of it to make this sacrifice, even if it may be, in our case, at the expense of an element of unpopularity but I have always felt that it is better to do the right thing whether it is popular or not and if you are right then the popularity comes after if you are looking for it, but not to do the things because they happen to be convenient or popular at any particular time, never. That has been my guide through my public life and I will continue to do that for as long as I shall be concerned in these matters. I understand the frustration of the Hon Member about not being able to have the accounts. He has outlined reasonably correctly, I am not going to correct him, reasonably correctly the position but I must explain that it would not have been possible for the directors to sign the accounts if they were not satisfied that there would be money for a going concern and this is where they say: 'They signed it and now you are looking', but in fact when directors are dealing and there are independent directors there and all directors are concerned about their responsibilities as directors but you are dealing with a Government, the Government undertook to seek the approval of the moneys like all Governments have to do it in advance of obtaining the consent well knowing that we would not get the support of the Opposition but the Government must govern and we gave that undertaking and it was the reaching of the decision which was linked up with the report of Price Waterhouse that complicated the matters and therefore the Financial Secretary had to give authority under the relevant section or Ordinance, whichever authorises him to delay the presentation of the accounts, by three months which should have been done by the end of September and therefore by the time the accounts were completed they have to be audited and I said yesterday why the accounts are not before the House because they now have to be looked at by the Auditor of the Government as prescribed by law. I did say yesterday that I would try and see whether I could give more details of the reasoning why we felt that 1988 would be a year where there were prospects of it paying off and I have looked carefully and I see that I did say as much as I thought I could already in my statement but perhaps I might use this opportunity to emphasise something which is already in my statement. I don't want to be told: 'You have already told us that' but I am trying to give it, rather than a reading of a

statement, some emphasis in the thinking that makes it possible for us to feel confident that 1988 might be a good year. Perhaps the one to emphasise most is the adjustments that must be made to the scale and nature of the company's operations and the largest of these must be on overheads. Despite my criticism of the management before, I think that before Price Waterhouse had given their report there had been an attempt at cutting some overheads but that is not enough in the criteria of Price Waterhouse, that is not enough, and the scale and nature of the cuts in overheads is vital because there alone goes a lot of money and that, of course, not only is it intended but, fortunately, we have a more understanding management now who have to be committed. When I said yesterday that the Chairman was getting to grips with the matter I wasn't saying that he had not done so before but everything gets a crux when your patience is exhausted and you come to decisions which you are reluctant to take at the beginning because you think that things can be bettered and I say this with full confidence that either - and this is no threat, it is just a statement - either these things are done or there may be rather dramatic developments which would be very welcome by the Opposition. I have got to be reasonably careful because I don't want to jump the gun but I am trying to be helpful in my presentation of the situation, I am trying to be helpful and to indicate as clearly as possible without going into any details of the kind of things that one has got to have in mind if that is going to succeed. The continuance of improved relations between management and the workforce is essential. I will come back to the wages, I am not going to shirk that, I will come back about the wages. Last year's strike, and again let me say that I am stating facts I am not allotting blame or anything, I don't think that in a situation like this it is the time or the judgement nor am I in a position to allot or adjudicate because there are many, many views of it and certainly if I had a view which might be prejudiced I wasn't going to use it in aid of something as serious as this matter. Let us just count the losses and let me tell you - and I am sure Hon Members know - maybe it was, perhaps the best £4m spent but it cost us £4m, that strike in the dockyard or rather, it cost the company £4m. Maybe in the end it was well spent because a lot of things happened, I am not encouraging strikes, I am not attempting to say that, very much the opposite, but big decisions are taken by big events and I think for many reasons I need not go into, decisions taken by people much higher than us, by Deity, perhaps, had something to do with the whole matter that helped to cause the change at the time. Far be it for me to take sides in any decision taken by that authority, I just have to abide by it like all true believers. When I said that this money did not include any increases for wages I thought it was necessary to make this clear, first, because again we go back to the essential that

the yard must be viable in itself and I think that given an attempt at moderate increases like the rest of the private economy, I am not saying specially or not, that will depend very much on the manner of work, but if we do these cuts in overheads and manage and, in fact, the productivity is good, as good as any in many ways but like all productivity if people are happier and circumstances are better we can produce more, then that money ought to go to the men, there is no doubt about that because we do not allow for that in the prospects, that is to say, that is the margin when I say that when it comes to wage settlements it will have to be on performance, not on performance of the men only, on performance of the whole set-up. And, of course, it will be up to the company to decide what they can afford and, of course, the parameters must be what is on the market place otherwise people in a situation where there is more employment in a way than others will just leave and go and therefore if you haven't got a workforce you cannot run the yard. Those are the central assumptions in helping the company to move towards what we expect to be profitability in 1988. It is expected that sales for 1988 and 1989 will be around the 1987 figures despite the fact that 1987 is going to have not a subsidy as the Hon Mr Pilcher has mentioned, but part of the package which was to start a business with a customer. If there is one thing in which I think the original managers have been proved right is in their marketing. I think there is no doubt that the suggestions made at the time, that this was a time of recession, that this was a time when there would be no ships coming, I often said that it would not be very bad business to open a petrol station in a highway and make sure that you have a client for the first two years which is what happens with our yard, it is very well placed and there is every prospect having regard to past experience in the marketing and the proposals, that 1988 and 1989 will be around the 1987 figure but not nevertheless as high as the original APA proposals and therefore there will be less man hours sold and therefore it may be that there may be a retraction and I think we can comfortably afford that because we all know who are the people who are committed and who are the people working there because they have nowhere else to go or because they want to work there. I don't think that a slight reduction in the labour force, if that is required to make it more viable is going to create any upset in the local market particularly having regard to the concept or the mix-up of the nature of the labour force and I don't want to say anymore about that. This, I hope, the Hon Members will see when the report is published but we are not talking of increasing sales levels with a static labour force. I will see the difference and the extent of variation or the element which Price Waterhouse will expunge from the overall report which are of a sensitive nature. I will see what it is, I cannot commit myself beforehand, I will certainly look at it with the intention of making it possible for the Hon

Member to see it in the same way. I make no promises because I don't know what is to come, I don't like to make promises but I will try to do that. With regard to future help from ODA the proposals put forward by the Government for further funding from ODA, as Hon Members know, was £3.5m and it was as a result of very great persuasion and attempts of all kinds within our possibilities that they came to the figure of £2.4m and let me say that the deteriorated infrastructure apart from the necessity for working capital, the deteriorated infrastructure of the yard was our main argument for help because we could argue and we can argue that we were taken slightly for a ride in that respect. I don't think it may have been done deliberately but the fact is that that has been one of the big causes of the difficulties that have been in the yard apart from others for which blame can be apportioned according to from what point of view you look at but that certainly is static and there and it is quite clear that even a survey, I mean how could it have been known without the practical working of it how leaky the water distribution system was until you started to pay high bills for water which was going down the drain, literally speaking, and many other ways in which the yard has been found to be wanting which time has shown and I hope that we don't have many of those. But we did go hard for help on that, we have been told that that was final. I am not saying that we can get anymore money but I am saying that I haven't said that as far as I am concerned it is final and time will show whether that is so or not. Certainly, if we make a contribution ourselves precisely because some of these things have happened because of lack of knowledge and so on, our case is strengthened for further help if it is required. I have been told quite clearly, my Hon Colleague was overkind when he said 'unless I can persuade', well, I can tell him now if he didn't know before that my powers of persuasion have come to an end to the extent of the circumstances as at the 1st October of last year which was when I happened to be in the Commonwealth Parliamentary Association Conference that I took advantage of seeing the Secretary of State and I then, in considering all the matters, made a plea because I kept on saying whether final was final and he said: 'final is final' and I said: 'It may be final for you but as far as I am concerned I reserve the right to come back'. But it is no use going back immediately after you have been told that it is final. You have to have additional reasons to be able to go back and show that it is necessary to do that.

HON J E PILCHER:

If the Hon Member will give way. Now that he is referring to that, the quote was: 'I regret to say that the ODA consider the £2.4m contribution to be final and no further additional

funds will be forthcoming notwithstanding the findings of the consultancy'. That is what I was referring to when I said that.

HON CHIEF MINISTER:

That is an expression of view. I am very grateful to the Hon Member for drawing my attention. We have given an idea of what the consultancy was about but we have just got it, we have not given it to the ODA and we have not started claims arising from that as yet but it would be less than sincere if I said that the prospects are good but nevertheless it doesn't matter and it doesn't matter as far as I am concerned because reluctant as I have always been to have to ask the United Kingdom for help because I happen to be in a position in politics up to 1964 for some time since then, eighteen years, where we didn't have to go to London to ask for anything and that was the happiest position ever. I considered the first time we had to go for help as a result of Spanish restrictions, I considered it humiliating to be quite frank despite the fact that we did get a lot of help but I considered that Gibraltar had done its best on its own, it had contributed considerably towards housing up to 1964. It is no use saying that we haven't housing because the ODA's money has finished, we haven't housing because ODA money has finished for that because the ODA money came when we needed it but when we were self sufficient, to some extent, the bulk of the housing of Gibraltar was done with money from revenue and money from the Consolidated Fund, before 1964 when the policy of sustain and support came to Gibraltar. It is no pleasure to have to go and ask what I consider to be my equals and nothing less or nothing more, to have to ask for help. But circumstances which are outside their control and has been outside our control have made it necessary and I have stressed that at every opportunity, at every development talks, every time the question of money has come up that had it not been because they were completely impotent to do anything about the way in which the restrictions were imposed and the difficulties were created towards Gibraltar in retaliation for that and we were the only people that suffered, there would have been no need to go to Britain for money at all. We might have got, as we used to get before, our fair share without even asking for it of a little money, if you remember we got money for a couple of small two further tanks for water for the old City Council and so on. So really, as far as we are concerned, we shall fight and use the Price Waterhouse Report (a) to try and help the yard to become viable and try also, if necessary, and I think it will be necessary, to avoid any further necessity and perhaps to be even comfortable when we have made a thorough study of the Price Waterhouse Report to go back to the charge because I think we are

entitled to it because I think that part of the loss was suffered by consultants who were chosen and I am not putting the blame on the fact that they were chosen by the British Government at the time of the grant of the aid for the commercialisation. I can assure the House that despite the fact that there were other bids, my judgement was that they thought of the people on the market for that, the only people who could be trusted and their judgement has obviously not been very correct, but the people who could be trusted were the people who were appointed to the management. It is in the circumstances that I have explained that we reluctantly but of necessity come and I would like to finalise these remarks now by appreciating the attitude of the Opposition on this vote in not voting against it but abstaining.

HON J BOSSANO:

I think the Hon and Learned the Chief Minister has assessed correctly that, in fact, in putting our view forward on this matter we have exercised restraint because it is one thing to have an argument before something is done and another thing is to continue the argument after it has happened. There would be, in our view, no usefulness if we were to keep the House of Assembly interminably bogged down as to how we should spend the £28m when the £28m is no longer there to be spent and therefore we are looking at the situation as it stands now, again because we ourselves recognise whatever the Government may feel about whether we would have been successful in persuading Her Majesty's Government in 1984 to provide those funds or not, that, as you would say, Mr Chairman, is a hypothetical question which must always remain an enigma. We believe that if the British Government was being honest with the people of Gibraltar and if the Government of Gibraltar was being honest in the election campaign that it fought in 1984, the premise then was that whoever obtained a mandate from the people would then be in a position to fulfill that mandate. The campaign was not fought on the basis that if the GSLP won there would not be £28m and if the AACR won there would be £28m. I am very surprised that if that was the reality of the situation they did not use it because there would have been a tremendous banner on which to fight an election 'If you vote for the other side you don't get £28m'. We were assuming and have assumed throughout that just like consultants and experts and what have you can present a case and just like the Hon and Learned Member has on many cases presented cases to ODA and to the Foreign Office arguing for spending UK aid to Gibraltar in a particular fashion, a well prepared, well documented case which showed that the money was not going to be wasted, that we were not going to ask for more money which was the one premise we were working on, stood a chance. Okay, that is now

a long time behind us but, of course, when we talk about what happened then and I don't want to spend a lot of time on this but I think I need to correct something, let us not forget that the original projection of Appledore was based on £25.4m and one of the reasons given publicly for selecting them was that they were cheaper than anybody else and now we are talking about £33m. Let us not forget either that their appointment was in November, 1983, that the Government got a mandate to go ahead in February, 1984, and that they were allowed in the yard in May, 1984, because in fact the union consistently opposed the Bill but after the election the workforce in the dockyard accepted the reality of the situation and sat down to talk with Appledore and the Hon. Member, if I recall, made an appeal directly to the Trades Union Movement to do that in the initial opening of the House and there was a response to that appeal. I think if we then move from there forward, we had a situation where we brought to the attention of the Government the bad news we were getting from the yard and it had nothing to do with the infrastructure, it had to do with attitudes and attitudes that a lot of us had thought had disappeared years ago in the Naval Dockyard and the Government seemed to be reluctant to intervene and put a stop to that and therefore things eventually came to a head and whatever we may say about the cost of the three-week strike, as the Hon. and Learned Member has rightly said, there is very little doubt that some of the important improvements in attitudes that have taken place since May, 1986, would not have taken place if the man at the top of the organisation had not changed, there is no question about that because in any hierarchy all the people below the top tend to reflect what the top thinks because they get backing for that approach and today, even if there are some of the same managers in the yard, complaints about attitudes which are reflective of treating Gibraltarians as inferiors get no support and a year ago the complaints were not listened to and that has made an important difference and the Hon. Member is quite right because it shows that the approach, for example, in terms of productivity which was mechanical in the Appledore projection and mechanical in the first year of the operation of the yard in 1985, failed to understand what he has just said, that people without having to have a task master on their back day and night tend to produce more in an environment in which they feel happy and I remember having told the House on more than one occasion that I had people telling me in that yard, people who were craftsmen, to try and find them a job in the Government of Gibraltar as a lavatory attendant because anything was better than working in that place because it was like walking into a prison camp, people felt hounded. I felt myself, Mr. Chairman, that perhaps the Government at times misread the kind of message that we were sending from this side of the

House and thought that this was just an opportunity that we were picking on to give stick to the operation and I think they would have benefitted.

HON CHIEF MINISTER:

If the Hon. Member will give way. I won't question that or interrupt him in that trend. First of all, we have got the signal right. Let me say that short of the maximum that one could do we were not idle as to what was happening there and my Hon. Colleague here will bear with me of the many, many long sessions we had with the then management to try and put them right.

HON J. BOSSANO:

Obviously, the efforts didn't succeed and when they chased him out of the yard that was the only eventual solution that was possible and that is obvious with the benefit of hindsight. I think also that in looking at the situation today and looking at the report and forgetting for one moment those factors but I felt I had to put in perspective that the ability of the managers to go into the yard, their right to go into the yard, if we accept that that right stems from the fact that the people of Gibraltar supported the judgement of the AACR in the 1984 election, then they got into the yard within months of that happening, let us be clear about that. Before that they had no particular right, everybody had the right to have a different view because that view has not been tested. Since then we have a situation where we have been trying to monitor as best we can with the information available to us, the progress against the original projections which I think is legitimate. We can be told a lot of things have changed and so forth but the reality of it is, Mr. Chairman, that the results for 1985 - and we cannot be 100% sure of those results until we are able to vote for the accounts - but on the basis of the figures that we have already for turnover and for profits or losses and costs, those results are very little of an improvement on the disastrous results that were indicated to us when the Hon. Member brought the accounts for 1984 and when he gave us a preliminary figure of something like £3.2m whereas now the figure is £3.7m. We must remember that in the first year of operation of the yard we are talking about a turnover of something like £3.4m or £4m of commercial work, if I remember correctly. We have asked in the House: 'Are you losing money on the RFA work?' We have tried to find out. We asked at one stage: 'Are you making money on the RFA work?', and we were told: 'We cannot tell you that, that is commercial in confidence'. So then we said: 'Are you losing money on the RFA work?' and they said: 'No, we are not losing money on the

RFA work'. Well, then let us assume you are breaking even, if you won't tell us if you are making a profit let us assume that the subsidised RFA work that we are getting is work on which we are breaking even, then clearly the commercial work must account for the whole of the loss. If you repair £4m of ships and you lose £3.7m in the process no wonder ships will come to Gibraltar, we must be the Mecca of the ship-repairing world at that rate. I can tell the Hon Members opposite that if we simply advertise the fact that we will do work like we did on the 'Beaujolais' which cost the yard £1½m and cost the customer £900,000 we can capture the entire American market. The question of the turnover is related to the prices that we charge and when we looked at the projections of the turnover what we saw as the weakness in the original study and what the consultants at the time pointed out and it is related to what the Hon Member has said about continuing good relations, continuing productivity and wages. With the best management in the world, with the most harmonious relations, you are going to get people who are discontented there if they look what is happening outside because Gibraltar is too small for it to operate any other way, that is, you can tell people in the North of England where there is 35% unemployment: 'Don't push for a wage increase because you are lucky to have a job'. You cannot tell people in GSI 'Don't look for a wage increase because you are lucky to have a job' because they will say: 'But in the last meeting of the House of Assembly the Government said that there were 735 Spanish nationals with permits in Gibraltar who were not there a year ago and why should I be paying taxes and be in Gibraltar, in my own country, earning less than somebody who comes in from outside'. That tends to be the reaction and that is a reality of the reaction. Therefore we must not forget that much of the analysis of all the consultants and I don't know whether Price Waterhouse makes any mention of this at all but certainly much of the analysis of all the consultants starting from PEIDA was on the relationship between labour costs in Gibraltar and labour costs in competing areas in the Mediterranean and what was the original assumption which has not been fulfilled and which will not be fulfilled and which if it is still an underlying assumption in this new approach, I can tell the Government that they will have to be putting many more millions in the place where they are putting this £1m because the assumption will not work, was an assumption which said 'We are going to subsidise the yard because it is not a practical reality to reduce wages'. That is the original assumption upon which the Appledore proposals were based, the PEIDA study was based and every single report. 'We are not going to reduce wages so what we are going to do is effectively allow other people's wages to catch up with us and overpass us and then we become competitive but between now and when that happens

we have a subsidy'. That is to say, 'we finance a loss making operation but the losses get smaller because our wage costs become more competitive because other people's wages are going up faster than our own'. That was an underlying assumption throughout. If that assumption has not been changed by Price Waterhouse then I can tell the Hon Member that none of the other things that he has mentioned will produce the desired result. Certainly, Brian Abbott in spite of one's criticisms of his attitude and his approach, he was clear in his own mind that what was required of him was to do that and certainly I can tell the Hon Member opposite that when I sat in London with Mr Simonis discussing the situation, they produced the argument that the unit labour costs in the commercial dockyard in Gibraltar were totally out of context with the competition in the Mediterranean and we said to them: 'Well, so what? You knew this before you came in, there is nothing new about that, we have always known that in Gibraltar and you are not going to change it'. And it is not going to change now and it is not going to change in the future and therefore without knowing what Price Waterhouse has to say on that subject, we don't even know whether it is mentioned, we can tell the other side of the House that in our judgement the other elements that have been mentioned will not, in fact, change the fundamental equation because part of the essential argument was that the projection was based on labour intensive and consequently work where the unit cost of labour is a major factor. There have been many other things wrong in the operation and those many other things we may be able to correct in that operation and some of ^{the} things have been corrected already and therefore if instead of losing £4m a year, I think the Financial and Development Secretary told me at an earlier stage, Mr Chairman, that by the end of 1987 the issued share capital would be £24m but the asset value would be £14m and that would indicate an accumulated loss situation by December, 1987, of the order of £10m built in into the accounts and presumably the expectation is that we break even from then on which was the expectation in the original proposals and eventually start generating positive returns to eat into that accumulated loss situation. But, of course, for that to happen either we are going to do a different type of operation which is not price sensitive and consequently highly dependent on unit labour costs or we are going to discover a different answer to the formula which so far I have not seen in any report. The other elements, fine, the Hon Member opposite has said that the state of the yard and the neglect for the forty years was so poor that it wasn't known until it was transferred but I can tell the Hon Member that we have been using since 1984 some of that neglected equipment from the MOD which was still working when the new one we have bought with the £26m had long conked out, so much for the poor state of the infrastructure. Those details mount up but they do not, in fact,

get to the heart and the root of the operation so we don't know for sure what it is, at this stage, that the Government is giving GSL the £1m for. We are clear that from what one can deduce from the statement the position is that having looked at the results for 1985, having looked at the results presumably in draft form for 1986, the auditors would have had to qualify the accounts by saying: 'We cannot say this is a going concern because we are projecting a further loss in 1987 and nobody has explained how that loss is going to be made and that the £2m is, in fact, to enable the accounts for 1985 to be presented without bad qualification'. That is to say, the Government has come forward and said: 'We are underwriting the operation in 1987 to the tune of £2m' and that it is that guarantee by the Government which enables the company to say: 'We can survive 1987'. What we are saying is the £1m now and the £1m later on in the year which is this business of buying shares and so forth, it is really simply as if you are in any other business in Gibraltar. The Quarry Company, Mr Chairman, was in a situation that when it went to the bank the bank would not let it have money unless it was able to produce the Government as a guarantor and the Government came here with a motion guaranteeing to repay the bank if there was a default from the Quarry Company. Well, in a way rather than let GSL go to the bank and have the loan underwritten by the Government, the Government is providing the money, perhaps it makes more sense because all that would happen if they went to the bank is that on top of the £2m they would have to pay the interest on the £2m. But this only takes us to 1987. I must say that it is certainly not encouraging to have the company issuing a press release in relation to the £1m prior to the meeting of the House which we consider to be totally misleading, quite frankly, because they said in that press release that the reason why they needed the £1m was because of a need for a higher level of cash flow in 1987 because of a higher level of turnover and because of the fact that the RFA's were not prepared to make progress payments. That explanation and this explanation are not the same explanation, I think, independent of progress payments and independent of anything else, it is quite clear from this that the money is required to meet the point answered by the Government to a previous question in relation to the 1985 accounts when they said to us that the future financial viability of the company was something that needed to be cleared up and this is what is clearing that up. The reason why we are not voting against the £1m is because we are assuming that the explanation given by the Government which, to put it in its starkest form, means that if the Government doesn't come up with this cash now the company will not survive 1987, it is for that reason that we feel that morally we cannot vote against that money however critical we may be of the operation because that would be

sending a message to the Government to say: 'Leave them in the lurch and there are a lot of families there who depend on those jobs and that income and we cannot, whatever we may say about the dislike of the way the operation has been run and in our view continues to be run, that road we will not take. I also think, Mr Chairman, that the Government really does owe us because I, in fact, misread the Hon and Learned Member's statement, let me say, I read it differently from my colleague. I thought that when he said in paragraph 2: 'Both documents will nevertheless be made available to the Opposition in time for the next meeting of this House', I assumed that he meant the abridged version and the full version.

HON CHIEF MINISTER:

No, that and the accounts.

HON J BOSSANO:

Yes, I took it to mean both versions of the Price Waterhouse Report because it then went on to say: 'I will arrange for the Price Waterhouse Report to be circulated to Members opposite as soon as this is received in Gibraltar'. I hope that bearing in mind the way we have reacted and bearing in the mind, I think, his own experience of previous situations where however critical we may be we have never allowed our criticism to get to the point of doing damage to Gibraltar, that he will look favourably on the idea of making the report available to us.

HON A J CANEPA:

Mr Chairman, may I say, right at the outset, that I would much prefer that the House today were voting £1m for improving the social services, or new housing, or maintenance of old housing, or maintenance of school buildings and not just Bayside but others as well, or on implementing some of the recommendations of the Medical Services Review Team but there are 800 jobs at stake and without this money the yard will have to close down. The yard makes a very important contribution to the economy directly and indirectly not just the people who are working in the yard but there are other businesses in Gibraltar who have a spin-off from the yard, who do work for the yard and therefore other jobs outside the yard are also at stake. The people working there pay their taxes, I hope that GSL is better at handing over what they collect PAYE than other people in the private sector because I notice that we are employing more officers in the Income Tax Department to chase that up particularly. And, of course, the alternative of massive unemployment which to me was totally unacceptable at the time of the last general election remains totally

unacceptable and I am not prepared to see hundreds of people in Gibraltar having to receive unemployment benefits or having to receive supplementary benefits which is undignified and which is bad for the social climate in Gibraltar when there is another remedy at our disposal. And it is against that background, that spirit, that I am supporting the sum that is being appropriated in the House today and in due course the other film that we will have later this year to appropriate. I am not going to be very long, Mr Chairman, I am going to concentrate mainly on taking up some of the remarks which Mr Pilcher made, remarks which what they do indicate is that in spite of the relative unanimity today in that the Opposition will not be voting against the Government, there are and it is just as well that people should know, there are fundamental differences in approach between the two sides of the House. I think we are all relatively happy, after all as politicians at the end of the day we have to be realists, relatively happy to hear the Opposition spokesman on Gibrepair - we don't have a Government spokesman on Gibrepair - saying, and I quote, 'Gibrepair is there to stay'. I don't know whether he said 'is there' or 'is here', well, 'there to stay'. And never before have the Opposition been so unequivocal in making a statement like that. Perhaps a different impression has been given in the past, perhaps when they have stated that if they were in Government they would sack Appledore the statement has not been totally understood and Appledore has become equated with Gibrepair which is clearly not the case. But a different impression has been given, I think, to the public generally by the Opposition regarding their attitude but perhaps and I cannot being a politician and seeing that we are in election year, I cannot help remark that not all past years have been election years and this is an election year and as the Yanks would say: 'There are one helluva lot of votes at stake amongst employees in the yard and their families as well'. I think it should be a grain of comfort to people there in the yard that regardless of the results of the next general election whoever is in Government will be working in one form or another to keep that yard as a going concern and to that extent I think something good, something positive has come out of the debate today. I will only say one thing in defence of A & P Appledore and that is that they were blacked and, in my view, because they were blacked perhaps they were unable to assess the situation properly but I do have doubts whether in any case even if they had not been blacked, whether they had it in them to assess the situation properly. Because one thing that the Government failed to do was to overcome their 'we know better' attitude. Numerous meetings were held before they took over the yard and subsequently to try to make them understand that the situation in Gibraltar was different to Korea, to Greece or what have you and that the workforce that they

were taking over which had seen the shackles of colonialism dismantled in Gibraltar could not be treated in a neo-colonialist fashion. And the fact is that for the first eighteen months of the operation of that yard up until June, 1986, management did treat the workforce in a neo-colonialist fashion and that was totally repugnant. We held numerous meetings with them, we tried to put the point across that a different approach was required but the message just didn't get across. The message didn't ^{get} across to the local management and the message didn't get across to the late Chairman and the local managing director, Brian Abbott, I have no doubt that he was at the receiving end of a telephone line to the United Kingdom where he was being told to be tough and, of course, when you see matters from a distance of 1,000 miles away it is even easier to insist that you be tough. I say that as the only extenuating circumstance in favour of Mr Abbott, the attitude of course is different today. If the yard is not successful with its present manager and obviously it is not the present manager who is going to determine the success of the yard, then it must be because there are other reasons because I think that he has the expertise, he has the background and, above all, he has the right approach and from the word go he was able to identify himself with the workforce, he was able to identify himself with the sense, with the attitude, with the feeling of the Gibraltarians and see things from our point of view. Perhaps, as the Chief Minister has said, there had to be something of a trauma before matters started to be put back on the correct rails. I wasn't, I must confess, entirely able to understand why Mr Pilcher said 'the Government is not facing a vote of no confidence in the House today' but we would elsewhere. I wasn't quite sure whether he meant because elsewhere the Government would be more fully involved in the yard and politically responsible, whether that was the reason or some other reason.

HON J BOSSANO:

A less kind Opposition.

HON CHIEF MINISTER:

Because he was being kind.

HON A J CANEPA:

A less kind Opposition. We have explained ad nauseam over a period of time why we did not want GSL to be regarded as yet another Government department but I can understand that the GSLP as Socialists who are committed ideologically, amongst other things, say, to nationalisation, even if they don't spell it out so far too clearly, I can understand that they would

no doubt wish to at any rate, if not have more direct control and run the show, at least attempt to control it, ideologically speaking, perhaps, to a greater extent than what we do. But insofar as the question of what they refer to as political responsibility is concerned, that matter has also been thrashed out fully and let me make it clear, we have no intention of making any individual Minister whilst we are in Government, politically responsible for that yard. That is a fundamental difference of approach on both sides of the House and at this juncture in our affairs insofar as the yard is concerned, I would say, Mr Chairman, the best that we can do is to agree to disagree.

HON J E PILCHER:

Mr Chairman, just to wrap up, it is certainly clear, given the contribution by the Hon Mr Canepa, that it is an election year. Certainly, I am glad that particularly the Hon Mr Canepa has understood perhaps the misapprehension or misunderstanding that there was before between us saying we were going to sack Appledore and what we consider the future of Gibrepair because I think he himself was under that misapprehension because the last time we mentioned it in the House he said to us: 'Why don't you make that public?' We have made it public but I think he himself was one of the people that had not understood the division that we considered about Appledore and certainly the Gibrepair operation. I am glad that he understands it and we have said it before, perhaps not as explicitly or as unequivocally, but certainly we have said it before. Certainly one thing that has never been said on that side of the House as unequivocally has been the statement as regards the attitude of Mr Brian Abbott and Appledore which led to the strike because even through the strike the Government was still sitting on the fence. Even, today, in the Chief Minister's contribution, he still didn't want to apportion blame. The Hon Mr Canepa's statement is quite clear, not trying to apportion blame, but quite clear of the colonial attitude that led to the state of dispute in the yard. I am glad for that statement and I would also like to join him in identifying myself with his comments about the new managing director and the breath of fresh air that he has brought about into the yard. I have this afternoon spent part of my contribution making different comments about different areas of GSL, the Board, the managing directors, etc, and I did fail to mention the fact that there has been a breath of fresh air brought about by the new managing director. When I said, and I will explain, when I said that anywhere else in the world there would be a motion of no confidence, I had two things in mind but I think the main thing in mind was the fact that because we are a small House if there was a vote of no confidence and we know how individual Members of the Government feel, in a vote of no confidence they would join together

obviously to defend the Government although I know that personally many of them feel that what has happened as far as Appledore is concerned is a situation which should never have occurred and the Government themselves should never have allowed it to happen but that is the second part of what I meant by a vote of no confidence because it does happen in every House that obviously when there is a vote of no confidence all the party join behind the party but, particularly in a small House where the difference is one in majority over a vote of no confidence because the two ex-officio Members cannot vote. He was right in pointing out to the main difference between the GSLP approach and the approach of the Government and it is that the GSLP did not want to govern in order to run the yard, what we want the AACR to do - and I am not going to look for it now but I did read it from Hansard - is to do what they said they would do which is to make sure that the Government were the ones giving policy directives and looking at the thing when there was a situation like the one exposed by Mr Canepa as regards the colonial attitude leading up to a situation of turmoil when the Government knew that the company or certain individuals were not acting in the best interests of Gibraltar and according to their own statement at that stage the Government would have taken a hand to issue directives to the company. That they haven't done and that is the essence of the difference between the Opposition and the Government. I think it is not a question of running the yard, it is a question that Gibraltar are the owners and particularly the Gibraltar Government is the owner of Gibraltar Shiprepair Limited and if I as an individual were the owner of CSL I would make sure that that company was run the way I want it to run although I wouldn't directly control the day-to-day running of the yard but I would make sure that my managers and my Board of Directors was doing what I thought was best to make a profit for me and that is what the Government as the owners of Gibraltar Shiprepair Limited have to do in the name of the people of Gibraltar who are really the owners of the company. Thank you, Mr Chairman.

HON CHIEF MINISTER:

I wanted to say something I forgot when I answered Mr Pilcher, I am not going to make a speech, we have had enough of that. I had a note but I clean forgot when he said that there had been this suggestion or rather the non-appointment of a controller until the middle of last year and so on and lack of control. Well, I should have said though it does show that there was a substitute for that whether it was good or bad, there was a substitute and that is that very early on Spicer and Pegler who are the auditors were made responsible for the internal audit and to that extent for shortly after, I think, not very long after the non-appointment of the director until the

appointment of the controller, the auditors had a double function, one was the internal audit which in fact, if I may say so, did a lot of good, what we would have done without them would have been even worse.

Mr Speaker put the question and on a vote being taken on Head 25, Treasury - Contribution to Gibraltar Shiprepair Limited Fund, the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Head 25 - Treasury was passed.

Schedule of Supplementary Estimates Consolidated Fund No.4 of 1986/87 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No.3 of 1986/87.

Head 101 - Housing

HON J L BALDACHINO:

Mr Chairman, I would like, if possible, if the Government could clarify some of the points I would like to make. Could we have a clearer explanation of what the site investigation will consist of than those stated in the remarks and do they know how long the site investigations will take and if it is going to be put out to tender when they are going to do it, Mr Chairman?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I am not in a position to say when it is going out to tender as the final drawings on the scheme is dependent on what the soil investigations produces.

HON J L BALDACHINO:

No, the tender for the soil investigation, Mr Chairman.

HON MAJOR F J DELLIPIANI:

That has gone out already.

HON J L BALDACHINO:

I also asked if I could have a clearer explanation on what the site investigation will consist of?

HON MAJOR F J DELLIPIANI:

Mr Chairman, the site investigation is to do with the geological characteristics of the ground in question to find out what kind of foundations the building will require. If it is an area where there is a lot of rock and also an area where there is probably loose soil, until you know the full extent of the survey the foundations work cannot be designed. As soon as that information is given a final design of the drawings will be made in conjunction with the requirements of the Housing Department.

HON J L BALDACHINO:

Mr Chairman, I also asked if the Government knew how long it will take for the site investigation to be completed?

HON MAJOR F J DELLIPIANI:

No, Mr Chairman, but I think the actual works to be carried out with the machinery and equipment that is required will be about two or three weeks but after that the data will have to be analysed and the design work for the foundations carried out.

Head 101 - Housing was agreed to.

Head 107 - Telephone Service was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.3 of 1986/87 was agreed to.

The Schedule stood part of the Bill.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Insurance Companies Bill, 1987, with amendments; the Merchant Shipping (Amendment) Bill, 1987, with amendments; the Public Health (Amendment) Bill, 1987, with amendments; the Medical (Group Practice Scheme) (Amendment) Bill, 1987, with amendments; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1987; the Ship Agents (Registration) Bill, 1987, with amendments; the Criminal Offences (Amendment) Bill, 1987, with amendments; the Imports and Exports (Amendment) Bill, 1987; the Gibraltar Shiprepair Limited (Amendment) Bill, 1987; and the Supplementary Appropriation (1986/87) Bill, 1987, have been considered in Committee and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Insurance Companies Bill, 1987; the Public Health (Amendment) Bill, 1987; the Medical (Group Practice Scheme) (Amendment) Bill, 1987; the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment) Bill, 1987; the Ship Agents (Registration) Bill, 1987; the Criminal Offences (Amendment) Bill, 1987; the Imports and Exports (Amendment) Bill, 1987; and the Supplementary Appropriation (1986/87) Bill, 1987, the question was resolved in the affirmative.

On a vote being taken on the Merchant Shipping (Amendment) Bill, 1987, and the Gibraltar Shiprepair Limited (Amendment) Bill, 1987, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn sine die.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and in so doing I would like to state that the Hon Mr Michael Feetham has given notice that he wishes to raise on the adjournment matters related to Question No.58 of 1987. I will now call on Mr Feetham and in so doing may I remind the House that a debate on the adjournment is limited to forty minutes and there will be no vote.

HON M A FEETHAM:

Mr Speaker, one of the things that I learned yesterday at Question Time when I raised the matter of Rpsia Bay during Question No.58 is that it is always one's first instincts which are the best since I had originally thought when hearing the news that the development had been awarded and having heard what the media had said regarding certain aspects of the development, I thought that I should raise it as a motion in the House but then I thought I had better go and see the Minister, have an exchange of views on it and then as a result of that decide what to do and my decision was to raise a question from which I had hoped to extract the answer and no doubt the Minister in defence yesterday said that he was answering the question and that perhaps I was labouring too much and I was tending to debate rather than ask questions and I accepted that from the Speaker. All I want to do is to extract information and answers from the Hon Minister for Economic Development, hopefully, on the project that, in fact, this is the best way of doing so because, Mr Speaker, we are not talking about a minor development, we are talking about a major development, a major development which as far as the

political decision taken at the time by Government was that it was a development not for, for example, housing for Gibraltarians or low cost housing on this particular site, it was a development meant to be an investment in the future, it was meant to be a large-scale development opportunity and as far as the Government was concerned it was aimed at a known market. Therefore, Mr Speaker, having heard what was being said about what the final project is, I feel that there are some answers to be given so that we are all satisfied that at the end of the day what Government has achieved with this development is the best that can be achieved under the circumstances prevailing. But in doing so I think one has to be fair and one has to go through the process upon which this development was first put out to the public. In doing so it was against the background that this site, in my view, is the prime site available to the Government of Gibraltar today and, indeed, I would even qualify it further and say that it is the prime site of all sites including Queensway for a variety of reasons. We were talking about the best site in Gibraltar available to the Government for development. When the Government against that background first made it known that it was available for development, the people of Gibraltar were told in a public announcement the following: 'The Government of Gibraltar is offering an excellent opportunity for the development of a prime site situated on the south-western littoral of the Rock commanding a magnificent view of the Bay and Straits of Gibraltar. The site is designated for redevelopment in connection with the tourist industry and will be available in accordance with the terms and conditions for the disposal of the land. The Government now invites the submission of outline proposals from developers who are interested in providing a touristically orientated development, design guidelines are provided in a development brochure attached to the development conditions' which was the brochure which I referred to yesterday which was a first class attempt and I think I recall having congratulated the Minister at the time for the brochure which was conceived as a marketing thrust in attracting developers. The brochure referred to, of course, had its logo, the logo was 'Investment for the future in Gibraltar, large scale of development opportunity'. The thrust of the brochure from a marketing perspective sold Gibraltar truly in worthy terms, there is no doubt about it at all, and as far as the site was concerned in even more assured terms. More assured terms because in my view the planners, the people who developed the concept at the time, were assured in their own minds of what they wanted developed on that site and with which I honestly take no issue at all, from the historical and attractive location, of course, to the major possibilities for an exciting development. The Government therefore politically in 1984 were envisaging and

supporting a development which would enhance the heritage of the site with great sensitivity, that is, I think, was the image that was being put over and that would be attractive both to historians and to tourists. The design potential as outlined in the brochure, the public and all interested parties were told could through careful planning and density, harmonise with the area rather than be too prominent. This, I think, was the message that was being put over. Excitement, we were told, could thus be generated without extracting from the existing assets of the site. The general concept then, Mr Speaker, on the broad guidelines within which constraints and this is very much put forward in the brochure, within which broad constraints prospective developers were asked to submit schemes was designed so that although the brochure mentioned three storeys, in fact, it was four storeys because the actual outline drawings which were given out also included Engineer Battery for a hotel to be built there and it would constitute the following: (a) a housing condominium at Rosia Parade (2) an aparthotel on the slopes leading to Parson's Lodge (3) a multi-purpose leisure facility at the approaches to and on the Rosia Bay Mole (4) a three-storey hotel on Engineer Battery. The aparthotel, Mr Speaker, was conceived not to overwhelm Parson's Lodge as an historic bastion but that Parson's Lodge could be adapted it was suggested even as a Military Museum. There wasn't a conflict there as the Minister yesterday appeared to me to give as one of the reasons for part of the development being hived away in the end product. The proposed development was aimed, according to the brochure, I repeat, directly at a known market. The plan, therefore, at that point in time, must have had already identified the market they were aiming for. The schedule of accommodation showed that the development envisaged would contain a hotel with about 100 rooms, 72 condominium units, 50 aparthotel units, 1,500 metres squared of commercial area, 19 yacht berths and 88 parking spaces on Rosia Parade. That, Mr Speaker, in a nutshell is what the Government considered was required in 1984 based on the project designed and produced by the planners of the Public Works Department. There was, of course, no public participation in that insofar as no public participation was necessary or the opportunity given under the Town Planning Ordinance, anyway, which was not available to people. But the fact was that people were told then 'This is what we have in mind' and whether we had reactions for or against is irrelevant because people were told what the Government had in mind then and there were opportunities at the time for people to say 'yes' or 'no' and I would support the Minister for Economic Development when at a very late stage we had certain criticisms from certain quarters which are irrelevant to the project because they would have had plenty of time at the time to have come out against certain aspects of the development. It is not good waiting two or three years after. In June, 1985, Mr Speaker, in my normal way of dealing with matters in the House, I asked a question of information.

I was told that only two proposals had been received in the first stage of the selective tendering and both parties were being asked to tender for the site. In a further question from me in July, 1986, the Minister informed the House that of the two tenders, in fact, only one was received because the two tenderers - Gibraltar Land Development Ltd and Marples International - had gone into a joint venture on the project. We were also told as a result of that question that the Development and Planning Commission were not satisfied with the proposals submitted nor with the subsequent revision because the proposed developers were relying too heavily on residential use and therefore giving little value to the touristic potential of the site. I think at that point in time in that reply to that particular question we were perhaps being given an indication that the developers were not strictly working to the constraints of the project envisaged. The developers, we were told, were informed that the residential element would not be allowed unless an assurance was given that the scheme included a hotel on Engineer Battery and accordingly Government gave the developers six months for a market research towards this end. I may add here that no indication was given at any time nor has yet been given how the project would be financed. Here, Mr Speaker, began in my view the process that finally led to the situation which exists today and which, hopefully, Mr Speaker, we will get clarification from the Minister for Economic Development. It would appear to me that the original scheme thought by our planners in 1984 to be correct has finished up completely carved up into a scheme which has little in common with what the original intentions were and certainly does little to improve the potential of the area as originally envisaged in its complete concept. I am, of course, not aware, Mr Speaker, since I, as a Member of the Opposition, am not involved in the negotiating process when developments are being awarded, of what was submitted by the developers at the time when they did so as a joint venture which, by implication, Mr Speaker, must have meant that a hotel was not included in that venture because otherwise Government wouldn't have said to them: 'A hotel has to be included' and give them six months to look at the market possibilities. One cannot judge but we all know, in fact, what the project was meant to be. I am not arguing, let us be quite clear about this, against the building of a hotel. However, the building of a hotel appears to have led to the position whereby the original arguments and planning guidelines intended for the area has got lost in what appears to be a process - there I use the word - of 'haggling' where in my personal view, the developer appears to have obtained the upper hand in the whole affair. This is not a criticism of the developer but questioning the manner in which the Government has handled the affair because certainly the Government appear to have got, if I am correct, this hotel of 130

rooms. We shall have to see if the marketing research and the hotel occupancy figures whenever they are available will justify the decision but Gibraltar and its people will now have to content itself with a heritage of two tower blocks on Rosia Parade because it is clear, in my mind, Mr Speaker, that two blocks on Rosia Parade is the price that Government has had to pay in order to obtain a hotel being built on Engineer Battery which appears to me that one part of the scheme is subsidising the other. Secondly, Mr Speaker, the development of the aparthotel on the slopes leading to Parson's Lodge will not be constructed a matter which, again I repeat, was not in conflict with the conservation aspirations for the future of Parson's Lodge, for example, if a Military Museum was built there. On closer scrutiny, Mr Speaker, I also found out that the multi-leisure facilities at the approaches to and on Rosia Bay has had substantial changes to it from the original concept. Incidentally, I am also told that the beach leading from the hotel will be a private beach something, I think, that is not going to go down very well in Gibraltar because although the beach may not have had the potential in sense of access in the past, certainly in a project where one is extending the area, if it is true and I stand to be corrected, because there are a number of things that need to be cleared because that is my role in the House, if it is going to be private I don't think that is going to go down very well with the people and it needs to be cleared up. Having therefore examined the end product, I have to conclude that the best decision would have been not to proceed with the project and have waited for a better offer to come along if, and let me qualify if when I say the project should not have been continued, if a better agreement had not been possible with the developers. I am of the opinion, Mr Speaker, that if the project were to go out to tender today on the basis of what has been finally agreed for the area, there would certainly be more bidders than the two original bidders we had originally because I think it is not fair and I don't think it is correct to go out to prospective developers on what is certainly an ambitious development for a beautiful site and in the process, because it is an ambitious development, deter some developers on the way who feel they couldn't manage with such ambitions and then accept the construction of a development afterwards which doesn't add up to what was originally intended and ends up, quite frankly, with two multi-storey blocks on Rosia Parade. Because, clearly, if there is a market for multi-storey blocks and in Government's view multi-storey blocks and, indeed, in the developer's view, and let me add I am pleased that, in fact, we are getting some development through to local developers, if in the judgement of the Government and local developers there is a market for multi-storey blocks, a known market, and if they can be sold, I am sure that we could find other areas to build them on than on a prime site

such as Rosia Parade. Therefore, I cannot understand what known market it is aimed at that cannot be satisfied elsewhere in this project. It is these sort of questions that I intended to extract yesterday and with hindsight I am pleased, in fact, that I have had the opportunity and I took the opportunity of asking for a debate on the adjournment because as the Hon Minister for Economic Development will have by now judged, all I am intending to do is to clarify a number of things so that he can justify the development which he has awarded to the joint ventures who have undertaken to do this particular development. Mr Speaker, thank you.

HON A J CANEPA:

Mr Speaker, let me deal, first of all, with one of the last points made by the Hon Mr Feetham and that is the question of the status of the beach at what is termed Napier or Alexandra Battery. I am not sure what the status of the beach is, what it is intended to be under the proposals which the Government publicised and under the tender conditions. At the moment I don't think that there is, what I would term, open public access to the beach, I don't think that that is the case even though the beach has been transferred to the Government, indeed, it was transferred many years ago but I don't think that there is open access to it and in any case I don't think that swimming from that beach is exactly safe, in most prevailing winds I don't think it is but it is a point that I am taking note of. I have to look into that and I will do so tomorrow morning. The status of the brochure is, broadly speaking, Mr Speaker, that it is intended to lay down and provide guidelines for interested developers and the guidelines are not intended to be hard and fast. They give an indication of what the Government is looking for and what the planners advising the Government had in mind. I think that Hon Ministers who are colleagues of mine on the Development and Planning Commission will confirm what I say as being true that even at the time, in 1984, the Development and Planning Commission was not entirely enamoured by the guidelines in the brochure with regard to the square, a substantial building on most of the square, indeed, abutting over the City Walls. Little did we know then that, in fact, according to the 1976 City Plan, that square should have been and ought to be an open space. I think had the Commission known that at the time when the brochure was issued, I think a different view might have been taken. But let me say that the Government, and I must draw a distinction between the Government and the Development and Planning Commission because ultimately, it is the Development and Planning Commission which is the statutory planning authority and not the Government. What the Government can do is to take a view and to ask its representatives on the Commission to reflect that view, in other words, the Ministers who are members of the Commission

and the Chairman but that does not mean that that would constitute the majority view because, in fact, there is another appointee of the Chief Minister who is not a member of the Government and he could take a different view on the matter. I would say that it is not easy for the other members of the Development and Planning Commission on a matter of some importance to impose a majority decision if the Government then, as landlord, were not willing to make the land available for that purpose. As landlord the Government has a say but the statutory planning authority is the Development and Planning Commission. I received last week very sound advice from the Chief Minister about the approach taken in the Central Planning Commission when he was Chairman of it many years ago and I think that it is advice that I am going to bring to the notice of the present Development and Planning Commission and ask them to adopt that for the future as being the manner in which to approach a major development. That is that the Development and Planning Commission should attempt to work and reach a consensus. In serious planning matters where major developments are concerned, it is not much good to take a decision by a simple majority, it is the democratic way of doing things obviously and the majority usually has its way but when what is at stake is a development which is going to be with us for the future generations then an attempt should be made to seek a consensus, something that all can live with. That is a very valuable lesson as we go along that we learn. The Government was prepared in 1984 to allow development on the square because what we were putting out to tender constituted a package. We had Parson's Lodge, it had gone out to tender in the past for a hotel development which had not come off, the beach and Napier Battery had been transferred to the Government, it had been the subject of discussions with an interested party, a Major Lincoln in the 1970's who was interested in a hotel development there, we had the square and the Ministry of Defence as part of the Dockyard package were transferring Rosia Bay which, if you like, for this area, up to a point was the Jewel in the Crown. So it was a package and the Government was very keen to get this development going at a time when the economic situation was much bleaker than what it is now. We regarded it as an important contribution, together with Queensway, to the economy in the short, medium and long-term. The Commission, as I say, was not aware of the fact that the square was designated in the 1976 City Plan as an open square but the Commission today takes the view that it is prepared to allow some development on that square, the problem is to what extent and how much development. The problem is one of sensitivity, how to treat the development to go on that square so that it isn't a monstrosity, so that it isn't totally out of character, so that it is a positive contribution to the rest of the development and not something that people will feel very unhappy about for many reasons. The

Commission have understood that the building and sale of residential units on the square was and is important to the financing of the construction of a hotel unless the hotel, perhaps, were not to be a conventional hotel in that the hotel were to have an element of sale of apartments very much along the lines of Ocean Heights. But it was intended all along to be a conventional hotel and at a number of exhaustive meetings in the early part of 1986 totally devoted to the Development and Planning Commission discussing with the prospective developers, with the interested parties this development, it understood that it was fairly crucial for the developers to have flats, apartments on the square which would help to finance the building of the hotel because otherwise they felt the hotel on its own was not a viable proposition. I think it is also true to say that the Commission was not entirely happy and certainly not unanimous in its attitude to the nature and to the scale of development being proposed on the square and that is why there have been changes. A block of apartments as per the brochure which would obstruct the view completely from those behind the square and now the proposal for two tower blocks of about ten storeys, each of about fifty units, not totally obstructing the square but occupying a fairly large proportion of it. In fairness, let it be said, that when publicity was given in April, 1986, in the media to the proposed development, to the exclusive concession which Marples International Limited and Gib First Corporation Limited have been successful in obtaining for submitting a feasibility study, mention was made and I have here a photocopy of an article in The People, another one in a Spanish newspaper which picked up the matter and another one in the Gibraltar Chronicle of 12th April, 1986, in which reference is made to the building of 155 apartments on Rosia Parade and there was very little public reaction at the time to this.

HON M A FEETHAM:

I was arguing about the concept of the tower blocks.

HON A J CANEPA:

As far as I personally am concerned there is not a great deal of difference between a massive structure encompassing 150 flats which will fill up the Parade and if it is not ten, twelve or thirteen storeys high it is going to be very nearly so, seven or eight or nine, you cannot build 155 apartments on that square otherwise. Since 1984, Mr Speaker, the economic situation and the perspectives and the prospects are rather different. There is already a substantial quantum of development currently in progress and in the pipeline and therefore this particular project whilst remaining important is not perhaps as crucial to the economy as it was held to be in 1984

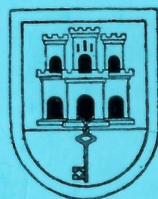
and in 1985. The Hon Mr Feetham has made reference to Parson's Lodge. Yesterday I spoke about concern on the part of the developers about the objections from the conservationists lobby to development on Parson's Lodge but apparently there is another aspect of the matter which the Director of Crown Lands was informing me about this morning and that is that apparently the prospective developers have carried out a survey and this is how I have understood it, I hope I am accurate, and there are geological faults on the escarpment which would indicate that the development envisaged there would not be possible. Anyhow, I am having a meeting tomorrow with a representative of the developers and this is a matter that I hope to clarify because I will then be reporting to the Development and Planning Commission at its next meeting. Let me say that I agree with some of the comments that have been made in the media, I agree personally, particularly a letter from a gentleman who defending in the opening paragraphs the need for development and the importance that development of this nature can make to the tourist infrastructure and to the economy of Gibraltar, nevertheless went on to make it clear in a very constructive and positive fashion how essential it was that the Rosia Bay area be treated sympathetically and with sensitivity. It conforms very much with my approach and with my view on the matter and beyond what I have said, Mr Speaker, that I can tell the House is that I will have a meeting tomorrow with a representative of the prospective developers, I will be raising the matter at the next meeting of the Development and Planning Commission, invite the Commission to note the views that have been expressed both in the House and outside the House about the future of this development. Thank you, Mr Speaker.

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

The adjournment of the House sine die was taken at 7.35 pm on Wednesday the 11th February, 1987.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24TH MARCH, 1987

VOL I.

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 24th March, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 10th February, 1987, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

HON CHIEF MINISTER:

Mr Speaker, once again as is customary, it is time for me to rise and make an annual statement on the affairs of the Gibraltar regiment and HMS Calpe. As I did last year and because the statements are lengthy and detailed, I will table these Reports which are most satisfactory and in doing so hope that the House will join me in wishing those two Units every success in the future.

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, 1985, to March, 1986.
- (2) Report on the activities of HMS Calpe for the period 1st September, 1985, to 31st December, 1985.

Ordered to lie.

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

The Air Traffic Survey, 1986.

Ordered to lie.

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

The Principal Auditor's Reports on the Accounts of the John Mackintosh Homes for the years ended 31st December, 1984, and 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. 6 of 1986/87).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 7 of 1986/87).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 4 of 1986/87).
- (4) Supplementary Estimates Consolidated Fund (No. 5 of 1986/87).

- (5) Supplementary Estimates Improvement and Development Fund (No. 4 of 1986/87).
- (6) The Accounts of the Government of Gibraltar for the year ended 31st March, 1986, together with the Report of the Principal Auditor thereon.
- (7) The Accounts of Gibraltar Shiprepair Limited for the year 1985 together with the Report of the Principal Auditor thereon.
- (8) The Accounts of the Gibraltar Museum for the period ending on the 31st March, 1986, together with the Chairman's Report thereon.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.10 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.15 pm.

The House resumed at 5.55 pm.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that: "This House takes note of the Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1985". The Accounts of GSL for the year are, of course, late and the House, I think, will be familiar with the circumstances but perhaps I could just remind Hon Members that it was apparent at least twelve months ago that there would be insufficient finance to enable the company to continue in operation beyond the end of 1986 and the reasons for this are many and various and they are fully explored in the Price Waterhouse Report and have been discussed before in the House so I will not dwell on them. I should perhaps mention because I think it is relevant, that the company was obliged to spend money which was formerly earmarked for working capital needs on urgent capital expenditure largely because of the state of the facilities and the history of no capital expenditure in the yard prior to take-over. Additional works were required and there were also cost overruns on planned works. As the House will know, the ODA after considerable delay, replied to representations made by the Gibraltar Government and agreed to fund a proportion of the capital expenditure related to the

cost overruns I have just mentioned but the funds which they offered left the company still with inadequate finance and the company's problems were further compounded during 1986 by the industrial troubles during the early summer and the consequences of that. It was against the latter background that the Government commissioned the Price Waterhouse Report to carry out the consultancy and the question of any further financial support from the Government, for example, for GSL, was deferred until the Report became available at the end of the year. This, however, presented the directors of the company and, indeed, the auditors with a problem inasmuch as the Accounts for 1985 were ready before the due date but the directors were unable to sign and the auditors to certify the company as a going concern in the absence of assurances that the company could continue trading during 1987 after their existing financial resources were exhausted at the end of 1986 or early in 1987. The company therefore applied for and were granted under the appropriate section of the Companies Act a postponement of three months in the presentation of the Accounts which together with the directors' report thereon, were submitted to the shareholders on the 24th December, 1986. As the House will know from the Chief Minister's statement during the last meeting, the Government's assurances about finance support which have been made public, made possible the signature and presentation of the Accounts which were then delivered, the remaining processes were completed and they were delivered to the Government's Principal Auditor who is required by law, that is to say, the GSL Ordinance, to report on them before presentation to the House. The House might wish to know that the 1986 Accounts of the Company, I certainly hope that there will be no similar delay and I believe that they are already with the company's auditors, or rather the audit process has begun. It is usual on these occasions to make some comparison with the original APA proposals and I think I would like to make a particular point here. In 1985 the loss of £3.7m revealed in the Accounts compared with £3.2m in the original APA proposals and in the year just passed, 1986, the loss is likely to be £3m or slightly more compared with £2.3m in the original proposals. Here again I don't want to go into great detail on the reasons for this because, again, these are fully explored in the Price Waterhouse Report but I would like to say something about the cumulative position. I don't think it would be correct to compare the first three years of the company's existence since incorporation and I was careful to use the word incorporation rather than operation, with the original forecasts for the first three years made in 1983, and the reason for that is as follows: The Accounts for the first year, that is to say, 1984, should be ignored, I think, in making such comparisons. The original proposals did assume that start-up costs, which is essentially what expenditure in 1984 was before the company began trading, should be borne by the Government and not by the company, that is to say, they wouldn't appear on the company's balance

sheet and I think it was assumed that there wouldn't be a report on accounts for that particular period. Many things change, circumstances change, and for a number of reasons it was subsequently decided and I confess to being party to that decision when I was Chairman of the company, that the start-up costs should be borne by the company and the company should, indeed produce accounts for 1984 which were presented more than twelve months ago. This was done and I make this point because the company was not trading in 1984 and so it incurred a £1.9m loss described as exceptional in the accounting conventional use of that phrase and this should not be added to those of 1985 and 1986. One should start with 1985, I think, as being the first year of operation, one is making comparisons between now and the 1983 proposals by Appledore. It is 1987 which is the third year. In that year, of course, the third year, the APA original proposals were for a profit of £0.6m whereas now I think the company's hope is that it will be fairly close to a break even period for 1987. The House will be familiar with, if only from the many cheerful exchanges between the Leader of the Opposition and myself on this subject, with the arrangements for the issue of shares by the company which are taken up by the Government of Gibraltar from time to time. Obviously, the information provided in notes 12 and 13 of the Accounts is now of mainly historical interest. Further issues of shares since the increase on 11th March, 1986, mentioned in note 13 have, of course, taken place and that is in the light of the further ODA funding and, indeed, latterly the Government's decision to inject an additional £2m of equity capital into the company. The rather curious phrasing used in note 12 of the Accounts, "Creditors amounts falling due after more than one year", and the reference to "Government funding" is I think, again, an accounting convention to describe the advance which the Government made from time to time employing Section 10(1)(e) of the Public Finance (Control and Audit) Ordinance, advances which were outstanding as at the date shown and which was subsequently recovered or cleared by the issue of further shares. The same mechanism by which the company was funded within the ambit of Section 6 of the GSL Ordinance appears on page 7 in the Sources and Uses statement, sources and application of funds. It will be seen there 'Reduction in funding from the Government of Gibraltar through the issues of shares in 1985 - £5,101,408, and that is part of the same process that I have just described. Still on the subject of capitalisation and expenditure on fixed assets, the following comparison may be of some assistance to the House. At the 31st December, 1985, the share issue stood at £17m and expenditure on Government assets was £7.2m. At the 31st December, 1986, the corresponding figures were: share issue £21m and expenditure on Government owned assets £7.7m. These figures indicate, I think, quite clearly, that most of the expenditure on fixed assets, plant and equipment took place in 1985, some in 1984 of course, but the majority in 1985. I think

this does underline the point which is made in the Chairman's own report that refurbishment continued throughout most of 1985 and this certainly restricted the capacity of the yard to do business and contributed in no small way to the company's loss and I think that is something which one must take into account. Finally, the latest position as regards capitalisation. As of now there are £22m fully paid shares issued and £2m partly paid. As I said in answer to a question recently in the House, the total external funding including the ODA and the Government increments will be about £33m or possibly a little bit more, the total share issue is expected to be £24m and the final expenditure on Government owned assets £9m. In addition to the £2m injection of equity capital, the Government had, as the House will recall, earlier made an interest free loan of £1m. The company's ability to repay this after twelve months is obviously affected by the same circumstances as have influenced the Government in deciding to make an injection of £2m interest free, that is to say, by the way of equity capital and it would, in fact, be illogical to leave the £1m loan on the company's balance sheet and this also will be converted into equity participation so the Government's share in the company will be an additional £21m, I thought I should mention that particular point in case it gets overlooked. On the substance of the Accounts, as these have been overtaken by subsequent events, namely, in 1986 and the Price Waterhouse Report and what is really concerned more with current prospects, I will not go into detail on them, of course, at this stage, nor would I attempt to compete with the professional analysis of GSL's affairs which Price Waterhouse have prepared. I think the main feature that I see emerging from the Price Waterhouse Report dealing, obviously, with what I might call the financial parameters is the fairly substantial increase in sales of £6m or thereabouts in 1985 to £12m in 1986, which is 100% increase, and increasing to something like £18m in 1987. The case of the 1987 position is that it is, of course, I wouldn't say inflated but the figure is as large as £18m because of the very high RFA/RMAS work which the company expect to undertake. Indeed, in 1987 about half of the company's income is expected from RFA and RMA work. Beyond that some additional RFA/RMA work should be obtainable by the company but, of course, none is guaranteed and it will have to be obtained through competition. Clearly the pricing of such work, other things being equal, will be a very important factor affecting the company's future. There has, I believe, been a price differential of rather more than £1 per hour in favour of RFA work compared with commercial, if that is the right way of expressing it, and of course there is no guarantee that the advantages of that would be sustained in 1987. Against sales one of course must deduct cost of sales, both direct and

overheads and I think it is in this area that the company will find its greatest challenge. Materials and direct labour costs are expected this year to reach something rather less than £10m compared with overheads of just £8m. I think that in very, very broad terms gives one the picture of the company's prospects for a break even situation in 1987. As Hon Members will know the Price Waterhouse Report does go into some detail or at least it includes a few paragraphs on the question of overheads, paragraph 185 and subsequently. They mention that overheads, excluding interest, are anticipated to fluctuate round about this figure of £8m to £8½m during 1986, 1987, 1988 and 1989 making the further point that approximately half or £4.5m of these costs are fixed and do not alter with the level of activity within the yard. The remainder do vary with activity. I think the overheads appear to be rather larger than one would expect simply because of the conventions or the particular mix which the company have chosen. My own natural reaction to this was that a lot of the items which were included as overheads would have been regarded as direct labour or other on costs but I think this is simply a presentational matter, it doesn't involve the figure below the line. Nevertheless, I think it would be just as it is unrealistic perhaps for the company to expect sales to continue at a level of £18m in 1988, so the company will have to look for an increased volume of commercial sales if it is to maintain and, indeed, to increase profitability and assuming a variation in direct labour and material costs roughly proportionate to any reduction in volume, it is also clear that the company will need to make as, indeed, Price Waterhouse themselves have suggested very strongly, a real effort to reduce the existing level of overheads if profitability is to be achieved and that I think, Mr Speaker, represents as I see it, simply as the Government's financial adviser, the real challenge for the company in the near future. I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's motion.

MR SPEAKER:

I will take this opportunity to remind the House that this is a motion to 'take note' and therefore there will be no vote at the end of it. It is a full debate but there will be no vote at the end.

HON J BOSSANO:

We have, of course, Mr Speaker, noted the Accounts for 1986 previously because in 1985, on the 27th November, when the Financial and Development Secretary brought a motion asking us to note the 1984 Accounts which is, in fact, when he should have said what he has just said today, that is to say, for some reason best known to himself he tells us in 1987 that the 1984 Accounts should not be considered as a legitimate part of the accumulated losses of the company and he didn't tell us that in November, 1985, when he brought the 1984 Accounts to the House and he asked us to note them.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, if the Hon Member will give way. I meant strictly for the purposes of comparison between the APA proposals in 1983 and the present. I wouldn't agree precisely with his suggestion that I have said that they should not be regarded as part of the accumulated losses of the company.

HON J BOSSANO:

Strictly for the purpose of comparison he should have said that in November, 1985, when he asked the House to note the 1984 Accounts. It is totally irrelevant now because we are not noting the 1984 Accounts now, we did that in November, 1985. Whether it is for the purposes of comparison or for any other purpose and I have not suggested it is for any other purpose, what I am trying to point out, Mr Speaker, is that in the small contribution the Hon Member has made, what we have least heard about is the 1985 Accounts which he is asking us to note and which, in fact, in November, 1985, when there was only one month left of the year, he gave us an advance preview of and, of course, the actual outcome is considerably worse than what he told us in November, 1985, the situation was. He told us in November, 1985: "I will now say something more on these three points. As regards the current year, which is the first year of trading" - which is the year we are noting now - "the company was broadly on target at the end of September for its anticipated performance for the year as a whole, that is to say, the expected loss of about £3m for the first year of operation compares closely with that in the original forecast". If he told us then that it was, in fact, on target in September why hasn't he explained to us today when he is asking us to note the final outcome, what happened in the last three months of the year to put it so much off target? He doesn't know. Well, I would have thought that was a reasonable thing to expect him to answer if he is asking the House to note the Accounts and what he told us the last time was that in September it was on target

for its anticipated performance and he is now demonstrating to us a performance which is considerably worse than anticipated and where, in fact, in my reply in November, 1985, I pointed to a series of discrepancies between the projection and the figure he was then giving us which was a better one than he is giving us today and even now, in 1987, there is still no explanation being given. At the time, Mr Speaker, he simply tried to fob us off by saying: "These projections in 1983, these we are looking ahead and they were not firm predictions but, in practice things didn't quite turn out as they were". I would like to analyse, Mr Speaker, what the Hon Member has been telling us. The Hon Member has been telling us that working capital was diverted to capital spending and cost overruns. According to the original projection the position in the balance sheet in front of us should show a net cash position of £5.3m, that is what was projected and instead of having £5.3m in cash what they had which is shown on page 6 of the Accounts, is £200,000. That is a hell of a difference, Mr Speaker, we are talking about, the difference between £200,000 in cash in the bank and £5.3m in cash in the bank. Obviously, if that is the situation with which you start in 1986 and if you have got £5.3m in the bank earning you interest until you need to use it then, clearly, your performance for 1986 is going to be much better than if you start off the year with £200,000 in cash. I would have thought that would make a material difference to the results for 1986 and it is a material difference where the finger cannot be pointed at the people who work in the yard or at anything in terms of their performance or their output. The Hon Member has said that in the first year of operation the company, in fact, did not get the RFA work that they had expected and he also said that the fact that this capital spending took place is an indication that the refurbishment was still taking place and that it contributed in no small way to the loss because of the restricted ability to do business. What restricted ability to do business? The projection for the year was £6.1m of turnover of which £100,000 was commission leaving a net sales figure of £6m and the achieved sales figure is £5,968,817. So he tells us that because the capital spending went into 1985 and because the refurbishment was still taking place that it restricted the ability of the yard to do business and therefore it contributed in no small way to the loss compared to the projection. But it didn't restrict the ability to do business. The business done was £40,000 less than estimated in a turnover of £6m so it is nonsense. In fact, the target for turnover was achieved, nobody would quibble if somebody says in 1983: "In my first year of operation I am going to do £6m" and he is out by £40,000. That is not an indication that the yard was not able to do the work it was planned to do, it did it. The cost of labour including the overheads to which the Hon Member refers was projected in the original estimates to be £6.5m. We have a situation where Appledore when they obtained the tender in May,

1983, said: "When we start operations in our first year of business we are going to do £6m worth of turnover" and they have done £6m worth of turnover. All this business about the refurbishment and the delays and the loss of RFA did not affect the turnover, the turnover was the predicted turnover. They said: "We are going to spend £6.5m on manpower to achieve this turnover" and they didn't spend £6.5m on manpower, they spent less because what they have shown as the cost of labour, which is shown on page 10 of the Accounts which we are being asked to note, is £6.4m but the difference is not between £6.4m and £6.5m because in the £6.4m they have a figure of £230,000 on pension costs which in their original projections was not included as manpower costs, it was included as part of the expenses where there was a figure for employees' welfare benefits of £300,000 making up the expenses of £2.9m. In fact, what the Government should be telling us to note and what they should be explaining to us instead of us having to do it to them, is that in the first year the company said it would repair ships to the value of £6m and it repaired ships to the value of £6m; that it would pay the workers in the yard £6.5m to do that work and it didn't pay the workers in the yard £6.5m to do the work, it paid them £6,100,000 so the labour costs were £400,000 less than estimated but that, in fact, their loss for the year if we compare like with like and we take the assumptions in the original projections and adjust these accounts on those assumptions that, in fact, their total loss for the year is of the order of £1m/£1.5m higher than expected and that has to be explained and it cannot be explained because of labour costs being higher because I have just demonstrated that they were lower and they cannot be explained because the sales target was not achieved because I have just demonstrated they were achieved and if the House is asked to note the Accounts we should be having an explanation as to why they lost so much more money than they said they were going to lose if they didn't spend more money in paying the people who work there and if they sold the amount of work they said they were going to sell. That explanation has not been forthcoming and I really think if the Financial Secretary is going to come here with a motion asking us to note things then he ought to be able to explain to us what it is we are being asked to note and he has failed to do that. In this £2.9m of expenses, Mr Speaker, and I think we need, if we are noting the Accounts we are noting the Accounts for a purpose, we are noting the Accounts to see whether GSL in its first year of operations has come up to expectations or has not come up to expectations and we are all interested in doing that, those of us who thought it was the wrong decision and those on the other side who thought it was the right one, presumably we all want to know. What we find is that the expenses, and I am not sure if the comparable figure in the Accounts is what is shown here as administration costs. It says 'administration expenses - £3.956m'.

Is the comparable figure to that the figure of expenses shown in the original projections where the expenses were estimated to be £2.9m? If it is we have £1m difference. £1m difference on £2.9m would already be a substantial difference of the order of 33%. However, in the original expenses we have rates £1m which are not in the £3.9m because they didn't have to pay rates so that reduces the £2.9m to £2.4m. We have the cost of the employees' pension fund £300,000 which I have already demonstrated is shown in these Accounts as part of the wages and not as part of the administration costs which means now £2.1m and we have, to take another example, £200,000 of fuel for the tug and they haven't got a tug. There was also £1m to buy a tug and they didn't buy a tug. In the Coopers and Lybrand Report on the May, 1983, Project Study, Coopers and Lybrand mentioned that it might be more efficient and less expensive to, in fact, hire the use of a tug and that is, in fact, what GSL is doing. GSL is renting the use of the tug from the Alexander Towing Company. We should be told if the original thing included £1m for buying a tug and £200,000 for the fuel for the tug and there is no tug and there is no fuel, we are noting the Accounts, how has that money been used for something else because what it indicates is, in fact, that the differential in the outcome between what was expected to happen in the first year and what has actually happened in the first year is that there was a lot of hidden leeway already in that projection. The projection made originally was made in such a way that it provided for the possibility of overruns but it appears that all the overruns have swallowed all that fat that was hidden in the figures and needed even more on top and that therefore the outcome is much, much worse than appears from the final result and it is important to remind ourselves always that the two most obvious areas which are the cost of paying the people who are repairing the ships and the income from the ship owners are both on target or better than expected. That is to say, £6m sales and £6.1m cost as opposed to £6m sales and £6.5m cost. There is also a question of an amount of money provided for contingencies which included equipment that was intended to be purchased from the third year on and presumably all the money for the contingencies is now gone. So what we are talking about is, in fact, that the administration expenses shown here if they are the same thing and I cannot be sure if they are the same thing because I believe, in fact, what the House should have in order to do an honest and fair job of analysing the performance of the company, fair to the company itself and I think fair to the taxpayers of Gibraltar and the Members of the House who have been debating this issue since 1983, is to get comparable figures so that we can see where the differences are. But if we are talking about the same thing then we are really talking about administration expenses being doubled what they were originally, in fact, predicted as and if that is the case then really that is where the problem

has been going on in 1985. To what extent is that still the case in 1986? First of all, we are told that turnover for 1986, Mr Speaker, is £12m. I am just trying to check what the original figure for the turnover was. The original figure for turnover was £9.8m. Presumably, in fact, what we are talking about in year two is that the figure is now £12m instead of almost £10m partly because the 1983 estimates were based on 1983 prices, that is, unlike the 1982 Appledore proposals which included an element for inflation, the 1983 proposals did not include an element for inflation, they were at fixed costs so one would expect that in the second year of operation, in 1986 the £9.8m might have become something slightly higher and also because we have been told that there was £11m of RFA work that did not materialise in year one which was then pushed over into year two so then what we were talking about is, again the sales being roughly on target or, if anything, slightly above target. We haven't been told anything about manpower costs by the Hon Member when he has quoted the figure for sales but certainly the outturn on the profit again is now said to be £3m as opposed to an original £2.3m. So we are talking about a figure of £700,000 at this stage and I don't know whether we should assume that this figure is as much out as was the case with the figures that the Hon Member gave us originally for 1985 because apart from the figures that he has given in this House, the company itself in information sheets distributed to its employees in the course of 1986, for example, produced figures telling them what the turnover was and what the profits were and what the losses were and what the costs were and none of those compare with any of the figures that we have got here or that had been given previously by the Financial Secretary. One would have thought that if they sent out as part of an exercise of keeping employees up-to-date on what is happening, they ought to take the trouble to make sure that they are keeping them up-to-date with accurate information not with information that needs to be corrected subsequently. Of course, we are not going to say to the Hon Member that £3m is the audited figure and maybe by the time the Auditor has finished with the Accounts it won't be £3m it may be more but I think we are on safe ground in assuming that it won't be less. I think the Hon Member has said that the prediction for 1987 is breaking even. Well, I believe the prediction produced to the media by the company was a £200,000 loss for 1987. It may seem, I suppose, in the context of banding about millions, writing off £1m loan because that is essentially what the Government is doing by altering the loan into shares it is doing that because it knows that the loan is never going to be repaid and why have a loan there that they are never going to collect so they might as well convert it into shares. De facto by converting it into shares, of course, they are, in fact, buying shares at par which are already shown in the accounts of the company as being below par because the audited accounts for 1985/86

of which we already have a copy, Mr Speaker, which has been laid at this meeting of the House, mentions that the Principal Auditor has written down the value of the shares according to the balance sheet of 1984 and now we will have to write down the value of the shares again according to the balance sheet of 1985. And when the 1986 accounts are known, he will have to write down the value of the shares again. So every time that the Government of Gibraltar buys shares for a pound it is buying shares for a pound knowing that after each set of accounts it is worth less and less and less than a pound. So the £1m will be converted into £1m shares which from the moment they are bought are no longer worth £1m on paper and that is a clear indication that they do not expect the company to be in a position to pay back £1m otherwise it wouldn't be a very sound move to exchange an asset worth £1m for one worth less than £1m. Normally when shareholders convert loans into equity it is because they expect the share prices to be going up not coming down. I think it is also indicative of the prospects for the company that the Financial and Development Secretary - and we are grateful that he has tried to look that far ahead - looking into 1988 has mentioned the fact that the 1987 position of £9m naval work and £9m commercial work will no longer exist in 1988. In fact, the situation for the fourth year of operation in the projected original accounts was for a turnover of £20.7m virtually all of which being commercial work so the position that the company is faced in 1988 in terms of the level of commercial sales it has to achieve is the one they predicted they would have to face, they are not being faced with anything that was not already predicted in 1983 in terms of sales. Certainly, I think it needs to be pointed out that the prediction for employment has been drastically cut back and we are rather puzzled when we were told by the Hon Member in answer to questions previously that the question of productivity levels being achieved in 1985 which we thought was a significant piece of information to have if we were going to be asked to note the accounts, if we are being asked to note the Accounts and we have already looked at the Accounts before coming to the House and we find that in 1985 the sales are £6m, the manpower costs are £400,000 less than predicted and the manpower numbers are 100 people less than predicted, then it is difficult to understand how it is that the productivity was not achieved. That is why we asked the question previously and the Hon Member fobbed us off by referring us to the Price Waterhouse Report where Price Waterhouse is looking at the situation from now on and not at what was happening in 1985, Price Waterhouse wasn't here in 1985 to know what was happening. Price Waterhouse can only deduce what might have happened in 1985 the same as we are doing by looking at the accounts for 1985. They can perhaps make an assessment about productivity levels today in the yard by going in there and observing the way the yard is organised and, quite

frankly, what they have come up with in their reference to productivity does not say whether the yard is operating at the level of productivity that was expected of it in the projections of the tender document, it doesn't say that. It says what the level of productivity was compared to a hypothetical 100% British standard. That is neither here nor there, so what? We don't know how the projection of Appledore compared with 100% British standard either so we haven't got a common measure. What we think is reasonable is to say, fine, whichever way we want to measure it, sales per employee or unit labour costs or cost per pound of sales but relating it to the kind of internal figures that were produced in this original thing. And if Appledore originally said in terms of their cost of sales: "We consider that the cost of sales" - I believe, speaking from memory - "for the first year was something like £10 an hour", then was the result in 1985 £10 an hour or more than £10 an hour or less than £10 an hour? We think that is the kind of information that we are reasonably entitled to expect to be getting in 1987 because let us not forget, Mr Speaker, that when the original Gibrepair Bill was brought to the House of Assembly and we were saying: "What kind of control is there going to be politically and by the House of Assembly over a company that is going to be spending public money and maybe making more calls on public money?" And we were told: "Well, we will have a full session on the Accounts". Yes, but a full session on the accounts in 1987 about what happened in 1985. We want to know what is going to happen in 1988 and in 1987 because we can quarrel about what happened in 1985 but we cannot undo what happened in 1985, that has already happened and the same is true of 1986. The only thing that is useful about analysing what happened in 1985 and what happened in 1986 is in making sure that it doesn't continue to happen, that is what is useful about going back, not because we can correct it. Whoever made the mistakes, well they cannot be undone but what we cannot do is perpetuate mistakes that keep on costing us money. I believe, Mr Speaker, that we are not going to be able to achieve that kind of exercise unless we are able to get the kind of breakdown which presumably the Government itself will want to do or the Board of Directors will want to do or somebody else concerned with the commercial dockyard will want to do but we certainly feel we ought to be doing it. We feel that we have also got the responsibility and that if we are going to criticise we want to criticise armed with facts and figures and we feel if the facts and figures prove that the criticisms are unfounded then we won't criticise but I think it is in nobody's interest that we should have to spend a lot of time criticising things because we don't get the information and therefore we have to assume the worse because it is not unreasonable to assume that if somebody appears to be reticent, the Hon Financial and Development Secretary performs in this House as if he was a modest maiden frightened to lift her skirt one inch whenever we ask for details. We expect him to be more forthcoming.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Over my head.

HON J BOSSANO:

The figure, Mr Speaker, for the year in the Accounts is one that it is difficult to analyse because, for example, if we look at the explanation in the Accounts of the way the cost of water because of the poor state of the water supply system within the yard and the fact that there was a loss of water which presumably must have been going on before when the dockyard was under the navy but perhaps they didn't mind losing water, but that in itself seems to be on paper sufficient to explain the whole of the difference away. This is why it is obvious that there is more to it than that because if you have a situation where, first of all, you come and you tell people: "The outcome is not so bad because really I had said I was going to lose £3.2m and instead of losing £3.2m I have lost £3.7m which is £500,000 and of that £500,000, £440,000 is the water", and you say: "Well, right that leaves £60,000". And then they say: "And then there is a £1½m of RFA work, the industrial dispute, the disruption to the yard, the loss of sales" - all that is £60,000? If you overdo the explanation then clearly the difference between the prediction and the performance must be more than £½m.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They have done very well.

HON J BOSSANO:

Yes, I can see, if the Hon Member follows that line eventually he will convince us all that we have made colossal profits in GSL at this rate. In looking forward to the current year, Mr Speaker, and the predictions for the current year which the Hon Member has made some reference in saying that for this year we are talking about a £3m loss on an £18m turnover, no, £3m loss was for 1986 on a £12m turnover and we are talking about breaking even on £18m. The expected result of year three in terms of sales, Mr Speaker, was £15m. We have an odd situation in that we are talking about year one and we find that in year one the sales achieved are the sales targetted. We find that according to their original projections stocks and work in progress are related to turnover and that is not an unreasonable assumption. That is to say, the more turnover you have got the more ships you have got in the process of being repaired at any one time for which you are spending money and on which you have not yet collected an income unless you have got some of your own money tied up there.

But, in fact, the stocks and work in progress in the original projection is something like £½m or £600,000 less than the outcome so we have got a situation where here, I think there is a breakdown at the back if I remember correctly for stocks and work in progress, yes, we have got work in progress £700,000, Mr Speaker, on page 12 and we have in the original projection which is Table 9(6) of this document, work in progress being £600,000. The stock is almost £1½m and in the original one the stock was £1.1m and not only was it £1.1m in the original one, as recently as the dispute in May, 1986, when we saw the sudden departure of the fleet-footed Brian Abbott, as recently as that, the Government issued a Government press release saying that the components of the expenditure was still £1.1m for stocks. That was a Government press release in 1986, yes, Mr Speaker, I keep copies of all the press releases, the trouble is I cannot always get my hands on them when I need them.

MR SPEAKER:

Have you got it there?

HON J BOSSANO:

No, but I can produce it, if they don't believe me I can produce it. The situation is that it is difficult to understand how in 1986 they didn't know what the stocks were in 1985 because they said in a press release in 1986 in explaining when there was this debate about how the money had been spent, the Government came out with a press release which looked as if it was a photocopy of a minute - perhaps that will remind them which one I am talking about - that is what it looked like and they broke down how the first £8m had gone and that included £1.1m in the first year in stocks and, in fact, we are now being shown in the Accounts that the amount in stocks in the first year was £1.488m. So we have got a situation where there is a discrepancy in stocks and work in progress in the first year of the order of £400,000 which may not contribute to the profit and loss situation but it certainly makes a difference to the cash flow situation. If we have got a situation where the stocks and work in progress figure is, in fact, as I have just demonstrated, Mr Speaker, £400,000 higher than the figure anticipated of £1.7m which is of the order of 25% more on the same turnover as was expected and if, in fact, Appledore explains that the stocks and the work in progress are related to turnover then is it reasonable to assume that if in 1986 the turnover is higher than in 1985 and in 1987 the turnover is higher than in 1986 then there is going to be proportionate increases in stocks and work in progress which were already much higher than anticipated and if so, why? How could they go wrong on things like that? I can understand

them saying: "We came in and we found all the water pipes leaking" but why were they wrong on stocks and work in progress by 25% when they are supposed to be experts and that is why we are paying them? We therefore need to consider, Mr Speaker, in analysing the Accounts which is what the Government is asking us to do by presenting them as they are required to do by the Ordinance and asking us to note them whether, in fact, it is reasonable to consider the projections and we are, of course, having to take shots in the dark because we do not have the business plan so we don't know how the company itself has arrived at these conclusions and we don't know how thorough a job the Government has done itself of analysing the company's business plan, we don't know whether the company has come to the Government and said: "Look this is my business plan" and the Government has said: "Good, at last we have got a business plan", period. Because really this is the business plan and presumably this is now updated but we don't have the updated version. If we had the updated version then perhaps we might stop looking at this and look at the new version and start monitoring progress from now on on the basis of the new version but that is not information that is available to us and therefore what we are looking at is what the Government is saying is being predicted compared to what the company said was being predicted when they got the contract and we must not forget that they got the contract on a number of things which included predictions of sales, predictions of employment and predictions of profitability with a lower level of investment than anybody else was saying was possible. They are not saying that now but originally one of the things when they were selected and there was a presentation in this House made to Government and Opposition by the team of consultants that selected them was that, in fact, at £25m they were the people who were predicting the most optimistic result with the lowest level of capital investment. That is why my Hon colleague asked him whether they thought that Appledore had been over-optimistic in order to get the contract and the Hon Financial and Development Secretary says: "No". Well, he wasn't here or was he here when, in fact, they were selected? When they were selected a presentation was made in this House and a press release was issued stating that at £25m apart from the fact of their international expertise which is a non-financial consideration, the main consideration for selecting them was that they were asking for £25m which was less than anybody else, they were predicting a better return on that money than anybody else in terms of profitability and a higher level of employment than anybody else. They were therefore more optimistic than anybody else but they were not being optimistic in order to get the contract, that is what the Government still believes today. I don't think everybody else is going to be as gullible as the Government appears to be on this issue. But to get back to the point on the accounts and the difference between the business

plan, if we are looking at these predictions on the basis of this performance and we have to do ourselves a certain amount of dissection of these figures and a certain amount of assumptions about the implications because if we have got a global figure, for example, the Financial and Development Secretary has not made any attempt to explain in the accounts this adding back that is shown on page 5 on the profit and loss which actually results in a gross profit being shown. Certainly that kind of operation did not feature in any of the original proposals and what does that concept mean? Is it that the overheads recovered are overheads that have been charged to items that are being capitalised as capital investment? In which case, fine, you can then reduce on paper the way your losses are shown so that if you have got people and you put them on the slop barge then you charge the cost of those people on the slop barge as an overhead cost which you then deduct from your running expenses. Therefore your profit and loss account looks better, you capitalise that, you inflate the cost of the slop barge so that the slop barge costs much more money than predicted and much more money than it would have cost to buy it anywhere else in the world and, of course, that is not a problem because you just issue shares to the Government of Gibraltar in exchange for that slop barge so now the Government of Gibraltar has got £2m of shares against a slop barge that they might be able to get some scrap value for unless they do with the scrap what they did in 1985 which is to let people walk away with it without charging them, then they won't get anything at all for the slop barge. Because, of course, there is a report which the company has decided to do nothing about, I don't know whether the Government is aware of that as the owners, which points out to the peculiar way in which scrap was disposed in the first year of operation. The Hon and Learned Chief Minister looks very surprised perhaps he can ask to be given a copy of that report. I can get him a copy if he wants, Mr Speaker, if I can find it amongst all my papers. But if I am correct in thinking that that is what overheads recovered means then, of course, it does mean that these figures could have looked much worse. What cannot be eliminated is the bottom line at the end of the day and whether we capitalise things or we show them up one way or we show them up the other, the reality of it is that the financial resources available to the company are considerably less than was predicted at the end of its first year of operation and that is why the company needed money otherwise they could not get the accounts cleared, that is why and that bottom line is the bottom line which shows a very large discrepancy between what was originally predicted in terms of the £5.3m of cash resources as opposed to £200,000 of cash resources at the beginning of 1986, and it is still a position which at the end of 1986 will show a discrepancy between the predicted performance of year two and will also be reflected in year three.

If the Hon Member is telling us in this House that in 1986 the result was a loss of £3m as opposed to a prediction of £2.3m, then what I have to say to him is also the points that I made to him last year when he was saying: "The company is on target" - which it isn't, it is out of target by, as we know on paper, £600,000, we believe much more than that but on paper £600,000. The original figure included £1m of rates, they haven't paid £1m of rates in the first year, and I assume I am correct in saying that they haven't paid £1m of rates in the second year? But they haven't got the £1m that was earmarked for rates and therefore this is why, Mr Speaker, it is not honest - and I am not saying that they have made away with the money - I am saying it is not honest in terms of presenting information to this House, if we are being asked to say: "How well is the company doing". Is it in anybody's interest that we should be given too rosy or too gloomy a picture? Isn't it better for all of us to know exactly what the position is and where things stand? Is it not the case that in 1987 they are going to have to pay rates? We have been told that they are. Does the Hon Member still say they are going to break even after paying rates which is what he told us just now?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

HON J BOSSANO:

He does, well I am not sure that he will be here in 1988 for me to ask him whether he can explain why they haven't. I think, Mr Speaker, clearly the degree to which we can draw conclusions by this comparison is limited. Perhaps since the Hon and Learned Chief Minister has agreed to make available the full report in confidence to my colleague I don't know whether that does include some of the detailed predictions which I believe can be made public. If we are talking about, for example, the fact that the company is predicting a turnover of £18m and predicting breaking even on that turnover or predicting a turnover of £12m and a loss of £3m on those £12m and we are comparing those figures with comparable figures produced when they obtained the tender, I don't see why other elements cannot also be publicly available. But, perhaps, if they are not going to be publicly available and that is a matter of judgement which the Government has got the right to hold a different view from one and we have got the right to disagree with them, if we are going to be able to see some of this information on a confidential basis then we shall take a closer look at that and see if that provides some of the answers but certainly with the statement that the Hon Financial and Development Secretary has made in presenting these Accounts to the House, we are totally dissatisfied with

the performance of the company, we are totally dissatisfied that this is accurate and we feel that, if anything, this understates just how badly they perform in comparison with what they predicted they would do. The only two areas where they appear to be really on target are on manpower costs and on sales which, at least, we can have the satisfaction where they are two crucial areas where nobody can point a finger at the people who are there because certainly I believe the people who are there, even in 1985, even with all the aggravation that they had in 1985, were still committed to doing a fair day's work which is what they were told was expected of them and I think they were doing it then and I think they are doing it now with, certainly more satisfaction because I think without a doubt the arrival of Mr Torsten Andersson in the yard and in Gibraltar did bring about a major change in attitudes. We are not, in analysing these Accounts, pointing to attitudes, we are pointing to economic performance and that is a different issue but certainly he brought a different change of attitude and I think that has been welcomed, I think, not only by those who work in the yard but by all of us in Gibraltar independent of our views about what the yard is.

HON CHIEF MINISTER:

Mr Speaker, I don't know how many more speakers there will be on the other side, I would like to make an exposition but I do have a commitment so perhaps we could leave it for tomorrow morning.

MR SPEAKER:

Does any Member of the Opposition wish to speak now?

HON CHIEF MINISTER:

I don't mean that, I don't mean that they should speak now, I mean the time that would be required to finish the debate because Mr Pilcher is going to contribute probably after I speak and then perhaps in the event we will not be able to finish tonight so in that case I will go home and take every word that Mr Bossano has said with me to bed and come back without the answer.

MR SPEAKER:

We all look forward to listening to whatever you have to contribute tomorrow morning at 10.30.

The House recessed at 7.10 pm.

WEDNESDAY THE 25TH MARCH, 1987

The House resumed at 10.40 am.

MR SPEAKER:

Before proceeding with the debate on the Accounts of Gibraltar Shiprepair, I understand that the Hon Mr Canepa wishes to give some information on a particular Question.

HON A J CANEPA:

Yes, Sir, I don't know whether the Leader of the Opposition is outside and he is able to listen to what I am saying but I am now in a position to clarify the apparent inconsistency between part of the statement that I was making in the main answer yesterday to Question No. 141 and the information which I then imparted in the course of supplementaries. The position, Mr Speaker, is that under our Ordinance there are no rules or regulations laying down manning levels for the crews hence the statement that I made in the main answer, and I quote: "There are no minimum levels for crew under the Gibraltar Ordinance". However, under Section 116 of the Merchant Shipping Ordinance, the Captain of the Port has power to detain vessels which are not sea worthy due to their being undermanned and hence the information that I was giving in the supplementary information that the Captain of the Port is in a position to determine the minimum levels of manning of ships.

HON J BOSSANO:

Can I ask for clarification. If the Hon Member has said that the Captain of the Port has powers to detain then, surely, it has nothing to do with whether the vessel is registered in Gibraltar or not but whether the vessel is in Gibraltar waters.

HON A J CANEPA:

That is so, it is regardless of whether a vessel is registered in Gibraltar or not.

HON J BOSSANO:

The question we were asking was about determining the manning levels for Gibraltar registered ships not ships of other nationalities.

HON A J CANEPA:

What happens in the case of Gibraltar registered ships, and I go further, is that the owner may request a certificate of safe manning and to get that certificate of safe manning then obviously it is the Captain of the Port that would have to determine the correct manning levels insofar as safety is concerned.

HON J BOSSANO:

But can, in fact, a ship owner that comes to Gibraltar and says: "I want to register my ship here" be told: "You have to have such and such a manning level otherwise you cannot register". Is that possible or not?

HON A J CANEPA:

There is a relevant Merchant Shipping Notice issued by the Department of Transport in the United Kingdom which will be extended to Gibraltar in due course. When that happens then the Captain of the Port will be able to act in the manner that Mr Bossano is suggesting. At the moment he is only able to do so when required by the owner of the vessel who is seeking a certificate of seaworthiness.

HON M A FEETHAM:

So the answer is, in fact, that at the moment he has no powers to determine the manning levels of ships registered in Gibraltar?

HON A J CANEPA:

Unless somebody asks for a certificate of safety and he will only have powers to do so, in any event, when the shipping notice that I have referred to and which I was having a look at this morning, is extended to apply to Gibraltar.

HON M A FEETHAM:

Mr Speaker, in fact, we do not meet British standards at the moment?

HON A J CANEPA:

Yes, we do meet British standards in respect of safety.

HON M A FEETHAM:

I am talking about manning levels.

HON A J CANEPA:

Yes, you do because a vessel could have a crew of fifty of whom thirty are seamen and it is the requirement for those thirty seamen that determines whether you are meeting British standards. The other twenty could be stewards or pursers and whether you have twenty stewards or eighteen stewards or fifteen has got nothing to do with the safety aspects, it is only in that context that there can be savings in respect of overall levels of crew.

HON J BOSSANO:

But at the moment, surely, Mr Speaker, the Hon Member has just said that we cannot require the ship to have thirty seamen or one seaman at all.

HON A J CANEPA:

That is the position at the moment.

HON J BOSSANO:

So therefore at the moment we are not meeting British standards.

HON A J CANEPA:

What we are aiming for, as soon as the relevant conventions are extended, is to be able to comply in respect of the Captain of the Port laying down the full manning levels in respect of safety.

HON ATTORNEY-GENERAL:

And, of course, Mr Speaker, the vessel can be prevented from sailing, a Gibraltar registered vessel sailing from Gibraltar if the manning is below safety standards, that is under section 116 of the Merchant Shipping Ordinance which applies to Gibraltar registered vessels as well as foreign registered vessels.

HON M A FEETHAM:

Mr Speaker, we agree to disagree on that.

MR SPEAKER:

We will come back to the debate on the GSL Accounts.

HON CHIEF MINISTER:

Thank you, Mr Speaker. Following on the introduction of the Financial and Development Secretary in the motion to note the Accounts of GSL for 1985 and his general remarks, we had the somewhat convoluted, to describe it kindly, contribution of the Hon Leader of the Opposition where he went through a number of details some of which I was able to follow, others I am afraid that I will not be able to follow until I see the Hansard and look at it with great care. In any case, if there are any matters there that I think are of sufficient importance, and in fact, they will be looked at by people better qualified than I to judge any matters that arise of importance there and I can assure the House that if there are any matters there that call attention other than the general comments and the trend which is followed by the Leader of the Opposition of any alarm or necessity to raise the matters either he will be given necessary explanations or it will be raised in the House. What I don't want it to be thought is and I don't think the Hon Member can expect me to deal with the areas that he has dealt with to the extent to which he has done. Therefore, my remarks will be of a general nature and refer, in the first place, to the statement which I made at the last meeting of the House where I gave a reasonably detailed account of the conclusions which emerged from the Price Waterhouse consultancy. I also explained why the Government had decided to provide up to £2m to GSL this year. Since then there has been considerable comment, particularly through the news media, on the affairs of the company and its future prospects. Despite the differences in views of approach between both sides of the House, I am nonetheless glad to see that we agree on the importance of GSL to the economy and on the need to ensure that the company achieves a firmer basis for future stability. There are, unfortunately, some people outside this House who prefer to make sweeping, dramatic statements questioning the whole concept of having a shiprepair yard at a time when the operation has barely emerged from its conversion or development phase. All I would say is that financing and running a shiprepair yard is surely not the same as running a shop in Main Street. I say all this, Mr Speaker, because we cannot look at GSL's future purely in terms of a balance sheet. There is, of course, a need to operate the company in commercial terms but equally there is a wider economic and human dimension. GSL is, for example, the largest employer in the private sector. It makes a significant contribution to the economy and to the shipping sector as a whole. It retains and attracts some of the skills for which Gibraltar has been renowned over centuries, it physically represents a natural use of our limited resources. These are some important factors which come into play when one has to assess and judge the merits of the operation. The results for 1985, as indeed for 1986, are not as encouraging

as one would have hoped for. The poor state of the infrastructure as well as the variations in the RFA work programme are the main underlying reasons for the higher loss in 1985. These spilled over into 1986 and, together with the disruptive costs of the industrial dispute that year, again added to the projected loss. For 1987 the indications are that the company should move close to break even, I cannot go any closer than that but I think it is pretty hopeful. As the Price Waterhouse Report reveals, there are a number of other areas which account for the state of the company's finances and which require close attention. I refer in particular to the overall financial management of the company and, in particular, the need to contain or reduce overheads. A condition of our £2m contribution to the company this year is that tangible progress must be made, and seen to be made, in this area. Even before the Price Waterhouse consultancy got off the ground, as I stated yesterday in reply to a question from the Hon Mr Pilcher, the GSL Board had taken steps to rectify the position and although I cannot reveal the nature of the action which has been taken, I can say that the Government is satisfied that this is the proper and effective way within the terms of the Management Agreement. Price Waterhouse has pointed to deficiencies which have been the subject of on-going discussions and concern at Board level since 1985. The GSL Board took appropriate action, Appledore have, for example, had to pay for a specialist review of GSL's computer system at considerable cost to them. Under the Management Agreement Appledore are totally responsible for the management of the company, not the GSL Board, the same goes for the employment and the industrial relations. The GSL Board and the Chairman have been very active in pushing the managers to correct the deficiencies highlighted in the quarterly internal audit report. Although the Government is looking for improved financial results, it is conscious of the need to see improved performance in key areas. The GSL Board has submitted a Business Plan for the next few years which provides a relatively firm basis in mapping out the company's drive towards viability.

HON J BOSSANO:

Could I ask the Hon Member to give way on a point of clarification there? This Business Plan, is it something that has been initiated by the management company and sort of approved by the Board or the other way round?

HON CHIEF MINISTER:

Initially, of course, the Business Plan is produced by the management but they are scrutinised, altered to the satisfaction of the Board. I know that because whenever the Chairman is in Gibraltar he always raises with me the importance of accurate and reliable and

realistic Business Plans that he can support. We do not only look forward to its successful implementation but we shall be monitoring very closely the extent to which progress is being achieved against target. The key assumptions are: sales, employment and productivity. As the Price Waterhouse consultancy confirms, the company has achieved good marketing results, I don't think that there can be any doubt about that. This is vital because, as we all know, the guaranteed RFA work comes to an end at the end of this year. Employment is not projected to increase much beyond current levels but the Government will expect, however, that level of employment to sustain the nucleus of some 500 Gibraltarians currently employed. That is the basis and the faith which we put on that and the aim, perhaps sometimes it has not been agreed generally, that we have always had and I think in general terms, looking as a whole, we can be proud of saying that no one who works in the dockyard has voluntarily lost or rather has not found work if he wanted to, either one way or the other. Those who wanted to stay found work there and fortunately the situation as described yesterday by the Leader of the Opposition is such that there is now a contented labour force and a committed labour force and I never forget the meeting I had with the foremen at the time when we were in conflict where people I had known for years, I know their commitment to Gibraltar and I know their commitment to the yard and I was very impressed not that I didn't know but sometimes when you see the people committed which is now what is happening with management that they have come down to shop floor level rather than people having to go up to offices and that is what happened on that occasion that impressed me very much and I think I can say with confidence that that has had a great effect on my thinking because it wasn't the ten or fourteen people that were there, it is what it represented and what was conveyed in acts of human and realistic terms that impressed me very much and I think, to some extent, modelled a lot of our thoughts and our policy on the matter. But it will continue to place particular emphasis on the training of Gibraltarian apprentices and the localisation of expatriate management posts. These are the two areas where we demand, as a result of the contribution that that should happen, training of apprentices and localisation of expatriates. I am glad to inform the House that the company's Business Plan, approved by the Board, already takes full account of this two important factors. As far as productivity is concerned, the improvements which appear to have been achieved in 1986 owe much to the improved state of industrial relations generally and I would hope to see a consolidation of this trend which is so critical to the future of the yard in which we have faith that given the goodwill of all concerned, will perhaps sooner rather than later, prove to be a very big asset for the future economy of Gibraltar.

HON J E PILCHER:

Mr Speaker, I have sat through the intervention of the Hon and Learned the Chief Minister. Initially, I wasn't very sure what he meant by the convoluted contribution and he also mentioned the word alarm but I think he missed the underlying theme and certainly the underlying theme has not been answered by the Hon and Learned Chief Minister which was the basis of the contribution of the Leader of the Opposition yesterday. There is no question anymore of us discussing or disputing the area of the £2m. This was discussed at length in the last House of Assembly and we did agree with the Government that there is more to Gibraltar Shiprepair Limited than just a balance sheet. We are talking of the economy of Gibraltar and the human aspect of the Gibraltarians working at the yard, that we accept, but I think the main point made yesterday by the Leader of the Opposition was that in noting the Accounts for GSL in 1985, we were in no position to be able to note the Accounts and compare them with the projections made by A & P Appledore in their original projections. I think if you look at the Report for 1984 and I accept what the Financial and Development Secretary said in his opening address in that 1984 was a particular year and really the Accounts of 1984 cannot be seen as a part of the initial projections by A & P Appledore because it was virtually start up costs and capital expenditure in 1984. But if you look at the Accounts of 1985 and try to compare them with the proposed commercial shiprepair operation which was the tender documents submitted by A & P Appledore, the way that the Accounts have been presented for 1985 is, I wouldn't like to use the word misleading, but it certainly does not compare like with like and what the Leader of the Opposition was saying yesterday was that this is what we would like to see in the House, a report on Accounts which show a like with like situation. I will give you an example. According to a question asked yesterday by myself on the No. 1 Dock, the answer was: "Work on No. 1 Dock was completed in October, 1985. Three vessels were repaired in No. 1 Dock. The value of the work totalled £1.83m". We are not sure but given the comments by Price Waterhouse that a lot of the work is being obtained at a loss and that this is good commercial management in that you have to establish a market first and therefore it is not bad practice to get initially ships at a loss. If in one of those ships and we don't doubt that it was, the Beaujolais was one of those ships repaired in No. 1 Dock, it was in fact the first one, then the £1.83m must refer to the Beaujolais. We all know because Brian Abbott himself said on television, the Beaujolais had lost £0.6m. If you look at the Accounts it says: "Turnover - £5.9m; cost of sales - £7.4m; overheads recovered - £1.6m; gross profit £172,000". Where is the £600,000 lost? How can the company make a gross profit when we

all know that they made at least £1m loss on their sales? We need to know what the overheads recovered are because we are not comparing like with like and the Hon the Financial and Development Secretary can look up at the sky for as long as he likes but the reality is that it is quite clear here what the projections were and here it is not clear what the projections were and there are other areas. Travelling expenses for the managing directors and the managers which the accountant himself says he doesn't like the system, where Price Waterhouse said they don't like the system implemented because there is no scale of travel allowance but the scales are approved by the managing director and the managing director's scales are approved by the Chairman. Where in the Accounts are the travelling expenses shown? How much is the travelling expenses of the managers costing us? Those are only a couple of examples. The Leader of the Opposition yesterday gave many other examples where administration expenses, £3.9m do not concur with the £2.9m shown, the company is not paying rates which is another £0.5m not shown anywhere. I think the underlying theme not answered by the Hon and Learned Chief Minister is the theme of presenting the Accounts to the House in a way that the House can understand them and can compare them with the initial projections and I don't accept what the Hon Financial and Development Secretary keeps on telling us which is that 'in making comparisons between the projections in the initial A & P Appledore proposals and subsequent developments, it is important to take account of the change in circumstances between the fact that the original submission and the commencement of the commercial operations and, indeed, subsequently'. It is not fair to us because he himself uses the comparison when he is talking about projected losses so why shouldn't we be able to use those projections that don't tally? When we use them we are told: "No, there is variation". When he uses them, the Chamber uses it, he uses it, Price Waterhouse refers to the projections and nobody at that stage questions the variations. The variations are only another red herring by the Hon Financial and Development Secretary to move away from the points that he cannot answer and those are many. Neither he nor the Government are in a position because they haven't analysed the Report. I am sure, and I stand to be corrected, that no Member of the Government has actually compared proposed commercial shiprepair operations with the Accounts and come up with the answers. We will see when the Hon the Financial and Development Secretary gets up and answers all the points that the Leader of the Opposition and myself are making. I accept that there were many points and that, obviously, some of the points will be answered in subsequent Houses and we ourselves.....

HON CHIEF MINISTER:

No, I didn't say that. I said that I would look at them and if they required answer I would deal with them.

HON J E PILCHER:

We will not allow the Hon and Learned Chief Minister to forget it, we will bring it up again if he hasn't done so himself. The Hon and Learned Chief Minister again, I think he failed to understand the point, again mentioned the infrastructure, RFA work, industrial disputes which were a cause in 1985 of a worsening of the scenario. But according to the Chairman himself, which is the point made by the Leader of the Opposition yesterday, there was only £2m loss all accounted for or basically all accounted for by the water loss. Where does the £1.5m of RFA work, where does the infrastructure, where does the industrial dispute fare in this balance sheet? The reality is it is hidden away under administration expenses, under overheads recovered, under many aspects which are misleading to this House, Mr Speaker. I cannot let the question of RFA work go by because we do accept that there has been a change in the contribution of RFA from year to year but we all know and the Chief Minister has just said it, that the crux of the RFA will come at the end of 1987 when the RFA work finishes and the Hon Financial and Development Secretary did say that it was possible after 1987 to try and get more work. He did at the same time nearly suffocate when he was making his contribution yesterday, I think he swallowed the wrong way and nearly suffocated when he said that, obviously this is no inference to the fact of what he thinks about being able to get more RFA work in the future. But it is always there and it is a point that obviously the company will try to get more work, RFA or commercial work, in the future. The thing that baffles me and I think it baffles the Opposition, is that everybody seems to have known what was needed to be done before we brought Price Waterhouse. I have a Chronicle here of the 14th March where Torsten Andersson in an interview said, the question was: "Is Price Waterhouse telling Gibrepar anything they did not know?" The answer was: "No", Andersson's reply was 'he feels that the Report is basically the GSL 1987 Business Plan turned into a Report'. The Chief Minister has said that the Board knew what had to be done before they brought Price Waterhouse so what have we done? Have we thrown away £100,000 of taxpayers' money? Since the Board knew what had to be done, the company knew what had to be done and the Government knew what had to be done why did we ask Price Waterhouse to come? And why is it that Price Waterhouse found so many faults? The Price Waterhouse Report is a very critical Report of the operation and we accept that and I think the Government has to accept that but there are even areas when Price Waterhouse came in February where they have shown dissatisfaction at some of the areas that have not taken the improvements that they would like to see. Obviously, I am not sure whether it was the Hon and Learned Chief Minister or the Financial and Development Secretary said that obviously

neither the company nor the Government have to accept everything that Price Waterhouse says, fine. But then the point is that we in the Opposition and I think again the Hon and Learned Chief Minister was guilty this morning of saying 'we knew what we had to do, the Board knew what we had to do but it is of such a confidential nature that we are unable to say it'. How does the Hon and Learned Chief Minister expect the Opposition to react to things which they know but they don't tell us? If it is a question of faith, which is a word that the Hon and Learned Chief Minister mentions quite a lot over the last few months, I am sorry but the Opposition can only look at facts, figures, factual statements and react to them and all we have is the Accounts and the Price Waterhouse Report. We do not have faith in the Government and we don't have faith in the management of the company. That, I think, we have made very clear. Again, I think another red herring about the Government wanting to protect the jobs of the 500 Gibraltarians. It is a red herring because if the Hon and Learned Chief Minister throws his mind back a couple of years, they were then defending the Appledore proposals on the ground that it would create 1,200/1,300 jobs in the economy within two or three years and it was the Opposition or the GSLP then that was saying: "No, what we need is a smaller naval base employing a less number of people". Today the Hon and Learned Chief Minister gets up and is defending 500 jobs when three years ago he was defending the tender proposals which said 1,300 jobs. He also tells us that in the new Business Plan the company is giving a new thrust to localisation of managers and apprentices. The old Business Plan had a main thrust on localisation and training. Again, three years ago highlighted by the AACR, highlighted by the Government today because that was also a very good selling procedure for the Appledore proposals. But the reality is that very little has been done about it up to today. The new Business Plan might include it but so did the old Business Plan and very little has been done about it. Apprentices, in fact, are on a decrease and the local management scene has not changed or has changed very, very little since the start of operation on the 1st January, 1985, and today we have already had something in the region of six or seven extensions at GSL because the local managers are apparently, and I say 'apparently' in inverted commas, according to the company not able to take over the job because of lack of training or lack of experience, etc. It is not enough to say 'the new Business Plan says so'. What we have to tell the company is if the old Business Plan said so why hasn't it been done? That is the difference between the approach of the Government and the Opposition. The Government continue to praise the managers, the Government continue to have faith in the company. The Opposition do not.

HON CHIEF MINISTER:

If the Hon Member will give way. I have said nothing to say that we praise the managers. I was talking of the Board as distinct from the management.

HON J E PILCHER:

The underlying theme, at least from here, appeared to mean, obviously, the Board which as the Hon Leader of the Opposition has just reminded me, included Brian Abbott at the time. That is the kind of analysis and that is why yesterday when in Question Time the Leader of the Opposition said and it is highlighted today in the Chronicle that we don't see why the Michael Casey Report cannot be made public today because the Michael Casey Report was a Report brought in by the Government of Gibraltar to actually give them an opinion, an expert opinion of this document, the A & P Appledore International Limited proposed commercial operation. I think with the benefit of hindsight, with this Report, with the Accounts, with the Price Waterhouse Report and the Michael Casey Report, we would be able to really do a good study on the proposals of A & P and whether or not they have been over optimistic as we claim or not over optimistic but a change of circumstances as the Hon Financial and Development Secretary has said. There are other points that I raised yesterday and I cannot really because in Question Time and I accept that the Speaker in Question Time has no option but to curtail the type of questioning, so since I knew that we had this debate coming I did not push on supplementaries on a couple of the questions, one of which was the question of productivity levels for 1985. I asked the Government: "Can the Government state whether the productivity levels at Gibrepair in 1985 reached the anticipated level?" The answer was: "It is the view of the company that productivity targets were not achieved in 1985 but that there has been a substantial improvement in 1986". Obviously when we ask in 1987 the answer will be the same because the productivity levels never seem to get to the levels that they wanted and yet it is quite clear that if the sales and the manpower costs have reached the planned levels of A & P Appledore, it is logical, it is like in one plus one makes two. If one element is right and the other element is right then the productivity levels must have reached not perhaps the desired level but I didn't ask the Government about the desired levels, I asked the Government about the anticipated level of the company so they must have reached the anticipated level so it is no good saying, like the Chairman says, that the industrial relations and I think the Hon and Learned Chief Minister also mentioned this a moment ago, the damaging effects in the market of the three week strike and the losses will continue at a level, it is pure nonsense. The sales are up twice as much

because we were unable to get £1.5m of RFA work and obviously if the sales were up and the manpower costs were slightly down the productivity must have reached the anticipated level. What certainly did not get to the anticipated level is the anticipated level of overheads which even Price Waterhouse says is still running as if Appledore were employing 1,100 workers. That is what Price Waterhouse says and that is one element, and I am glad that the Hon and Learned Chief Minister mentioned it, that needs looking into, the overheads of the company. But, of course, we need to know what those overheads are. It is not just good enough to say 'overheads recovered so much, expenditure so much', what are the overheads? Why is it costing us much more on overheads? Another point which I cannot leave unanswered is the question of the computers. Again, I did not really follow it through, the only supplementary I made was the supplementary on trying to establish the cost of the computer element which was, according to the Hon Financial and Development Secretary, another £150,000 in 1985 over and above the £1m that it cost us to buy the computers from A & P Appledore, computers which have never worked since 1984 and we have only recently been getting at the heart of the problem and yet in discussing the Accounts in 1984, we discussed them in November, 1985, the Accounts for 1984, the Hon Financial and Development Secretary told us that, yes, that the computers were, as far as his knowledge of the thing, that the computers were working. If I may just quote from Hansard: "Yes, it is working my latest information is it is working" because the Hon Leader of the Opposition asked him whether the computer, in fact, was working after an expenditure of £1m and he said: "Yes, it is working, my latest information is it is working although there have been teething problems". The computers have created an astronomical problem to the company, an astronomical problem highlighted by the accountant, highlighted by Price Waterhouse and which has cost the company a substantial amount of money on overtime expenses, on having to get clerical staff to actually check the things that the computers were doing. It is, I think, a situation which is accepted and yet we continue to pay A & P Appledore £150,000 in 1985 for writing and delivery of computer software, for installation and implementation of computer systems. Why doesn't the Gibraltar Government tell A & P Appledore that it is not going to pay or it should not have paid this money until the computers were working properly and why doesn't the Gibraltar Government charge A & P Appledore for every single penny cost to Gibraltar Shiprepair Limited as a result of the non-operation of the computers?

HON CHIEF MINISTER:

I think either it was yesterday or this morning that I stated that the GSL Board had taken action and that Appledore had to pay for a specialist review of GSL's computer system at considerable cost to them. I also indicated that not only had they made some stoppage of payment but that there were counter claims. I cannot go into details of those but it is not as wild as it sounds from the Hon Member. The Board, and I don't take any credit for that, the Board themselves, aware of the situation have, under the terms of the Management Agreement, refused payment and made counter claims.

HON J E PILCHER:

It is one point which I welcome because, obviously, as I was saying before, sometimes and I think the point was made by the Hon Leader of the Opposition yesterday, sometimes we are shooting in the dark, sometimes we are making comments because we are ignorant of what is going on because of this confidential situation and therefore all we can do as a constructive Opposition is to try and get information whichever way we can and if it is shots in the dark, well, then so be it. There are two other points that I would like to make. One is the point which I did make at the last debate on the Accounts and it is a question of the political responsibility of the Government in tackling the Gibraltar Shiprepair Limited whether it is questions in the House or whether it is debates. I do get the feeling, sitting at this side of the House, that the Hon Financial and Development Secretary is totally frustrated with Gibraltar Shiprepair Limited and, in fact, in his opening address when he sat down he pointed to this by saying 'and that is all I am prepared to say as the financial adviser of the Government', ie he was saying 'I am not prepared to enter into the realms of politics' and I concur with the Hon Financial and Development Secretary. He is called upon, I think, by the Government to answer not only questions on financial aspects of GSL but questions on policy of GSL and questions on the Government policy on GSL and I think it is about time that the Government took a decision, perhaps not one of political responsibility because we know clearly that, I think, the Hon Mr Canepa said on television and I know that the Hon and Learned Chief Minister have said that they will not appoint a Minister to take charge of GSL but I think it is unfair to have the Hon Financial and Development Secretary answering questions in the House which do not apply to him because he is only the financial adviser of the Government - and I will pass a box of tissues very shortly to the Hon Financial and Development Secretary. The other thing which is really a follow-up of that is that it is not enough to be told 'these things are happening but it is confidential, this we can show you, that we cannot show you'. We need to be able to analyse the

things quite clearly and as far as we are concerned Gibraltar Shiprepair Limited is a political responsibility because the Government of Gibraltar is the 100% owners of the yard and the policy matters of that Gibrepair operation can be and should be discussed at length here and any question on policy, on financial matters, etc should be aired here in the House of Assembly. Thank you, Mr Speaker.

MR SPEAKER:

Are there any other Members who wish to contribute to the debate? I will then call on the Hon the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. The Hon Leader of the Opposition and his colleague, the Hon Mr Pilcher, have set about me with their usual gusto for not delivering the sort of comparisons and justifications for the differences between the Appledore proposals in this famous document and the latest Accounts. I think I must make my position clear. With the greatest respect to Hon Members opposite, I am not in a position and I don't think I ever will be to answer detailed questions about Gibrepair or explain matters in the depth which might be required because I do not have intimate knowledge of the company's operations. The Hon Leader of the Opposition asked quite a number of questions in his speech and I am certainly not challenging his right to ask such questions, indeed I can understand his frustration and that of the Hon Mr Pilcher if it's genuine, if it's not genuine then I can also understand it but that is a different matter and some of this certainly appeared during Question Time and has appeared during Question Time on previous occasions. I am not making a political point about the responsibilities of Ministers or responsibility of Government for the affairs of what is, of course, a wholly owned company but it seems to me that if Hon Members do wish to go into the sort of detail that the Hon Leader of the Opposition has suggested he wants to go into and he seemed fairly insistent and his colleague seemed fairly insistent on this yesterday, then perhaps some other procedure might be considered by Hon Members for the purpose of meeting that particular requirement, I will explain what I mean in a minute. The fact is that there are political differences between the Government and the Opposition on the question of Gibrepair and that animates the exchanges on this subject in the House. It is something which obviously shouldn't animate me because I, like the Attorney-General, I ought to be politically neutral, I think it is probably easier for the Attorney-General to be politically neutral than the Financial Secretary because finance is essentially a subject with political content and so, of course, is Gibrepair and I find myself in the situation of being

both the Financial Secretary and the Financial Secretary (Gibrepair) on occasions. Having said that, I did make a note of a number of the points the Hon Leader of the Opposition and Mr Pilcher have raised as he made them. I certainly don't have the information at hand to answer all of them, some of them I can probably make an attempt to provide answers to but I think that the Leader of the Opposition must recognise and so must Mr Pilcher that they were both making political speeches and anything I say could obviously be construed as a political challenge. This is a situation I find myself in frequently in the House and it is certainly not my intention. I have been in the House long enough and I think I know the Hon Leader of the Opposition well enough to know that this can be so. For example, the Hon Leader of the Opposition raised the first point which I recorded, it may not be the first point he raised, was the fact that in the Accounts for 1985 in the balance sheet a figure of cash in hand and in bank on page 6 of the Accounts just over £200,000 and the Hon Leader of the Opposition compared that, I think I am right in saying, with the figure of over £5m which is shown in the original APA proposals for 1983. Naturally, when I heard him mention that I went to consult the said proposals. But, of course, I feel sure - perhaps I shouldn't say this, it sounds patronizing - I feel sure the Hon Leader of the Opposition knows the reason why there is a difference. In the first year's operation as shown in the Schedule of the original Appledore proposals, obviously assume that all the money from ODA or from whatever source, would come up front and I think one can confirm that by looking at the balance sheet figure, the figure of total equity for the year, share capital rather - £90m. I don't know when, I wasn't here at the time and I don't know who it was who pointed out that it was rather unrealistic to think that ODA would put up all the money at once, in actual fact as Hon Members will know they have rationed the money to a degree which on occasions we have not liked but that is the reason why £200,000 rather than £5m is shown there, that is one explanation. Another point I think I would have perhaps some sympathy myself with the point which both the Hon Leader of the Opposition and Mr Pilcher have made about page 5 of the Accounts, that is to say, the profit and loss account and the way it is drawn up. I think I must make a point, I think it is essential I do make the point that these are financial accounts prepared in accordance with financial conventions and, indeed, standard accounting practice. I myself, I must admit, found this particular presentation, turnover, cost of sales, overheads recovered, gross profit and administration expenses, a rather curious one. I am happy to say that so does, perhaps I shouldn't quote him, but so does Mr Brian Smith the new Financial Executive. But this, I think, is something which the auditors influenced and I think they are allowed to do it this way, SAP9, Mr Mor will obviously know the reference. It was in an attempt to, obviously the attempt failed, but it

was in an attempt to give what I might call a more, perhaps a simpler and more logical explanations that I in my opening speech I gave Hon Members some comparison between sales and manpower plus overhead expenses as I saw it in very broad terms. I think obviously I failed and I regret that.

HON R MOR:

Mr Speaker, can the Hon Member tell the House whether these Accounts as presented, would this be acceptable by the Commissioner of Income Tax?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker, as far as meeting all the requirements of Company law is concerned, yes, but the Commissioner of Income Tax will obviously want to make his own assessment. The Hon Mr Mor will know, for example, that the view taken by the Income Tax Department of depreciation is different from the one which is taken by accountants preparing the accounts.

HON R MOR:

What I am trying to clarify, Mr Speaker, wouldn't the Commissioner of Income Tax insist that, for example, administration expenses are covered by a proper list of all the expenses attached to these Accounts?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

He may very well want more information but this is a published document and therefore it meets the requirements of Company law. The minimum requirement is laid down. The point I was going on to make was that the company do feel and I think it is a reasonable point but they have to be very careful how much they reveal in their published accounts because obviously this will be seen by their competitors and it is possible for someone who knows his way around accounts to deduce certain things which would be useful to a competitor.

HON J BOSSANO:

What competitor?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, again, I am not in a position to say who Gibrepair is competing with, I haven't got a list of names but they are in a competitive market.

HON J BOSSANO:

If the Hon Member will give way. Surely, if the Hon Member wants us to take him seriously does he expect us to believe that he himself believes the things he is saying? GSL competes on price in the market. Whether GSL pays £400,000 for the water or £100,000 for the water, is totally irrelevant. The ships come here because they ask for a price for a job and we give them the price that is cheaper than Cadiz and they come here. If we don't they go to Cadiz. It is a simple straightforward exercise, the price competitive market. We want to know the information because if we are being told public money is going into this company because the Government is reasonably confident that the company is going to succeed and the company is going to break even and the company is going to need £2m this year and nothing next year, we want to be able to judge the accuracy, how sensible a belief is that. That is why we need the information, the competitors don't need it, we need it in this House because we need to know whether we are putting in £2m this year, £3m next year or £4m the year after.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Very well, Mr Speaker, I will come back to that point in a minute because I think that and, indeed, the Hon Member has in a sense anticipated or rather leads me very well into what I was going to say. First of all, I felt I owed him a few further comments on the question of page 5 of the Accounts. It may not be necessary for me to explain this but to cost of sales one could add a proportion of overheads recovered or perhaps, I should say, deduct because the overheads recovered there represents part of the capitalisation of direct labour work plus an element of work in progress related to largely our old friend the slop barge, as Hon Members will know, and that is the reason for that rather curious entry, overheads recovered. About £1.3m I think relates to the item shown in note 7, tangible assets, yes, attributable production overheads, right at the end, £1,299,000 and the remainder which is over £300,000 is the work in progress element also attributable to what it says, own works capitalised, and that is, as I say, the rather curious explanation for the item overheads recovered. There was another point I mentioned, again in the context of comparisons with the original proposals, the relationship between stocks and works in progress. I think the Hon Leader of the Opposition said that one would expect that to move in line with turnover or business activity generally. As I see it there was a figure, I have looked again at the figures and they were forecasting rather less than £2m stocks and work in progress at the end of the first year compared with just over £2m, £2.2m.

HON J BOSSANO:

£1.7m we are comparing.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

£1.7m compared with £2.2m.

HON J BOSSANO:

Which is £½m difference.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is £½m difference, I think again an element of that belongs to the subject that I have just mentioned, work in progress. But to explain that in detail I think one would want to have the Finance Manager and the Production Manager and the GSL people present to give the explanation and likewise with something like productivity. I am simply not in a position to explain, I can certainly pass on what the manager of Gibreair, the managing director or any of his senior staff tell me or they might tell Mr Montado about productivity. I gave an answer in the House yesterday which was obviously considered unsatisfactory. I have, in fact, got a view from the managing director that the level of productivity in 1985 was roughly 35% below target. Here I give you that information, that is what he told me. I cannot tell you why it is 35%, I cannot explain the difference between that and the A & P Appledore proposals only the managing director or other members of GSL could do that. And this really takes me to the point on which I would like to conclude, Mr Speaker, because what I am really driving at

HON J BOSSANO:

Before he does conclude, can I just make a point there, Mr Speaker? The point, of course, is that if he is now able to tell us that the information he has been provided is that it is 35% below target, we can now go back here and check it. We can find out what the target was, we can work out what 35% below that is and we can then come back and do the work of checking the accounts. We are prepared to do that kind of work. We would have thought the Government itself, if the Hon and Learned Chief Minister has today said in his contribution that productivity is one of the key areas and every report from PEIDA onwards including the last one of Price Waterhouse, says that productivity is a key area, I would have thought that without the Opposition raising it the Government itself would say: "Now you have been operating for one year, how close have you come to achieving

your productivity target?" It seems they haven't asked this until we have asked them and they have gone and asked the company in order to be able to tell us. I would have thought they would want to know but certainly now that we have been given a figure we don't expect the Hon Member to do the donkey work for us, we will work on that figure.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you very much. I am sorry, Mr Speaker, I am delighted to hear it because what I was driving at and perhaps I might run the risk of being driven away from the House for saying it, but this debate is not really the occasion to go into detail about the affairs of Gibrepair. Neither the information nor the witnesses are here and if the House really wishes to exercise its right to investigate the affairs of GSL in detail which seems to me not unreasonable, then perhaps it ought to constitute itself into some sort of Select Committee on the UK model. It would make far more sense, I think, for two reasons. First of all, it would enable the House to ask questions of those whether they are members of the GSL Board or senior executives who have the information and, indeed, the executive responsibility, and secondly, it would, I hope, enable the House to conduct that sort of investigation without political rancour. As Hon Members will know, that is the procedure followed in the House of Commons and I feel that it would satisfy the Opposition whilst still preserving the point that the Government does not itself wish to carry the political responsibility and that, Mr Speaker, is my final contribution to this debate.

MR SPEAKER:

That is, of course, the end of the debate and as I mentioned before, there is no vote taken and all I have to say is that the House has taken note of the Accounts of Gibraltar Shiprepair Limited.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg leave to move the motion which is standing in my name in the Order Paper. I hope, with your indulgence, Hon Members will not expect me to read it all out.

MR SPEAKER:

I feel sure that the Hon Member has the leave of the House not to read the actual Notice, it has been circulated so leave is granted.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the motion standing in my name seeks to obtain the House's approval for the Second Schedule to the Licensing and Fees Ordinance to be amended in respect of two different charges. The first of these concerns the fee charged for attendance by Passport Office staff outside office hours at the request of the public. This fee is currently £21.50 per hour or part thereof, and is designed to recoup the average overtime costs to Government. It was last revised in November, 1983, and it is now proposed to increase it to £26 per hour. The second objective of the motion is to consolidate and rationalise the charges being levied on containers entering the Port. At present containers coming into the Port by sea are liable to Wharfage Dues and, after thirty days, to Rental Charges. Containers entering Gibraltar by land, on the other hand, only pay Rental Charges when discharged in the Port and do not enjoy any free period. There is thus some inequity and discrimination or imbalance between the two arrangements. It is accordingly proposed to abolish Wharfage charges which discriminate against containers arriving by sea, and to allow the free storage period enjoyed by containers arriving by sea to also apply to those arriving into the Port by land. All containers discharged in the Port will now be liable, after thirty days, to rental charges of £10 per day in respect of containers up to 25 feet in length, and £20 per day in respect of larger ones. These rates are those currently in force. Perhaps I should explain that the revision of Tonnage Dues, which was approved by the House at its last meeting in February, will offset to a large degree the loss of revenue arising from the abolition of Wharfage Dues. Mr Speaker, I now formally move in the terms of the resolution already circulated to Hon Members.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's motion.

HON M A FEETHAM:

Can I just seek clarification? What we are, in fact, doing here is removing Wharfage fees from containers coming in through the Port by sea so as to have the same balance as the containers coming in overland, that is what we are doing. The fee itself is not changed, it is the level.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, the fees are unchanged.

HON A J CANEPA:

Mr Speaker, just to add, the question of container charges was first raised some months ago in the Think Tank that I Chair on Maritime Affairs. This really centres around the fact that although containers coming into the Port pay Wharfage Dues and Rental Charges if they remain in the Port for more than thirty days, container lorries and other goods vehicles entering Gibraltar pay no such charges unless the containers that they bring in are unstuffed at the Port and the argument naturally has been that this situation discriminates against Port users and makes for unfair competition as overland carriers can compete directly with freight charged by sea. So this measure should put the Port users in a better competitive position.

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

BILLS

FIRST AND SECOND READINGS

THE GIBRALTAR HERITAGE TRUST ORDINANCE, 1987

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to establish the Gibraltar Heritage Trust 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 CHIEF MINISTER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. As the House may be aware, the possible establishment of a Gibraltar Heritage Trust has been under discussion for some considerable time. It was agreed in principle by the Government last year but it is a complex matter which has required much study and discussion. The Government is particularly indebted to Mr Sam Alper whose enthusiasm, assistance and advice have been of great value throughout. I should also like to thank Sir Eldon Griffiths, the Chairman of the United Kingdom Society of Friends of Gibraltar and other members of that Society whose concern for Gibraltar's heritage and whose efforts in that behalf are greatly appreciated.

A strong impetus was given to this matter by the Heritage Conference held in London and Gibraltar last year and I hope the House will welcome and approve the Bill. I should like to draw attention to and comment briefly on some of the main features of the Bill. First of all, the Chairman and the Trustees of the first Board will be appointed by the Governor acting, of course, on the advice of Council of Ministers. This is necessary because there was no other way of bringing the Board into existence and Clause 8(6) provides for this. Future appointments to the Board will, however, be made by election at annual general meetings of the Trust, as provided in Clause 8(1) and (2), subject to the term of office of the first appointees as provided in Clause 8(5). The Board will consist of thirty Trustees and seven ex-officio Trustees. This may appear to be a large Board but the Government felt it most desirable, because the heritage belongs to the whole community, a very wide crosssection of opinion should be represented on the Board. We also considered that Trustees should be appointed or, in future, elected, in their own personal capacities and not on the nomination of public bodies or organisations in Gibraltar while, as I say, covering a very wide spectrum of society and of views. As the House knows, there have been occasions, in the past, of public controversy between the ideas of conservationists and the requirements of economic development. The Board has been so constituted as to contain within its membership, first, the advocates of conservation - and this includes historical records and flora and fauna, as well as the conservation of buildings and the architectural heritage; secondly, a number of businessmen who will be able to inject a commercial viewpoint; thirdly, a number whom I might describe as 'lay' members who will reflect public opinion generally; and, fourthly, a number of members with special expertise. During last year's Conference it was stressed, in particular, that economic development and the protection of the heritage are not incompatible - quite the contrary. The fundamental approach is to guide economic development in such a way as to respect the heritage. This will, in fact, enhance economic development as the latter will enhance the heritage. A prime example of this is the question of the Northern Defences. Their proper development will bring very substantial economic benefits to Gibraltar by providing a major tourist attraction; conversely, the development of the Defences, with all the necessary expert, historical and military advice available through the UK Society, will protect and preserve the Defences. The same principles will apply to other features of development and other heritage sites. There will, of course, be argument among the different elements in the Board of Trustees but I think this is healthy, and necessary, and I believe that, under the able Chairmanship of Lt-Col Porral, conflicting views will be reconciled so that the Board might give considered and responsible advice to the Government. Clause 6(1)(d) requires the

Board to assist the Government in the formulation of policy in respect of the matters set out in that Clause. Clause 6(2)(b) provides for the Board, if requested by the Governor, or if the Board thinks fit to do so, to advise the Governor on any matter relating to the objects of the Trust. There is, therefore, statutory provision for a close working relationship between the Trust and the Government, quite apart from the ways in which this relationship will develop in other respects. At the same time, it is, I think, generally accepted that it is desirable that the Trust should be entirely non-political. It is our hope that the Trust will receive all-round support in this House and indeed very widespread support in the community at large. Although it has not yet been statutorily established, the Board held an informal meeting last week. One of the items discussed at that meeting was the Bill now before the House and I understand that a number of amendments to the Bill were proposed and that these are being discussed with the Law Officers. Such amendments as may be agreed upon will then be introduced for discussion during the Committee Stage of the Bill and I will see that as much notice as possible is given to Hon Members opposite so that they can comment. I have had a word with the Leader of the Opposition before this meeting and because of other matters connected with the Trust concerned and he has agreed that subject, of course, to getting notice of the amendments of which there will be a number which I have promised, that we could take the Committee Stage and Third Reading of the Bill at the end of the Budget session. I don't think it will be controversial or take much time at the time when we will have finished, I hope, reasonably expeditiously with the Budget. Another matter dealt with by the Board was by what practical means the high degree of consultation which will obviously be necessary between the Government and the Trust will be achieved. My Hon Friend the Minister for Economic Development and Trade will have something to say on this aspect but one simple way of enabling the Trust to carry out its statutory function and functional roles is to supply the Trust with copies of Building Applications that go to the Commission - not the ones that are dealt with under what is called the Short Procedure of enlargement of a room, or a new bathroom, things like that - things that go to the Commission as a matter of administration of courtesy they will be sent to the Trust and they can raise the alarm if they wish to about any particular matter because, in any case, under the future Town Planning Ordinance there will be provision for an element of consultation in respect of planning projects for the future arising out of the reports that are made a propos of the Casemates building and generally because that was the idea that the Government had about matters. The day-to-day affairs of the Trust will be dealt with by a Management Committee as provided under Clause 10, subject to the restrictions laid down in the Second Schedule. At its informal meeting last week the Board

decided to appoint five sub-committees - on the Northern Defences and World War II Tunnels; on the Garrison Library; on Fund-raising; on Publicity and Public Relations; and on the Organisation of Tours and Talks on the Heritage. Although the Board has not as yet been statutorily established, the sub-committees will be starting their work very soon as some matters, particularly the future of the Garrison Library, for example, need early attention. The Board also decided, because of the nature of some of its functions, that members having an interest in matters coming before the Board should declare that interest and rules to that effect will be enacted and agreed. Clause 11 of the Bill provides for different classes of members of the Trust. Consideration is being given, by the appropriate sub-committee, to the different rates of subscription. The Board did, however, decide that the subscription for ordinary members should be £5 per annum. This is a very modest sum but the Board is most anxious that as many people as possible will decide to join the Trust and thus provide the widespread public support which is necessary. For its part the Government will be submitting to the House in connection with the Estimates provision for modest administration expenses to run the Trust and for the first time, subject to certain conditions, a substantial first grant to put the Trust into position to carry on a number of projects and to show - I hope it will be supported in due course when it is explained to the Opposition during the course of the Budget - will be supported by Hon Members opposite to show that we put our money where we put our mouth so that when the time comes it will be submitted with the Estimates for next year. The Board cannot collect subscriptions until it is legally established but this does not prevent people from enrolling now as members. The Trust will, of course, work very closely with the United Kingdom Society of Friends. To ensure the closest possible liaison, Mr Sam Alper, the Vice-Chairman of the Society in England, has been appointed to the Management Committee of the Trust while the Secretary of the Trust has been made a Director of the UK Society. Sir, I believe that the Trust can do a great deal of good for Gibraltar and take away a lot of political heat in matters that should not be the subject of political heat but should be the subject and concern of everybody. On the one hand its work of restoration and preservation of Gibraltar's very substantial heritage will undoubtedly be of benefit to the tourist industry; on the other hand, that work will also undoubtedly make Gibraltar a better place to live in and make us all even prouder of both the man-made and the natural heritage. I accordingly commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, we will be voting in favour of this Bill and we support the concept although I think there has been, in fact, very little consultation, practically none, apart from the fact that half an hour ago the Hon and Learned Chief Minister asked me whether in fact we were in favour and whether we had any objection to the matter being taken after the second leg of this House when the Budget session is taken, quite frankly this is the product of the Government's thinking and consequently when we have gone into it in more detail we may wish to see some of the contents of it changed ourselves at the Committee Stage. I think on the principle of the Trust, clearly we ourselves have had reservations that in the context of taking decisions on economic development there is always a danger that politicians will be influenced by short-term returns by the very nature of things. That is to say, there will be a pressure on, and we think there is on the present Government, and we think it is likely that it will be the case with any Government that if they can see an immediate payback there will be a tendency to favour something that produces an immediate payback and therefore it is important, I think, to have something like this which will act as the guardian of the public interest and which will be able to raise the alarm whoever is in Government and therefore we believe that it is correct to see it as non-political in a party political partisan thing. That is to say, that it shouldn't be something that is independent of the political parties in Gibraltar but nevertheless enjoying the support of both sides of the House because we both recognise the desirability whoever is sitting on that side or this side would not change and therefore we might be there tomorrow and we might find that we would like to do certain things which we could see as having an immediate beneficial effect but which somebody else might say: "You are putting at risk more important things". In looking at development, clearly, I think we all want to see a prosperous Gibraltar but we do not want to see a Gibraltar that is changed beyond recognition and it is the balance between those two that the Heritage Trust can play a part in. It is also, I think, important in that, of course, the financial support that the Government says it will give the Trust which we will also vote in favour of, is necessary to get it on its feet but, of course, it's also something that makes sense from the Government's own point of view. That is to say, presumably the Government itself if there were no Trust would have a commitment to which they have referred in the past of improving the tourist infrastructure and I think on more than one occasion the Minister for Tourism has favoured the idea that we do better by spending the money on things here which are there to be enjoyed by the tourists and the residents alike than spending it, perhaps, outside the local economy

where sometimes it is difficult to quantify exactly what we are getting back in exchange for the money that we are spending. For example, I remember at one stage that there was a reduction in the level of money that was being spent in promotion in UK and if we look at the performance of the tourist arrivals there doesn't seem to be a direct correlation between whether the budget goes up or down and the tourists that come up or down. I think, certainly, the more attractive Gibraltar is the more people will want to come and see it and the happier the people who live here will be. Therefore to the extent that that is one of the purposes of the Trust I don't think anybody can quarrel with that. I think also it is difficult, in fact, to have a situation where we are using historic buildings and opening them up for the public and maintaining them and do that other than on an on profit-making basis. That is to say, the pressure for a commercial return if we just give out places to be developed and I am not talking now about changing the physical characteristics so much as opening them out in terms of charging for people to visit very much, for example, like the Museum has always been sort of Government owned but independent of Government and running its own affairs but being able to count on Government support. Clearly, it is an extension of that concept into other areas that we need and to my knowledge that is the way it is done everywhere else because, in fact, if a businessman is going to put money into the project then unless it is a question of somebody who may have a particular private hobby or liking for that venture, on normal commercial criteria the businessman will say: "If the return on capital is less doing this than doing something else, well, I will do something else with my money". Therefore the Trust itself must be primarily concerned with the preservation of those assets and only concerned in opening them up to the extent that that will help to subsidise the cost but the primary thing must not be the money that it is making. The actual composition of the Trust and the nomination initially by the Governor suggests that there is some element of Government influence on that selection of the Trustees.

HON CHIEF MINISTER:

If I may just, having identified and obtained the consent of the Chairman, it has to start somehow if it is a Government initiative, that has been done entirely by him and those helping him and the Government has really not had any say in choosing people at all. Those have been chosen with the full consent and knowledge and advice of the Chairman. We have had very little involvement, in fact, if I may take advantage of this interruption, I would like to say that there has not been much consultation, we knew the concept from previous remarks that the Opposition would not be opposed and, in fact, we haven't had much time, we only had time to look at it

at Council of Ministers just before and about the time that the Bill was being printed as there were other pressures and as I knew there would be a long interval between now and the Committee Stage, I knew we could discuss matters in detail. I apologise if I didn't do it before.

HON J BOSSANO:

I am grateful for that clarification from the Hon and Learned Member because, in fact, the point I was going to make was that if we are looking at this on the basis of a bipartisan approach, it is the only thing on which we have a bipartisan approach, then let us get our lines of communication right. If the Chairman or the Board and, of course, we support wholeheartedly the selection of Lt-Col Porral as Chairman. We think that he will do a very

HON CHIEF MINISTER:

Indeed, if I may, a thought that crossed my mind, if I may say so, I understand that the Chairman has had discussions with the Leader of the Opposition about the matter which shows the element of non-political involvement in this.

HON J BOSSANO:

Yes, in fact, Mr Speaker, the Chairman approached me on his own initiative because he himself felt that before accepting he wanted to know that it wouldn't be something that would then be opposed by us on this side and, in fact, we are very happy with the choice of person and we think he will do a very good job and if he is going to be mainly responsible for selecting the people who will be nominated to the Board, fine, as far as we are concerned, that is the end of the story because it follows logically, I think, that if we have the trust in him then we must give effect to that trust by letting him get on with the job which we think he will do very well. Therefore, I think, the only thing that we need to perhaps remark in terms of the Trustees is the question of the ex-officio Trustees where we have got a situation where the composition at the moment of the Board is that there are thirty Trustees plus seven ex-officio, a total of thirty-seven which seems almost like a general meeting but still. That Board itself sets up the Management Committee and in theory because we have had a very superficial look at the Bill, it would seem that the Management Committee could finish up being the Chairman and the ex-officio Trustees. It says it has to be not more than eight Trustees appointed by the Board.

HON CHIEF MINISTER:

Yes, but they are not necessarily part of the working executive committee.

MR SPEAKER:

Perhaps that would be a matter to go into in Committee Stage, a general remark, most certainly.

HON J BOSSANO:

We are trying to get advance information because if we are satisfied on points then we won't bring amendments at the Committee Stage, Mr Speaker. When we look at the ex-officio Trustees what we have really is seven people two of whom are MOD and five of whom are office bearers who presumably will in there be reflecting Government policy.

HON CHIEF MINISTER:

The Trustees' policy, helping the Trustees.

HON J BOSSANO:

I would have thought, Mr Speaker, that if somebody is in a Board by virtue of the position he holds in the civil service then by implication he is there to make sure that the policy of the department in which he serves, for example, the Director of Crown Lands would be presumably there as a Trustee to make sure that the policy of the Crown Lands is reflected to the Trustees if there are areas where there are conflicts of policy between what the Trustees want to do and what the Crown Lands want to do. He can't very well be there and say: "As Trustee I support this and then as Director of Crown Lands I reject it".

HON CHIEF MINISTER:

No, they will advise and will be co-opted to the Executive Committee as required but they will not be the members of the Executive Committee as pointed out by Clause 7.

HON J BOSSANO:

We are not very clear that that, in fact, is there but I think perhaps what we would like to make sure is that the Management Committee does not consist of the ex-officio members, we think that the Management Committee should consist of the lay members.

HON CHIEF MINISTER:

On that I can give you a clear undertaking.

HON J BOSSANO:

I think that is the only other point of detail that I needed to raise, Mr Speaker, and we will give the matter some more thought between now and the Committee Stage.

HON CHIEF MINISTER:

We will give you notice of the amendments.

HON H J ZAMMITT:

Mr Speaker, Sir, the Bill of course is very welcome. I am talking on the general principles of the Bill, there are, of course, amendments as the Chief Minister has mentioned that I assume the Opposition has already looked at despite the fact of the short notice. There are certain points which I think personally require clarification, particularly section 6(b) on page 58 which we will have to be careful as to the absolute clarification of the acquiring and disposing of property. Does that mean - and I suppose I should not go into that now, Mr Speaker, but probably at Committee Stage for that. Another one is on page 60 and that is that 'the Board's property shall not be regarded as property of or held on behalf of the Crown'. Again, I think that requires clarification. But one very strong point that I would like to make to the House, in general, Mr Speaker, is the eventual possibility of the Heritage Trust being able to open up the heritage of Gibraltar and make substantial sums of money. I say this, Mr Speaker, and I witnessed it only two week's ago in York, that one very small area which is run by a Trust, has made over £3m profit in one year and I can assure Members that if we could not provide twenty high features of our heritage from the Phoenicians right through to modern times then I would eat humble pie. And what I would like to be assured of, I think it would be wrong to find a Trust with several millions of pounds - and I don't want to appear to be exaggerating - in a few years time

HON J BOSSANO:

It sounds like GSL to me.

HON H J ZAMMITT:

Well, Mr Speaker, I am speaking because I have just come back from York and there one is guided by two things that have happened which I think would be wrong for Gibraltar. One is to find a Trust with several millions of pounds or find a very affluent Trust and yet we as the guardians of the people cannot afford to give away a little betterment, (1) because it is the people's heritage and it belongs to them, and (2) that in York funds are being diverted to Denmark. I don't think it would be proper to find our Trust here diverting heritage going back to the evacuation of our Genoese friends from Catalan Bay and go back to Genoa, quite honestly. I think those are the things that need tightening up. Other than that, of course, I wholeheartedly support the Trust, I think it is the only way that it will function and function well and I am not just thinking of the preservation and conservation of the buildings that we have that don't really generate financial activity as such, but the very many sites, particularly, Mr Speaker, the Second World War Tunnels that today could be exploited to the benefit of Gibraltar. The Hon Mr Pilcher asked me a question earlier on in this meeting, Sir, as to the number of people who visited St Michael's Cave. And when you compare that, Mr Speaker, with the number of people that cross the frontier it is one in ten, so 90% of the people entering Gibraltar may be seeing the Rock Apes but are certainly not going to St Michael's Cave and a much smaller proportion is not going to the Galleries and even a lesser proportion go to the Moorish Castle. I think, Mr Speaker, that we have a market of 10,000 virtually a day and I accept that they are not all tourists because there are non-tourist people crossing the frontier but we could do much, much better than places that only have one item to expose, the Vikings in the case of York, we could do possibly twenty if not more and I think it would reap a tremendous amount of money. I don't think I will be in the House, Mr Speaker, in ten or fifteen year's time to see the benefits but I think that we should be very careful, those of us who are today formulating legislation on the Trust to have some safeguard that the community of Gibraltar in protecting its history and heritage, the community as a whole derives some benefit and not just the Trust to inflate its very worthy cause but a time must come when they will have no spending capacity and it will be a matter of income and I think, Sir, that we should be very cautious so that all of us and our children and grandchildren will benefit from that, Sir.

HON J BOSSANO:

Could the Hon Member give way before he sits down? There has been no indication of it but it is something that has just occurred to me by virtue of what he is saying. We take it that the Government has not, in fact, thought of in any way shifting to the Trust the places that are now run by the Tourist Office like the Moorish Castle or St Michael's Cave or anything like that? Is that something that has been looked at at all or not?

HON H J ZAMMITT:

No, Government hasn't considered it, I can assure you, but I have a feeling that the Trust might well say: "This is a source of revenue and a source of income", I have a feeling, I don't know. There are some which I would willingly give over this very moment, the Tower of Homage is one, but I have a feeling that, obviously, if we are talking of history and heritage I think it would be like having a supermarket with three meat stalls as opposed to one, I assume, but that is my own personal opinion, Sir.

MR SPEAKER:

Any other contributors?

HON A J CANEPA:

Mr Speaker, the Chief Minister made reference in his intervention to a number of amendments which will be coming at Committee Stage, perhaps, which are being considered and proposed by the Board and it is clear from the intervention of my Hon Friend, Mr Zammit, that Ministers have also given some consideration and have identified the need for some amendments in respect of fundamental matters which we shall also be bringing at Committee Stage. Normally one wouldn't dwell on these but because they are fundamental they go to the root of the matter in respect of one or two things, I think they ought to be highlighted. The first one, of course, is in respect of Clause 9(2) of the Bill where it is stated: "The Board's property shall not be regarded as property of, or held on behalf of the Crown". I don't think that that can be accepted in a situation in which there is a transfer of property, the Crown in its defence capacity transfers to the Government of Gibraltar, say, the Northern Defences which is the Crown in its civil capacity and then that the Northern Defences should be vested in the Trust and they cease to be Crown property. That to me personally, involved as I have been in the struggle to get more and more land transferred from the MOD, that is not accepted in principle and God only knows what could happen in ten, fifteen or twenty years

time, so that is a matter which is being closely considered. The other one, of course, is the question of the funds of the Trust and their relationship to the Consolidated Fund. This is Clause 14(4) where it says: "For the avoidance of doubt it is hereby declared that any moneys or other assets standing to the credit of the Fund at any time shall not form part of the Consolidated Fund". Again, I think, that has to be given much more careful thought. I don't think that you can have a complete alienation of that forever more. You could have the assets and the moneys in the Fund of the Heritage Trust accumulating out of all proportion and a future Government might go through a rather lean period financially and I don't think that that is acceptable forever more. We don't know in exactly what shape an amendment will take but it is a matter that we have to give further thought to. The Chief Minister also referred to the fact that I would be dealing in greater detail with the question of consultations on planning matters generally and for that purpose I held a meeting with Colonel Porral, the Chairman designate of the Board, on the 13th March, this was shortly before the Steering Committee was going to meet. He raised with me an important aspect of the way in which the Trust should fulfil its general responsibilities for the preservation of Gibraltar's heritage. The specific powers which the Bill will confer on the Trust relate to the properties which will actually be vested in or administered directly by the Trust but there is no doubt in my mind that the Trust has a wider if less specific function in regard to Gibraltar's heritage generally. The object of Colonel Porral's approach to me was to establish the ways in which this wider function or responsibility could be properly and effectively carried out. In particular, the Steering Committee of the Board of the Trust felt that this could not be done if the Trust did not have a real say before decisions are taken in such matters as general planning and development, the demolition of buildings and the architectural design of new buildings and of buildings undergoing structural alterations particularly in what can be regarded as the old part of the City. I have explained to Colonel Porral that the Government cannot devolve its powers and responsibilities in these matters, when I say the Government ultimately, of course, the statutory authority is the Development and Planning Commission, to an outside body but that we as the Government will ensure that there would be the highest possible degree of consultation with the Trust and that if necessary and in order to assist in the process of consultation, the Government might agree in due course to a member of the Board or the Trust being co-opted to the Development and Planning Commission. I say if necessary because they seem to have mixed views about the matter. The Chairman himself has got mixed views as to whether there is any point in having a member co-opted who would be one member out of, say, eight or nine on the Commission and whether it isn't possible to establish a different method of

consultation that can be more effective. Clause 6(1)(d) of the Bill before the House lays on the Board the duty to assist the Government in the formulation of policy in respect of the matters which are set out in that Clause. In addition, Clause 6(2)(b) requires the Board to advise the Governor, that is, Ministers, because we are dealing with a defined domestic matter, on such matters relating to the objects of the Trust as may be referred to the Board or as the Board may think fit. If full effect is to be given to these provisions it will clearly be necessary to refer to the Board for their views and advice all matters falling within the general aims and objects of the Trust. I have given the appropriate assurances to the Chairman designate in writing to enable him to communicate these to the informal meeting which was held on the 17th March, last week. As the House knows, Mr Speaker, it is the Government's intention to bring a Bill before the House later this year to amend the Town Planning Ordinance in order to provide for a form of participation in planning matters. The Government, naturally, regards the Heritage Trust as being in a very special position in this respect, not only and, obviously, because of its objectives but also because of its membership. The Board of the Trust is to consist of no less than thirty-seven Trustees, seven of them ex-officio. There will be, of course, a Board of Management to deal with the day-to-day matters on behalf of the Board and of the Trust as a whole. The composition of the Board of Trustees has been designed in such a way as to represent a wide cross section of the whole community and furthermore to gather within the Board as much as possible the expertise in relevant matters which is available locally. For these reasons the Government considers that the Trust can play a most useful role and that it must be given the appropriate opportunities to enable it, in fact, to do so. The Government intends to make these opportunities available administratively in the ways that I have described and in advance because of its special and widely representative position of the enactment of legislation, of public participation generally. The question whether some further statutory powers should be conferred on the Board is something that can be considered at some future date, the matter can be kept under review in the light of developments and in the light of experience. But we on this side of the House, Mr Speaker, look forward to a constructive and a fruitful relationship with the Heritage Trust.

HON M A FEETHAM:

Mr Speaker, I think the fact that a number of Members of the House have stood up at this stage to speak on the Bill despite the fact that there will be amendments brought to the House, shows that both sides of the House consider this Bill to be of great importance because it will fill a vacuum in Gibraltar's heritage and in

Gibraltar's future which has been lacking in the past. When I actually looked through the Bill, having accepted that there is the need for the concept of the Gibraltar Heritage Trust, I found that I was getting rather muddled in my own mind where we were going to draw the line between the responsibilities of Government in certain of its functions which have been highlighted by the Minister for Economic Development in some aspects, and the responsibilities of the Trust. It could well be that if we don't handle this Bill properly at this stage and at the Committee Stage so that what we actually achieve at the end of the legislation is something which will be worthwhile, we could find ourselves heading for problems and in conflict at a later stage and I think it is of great importance that whatever we do and whatever we legislate at the end of the day is something which is going to be workable. As I understand it in the UK, for example, the Property Services Agency are responsible for ancient monuments and so on and there are areas where it is seen best that certain aspects of British history is entrusted in the British Heritage Trust. But there are clearly very defined areas of responsibility and clearly the lines are very well drawn. I don't know who has actually, and I am not going to blame the Hon Attorney-General, I am not quite sure from where this Bill has been drafted. One of the things I would like to know is if it has been drafted on the lines of the British Heritage Trust or is it a combination of what the Attorney-General's Chambers or whoever has drafted the Bill, considered would be in line with Government policy and would be best for Gibraltar. If that is the case I think that there is going to be a slight difference of approach at Committee Stage. What I want to say is that the number of points which have been raised, in fact, I did see at the time when I looked at the Bill, I think there have been some very good points raised which show to what extent before we pass this piece of legislation we ought to know and everybody should be clear what are going to be the responsibilities of the Trust, to what extent they are going to have the powers to do whatever they want and to what extent it doesn't conflict with the powers of Government to govern in certain areas, Mr Speaker.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am glad the Chief Minister has said that the Committee Stage of the Bill will be taken at a later date. I think we must look carefully at this Heritage Trust in order that we strike the right balance - the word has been mentioned already. I am more concerned about people than anything else and to start talking of the Trust in Gibraltar in the same breath as the British Trust in UK with so much land available and so little land in Gibraltar, we must be very careful that we don't create a monster which we cannot control both in the terms of what we can do for the people of

Gibraltar and if it is money-making where is the money going? I want to see the money going back to the people of Gibraltar to build more housing. While I support the fact that we must have some kind of Trust to look after some of our past history in terms of buildings, etc I am more concerned with people. If somebody said to me: "If we knock 400 feet off the Rock of Gibraltar and we solve the housing problem of Gibraltar for the rest of our lives and you have an investment of £10m including inflation", I would knock 400 feet off the Rock of Gibraltar, I am sorry. I am more interested in people. I am glad that we are going to have more time to look into the Bill because although I support the idealism of heritage I am more interested in people and the way they live.

HON H J ZAMMITT:

Mr Speaker, on a point of clarification.

MR SPEAKER:

The Chief Minister has the right to reply and I am sure he will give way to you.

HON CHIEF MINISTER:

I will stand up and I will give way.

HON H J ZAMMITT:

Thank you, Sir. I think I omitted to say one point, Mr Speaker, but in York, in fact, they are concluding an agreement whereby the Trust donates 15% of their profits after all expenses to the York Council.

MR SPEAKER:

Does the Hon and Learned Chief Minister wish to reply?

HON CHIEF MINISTER:

Dealing with the last part of the contribution of the Hon Mr Feetham I would like to say, first of all, that Ministers as such have had very little to do with the drafting of the Bill. It has been left to those entrusted with the setting up of the Trust that have been influential in that and that is why when it came to Council of Ministers we saw for the first time things that we thought had to be amended. The other one is that I think the Bill is a mixture of a number of things, one of it is the Museum Committee and other areas in which a Trust of this nature, I don't think it follows blindly any matters, I think it had to be done to measure and therefore other

than the input that we will put as a result of this debate and the amendments that will be brought, really there has been, apart from the principle of setting up the Trust, there has been very little political input into the matter hence you see how some Ministers have reacted. First of all, I believe that the arrangement which has been agreed to by the Chairman of the Board and my Hon Colleague about consultation and so on and avoiding having statutory powers within the Government which I think ought not to be encouraged, I think is understandable. In fact, there was a letter of understanding, a letter which, in fact, before it was sent was submitted by those who wanted to receive it and seen by the Minister, amended by him and being the consensus of discussion for the record of a letter of the extent to which the Planning Commission will take account and be in touch with the others. But perhaps we have to learn as we go along a little, perhaps a little time later we will see if there are any faults and we can come back and amend. I think the main thing in a matter of this magnitude because it is a major matter for Gibraltar historically, I think, we are doing something very important. I think we can come back again and if we see any faults or any mistakes or anything like that, we can come back and do it because as the Hon Leader of the Opposition has rightly said, hopefully we are starting a bipartisan approach to this matter because whatever we do now will have effect on people who will benefit by it in the future and therefore it is very well talking about long-term but, in fact, this is what is happening, we are deciding a pattern. To some extent I do not agree entirely with my Hon Friend, Major Dellipiani, about saying he is interested in people and he would knock off part of the Rock, I don't know whether I would or not, I would have to consider it, but the point is that it is the environment in which people live that is so important and therefore you are looking after people by preventing certain monstrosities because the quality of life will improve with the pattern of what you are doing.

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

HON CHIEF MINISTER:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the Budget Session.

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) ORDINANCE, 1987

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to make provision for the salaries and allowances to be paid to the holders of specified offices be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. This is a hardy annual which by virtue of the Constitution requires certain officers not to be paid directly under the Estimates but to be paid statutorily to ensure, to some extent, their independence and the lack of political influence. It follows the pattern of the equivalent in the United Kingdom and the fact that in the United Kingdom several agreements have been reached with some top civil servants with which this is analogued which require two stages in an annual review hence in the case of the Governor it provides for two stages as well as in the case of the Attorney-General, Financial Secretary and, indeed, the Principal Auditor in three stages. I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Yes, Mr Speaker, as a matter of information, is the Government satisfied with the staff confidential report made out on behalf of the Attorney-General and the Financial Secretary to warrant them an increase this year?

HON CHIEF MINISTER:

We do not see that, they are entirely independent, left entirely to answer for themselves.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Just for the sake of the record, Mr Speaker, I would like to point out that I am not, in fact, getting the increases and my salary will be lower than the amount shown here. I would like that to be recorded in Hansard.

HON J BOSSANO:

The Hon Member needs to go to the Union.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Margaret Thatcher.

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

HON CHIEF MINISTER:

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

This was agreed to.

THE TRADE MARKS (AMENDMENT) ORDINANCE, 1987

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Trade Marks Ordinance to afford registration for service marks be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, the Trade Marks Ordinance enables the proprietors of Trade Marks registered in the United Kingdom under the provisions of the Trade Marks Act of 1938 to have such Trade Marks registered in Gibraltar. In the United Kingdom the Trade Marks (Amendment) Act of 1984 amended the 1938 Act, this was done with effect from the 1st October last year, to provide for the registration of service marks. In case anybody doesn't know, Mr Speaker, a service mark is a mark used in relation to services for the purpose of indicating that a particular person is connected in the course of business with the provisions of those services. Examples of service marks are, for instance, the 'M' of MacDonalds; the black horse of Lloyd's Bank; the house umbrella of Abbey National and so on. Sir, the Bill before the House proposes that the proprietors of service marks which have been registered in the United Kingdom under the 1984 (Amendment) Act should be able to have such service marks also registered in Gibraltar. Mr Speaker, I have the honour to commend the Bill to the House.

MR SPEAKER:

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

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

HON A J CANEPA:

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

This was agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Traffic 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be read a second time. The purpose of this Bill is entirely to deal with licences for self-drive cars and the main features of the Bill is that the Traffic Commission shall have the discretion to grant such licences and the criteria which they will take into account are set out there. In particular, I would mention that facilities are available to a licensee for the garaging and maintenance of the motor vehicles at his disposal and his ability to provide assistance in the event of breakdowns. Another criteria is that the number of vehicles in a fleet of self-drive cars shall be a minimum of seven and that there shall be an upper limit also set at the discretion of the Committee. The present number is three and we feel that a bigger fleet is required. The licence will determine at the end of August every year so it will not be an indeterminate licence as it is at the moment. Also the fees for the first grant of a licence are set out and for the transfer of a licence and for the renewal of a licence. One important feature, Sir, is in sub-section (4) which quite simply says 'omitting the word

"seven" and substituting the word "two". What this means, Sir, is that a vehicle must have a maximum age of two years, at the moment it is seven years, it is felt that it should be no more than two years with the intention that to all intents and purposes vehicles used for self-drive should be almost brand new. I commend the Bill to the House, Sir.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, although the Bill in itself does not seem to be of a controversial nature, there are certain amendments being proposed which I think should be more fully explained by the Hon Member. For example, he is saying the minimum of three cars is no longer satisfactory and putting up the minimum to seven vehicles, I think it is. A minimum is not the ceiling and as I understand it most licence holders have not got the minimum today. But if by any chance there are self-drive operations with three vehicles, I believe that they would be in an awkward position to be able to adjust from now to the 31st August to the requirements here. I am not in a position to know how many licence holders at present only have three vehicles self-drive. If by any chance there are people in this position it could be that on the 31st August when the Bill comes into effect, they might have trouble in (a) acquiring the number of vehicles that the Ordinance is requiring as a minimum, and (b) perhaps renewing all their vehicles to comply with Clause 4 which would require them to have only vehicles which are two years old. In fact, whilst we on this side agree that it is preferable to have cars as new as is possible, I think the change from the requirement of having cars changed every seven years is a bit too radical to change it to two years. Perhaps the Hon Member might consider a different length of service for the car. I accept that since the frontier opened, self-drive vehicles need to be in a better condition and need to be renewed more regularly but my advice on this is that perhaps three years would be a better level than the two years being proposed by the Government. I would be grateful if the Hon Member clarifies what his information is and what, in fact, has led him specifically to change these points.

MR SPEAKER:

Any other contributors?

HON M A FEETHAM:

Mr Speaker, just one small point. One of the things which, in fact, is already contained in the legislation because as my Hon Colleague has said, we are really talking about attempting to improve the standard of the vehicles which are let out to people, for a variety of reasons, and also increasing the numbers of vehicles which would be licensed, in other words, from three to seven. But one of the things which is already in the legislation which you are actually repeating again and which I wish to emphasise myself, that the Commission should bear in mind is that because you are increasing the number of motor vehicles you have to make sure that the garage facilities which they have got are suitable because otherwise what is already happening today, not only have we got a lot of traffic in Gibraltar but we have got a lot of self-drive car operators which have got a business address and cars parked all over the place when they should be in garages and not on the public highway. This is one of the problems that you are going to be faced with and you must insist, when you increase the number of vehicles, that they have got adequate facilities available for them.

HON J L BALDACHINO:

Mr Speaker, I have no quarrel with what the Hon Member is trying to legislate in this Bill but after hearing what my two colleagues have said, I think that Government should consider giving those people who are now in the business of self-hire cars a time lapse where they can change from the present Ordinance to what the Bill is now trying to do in this legislation.

MR SPEAKER:

I will then call on the Mover to reply.

HON M K FEATHERSTONE:

Yes, Sir, to take the Hon Mr Feetham's point first. It is obviously one of the criteria that the facilities for garaging and maintenance will be of very great importance when the Commission are considering licences at the moment. As far as the Hon Mr Perez has mentioned, there are to my knowledge no licencees at the moment who have fewer than seven vehicles so it will not create any hardship for anyone. The idea of reducing the age of the vehicles down to two years, I think, follows the practice in the United Kingdom where it is considered really essential that self-drive cars which are perhaps not looked after by the driver as much as if it were his own car tend to suffer considerably more wear and tear and I do feel that two years is a reasonable figure.

HON J C PEREZ:

Will the Hon Member give way, Mr Speaker? I believe that there might be a couple of operations which have fewer than seven vehicles. If this is the case would the Hon Member be prepared to extend the date of application so that it would allow these operators more time to be able to comply with the requirement of having seven vehicles and, in fact, perhaps also to change the vehicles that they might hold because you must recall that the requirement at present is seven years and there are operations that might need to change all the vehicles they presently have or perhaps to apply a reducing scale so that we might end up in a situation where the vehicles can be changed over a longer period of time.

HON M K FEATHERSTONE:

I accept that. I think that perhaps the 31st August may not be long enough to give these people the opportunity to change their vehicles if they should and I would not object to an amendment at Committee Stage to put back that date to a later date.

HON J C PEREZ:

If the Hon Member will give way. I am only saying this in case these things happen. I myself am not informed that they could arise. Perhaps if we leave the Committee Stage of this Bill for a subsequent meeting of the House so that if there are any people affected they can make representations then we might even be able to enact the Bill on the date being proposed by the Hon Member because if the effective date of the legislation is going to be the 31st August anyway, there is no reason why we should take the Committee Stage and Third Reading at this meeting of the House.

HON M K FEATHERSTONE:

I would like to take the Committee Stage today, if possible, because we have a number of applications which we would like to process and they have been waiting some considerable time. But if you would like to put the date back from the 31st August to, say, the 31st October there will be no objection. I commend the Bill to the House, Sir.

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

HON M K FEATHERSTONE:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO.2) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. In accordance with convention I do not propose to make a speech but I would like to give notice, Mr Speaker, that there will be an amendment at the Committee Stage to the Bill, in effect the deletion of Part II of the Schedule, Improvement and Development Fund including the amount which is shown there, £33,000 and a consequential amendment, the deletion of the existing Section 3 and subsection (4)(ii), the reason for this being that the money will not be spent and therefore the supplementary will not be required. I commend the Bill to the House, Sir.

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

HON CHIEF MINISTER:

I would like to state, Mr Speaker, before the Attorney-General moves that the House resolves itself into Committee, that we do not propose to proceed today with the Income Tax (Amendment) Bill. We are not ready with the explanations that I promised Members and we will only take it when we are in a position to justify it.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Specified Offices (Salaries and Allowances) Bill, 1987; the Trade Marks (Amendment) Bill, 1987; the Traffic (Amendment) Bill, 1987, and the Supplementary Appropriation (1986/87) (No. 2) Bill, 1987.

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) BILL, 1987

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

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

THE TRADE MARKS (AMENDMENT) BILL, 1987

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) BILL, 1987

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

Clause 2

HON M K FEATHERSTONE:

Sir, I beg to move an amendment in Clause 2, new section 77, subclauses (5) and (6) that the date be altered to the 31st October.

HON J C PEREZ:

We have just had the discussion, Mr Chairman. I welcome the move although I am not too sure that we should rush into this without actually knowing what we are talking about. We don't know how old the cars of the present holders are and we don't know whether they are in a position to be able to change them. In fact, we are going to support the amendment because it is going to give them six months instead of three months as at present but I am not too happy with it.

Mr Speaker put the question in the terms of the above amendment which was resolved in the affirmative and the amendment was accordingly passed.

HON ATTORNEY-GENERAL:

Could I make one further amendment, Mr Chairman, to Clause 2, the new section 77A(2), it shows the 31st August again, I have just noticed it, Mr Chairman, it should be changed to the 31st October.

Mr Speaker put the question in the terms of the above amendment which was resolved in the affirmative and the amendment was accordingly passed.

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

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

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

THE SUPPLEMENTARY APPROPRIATION (1986/87) (NO. 2) BILL, 1987

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

Schedule

Schedule of Supplementary Estimates Consolidated Fund No.5 of 1986/87

Head 2 - Crown Lands was agreed to.

Head 4 - Education was agreed to.

Head 8 - General Division was agreed to.

Head 16 - Medical and Health Services

HON MISS M I MONTEGRIFFO:

Mr Chairman, I just wanted to say on the Medical side that we are very pleased to see the money for the AIDS equipment.

HON M K FEATHERSTONE:

I would say that the equipment has already arrived.

Head 16 - Medical and Health Services was agreed to.

Head 20 - Prison was agreed to.

Head 21 - Public Works

HON J BOSSANO:

Mr Chairman, on the importation of water, can we just ask has there been any problem with the output of the desalination plant or is it that there, we are just trying to figure out whether, in fact, the desalination plant is functioning?

MR SPEAKER:

You are asking why we are importing water in other words.

HON J BOSSANO:

Presumably, we are importing water because we are selling more water, that is obvious. What I am asking is, is the new desalination plant meeting its targetted output?

HON CHIEF MINISTER:

Pulling.

HON MAJOR F J DELLIPIANI:

Mr Chairman, the desalination plants are working above their load factor. In fact, last week we had to close down one because we couldn't have more water in the reservoirs because we had to do some work on our reservoirs and we just had to close it down. I will leave it at that, Mr Chairman.

Head 21 - Public Works was agreed to.

Head 22 - Telephone Service was agreed to.

Head 23 - Tourism was agreed to.

Head 26 - Pay Settlement

HON J BOSSANO:

Mr Chairman, this is an increase in the sum of £1,300,000 provided at the Budget which covered industrials and non-industrials and I have asked three distinct questions and the indication that I had from the Financial Secretary in answer to questions in this House was that, in fact, the provision for industrials would not be met, that the final cost was going to be left at the budgetted cost. I asked whether that included the £460,000 which is part of the £1.3m. Am I right in thinking that therefore this additional cost is exclusively for non-industrials and that, in fact, the non-industrials may have actually taken up a shortfall of the industrial side as well?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, as far as the first part of the question that is true, Mr Chairman. There have been a number of agreements over the norm of 5%, for example, the firemen got 7% and that represented approximately £18,000 increase; the Police 7½% which represented £38,000; nursing grades, doctors and consultants together got 7% 8% 9%, that sort of rate, and that was £96,000; allowances to Elected Members I see were 8.8% which meant an additional £7,000; nursing allowances another £50,000. Overall this, I think, accounts for most of the £150,000. I don't think it is true to say that it is £150,000 plus a proportion of the £460,000 but a large proportion of the £460,000. I am not quite sure about the mechanics of that, I would

like to look into it. It certainly will be an under provision compared with the estimates but the estimate I gave yesterday was itself an estimate. That is to say, the £11.8m I quoted was an estimate of the amount provided for industrial wages. I can't really answer the second part of the Hon Member's question.

HON J BOSSANO:

We are in Committee Stage. Perhaps the Hon Member can find the information and let me know. The point I am trying to establish is, in the light of information that he has given me previously, if we have got a situation where, for example, there is an element of wages in the Public Works Department which is one of the biggest users of industrial manpower and we have voted in the Budget last year £1.3m of which almost £½m was the 5% estimated for industrial workers then, presumably, if the original money provided for the industrial workers in the Public Works Department was not used up because of unfilled vacancies and absenteeism and what not, which is the explanation we have been given then, clearly, the amount that was needed to increase the wages is not needed because the increase of the wages can be absorbed by the unused element of the old wages. Therefore the fact that that portion of the £1.3m has not been needed would suggest that it is still in the £1.3m. If we are now voting £150,000 does that imply that we have used the whole of the £1.3m which means we must have used it up for somebody else because the reallocation to Heads of Expenditure that takes place means that, in fact, the £1.3m can be used to meet any of the wage reviews for anybody. The implication that I have drawn is that, in fact, to the extent that we have spent less on the pay of the industrials that money has been used to meet the pay of the non-industrials and on top of that we need £150,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, that, in fact, Mr Chairman, is how the Hon Leader of the Opposition has reacted to the information in much the same way as I did myself. There are, in fact, other factors, restructuring I think of PTO's, clerical, secretarial and senior grades which I haven't mentioned, I haven't quantified them. The fact is that we are very much at, as I understand it, in formulating this we really react to the demands of individual spending departments who say whether they need the supplementary or not or whether they can reallocate so the situation is a little bit more complicated, I think, than both the Leader of the Opposition and I, our first reaction, think. I will certainly enquire into this because I am curious about the matter myself but I am assured that the money is certainly needed.

Head 26 - Pay Settlement was agreed to.

Schedule of Supplementary Estimates Consolidated Fund No.5 of 1986/87 was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.4 of 1986/87

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Part II be deleted in its entirety.

MR SPEAKER:

May I ask as a consequential amendment, do you have to delete in the Schedule the heading 'Part I' too or is that essential for section 4(1)? Do you have to delete the heading 'Part I'?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, take out 'Part I'.

HON J BOSSANO:

We would like to have some explanation what the equipment was that was required that is no longer required?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not responsible for putting it there, let's be quite clear, I wouldn't like to see any supplementary estimates at all really. It has been taken out because after the supplementary had been authorised it was reported by the Tourist Office that the money could not be spent so I think it is inappropriate to put in a Supplementary Bill before the House something which is not going to take place.

HON J E PILCHER:

Why couldn't it be spent? We don't understand it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is something, again, I cannot answer for.

HON H J ZAMMITT:

It is very simple, Mr Chairman. The money given to Government for the purchase and for the improvement of some of our sites, Members will recall that it was impossible for the tendering to go out in time within this calendar

year so we purchased part of the equipment such as chairs, lighting, fixtures and the like but some have not arrived and will not arrive before the end of the financial year so it will not be required.

HON J BOSSANO:

So, in fact, what we are saying is that it isn't that this thing is not going ahead, it is that it will be going ahead in 1987/88.

HON H J ZAMMITT:

Very much so, yes.

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

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I move the deletion of Clause 3, Mr Chairman.

Mr Speaker put the question which was resolved in the affirmative and Clause 3 was accordingly deleted.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I move the deletion of the existing Clause 4, subsection (2), Mr Chairman, and the renumbering of the existing Clause 4 as Clause 3 and to delete the words "Part I of" in the new Clause 3, Mr Chairman.

Mr Speaker put the question which was resolved in the affirmative and Clause 4 (renumbered Clause 3), as amended, was agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Specified Offices (Salaries and Allowances) Bill, 1987; the Trade Marks (Amendment) Bill, 1987; the Traffic (Amendment) Bill, 1987, with amendments; and the Supplementary Appropriation (1986/87) (No. 2) Bill, 1987, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

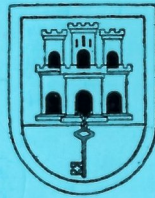
I now move, Mr Speaker, that the House do adjourn to the 27th day of April when we will be considering the Budget and the Committee Stage of the Gibraltar Heritage Trust Ordinance and anything urgent that might arise.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Monday the 27th April, 1987, at 10.30 am.

The adjournment of the House to Monday the 27th April, 1987, at 10.30 am was taken at 1.25 pm on Wednesday the 25th March, 1987.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24TH MARCH, 1987

VOL II. - BUDGET

MONDAY THE 27TH APRIL, 1987

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

DOCUMENTS LAID

The Hon the Minister for Labour and Social Security moved under Standing Order 7(3) in order to enable him to lay on the table the following document:

The Employment Survey Report - October, 1986.

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

Ordered to lie.

HON J BOSSANO:

Mr Speaker, I would like to speak on this. Mr Speaker, in the Budget debate of last year I opened my contribution by questioning the propriety of the contents of the Employment Survey being relayed to the public in a Party Political Broadcast only a few hours before we got hold of it and, in fact, I thought that the gentle hint that I was putting at that time would be picked up by the other side. In fact, there has been a repetition of that this year in that last Thursday the Hon Mr Perez spent a considerable time, a proportion of his ten minutes in an AACR Party Political Broadcast, reading the Employment Survey comments and statistics which we are now being asked to suspend Standing Orders in order to have tabled in the House. My understanding of the situation is that until, in fact, the document is tabled in the House it is not public knowledge and that it is available to Members in advance on a privilege basis.

MR SPEAKER:

I think the Rules on Parliamentary Practice says that it cannot be used within the House until such time and cannot be referred to in the House until such time as it has been laid on the table. Whether it is used outside the House we have no prerogative whether the convention has been that it should not be used until the House is privy to it by the laying on the table is another matter. I think as far as the Rules are concerned, it is that we cannot use it until such time as it has been laid.

HON J BOSSANO:

I am seeking clarification on this, Mr Speaker, because my understanding since 1972 has been that, in fact, we don't make public statements about something that is laid on the table until we talk about it in the House and then once we do so, the same applies with the Estimates and everything else that we get in advance and therefore when we ask the Government to give us advance information it is on the basis that we should be better prepared when we come to debate matters in the House, not so that we can use it outside. The only point I want to make is that the same Rules, as far as I am concerned, must apply to all of us and if we are all free to use the information before we get to the House and we all know it then we will all use it. But I did mention it

last year without seeking to make an issue of it, I had no reply at all from the Government last year and the thing has been repeated this year and therefore I feel now that a more formal position needs to be taken on it and we need to know from now on whether we are all going to be using all the information as soon as we get it or we are all going to wait until it is debated in the House.

HON CHIEF MINISTER:

Mr Speaker, I would like to look at the matter, I am not really in a position to give a reply as to whether, first of all, the need for suspending Standing Orders is because not enough time has been given to Members to inform them that the paper was going to be laid, if enough time is given you don't need the leave. With regard to the practice, I will be quite frank, I am not aware, I do not recall, in fairness, the Hon Member's remarks last year but I will certainly look at it and I will come back and I will make a statement on it at a later stage. I cannot go any further.

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to enable him to lay on the table the following document:

Draft Estimates of Revenue and Expenditure for 1987/88.

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

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing Orders Nos. 29 and 30 in respect of the 1987/88 Appropriation Ordinance, 1987.

MR SPEAKER:

As Members know, Standing Orders 29 and 30 deal with the printing and circulation of Bills at least seven days before they are presented to the House and we are being asked to suspend Standing Orders to enable this to be done insofar as the present Bill is concerned.

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

THE APPROPRIATION (1987/88) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate an amount not exceeding £66,984,400 to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move the suspension of Standing Orders Nos. 29 and 32B(3) in respect of the Finance Ordinance, 1987.

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

THE FINANCE ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Companies (Taxation and Concessions) Ordinance, the Development Aid Ordinance, the Estate Duties Ordinance, the Gaming Tax Ordinance, the Imports and Exports Ordinance 1986, the Income Tax Ordinance, the Licensing and Fees Ordinance, the Stamp Duties Ordinance, the Traffic Ordinance and generally for the purposes of the financial policies of the Government be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time. As in previous years, Mr Speaker, I propose to begin by saying something about the world economy and then proceed by degrees to the

discussion of the latest trends in the Gibraltar economy. Many of the features of the world economy to which I drew attention at this stage last year are much the same as they then appeared. Many economists are asking what went wrong. A halving in the oil prices, interest rates at their lowest level for five years, inflation down to the levels of the 1960's, and a substantial but smooth slide in the value of the dollar should have been the recipe for an economic boom.

It may of course have been delayed. The US deficit on current account, which was about \$120 billion a year ago, continued to increase during the year and reached \$140 billion by the end of 1986 notwithstanding a 20% depreciation in the value of the currency. That could be the beginning of the J-curve. US economic policies have, however, caused some eyebrow-raising and a lot depends on how long President Reagan and his advisors stay with the exchange rate option or whether they may be forced to consider fiscal options, not to mention Japan-bashing, as a means of reducing US deficits.

However, a combination of continuing US deficit, low oil prices and inflation at 2½% amongst OECD countries did lead to an increase in world trade of about 5%. The US deficit was the counterpart of huge Japanese, and, to a lesser extent, West German surpluses, although exports from these countries levelled off in the latter part of the year as a result of currency appreciation.

But the drop in nominal interest rates, which arrived with lower inflation, has not had anything like the impact on borrowing costs which was expected. Real interest rates remain at twice the level typical of the 1950's and 1960's. It may be that high interest rates are an irremovable feature of a world economy dominated by currency fluctuations and sizeable trade imbalances in a way which was inconceivable in the Bretton Woods era.

In 1987, oil prices are expected to edge up once more, and the dollar to depreciate further, although the US current account deficit is expected to fall below \$100 billion. World trade is expected to grow at a similar level to 1986. The International Monetary Fund's latest forecasts suggest some increase in output in the leading industrial countries with growth at just under 3% compared with 2.4% this year but little further improvement beyond that. It is unlikely that West Germany or Japan, in particular, will greatly accommodate the United States in its preferred economic options prior to a Presidential election year.

United Kingdom growth was rather better than forecast, nearly 3%, in 1986. Most of this increase was in non-manufacturing sectors. Inflation was around the 4% mark. The reduction in oil prices adversely affected the balance

of visible trade, as expected, and as might also have been expected, lower oil prices together with increased disposable income fed through into increased consumer demand which was the major feature of the economy in the latter half of the year. This was facilitated by easier credit conditions while the abandonment by the Government of any pretence at monetarism followed the reality of abandonment or, indeed, non-adoption in the first place.

The visible trade balance widened from £2 billion to £9 billion. On the other hand increased buoyancy of Government revenues from higher consumer spending enabled the Chancellor to make tax cuts which some six months earlier had seemed unlikely. Recent UK growth rates have been higher than those of its major European partners but it must be remembered that these were achieved from the base of a much reduced economy followed the ravages of the 1970's. Between 1972 and 1982 the UK only achieved one-half of the average growth of France, Italy and West Germany. Nevertheless, the economy has, in the subsequent five years, grown by 14% which is 70% higher than the average of France, Italy and West Germany during this period.

What these figures conceal is that a manufacturing trade surplus of £5 billion was turned into a manufacturing trade deficit of £7.5 billion in six years. The rapid growth of services, earnings from North Sea Oil and invisible earnings, not least from the £100 billion of overseas assets acquired since 1979, has helped to balance the current account.

UK growth is unlikely to reach 3% this year, but consumer spending is expected to remain buoyant. Inflation is expected to rise beyond 4%. The prospects for manufacturing, following the recent devaluation of the pound against all currencies except the dollar, are now good with manufacturing output expected to rise by 4%, perhaps reviving dreams of export-led growth, perhaps they won't be dreams. The UK's best export prospects are, however, in the services sector, including financial services. I see that His Royal Highness The Prince of Wales got in a word on this very subject during his recent visit to Madrid.

It is likely that there will be some further increase in the overall current account deficit in the UK and possibly some further depreciation in the value of the pound. It is unlikely that the Chancellor of the Exchequer will be confronted with a situation approaching the dimensions of the American problem.

I have referred in answers to questions in the House of Assembly in recent months to technical difficulties in measuring the underlying growth rate of the Gibraltar economy as distinct from the signals given by annual

year-to-year changes. In the last three years there have been and there continue to be substantial structural changes. Although 1984/85, the year before the frontier opened, was a year characterised by depressed economic conditions generally, capital spending on the Dockyard distorts any comparison between output in that and subsequent years.

The second major distortion has been the impact of the opening of the frontier itself. There is therefore a need to distinguish between the once-for-all impact of frontier opening, which is to say, the "plateau effect" it caused and the underlying indications of continuing growth.

A detailed survey of family and business expenditure will commence later this year when it is hoped to construct an up-to-date model of the economy. Having said all that, the best estimate that can be made at this time is that the underlying growth rate in the economy is of the order of 6% to 8%. This is high compared with a mature economy but not high compared with a small and comparable economy such as the Isle of Man, which achieved a growth rate of 10% in 1986.

I will now deal with some of the major features of the economy during 1986 and prospects for 1987/88.

The tourist industry had a better year in 1986 than in 1985. Visitor arrivals totalled 2,800,000 compared with 2,400,000 in 1985. A conservative estimate is that tourist expenditure reached £26m in 1986. Already in 1987 there are indications, from figures of arrivals during the first three months, which are higher than those for the first three months of 1986, that the number will pass the three million figure this year.

Developments at Queensway, Rosia Bay, Catalan Bay, should, inter alia, improve the touristic infrastructure by increasing the number of hotel beds available. There is some doubt about figures of hotel occupancy. During 1986 these are thought to range from 49% to 52%, which is similar to those for 1985. However, these figures are imperfect as an indication of full, half-full or empty hotels. There is a hidden figure of unfilled double beds or unfilled rooms with a nominal capacity for two or more bed persons which are occupied by only one or more as the case may be. In short, information about demand does not suggest that there is a genuine 50% spare capacity and current hotel developments do not suggest that either. The availability of data on room occupancy in the near future will be helpful in assessing what number of hotel beds is likely to satisfy a growing tourist market.

Figures of air traffic do not suffer from similar imperfections. There was a further increase in arrivals by air which were 90,000 compared with 74,000 in 1985 and this figure was the highest recorded since 1968. Load factors were maintained at a high level, in 1986 - 82%, and although slightly lower than 1985, that reflected a greater frequency of flights. In-transit visitors to Spain increased by almost 50% from 15,000 to 22,000.

It is difficult to assess accurately the contribution of the tourist industry to National Income without up-to-date information on the multiplier effects. However, direct tourist expenditure already accounts for 22% of national income. Prior to the opening of the frontier this contribution was estimated at some 15%.

The value of total imports fell by 4½% in 1986 but this was due almost entirely to a fall in the price of petroleum products together with some distortion as a result of the GSL factor. Excluding petroleum products there was an increase of about 10% in value of imports.

In volume terms imports of petroleum products in 1986 was about 40% higher than the previous year, almost entirely for re-export as bunkers. In volume terms foodstuffs, wines and tobacco were slightly down on the previous year. The proportion of foodstuffs to total imports has, in fact, fallen each year since 1984 from over one-fifth to just over one-quarter of the total, which perhaps reflects greater diversification in the retail trade and other sectors since the opening of the frontier.

Over the first nine months of 1986, imports from Spain increased by 60% compared with the same period of the previous years, and Spain's share of Gibraltar's total import trade is now about 15% compared with 50% from the United Kingdom.

Port activity reflected the general trend of imports with an overall increase of 9% in the number of ships calling, a 22% increase in calls by deep sea vessels, a 27% increase in gross tonnage, and a 50% increase in the number of ships calling for bunkers compared with 1985. There has been a significant shift from sea to land transport during this period and this is reflected in the October Employment Survey which reveals increased employment in the transport sector other than by sea.

The October 1986 Employment Survey reveals an increase in the overall level of employment which reached £12,500. The main increases were in the building and construction industry, wholesale and retail trades, transport and financial services.

The main features of 1986 were a stabilisation of GSL employment at around the 800 mark, an increase of over 20% in building and construction, a development which is likely to be sustained by developments currently in the pipeline and financial sector activity, and also direct employment by the financial sector itself which increased by 18% to a figure of over 700 and is likely to continue increasing. The number of Spanish workers doubled during the year though not in substitution for Moroccan workers whose numbers also increased. Employment in the private sector as a whole, including GSL, was virtually at the same level as the official sector. A total of 564 employees were classified as frontier workers, double the figure of two years previously, mainly employed in the construction industry.

Inflation in Gibraltar was running at 4.4% in 1986, a rate which was about half a percentage point higher than in the UK and higher than the Gibraltar rate itself for 1985 which was 3.2%. Falling oil prices have helped to stabilise inflation in the Western economies generally. Food price inflation was also 4.4% and food price inflation in each of the last two years has been about a half percentage point higher than in UK.

Increases in the prices of imported goods and commodities have been for the most part modest but increases in the price of local services average between 12% and 13% reflecting the difference between imported and local cost inflation. I am glad to be able to say that the most substantial reductions in prices were for Government services. Electricity and water charges were both 16% lower, against the trend in the private sector.

Average weekly earnings for full-time adult males increased from £134 to £144 between October, 1985, and October, 1986. Earnings in the private sector rose by 9.5%, about double the rate in the official sector. At average levels of earnings, take home pay for a married couple with two children rose in real terms by over 6% during this period.

Gibraltar has traditionally imported UK inflation rates because of the high UK import content on the one hand and parity of wages on the other. There are however indications that, as the result of structural changes taking place, wage costs will become an increasingly important determinant of the rate of domestic inflation. For that reason, and the expectation of some rise in oil prices, inflation is likely to rise to between 5% and 6% during 1987.

I do not propose to say a lot about Gibraltar because a lot has already been said during recent debates in the House. Gibraltar and the hotel industry are, of course, both labour intensive industries which are vulnerable to the effects of a high wage cost economy and the price of services.

I shall however say something about the third pillar of the economy. There has been continued expansion in the financial sector, with the granting of further banking licences both for domestic and offshore operations. The number of full banking licences is now eighteen, double the number at the beginning of 1985. Whereas the impact of the full opening of the frontier was felt immediately in the tourism and retail trade sectors, the development of banking and other financial services is more recent. Enquiries and feasibility studies by banks and financial institutions in 1985 began to mature during 1986 and further growth is expected during 1987. Gibraltar is now increasingly recognised by the international banking community as a finance centre and so featured in the international financial press.

Bank deposits increased by 68% between December, 1985, and December, 1986, mostly representing offshore business, although domestic deposits rose by a substantial amount and loans and advances by 35%. Compared with other established finance centres - Jersey with deposits of more than £20 billion and Guernsey with £6 billion, for example, Gibraltar's banking sector is still small. On the other hand the local development has just started and there is no reason why the figure should not rise to £1 billion within the next two years. There is already a queue of banks waiting to establish themselves in Gibraltar.

Mr Speaker, it is Government policy to encourage first class financial institutions and it is a feature of this policy that any application for a banking licence in Gibraltar has the support of the central bank of the country of origin. Gibraltar is represented at the Basle Conference of banking supervisors which monitors banking supervision in the international community. I hope this will help dispose of suggestions made in the media and elsewhere that Gibraltar's development as a finance centre is something that financial authorities elsewhere will not like. I think that view is based on a misconception of what a finance centre is. At the same time it is important to promote Gibraltar's development in a European and international context in terms of the business that international connections will bring.

It also makes good economic sense, for three main reasons. First, financial services do not suffer from the limitations of space and geography that tourism does. Secondly, financial services are not as vulnerable as either tourism or shiprepair, for example, to the impact of a high wage cost economy, nor are they labour intensive in the generally accepted sense. Thirdly, the traditional educational and professional links with the United Kingdom and the fact that English law is the basis of Gibraltar law coupled with political stability provides a basis for operations which is readily recognised by the international financial community. In all financial dealings the confidence factor is the most precious commodity.

There is, however, a need for greater control of financial services other than banking and insurance, notably financial intermediaries who, other than complying with the basic requirement of registration under outdated company law are at present unregulated and unsupervised. This is important if Gibraltar is to preserve its reputation as a financial centre and not acquire the reputation that one or two offshore tax havens in the Caribbean have acquired.

To conclude this review of the economy and prospects for the future, Mr Speaker, I refer to my remarks at this stage twelve months ago when I referred to conditions as being favourable for the further development of the economy and a further improvement in living standards. That expectation has certainly been fulfilled and there are favourable prospects for continued development and improvement in 1987.

Mr Speaker, I shall leave detailed comment on the Government Estimates for the debate on the Appropriation Bill.

The buoyancy of receipts from income tax was the outstanding feature on the revenue side and this was very much an end-of-year phenomenon. This gives rise to some doubt about the forecast for 1987/88. Having regard to trends in earnings and employment, and hoped for improvements in collection of tax revenue, the estimate for 1987/88 may well be on the low side.

Sales of Government debentures were rather lower than expected at a little over £1m. It was expected that the Consolidated Fund would contribute that amount to the Improvement and Development Fund for capital projects during the year. However, because of delay in bringing projects forward, plus the availability of funds from other sources, this contribution will be deferred until 1987/88. A further contribution of £1m from sales of debentures has also been assumed.

The finances of the Improvement and Development Fund assume receipts of about £3m from the sale of Government properties. However, the timing of these is also uncertain. There is available a further £1m within the Government's existing borrowing powers. If this is insufficient, a new borrowing bill will be brought to the House during the current financial year. Debt charges for 1987/88 will in any event be lower than for 1986/87 (ignoring the exceptional refinancing of the £4m Midland Bank loan) and public debt now stands at a lower level than at the end of either of the last two years. Having regard to buoyant economic conditions there is ample capacity for further Government borrowing for capital purposes should this be required.

No increases or reductions will be made in charges for municipal services this year. The deficits in both the Electricity and Housing Funds will therefore be met, as in recent years, by contributions from general Government revenue.

The Telephone Service is now in surplus and a further financial improvement is expected during the current year. However, the surplus is relatively small and there is every likelihood, following the recent increase in demand, that both exchange and local line capacity will be exhausted earlier than hitherto expected. Funds will therefore be required for capital expenditure and it is reasonable at this stage to assume that a proportion of the financial requirements will be met from internal sources as well as from borrowing or supplier finance.

In the case of the Potable Water Service, the surplus is more substantial. However, assuming an increase in domestic demand in line with current and planned developments it is possible that new sources of supply or distillation capacity might be required even before 1990. In addition there is uncertainty about MOD and GSL requirements. As in the case of the Telephone Service, therefore, the surplus may be needed for future capital development purposes in the not too distant future.

In the light of the buoyant and increasing trade in the retail sector generally, the Government does not think that any wholesale change in import duties is called for and the existing rates of import duty will be generally maintained for the coming year. But there is a good case for restructuring import duties on motor vehicles, and this already appears to have been recognised by the media. Sales of motor vehicles have been buoyant since the opening of the frontier although sales of new cars in 1986 were lower than in 1985. However, the circumstances which led to the present structure of duties; which favours the purchase of smaller cars, no longer apply with a fully open frontier and with foreign visitors representing a substantial proportion of local vehicular traffic. There are too many duty bands and the top rates of duty are certainly too high. It is cheaper to purchase a high value car abroad second-hand and pay duty on entry rather than purchase new locally.

It is therefore proposed to replace the existing five bands with three as follows:

<u>Engine Capacity</u>	<u>Rate of Duty</u>
0 - 1500 cc	25%
Over 1500 cc and up to 2000 cc	30%
Over 2000 cc	35%

At a crude estimate some £200,000 of revenue could be at risk as a result of this restructuring, which is nevertheless designed to boost sales of medium-sized and medium-cc rated vehicles as well as those of higher value or a higher cc rating. In other words, the new structure should encourage sales of higher value cars within all bands.

The current structure for self-drive vehicles is the same as for ordinary cars, that is, comprising five separate bands. This is in contrast to the arrangement for other commercial vehicles such as taxis, minibuses, coaches, lorries, etc which pay an effective rate of 18% net. As a result 90% of the local car hire fleet is of the smaller engine size. It is therefore proposed to extend the commercial vehicle rate of drawback to 18% net in the case of self-drive cars with a view to encouraging sales of higher rated and higher value cars and promoting export resales. A system similar to that operated for taxis will be operated in those cases where car hire vehicles are sold privately. The revenue at risk is low.

At present all spares carry a 30% duty rate with the slightly notorious exceptions of car seat covers and also car radios. Although sales of spares have been buoyant, there is little doubt that the Gibraltar trade suffers by comparison with prices across the frontier, where duty payable is 12% VAT. Taking into account that private motor vehicles over ten years old will now be subject to fitness tests, there should be increased demand for spares locally. It is therefore proposed to reduce the duty on spares for all vehicles to 12%.

As a measure to encourage the use of mopeds, import duty on motorcycles up to 50 cc engine capacity will be levied at 12% and registration of such motorcycles will not be required. The licence fee for motorcycles with engine capacities of over 50 cc and up to 125 cc, which I am told is a pretty powerful engine these days, will be reduced to £10 per annum. In the case of motorcycles up to 50 cc engine capacity there will be no requirement for the wearing of crash helmets.

In future the transfer of ownership of GG registered vehicles to another non-resident of Gibraltar will be allowed without the present need for the duty originally allowed on drawback to be repaid. The seller will have to provide satisfactory evidence that the buyer is not a resident of Gibraltar. Renewable road tax licences will in future be allowed in the case of all GG registered vehicles whether or not purchased new in Gibraltar but import duty on cars registered with GG plates will be raised from the present 2% to 5%.

There will be no change in the rate of corporation tax which was reduced from 40% to 35% last year. However, with the improvement in economic conditions and surge of new development since the opening of the frontier, it is timely to re-examine some of the allowances and reliefs which are now available to the corporate sector.

The most notable of these are contained in the Development Aid Ordinance. This provides for up to 100% of the capital cost of a project to be deducted from net profits, relief from rates on a scale ranging from 100% to 20% over a period of five years, duty free import of goods in the case of a new industry, and capitalisation of interest charges on loans for the purpose of calculating tax relief. In addition, the Income Tax Ordinance provides for 100% depreciation or initial allowance on items of plant and equipment which can be offset entirely against profits on a short term project, with tax losses being carried forward from one year to another.

The purpose of these allowances was to stimulate development and encourage investment on the Rock during years of siege. Whether they in fact achieved such objectives is debatable. By that I mean that it is arguable whether investment decisions rest critically on the availability of tax concessions. Twenty years ago it was thought that they did. There is now an impressive body of economic opinion which takes the contrary view, that they merely encourage inefficient use of resources. Be that as it may, the loss of tax revenue is impressive. The tax concessions granted under the present Development Aid Ordinance, which has been in operation since 1981 amount to some £20m, to which must be added relief from rates. It is possible for a company so to arrange its programmes as to enjoy an indefinite tax holiday. Moreover if there is a distribution of profits by way of dividends, individual shareholders in a company will benefit because the tax concessions are automatically passed on to them. It would be no exaggeration to say that this Ordinance has contributed in no small way to the low tax yield from the corporate sector.

Following the opening of the frontier, the demand for land and the pressure on resources of the construction industry in connection with projects of a touristic and financial nature, and for office space generally, has been such that there is no longer any convincing economic argument for the continuation of development relief on the present scale. About two-thirds of the licences granted under the 1981 Ordinance have been since the opening of the frontier. When economic and fiscal criteria coincide the case for amendment becomes overwhelming.

The Government proposes to make the following changes. As an immediate measure the qualifying level for social housing development to be completed within two years and with a minimum of three units will be raised to £200,000. The qualifying level for touristic developments and projects aimed at improving the economic and/or financial infrastructure of Gibraltar will be raised to £500,000. In the case of projects to be completed within two to five years the qualifying limits will be raised to £400,000 and £1m respectively. As from the 1st April, 1988, development aid relief will be confined exclusively to housing developments only as a further measure of assistance to home ownership in Gibraltar.

The Finance Bill will also include some minor amendments to the conditions under which development aid licences will be granted which will be explained more fully at the Committee Stage.

Most of the arguments just advanced also apply to the 100% depreciation or initial allowance now available under Section 18 of the Income Tax Ordinance. The Government proposes to abolish initial allowances entirely on any item of plant or equipment purchased after 30th June, 1987. The normal wear and tear allowances provided under Section 16 of the Income Tax Ordinance, ranging up to 25% on a straight line or reducing balance basis, will continue to be given.

No changes are proposed either in fees for tax exempt companies or for offshore banking licences. In the case of companies with a brick and mortar present in Gibraltar, the proposals just outlined will have an increasing revenue raising impact. There are however a number of other minor but important amendments to existing legislation affecting finance centre activities.

In the 1985 Ordinance, tax exempt and qualifying companies were freed from all stamp duty on documents relating to property not situate in Gibraltar. However, a drafting technicality prevented this exemption from being extended to transfers of shares. This puts Gibraltar at a disadvantage compared with other finance centres and this oversight will now be corrected.

The rate of tax on qualifying companies was fixed at 27% at a time when UK corporation tax was twice that rate, ie 52%. There are few qualifying companies but it is proposed to reduce the tax rate to half the current UK rate on income remitted to Gibraltar - that is to 17%.

As the law now stands, a non-resident owner is exempt from tax on income derived from operating or chartering ships whether or not they call at Gibraltar, but only if the ship is not registered here. The effect of this is the reverse of what is intended in that it discourages non-resident owners of ships from using Gibraltar as a Port

of registry and forming a tax exempt company for this purpose. The Income Tax Ordinance will therefore be amended to allow non-resident owners of ships and aircraft registered in Gibraltar exemption from tax.

A tax loophole which was probably never envisaged by the authors of the legislation exists in the case of "permitted individuals" who work for tax exempt companies with a brick and mortar presence in Gibraltar, and who live on the other side of the frontier. With an increase in the number of banks and financial institutions, the number of such individuals is also on the increase. At present a permitted individual, that is to say, a frontier worker, employed by such a company, working side by side with a Gibraltar resident, escapes income tax entirely whereas his Gibraltarian mate would have to pay. This does not make for matiness and is clearly inequitable.

The situation is in fact even more bizarre than I have just described. An Englishman, an Irishman or a Scotsman who works for a tax exempt company and lives in La Linea or Algeciras would pay tax but a German, a Spaniard or a Frenchman would not. However, if the Englishman, the Irishman and the Scotsman went to live in Sotogrande, they would not pay tax. This sounds like the beginning of a joke, but in fact is the end of a tax nonsense. The Companies (Taxation and Concessions) Ordinance will be amended to bring such employees of tax exempt companies within the tax net as if they were ordinarily resident in Gibraltar. No change is intended to the tax exempt status of the company itself or the distributions, dividends, fees and other payments made to non-resident directors or those in beneficial ownership.

I will now turn to the Government's main income tax proposals.

The personal allowance will be increased from £1,100 to £1,450 for a single person and from £2,200 to £2,800 for a married couple. The childrens allowance will be increased to £500.

There will be a number of consequential adjustments to the Income Tax Ordinance of a minor nature which are linked to these allowances.

The initial 20% band of income tax will be increased from £1,000 to £1,500. The 30% and 35% bands will both be increased to £5,500.

The 40% and 45% bands will be increased to £3,500.

It is estimated that the tax loss from these proposals could be slightly more than £3½m in a full year or £2.7m in the 1987/88 financial year.

I shall be circulating, with your permission, Mr Speaker, after the Chief Minister's contribution to the debate, and together with copies of my speech, a table which will show the effect of the tax proposals at various income levels. The effect will vary depending on individual circumstances. The table I am about to circulate does not take into account the effect of social insurance and superannuation contributions or relief obtained from life insurance premiums from which, in varying degrees, many and in some cases all taxpayers benefit. I would therefore like to say something about the effect of these reductions on the earnings of the "average" Gibraltarian family shown in Table 17 of the October 1986 Employment Survey, that is to say, on the take-home pay of a full-time weekly-paid adult Gibraltarian male, married with two children, wife not working and with average weekly earnings of £150.

After deduction of income tax and social insurance contributions, but adjusted for family allowance, net take-home pay of £120 will now rise to just over £126, an increase of 5%, which gives a further boost to disposable income following the increases in earnings and reductions in taxation during the past year or so.

It is also worth comparing the figures of earnings and take-home pay with those of a comparable family unit in the United Kingdom following the recent tax reductions made by the Conservative Government. Much has been made of such comparisons recently in the Gibraltar press and other organs and a great deal of what has been said is unfortunately misinformed because, universally, the comments have not taken into account differences in tax structure. While personal allowances appear to be higher in the UK and tax rates less onerous at higher income levels, UK social insurance contributions are far higher than in Gibraltar, they are not tax deductible, and other allowances available to Gibraltar residents such as children's and relief for life insurance premiums which reduce the effective rate of tax, are not enjoyed by UK taxpayers. Such differences in structure put the comparison in a rather different light.

A weekly paid adult male married with two children, wife not working, with earnings of £150 a week in the United Kingdom would take home, after tax and social insurance contributions, about £119 a week, whereas a Gibraltarian will now take home £121 a week. The inclusion of family allowance on both sides of the comparison would put the UK wage earner at £133 compared with £126 in Gibraltar. At higher income levels where Gibraltar rates are, as I have said, ostensibly more onerous, the scope for reducing the effective rate of tax through other allowances is naturally more substantial.

To give a further illustration; with the new tax rates, a married man with a child who takes out the maximum Life Insurance to which the tax rules entitled him would reach the 50% rate in Gibraltar with assessable income of £30,000. In the UK where the rules do not entitle him to any deduction for Life Insurance, the same individual will reach 50% with assessable income of £29,000. The top rate of tax in the UK is 60%.

Any tax comparison between one country and another is a difficult exercise. It is necessary to take into account indirect taxation, levels of VAT, excise duty and other rates and levies. This comparison cannot readily be made in terms of individuals because family expenditure patterns vary, although there is less elasticity at lower income levels than at higher. Nevertheless, Hon Members will all be well aware that, although direct taxation has been reduced since the Conservative Government took office, there has not been a significant improvement in the living standards for those on modest incomes. That certainly cannot be said of Gibraltar. The tax burden has been substantially reduced and living standards have improved at all income levels. Not only that but the yield from all forms of taxation in Gibraltar now represents a lower proportion of national income than in the United Kingdom.

There are some minor changes to allowances. The qualifying limit of income for age relief (over 65's) will be raised from £3,000 to £4,500. The blind person's allowance will be increased from £150 to £250 and the allowance for apprentices from £200 to £250.

A number of changes affecting tax deductions for the maintenance of children, to enable either parent to claim tax relief, where alimony is paid under a Court Order in varying circumstances, will also be made and explained more fully at the Committee Stage.

An amendment to the Ordinance will be made to speed up the monthly payment of PAYE. Where the tax cannot be quantified by the Commissioner he cannot at present institute legal proceedings for its collection. This is open to abuse by slow payers. Following UK practice it is proposed that the Commissioner be empowered to make an assessment of the amount due based on recent records. After the serving of due notice on the employer, and if arrears are still not paid, the amount calculated by the Commissioner will be deemed to be the amount of tax overdue for the purpose of legal proceedings.

The Government will give further consideration to proposals that the allowance of up to £2,000 payable when a deposit is put down on the initial purchase of a home should be payable during the course of construction rather than on completion. However, this proposal raises some legal and administrative problems.

The amount of interest deposited in a building society account and the Post Office Savings Bank which will be allowed as tax free will be raised from £500 per annum to £600 per annum.

The Government is to carry out a review of the provisions of the Estate Duties Ordinance with a view to introducing a progressive system, that is to say, where duty is charged at a higher rate on successive tranches of estate value instead of the present arrangements where duty on the whole estate is payable at progressive rates. I hope that everybody understands what I mean. It took me some considerable time to find a formula which would describe that, Mr Speaker. At the moment, if I may digress from my speech, at the moment the first £10,000 is exempt, the next £10,000 is paid at 5%, the next £10,000 if your estate is worth more than £20,000, you don't pay 10% on the next tranche, you pay 10% on the whole lot and that is the change which I was attempting to describe but alas my eloquence was unequal to it. However, as an immediate measure before the review is completed, the amount of estate on which no duty is charged will be raised to £20,000 and the width of all the other duty bands will likewise be doubled.

The fee chargeable on each fare paying passenger on departure from and arrival in Gibraltar by ship will be increased from 30p to 50p.

As a measure to encourage non-residents, mainly British expatriates, to place bets through Gibraltar rather than London, a concessionary rate of gaming tax will be introduced for this purpose only. This will be applicable to telephone bets on credit only and there will be no public access to the premises either by Gibraltar residents or anyone else. There will be no change in the standard betting tax for residents.

I should now like to say something, Mr Speaker, about the tax treatment of pension schemes in the private sector which has been highlighted by one case recently and over which there has been some confusion.

The Government does not control private sector pension schemes and a scheme can provide whatever benefits its members and the trustees wish. But the Government does have a responsibility to see that the tax concessions applied in favour of such schemes are fair and equitable having regard to the interests of all taxpayers. At present contributions by both employers and employees to a private scheme enjoy favourable tax treatment. Not only that, but the investments made by a pension fund are also given favourable tax treatment. It is also customary to allow up to 25% of the capitalised value of the retirement pension to be taken as a lump sum free of tax. This is usually referred to as 25% commutation.

A number of pension schemes have in the past been set up in Gibraltar which provided for 100% commutation and these were approved by the then Commissioner of Income tax. This potentially large tax loss is not something the Government can contemplate in future. Occupational pension schemes provide a retirement income additional to social security pensions which should be taxed as earned income. A lump sum free of tax which can then be invested so as to avoid tax is a blatant breach of that principle. There are various options open to Government which has considered how best to correct this matter. These include taxing the lump sum, taxing the investment income of the pension fund which provides 100% commutation, not approving any further schemes which provide for commutation in excess of 25% of the capital value of the annual retirement pension. Those, as I said, are the various options.

There is no intention on the part of the Government to interfere with the operation of any existing scheme. However, the Commissioner of Income Tax will not give approval to any new scheme or alteration of existing schemes presented to him which provides for more than 25% commutation and has not in fact given such approval now for some two years, unless the circumstances were in some way exceptional. The circumstances of the case I mentioned were in fact exceptional.

The Government believe that it would be unfair to impose tax on those who are already members of a scheme, approved by the then Commissioner of Income Tax and approved on the understanding that the 100% lump sum provided by the scheme would be entirely free of tax. Any individual who is already a member of such approved scheme will therefore continue to enjoy this expectation.

However, the Government do not consider that any new member is so entitled. Therefore, anyone joining, after the 30th June, 1987, an already approved scheme which provides for a capital sum on retirement, will be taxed at a rate of 20% on the amount in excess of the normal 25% commutation.

The Government believes that this is a fair and equitable way of dealing with a difficult problem. It will ensure that the potential tax loss is progressively reduced over a period of time and that the tax treatment of such schemes in future conforms with requirements which are in the interests of the tax paying community as a whole.

Mr Speaker, it would be a fair summary of the various measures just outlined to say that they reflect generally the buoyancy of the economy and the opportunities which now exist for the further creation and sharing of that wealth in Gibraltar, and the measures I have described in my Budget speech should, I hope, be considered in that light. Even the withdrawal of a number of tax concessions from companies reflect the confidence which there exists in Gibraltar and the investments now taking place.

It remains for me to respond to the annual clamour for literature as well as facts and figures during the Budget. This is the second occasion on which it has been possible for me to present a Budget which reduces personal taxation. The first two featured Orwell and Asquith and the third ended with quotations from Shakespeare. So, for a change, how about this:

Riches, like insects, when concealed they lie
Wait but for wings and in their season fly.
Who sees the FDS pine in his store
Sees but a backward steward for the poor.
Two years ago a reservoir of care
But now a fountain spouting through the air.

Mr Speaker, it is time for me to stop spouting, I commend the Bill to the House.

MR SPEAKER:

I will now call on the Hon and Learned the Chief Minister to make his contribution to the Finance Bill.

HON CHIEF MINISTER:

Mr Speaker, as I stated last year, the Government approaches the Budget as an opportunity to present its economic and financial policies and explain the direction in which it proposes to pursue these. The formulation of a Budget is not solely an exercise in financial reconciliation and discipline. It goes much further. It is an exercise in the management of resources to create and distribute income and wealth; it concerns the efficient use of expenditure and planning of investment to maximise employment and provide for the social and infrastructural needs of the community as a whole; above all, it involves the application of a policy instrument aimed at strengthening the economic and financial base. All this is particularly important for Gibraltar. Our economy is small and our resources are limited. Our needs and standards, in financial terms, almost inevitably develop disproportionately to our size. And, ultimately, it is in our economic strength where our political strength lies.

No Budget on its own, however, can create the right conditions for economic growth or prosperity, or indeed correct the distortions or inefficiencies inherent in the economic system. But each Budget should respond to a plan, provide a steer, and set aims and objectives. The extent to which this is possible varies from year to year depending, to a large extent, on the effects of external events or influences. The effects of a closed frontier, or threatening Dockyard closure, were, for example, factors which significantly reduced our ability and flexibility for fiscal intervention in recent years.

I say all this, Mr Speaker, by way of introduction in order to underline the political and economic thinking in the presentation of this year's Budget. There are those who may find it irresistible to say that we have produced a Budget geared simply for an election. We do not believe in prostituting the Government's finances for such a purpose. Our long record in Government has more often than not been marked by tough Budget measures prior to an election. This Budget responds to the need to improve economic conditions, not to win votes. It follows the course we set for ourselves last year by concentrating primarily on the need to reduce the burden of direct taxation. It is a Budget which aims to continue improving the lot of those who have directly borne the brunt of rising real tax levels at a time of economic uncertainty and general recession. It is only right that there should now be a further measure of redress given the improving economic climate.

The Financial and Development Secretary has already described with his usual eloquence and fine detail - not excluding a reference to Shakespeare - the economic and financial outlook. It is reassuring to see that the economy is on a steady path of recovery. There is a significant increase in private sector development, with investment in large projects such as Queensway and Rosia still to come on stream. There continues to be remarkable growth in tourism and the financial services, with the consequential benefits evident in ancillary sectors such as the retail and distributive trades, bars and restaurants and communications generally. In large measure, this is attributable to frontier normalisation which has enabled the private sector to seize the opportunities to develop and diversify under normal economic conditions. As a result, employment has increased and the tax base as a whole has begun to widen. This trend must nevertheless be examined in balanced terms. To some extent, renewed private sector investment is currently experiencing an early burst which should eventually taper into a more settled pattern. Additionally, as the Estimates of Expenditure reflect, this surge in activity is accompanied by increased demand for public sector services, notably in infrastructure. It is therefore necessary not to be overcome by a false sense of over-optimism.

I would now like to turn, Mr Speaker, to another key area of the economy, namely, the commercial dockyard. There has, as the Financial Secretary already said, recently been detailed and exhaustive debate in this House on the question of Gibraltar Shiprepair Limited, particularly in the context of the Government's decision to inject increased share capital into the company. I do not intend to revive a debate on this matter today. But it is important that I should repeat the message that both management and the workforce should continue to work together to help secure viability for the yard.

Fortunately, the underlying industrial relations problems which bedevilled the yard last year seem to have dissipated. This spirit of consensus is vital if Gibraltar Shiprepair Ltd is to continue making an important contribution to the stability and development of the economy. As I explained last year, the Government sees that contribution as complementary in packaging the role of Gibraltar as a centre for shipping, together with bunkering and other Port activities. It is with this aim in mind that we recently passed legislation to upgrade our shipping registry.

I now come to the Government's financial position, which I shall comment on briefly. In general terms, I would say that the prospects for this coming year represent a consolidation of the improved financial outturn in 1986/87. Recurrent revenue were buoyant, growing at a faster rate than recurrent expenditure. The net improvement in reserves at the beginning of this financial year was around £1m. This takes account of the carry-over of the unspent £1.5m contribution to the Improvement and Development Fund which, this year, will be topped up by a further £1m, as part of the Government's commitment towards the 1986/90 Development Programme. Our debt servicing will be reduced following the refinancing planned last year. With reserves forecast to stay at around £11m by the end of the financial year, the Government considers that there is sufficient flexibility to make a fairly substantial reduction in the level of personal income tax as described by the Financial Secretary.

The income tax changes which the Financial and Development Secretary has already announced represent a 'give-away' of up to £4m per annum. For the individual on average earnings it represents a tax cut of around £4 per week if single, around £4.50 per week if married and £5 per week if married with one or more children. This should add around 4% to the net take-home pay of an average wage earner, resulting in an increase of some 15% compared to the parity start date of October, 1978. With the increase in allowances and wider tax bands, an individual will now not reach the 50% rate until he earns just under £21,000 per annum if single, and over £22,300 per annum if married. What is perhaps more telling is that we are reducing the tax bill for around 40% of taxpayers, ie all those earning under £6,000 per annum, by between 15% to 25% depending on marital status. A married man with children earning, say, between £80 per week to £120 per week will enjoy a tax cut of between £3.50 to £5 per week. Other tax changes relate to the need to clarify and tighten the Income Tax Ordinance, particularly in areas which are open to abuse.

Apart from reducing personal taxation, we have also considered that there is now justification for reducing import duty on motor vehicles, motorcycles and spares. This follows our approach of streamlining and selectively reducing import duties in order to improve price competitiveness in an open frontier situation. Changes to the Development Aid Ordinance are again in response to changing economic circumstances.

There is one point that the Financial Secretary has no doubt omitted unintentionally and that is the concession to be made in the Estate Duties Ordinance. The matrimonial home held in the joint names of a husband and a wife will be free from estate duty as well, that is the same as it is in England. This helps towards home ownership. If a private home is held by the husband and the wife, the share of the deceased partner will not be accountable for estate duty purposes.

Mr Speaker, I would like to conclude by saying that this year's Budget follows a fiscal strategy which was mapped out in 1981, but which was subsequently interrupted by the recessionary impact of the dockyard rundown and closure and the aborted frontier opening and the two and a half years of pedestrian limitation. Last year, we resumed that strategy which was aimed at reducing the heavy tax burden and creating the necessary incentives for stimulating demand, employment and investment in the economy. Over the past few years we have been steadily laying the foundations for this. We intend to continue this task at the next Budget once our party is returned to Government.

MR SPEAKER:

As you are well aware and under our Standing Orders we now have to recess for a period of not less than two hours to enable Members to digest and assess what has been said upon which we will return and debate the Second Reading of the Finance Bill. I would like to get the feelings of both the Hon and Learned the Chief Minister and the Hon Leader of the Opposition as to how long they would wish to recess for.

HON J BOSSANO:

I would like to ask, Mr Speaker, this year for more time than I usually do because, in fact, the contents, in particular, of the Financial and Development Secretary's speech with all the details of things like the changes in the Development Aid Ordinance and so forth, are something of which obviously we have not had any previous indication anywhere, not even by speculation in the press, and which we are looking at and thinking of for the first time. I think we would need at least till about 5 o'clock.

MR SPEAKER:

So we will then now recess until 5 o'clock this afternoon when we will continue with the debate on the Second Reading of the Finance Bill.

The House recessed at 12.10 pm.

The House resumed at 5.10 pm.

MR SPEAKER:

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

HON J BOSSANO:

I think I will say something, Mr Speaker. I find, Mr Speaker, that although there are a number of references in both the contribution of the Financial and Development Secretary and the Chief Minister this year to the management of the economy and although the contents of the Financial Secretary's statement does contain a number of elements which could be said to be related to economic policy, much of the criticism that we have levied in the past at the Government for failing to do before and continuing to fail to do today what it is for the first time ever recognising as necessary still hold true. Therefore I could say that much of the analysis that I made last year could be said to continue to apply now with, of course, the added aggravation from the point of view of the people of Gibraltar that this is the year when the baby is supposed to be delivered. The promises of the goodies which we heard of in the past are supposed to be seeing the light of day today in what is the last AACR Budget of the present term of office and we hope the last AACR Budget for a very long time to come and what I assume must be the last Budget of the Financial and Development Secretary although I suggested that before last year and he quickly jumped up to say no. But, of course, the Financial and Development Secretary has, in fact, the unusual distinction of having done four Budgets - the 1984, 1985, 1986 and 1987, whereas his predecessors have generally done three. And therefore in looking at the performance of the Government we are looking at the performance of the same Financial Secretary during the same term of office. And, of course, in looking at the performance of the AACR we are able to look to continuity in office since 1972. One never knows really what the Government itself believes of what it puts in front of the House of Assembly. I have never been sure in my own mind, Mr Speaker, because in the fourteen years that I have been here I listen to the Hon and Learned the Chief Minister praising Financial Secretaries while they are two steps away from him and then finding

fault with them when they have departed from our shores. Therefore we hear the Hon and Learned Member saying how eloquent our current Financial Secretary is and we don't know whether he is as eloquent in the eyes of the Chief Minister as Mr Mackay was in 1972, Mr Collings was in 1976 or Mr Wallace was in 1982/83. Certainly the difficulty that the Government has in persuading people to believe the things that they want us to believe is in no way helped by the contradictions in the statements that they make amongst themselves. That is to say, we had, as I mentioned before, the Hon Mr Brian Perez making last Thursday a Party Political Broadcast which consisted primarily of his reading the interpretation of the October Employment Survey and the comments of the Statistician and he did the same thing last year and he referred to the contrast between the picture there and the prophets of doom. I pointed out to him last year, Mr Speaker, that in fact the worst prophets of doom had been the Hon and Learned the Chief Minister and the Financial and Development Secretary in 1984 and 1985 with the presentation of the Accounts that were brought to the House. It wasn't the GSLP who invented a situation of saying 'there is going to be a balance in the Consolidated Fund of £1.7m', it was the AACR in Government who said that that was happening. And they said in the 1985 Budget, if the Hon Member would like to look at page 5 he will find a projection of a situation in March, 1986, where the reserves are down to £1.7m and a need to borrow £2m. That looks pretty gloomy to anybody looking at it and therefore if the Hon Member wants to know where to look for the gloom, all he has got to look into is the past of the statements made by his own Chief Minister. And, in fact, if he wants to temper his enthusiasm in his Political Broadcast he should read what the Hon and Learned Member has had to say this morning when he has told people not to get carried away and be over-optimistic about the state of the economy. I think the Hon and Learned the Chief Minister should have given the Hon Mr Brian Perez a preview of his Budget statement last Thursday in time for the Party Political Broadcast. What then is the situation that we have today in terms of the state of the economy? How does it compare with the past? Is the optimism justified or is it not justified? Is the position now one that permits the Government to do things that they would have liked but could not do in 1982 or 1982 or 1983? Because, I think, Mr Speaker, I have, in fact, in the past said that independent of how one may wish to approach the resolution of problems, at least we ought to be able to agree on what the problem is and then the political difference lies in how we solve it. And I have also said many, many years in this House, Mr Speaker, that there appears to be a clear tendency to present a picture which suits the particular political message of that particular Budget. It has been denied by every Financial Secretary but, of course, we had last year, for example, the Minister for Economic Development clearly stating that it was the hold of

the Treasury and the thinking of the Treasury and the requirement of the Treasury for six months of reserve in 1972, which brought about a general strike. That, in fact, was being politically defended in 1972. So in looking at the level of reserves and in looking at the projections for the future necessarily we also have to look at the past. I think we have to compare legitimately because, in fact, the Government is coming to the end of its term of office and it has to go back to the people to seek a renewed mandate and it has to do it as the Hon and Learned the Chief Minister himself acknowledged in his New Year Message, it has to do it on its record and clearly it will seek to present its record in one particular light to the people of Gibraltar and we have a function of presenting it in a different light, in the light in which we see it. In 1972/73, Mr Speaker, when the Government came in and they have been in Government since - we must not forget that - as Mr Canepa recognised last year the freedom of movement was considerably less than it is now because there was this view taken that the reserves had to bear a fixed relationship to the level of revenue or the level of expenditure and, generally speaking, there had to be enough money in cash in the general revenue balance as it was then known, the Consolidated Fund as it is now known, to be able to meet six months of expenditure. We would then be talking of a need for reserves now of £35m. But the fact that they don't have to do it anymore means that they are able to do things now that could not be done then. But one cannot forget that that is what they inherited when they came in. When they came in in 1972, Mr Speaker, what they inherited was a situation where the reserves were of the order of £1½m to £2m; the public debt was of the order of £3m and annual expenditure was of the order of £4½m to £5m. So, in fact, in terms of financial strength Gibraltar is poorer and weaker after four successive AACR administrations than it was when the AACR came in. Has it been a gradual decline? No, what the figures show is that there was a decline until they were fortunately defeated on their views on parity which they now accept and which was, if I may say so, excellently defended last year by the Minister for Economic Development who put an argument explaining how good parity had been for Gibraltar in 1978, 1979 and 1980 with the pay flowing through the packets of consumers and sustaining the private sector during the period of the closed frontier and with wage increases below the rate of inflation in the years 1982 and 1983 cushioning the private sector from the forces of union bargaining. In fact, Mr Speaker, I think that again is in the past but what we have as a result of that is, of course, that by the time the full effect comes through the economy the Government in 1981 - and Mr Canepa, in fact, referred last year to 1981 as the year when this was finally bearing fruit although at the time I think it was Mr Brian Perez who claimed that it was due to the sound economic policies

of the Government in the Budget of 1981, I think if he checks his speech he will find it there. In 1981 the Government had £9m in the reserves and £9m of public debt and the reserves reached their highest point at the end of 1983 when they almost touched £12m, at the end of 1983. And, of course, during the course of the financial year 1983/84 we switched Financial Secretaries and the reserves have been coming down since, Mr Speaker. When our last Financial Secretary left, I think the Hon and Learned the Chief Minister was full of praise for him and said he was the best Financial Secretary Gibraltar had had for a long time and I think all Members of the House joined in the expression of that sentiment although, of course, some of the policies that he advocated and which I have defended since, do no longer enjoy the support of the Government that defended them then because they have changed Financial Secretary, presumably, not because they think he wasn't as good as they thought he was at the time. And, in particular, their policies on debt on which the Financial Secretary has made only a passing reference and I am afraid after the controversy of the correspondence of last July and after the statements he made in the last Budget it cannot be simply swept under the carpet and dismissed by saying that the outstanding amount of debt is coming down. So therefore we need to take the Hon Member and the Government that carries the political responsibility for the decisions that he defends, because I am not entirely sure whether what we have is a situation where we have the AACR defending the Traynor economic programme, Mr Speaker, or the Financial Secretary defending the AACR economic programme. I think if one were able to tell more clearly where the political responsibility for the economic decisions lie, one would be put in a better position. However, what is clear is that in looking at what the Government is doing on income tax this year we find, first of all, the argument that they are able to do something about income tax this year and were not able to do it in the past because of the performance of the economy, that is, because of the performance of the Government's own income and expenditure. Because when we are talking, of course, about changing the tax rates, there is no question of the Government giving things back to the taxpayer, the Government would be giving things back if it gave them back some of the tax they have already paid. What the Government is saying is whether it is going to tax them the same or more or less in the future, that is what we are talking about and presumably it decides that it needs to tax people less because it can forego the money, it doesn't need the money or because it accepts that socially and politically Gibraltar is overtaxed compared with other places and even if we need the money there is a limit to how much you can tax people or, thirdly, according to the letter that the Financial and Development Secretary wrote to me last year but which he seems to have forgotten about since, because it is possible to stimulate the economy by reducing

taxation instead of by investing. And, in fact, the Hon Member told me last July, Mr Speaker, that not to accept that philosophy which nobody accepts in this House including him anymore, was reminiscent of the Politburo in the days of Stalinism. I don't know whether that means that the Financial and Development Secretary was a Stalinist in the Budget of 1985, ceased to be a Stalinist in July, 1986, and has become a Stalinist once again in the Budget of 1987. I consider that the policy of borrowing money for capital investment and seeing the establishment of levels of taxation not as an instrument for the stimulation of demand but as a way of meeting certain social objectives is the only thing that makes sense in the kind of economy we have. And, in fact, if it ever could have been argued that tax cuts as a way of stimulating demand could be used as an economic management tool, that argument must have been lost necessarily when the frontier opened because the Hon Member no longer knows what the multiplier effect is in the economy so he is no longer able to tell anybody what is the effect of stimulating the economy by doing something and unless you know what the effect is you don't do it, Mr Speaker, if you know your business. So we must come to the conclusion that the third argument is not applicable and that therefore the first two arguments have to be considered. If we look at the ability to make that payment it is very strange that the one thing that doesn't appear in the Hon Financial and Development Secretary's statement or in that of the Hon and Learned the Chief Minister which is normal to mention in presenting the Finance Bill and the Estimates of Expenditure is how we have actually finished 1986/87. Have we finished 1986/87 with a surplus or have we finished 1986/87 with a deficit? I think there is a reference in the Hon and Learned the Chief Minister's statement, on page 4 it says: "The prospects for this coming year represent a consolidation of the improved financial outturn in 1986/87. Recurrent revenues were buoyant, growing at a faster rate than recurrent expenditure. The net improvement in reserves at the beginning of this financial year was around £1m. This takes account of the carry-over of the unspent £1.5m". I don't know whether the Hon and Learned Member understands what he is saying there.

HON CHIEF MINISTER:

Only you understand it.

HON J BOSSANO:

Well, I know that the person who wrote it probably does because it is quite obvious that if there has been a marked change in the presentation of the Estimates in the last two years it is that the Hon and Learned Chief Minister has changed speech writers and instead of this having the hallmark of Pitaluga, it has the hallmark

of Montado now, Mr Speaker. I am sure he does and I do but I wonder whether the Hon and Learned Member does or whether the Financial and Development Secretary can enlighten the Hon and Learned the Chief Minister and tell him that, in fact, we have finished the year with a deficit of £385,000 and that we are not talking about a carry-over of an unspent £1m, we are talking about having borrowed last year £1m. The philosophy that I see here which is the philosophy that I have seen defended by the Financial and Development Secretary, Mr Speaker, was the philosophy unacceptable to the Hon and Learned the Chief Minister in 1985 when he came almost apologetically to the House and he told us that the projection for 1986 was that we would finish up with reserves of £1.7m and he showed as a borrowing requirement an increase to the reserves £2m. £2m were being borrowed because in 1985 the Hon and Learned the Chief Minister told the House of Assembly and told the people of Gibraltar 'the frontier has just opened, it is too early to say what the results will be, we consider £1.7m to be too risky an amount to have in reserves so we are going to borrow £2m reluctantly to put in reserves'. That is what he said in 1985. What does he tell us in 1986? Having borrowed £1m he tells us that the revenue is buoyant. Is he telling the House that it is a legitimate, economic or political philosophy to argue that the more you borrow the more buoyant your revenues are? Well, then if he had borrowed £5m we would have been able to say 'we have a surplus of £3m'. These are important matters that have to be defended politically, Mr Speaker, and the political responsibility has to be carried. This is why I am questioning whether he really understands that he said something here in 1987 which is, in fact, a contradiction to what he told us twenty-four months ago in terms of political thinking about what is the right way or the wrong way to conduct certain financial operations. The Financial and Development Secretary has told us that if there is a need to finance the Development Programme that there is £1m of available borrowing powers and that if that should prove insufficient then a Bill could be brought to the House to increase the Government's borrowing powers. Well, is he saying that he has now accepted that any further borrowing will be only for capital spending, because he mentions capital spending only. Does the Government think it is reasonable so close to the end of their term of office to seek new borrowing powers? Can the Hon Member explain to the House why it is that in 1981 with reserves of £9m and a public debt of £9m there was such great difficulty according to his predecessor and according to the Minister for Economic Development at the time in convincing the British Government that Gibraltar's public debt was low and could be increased? And today with £26m we have got ample room for borrowing more and with lower reserves? Can he tell me when he is going to finally announce the use of the £2.3m that he borrowed in 1985/86 which I keep on asking him about, Mr Speaker, in this House

and the last time that I asked him he told me he would make the announcement in the Budget. Well, it is not here. The £2.3m was what was actually borrowed and as I mentioned, Mr Speaker, the whole saga starts when we moved in November, 1984, to introducing legislation for the first time to borrow for recurrent spending. We then get in March, 1985, the thing being shown explicitly as a borrowing requirement of £2m because we only had £1.7m. We then find that we don't have £1.7m. We find that we start off the year with £6.3m and we still borrow, instead of borrowing £2m we borrowed £2½m in 1985/86, a total reversal of the statement and policies defended by the previous Financial Secretary but by the same Government who in 1982/83 said 'I have not used the borrowing powers that we have got because what is the point of borrowing to put money in reserves? If we are not going to use the money, however little it may be, we necessarily have to pay more than we earn on that money and if it is costing us £20,000 or £30,000 or £50,000 a year why should we do it? We will borrow the money when we need it'. We borrowed that money, we haven't used that money, it is still in the reserves and we still don't know when we are going to use it and it seems that they don't intend to use it at all because if we have been told by the Financial Secretary in this House that if they need the money for the Improvement and Development Fund they will borrow an extra £1m and if they need more than an extra £1m they will get new borrowing powers, there is no reference at all to using that £2.3m which the Hon and Learned the Chief Minister gave a commitment in this House would be used but he said that it would have to await and see what would be the level of UK Development Aid and then the picture would be clearer. And during the course of the year when I have asked I have been told to wait for the Budget and then the picture would be clearer. And here we arrive at the Budget and the £2.3m might as well not exist for all the reference that there is to it in any of the statements of either the Chief Minister or the Financial and Development Secretary, Mr Speaker. So therefore in looking at the income and at the revenue and at the expenditure in terms of what it is possible to do to alleviate the burden of taxation on our people, what do we see? Well, first of all, we have got a clearcut statement from the Government that they are not engaging in any policy of borrowing money to change tax rates, that has been categorically stated on a number of occasions. But we see that what was a borrowing requirement in 1985 becomes part of recurrent revenue and what used to be contributions to the Improvement and Development Fund are no longer the same thing anymore if we compare now with the past because contribution was when you put your hand in your pocket and you use your money from your reserves and you had three sources of revenue for the I&D Fund. You had money that was obtained by borrowing, you had money that was gifted by UK and you had contributions from your own income. But what we

are seeing now is that the money comes in as loans as part of Government revenue and it goes out as contributions, that is nonsense and there is no need for it. There is no need for it because the Bill that empowers the Government to borrow said they could borrow for either recurrent revenue or capital spending in the I&D Fund. That is what the Bill passed in this House in November, 1984, says. I questioned whether if they are keeping to the letter of the law which presumably the Hon and Learned Attorney-General is keeping a watchful eye on, if they are keeping to the letter of the law, they are certainly not keeping to the spirit of the law because the spirit of the law was that you are going to have the facility to borrow £10m and you either borrow it for one thing or you borrow it for the other. But to say as the Financial Secretary said last year: 'In the next twelve months we are going to raise £2m of which £1½m is going to go into the Improvement and Development Fund and £½m is staying there'. The Opposition says: 'We support the £1½m that is going into the I&D Fund'. What do we find at the end of the year? That the £1½m has not gone into the I&D Fund but we voted it in this House and we expect that if we vote it it happens. We don't expect to find out twelve months later that it didn't happen because we said when we voted: 'We are voting for it on that basis otherwise we will not vote for that money'. In fact, there was no need for the House to vote because what the law says is that you can borrow the money straight for the I&D Fund which is what has always been done in Gibraltar until now. All the time that the AACR has been in Government and with every previous Financial Secretary the money has gone in as income into the I&D Fund. What is the purpose of the change? Is it to make things clearer? Is it more sensible to the average man in the street and for the Members of this House of Assembly to be told 'surplus 1986/87 - £1,192,000, because I borrowed £1½m which I haven't used and I am counting that as part of the surplus'? That must be a distortion, the whole purpose of presenting statements and of introducing changes to the presentation of statements surely must be to make things more intelligible to people not less and this distorts reality. If the Government feels that they are able to carry out what we consider to be a minimal revision of tax allowances this year not because it is an election year, we have got the Hon and Learned Chief Minister's word on that and I would be the last to put that in doubt, Mr Speaker, nothing to do with the election. We are doing it because of the way the economy has performed, because of the fact that we have finished up with a loss of £380,000 that is why we are reducing tax allowances, because we are so well off. Perhaps the Hon Member can explain why it is that he has not done this before because, in fact, the results of 1982 and the results of 1981 were astronomical surpluses by any standard. I think if we look at the figures over the last few years we find that in 1982/83, Mr Speaker,

speaking from memory, if I can find the figures somewhere, in 1982/83 we had a situation where there was a surplus of £575,000 and in 1981/82 we had £2½m and in 1980/81 we had £4½m and in 1979/80 we had £4½m. Those were the lean years, that is when the ship was being battered about according to the Government and now we have come out of that storm in a very battered shape after millions of surpluses and we finish up with a deficit of £300,000 with three million tourists, £26m of tourist expenditure, eighteen banks, £150m of development in the private sector and what can we manage to do, finish up with a minus £384,000? And what can the Government tell the man outside who has been hearing about all this miraculous development of our economy, that he is going to get what, £3 or £4 more in his pay packet? Surely the Hon and Learned the Chief Minister doesn't think that that is going to produce anything other than total disappointment on the part of the average person who was looking forward in anticipation to the goodies in this Budget, to the goodies that they have been promised by the other side, nobody else was promising anything. They have got a situation which they themselves have engendered and which they are still engendering, Mr Speaker. As recently as last Thursday people were being told just how well we are doing. There is no justification, Mr Speaker, for the Government to come to this House and tell us that in an economy which according to them is performing better than it has ever done before - again I would question that by reference to national income statistics because, in fact, we have got situations where the Financial and Development Secretary tells me now that the growth in 1985/86 was 14.22% although at the time he wasn't able to tell me that, he told me that he thought it would be about 2% or 3% because of the leakage that money coming in would not have a full effect on the economy. But I can tell him that in 1980/81 it was 16.69%; in 1979/80 it was 18.75%; in 1977/78 it was 48.06%; in 1975/76 it was 15.38% and in 1974/75 it was 15.32%, when those were the bad years, of course. If the economy is, in fact, moving twice the volume of goods that it was moving in 1984, who are the people most responsible for that movement? Who are the people who are selling the goods to the two and a half million visitors from Spain and who are producing the £10m of import duty for the Government? Who? The people that the Government think should not be paid more than £2.19 an hour, those are the people.

HON A J CANEPA:

What we don't think is that it should breach parity.

HON J BOSSANO:

I am not a shop assistant, Mr Speaker, so I cannot breach parity. But that is what the Government thinks, that those people should not be paid £2.40, that they should

be paid £2.19. Of course, they are not going to be paid £2.19, the people will get the money using their own muscle inevitably. But the point is that in terms of the philosophy of the Members of the House that sit on that side, they are saying to the lowest paid in the private sector that they should continue to be the lowest paid in the private sector although by their own definition they are the ones making the biggest contribution to the new sources of wealth and they are saying that the allowance should go up for a single person by £350. What are we talking about when we are saying somebody should be paying tax after £1,100? We are saying that if somebody earns £22 a week he doesn't pay tax but if he earns more than £22 a week he starts paying tax. Mr Speaker, we believe and we have said so on many occasions that the new economic circumstances of Gibraltar require an in-depth restructuring of the entire tax system of Gibraltar and a tax system that is designed to enhance the development of the economy with an open frontier which we think the present one is not. But in the absence of that, certainly in terms of earnings in Gibraltar and earnings outside Gibraltar and tax in Gibraltar and tax outside Gibraltar there is absolutely no justification for the threshold being any lower than £2,200. The very minimum inequity that the Government should be doing should be to double tax allowances which would still leave them below UK but that would mean £44 a week. The Government already recognises, Mr Speaker, that £44 a week is a sum on which a single person can barely live because it is what they give non-taxable to a pensioner. What we are saying is that if there is somebody working part-time in a shop earning £44 a week who is 64, on his earnings he pays tax. If he stops working at 65 then the State gives him £44 tax free. There is no consistency or logic because, in fact, what we need to have is a look at the entire system to make sure that what we are doing fits. We believe that the aspirations of people from this Budget having been told that less tax would be taken off them in the future than has been done in the past - I need to emphasise that because it is not a question of giving anybody anything back, nobody is going to get anything back from what they have paid already. Whether they should pay as much in 1987/88 as they have paid in 1986/87 or 1985/86 is what the changes in allowances are about. We believe that anything below the figure of £2,200 leaves a threshold that is too low, nobody on that kind of income should be paying tax at all and whenever tax reforms are considered in any administration you start off by looking at how many people you can take off the bottom and out of the tax net altogether. The fact that the economy is supposed to be performing so well means that there will be a lot of people who having accepted that picture painted by the Government will see this Budget as a total disappointment of their expectations. And because this Budget fails to meet their expectations the people of Gibraltar

must by now realise that if the AACR get back into power no future Budget is going to meet their expectations either because this Budget, Mr Speaker, for all its superficial references to giving a sense of direction does not have a sense of direction, for all its superficial references to economic planning is not about economic planning. When the Hon and Learned the Chief Minister says in his speech: "We intend to continue this task at the next Budget once our party is returned to Government" and there is no doubt that they are very confident they are going to return to Government, they have just decided to increase the rates in 1989 that is how confident they are and they decided what Development Aid should be in 1988. We have had the peculiar situation in this House of Assembly of witnessing retrospective legislation from the AACR, Mr Speaker, but this is taking the thing one step further. They are now passing anticipatory legislation for the next Government.

HON A J CANEPA:

We can still be in Government in April of next year without a General Election.

HON J BOSSANO:

I suppose that is possible if all of us who listen to the Hon and Learned the Chief Minister's speech don't understand English and we all thought that he was talking to us in English when he told us that there would be an election before his next New Year's speech or maybe, Mr Speaker, it was stupid of us not to realise that next year he is going to give us a New Year's speech on the 1st May to celebrate workers' day. I think the Hon Member is trying to get me totally confused on the date of the election, I think I had better stick to the Budget. What I think is reasonable to draw as a conclusion is that if they do get returned what they plan to do is to raise rents in 1988 and that the reason why they have moved rates to 1989 is not to coincide with rents and they have been strangely silent in this Budget and last year's Budget as to whether it is still their policy to make the Funded Accounts self-financing and remove the subsidy from the Government. It has nothing to do with the fact that this is an election year, of course, we all know that, Mr Speaker, the Chief Minister told us that, but it may be that he will remember to say it if he does get elected in 1988 and he has to come to the House with another Budget. Looking at the details of the actual matters raised aside from the changes in personal taxation and, I think, on personal taxation our position is clear, it was clear last year, we certainly think many, many people are going to be disappointed including, in fact, many people in the business community who thought that the shifting of the burden of taxation away from income tax might remove

some of the pressures on the labour front in terms of wage negotiations. Certainly we don't see anything here that is likely, as I said, to come anything other than as a disappointment. But, of course, there are other elements besides that although that one, quite frankly, Mr Speaker, is the one that everybody's attention was focused on. Everybody anticipated that there would be a reduction in the tax burden for 1987/88. What I don't think we can agree is that anybody other than the people who sit on that side will consider the reductions that have been announced as a substantial one. To say that a married man with two children earning between £80 and £120 a week will take a tax cut between £3.50 and £5, what does a man with children and £3.50 do and £80 a week? Anybody that is on £80 a week shouldn't be paying any tax at all never mind the tax cut. We are talking about, Mr Speaker, the £150 that the Hon Financial and Development Secretary mentions, the £134 that he mentions in the Employment Survey and the £150 of the Gibraltarian married with one child, I think was the comparison that he did and in defending, I assume that he is defending it because that is what is required of him and not because he really believes what he is saying here in the comparisons that he draws between us and the United Kingdom, if I can find the bit where he talks about direct taxation. On paragraph 71 he says: "A weekly paid adult male married with two children with earnings of £150 a week in the United Kingdom would take home, after tax and social insurance contributions, about £119 a week whereas a Gibraltarian will now take £121. The inclusion of family allowance put the UK at £133 as opposed to £126". Well, of course, first of all, social insurance contributions are higher in UK and there are many benefits that don't exist here for which people are paying with those social insurance contributions, it isn't just another tax, the Hon Member may not know it but it isn't just another tax.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Oh, yes, it is.

HON J BOSSANO:

Well, he may think it is but it isn't because, in fact, people are entitled to benefits depending on contribution conditions and when people pay income tax in Gibraltar you don't say to them: "You don't get unemployment benefit unless you have paid thirty weeks of income tax", you say to them: "You don't get unemployment benefit unless you pay thirty stamps". But if they go sick there is no statutory sick pay in Gibraltar and if the employer in the private sector doesn't pay sick pay beyond what the law says which is two weeks, then the person who is sick pays less insurance but has to depend on his relatives when he is sick so it isn't just another tax.

There are a whole range of social security benefits which the Government of Gibraltar does not provide in Gibraltar and which presumably will lead to higher social insurance contributions if they were to be funded. In any case, the national average earnings in UK are higher than in Gibraltar, Mr Speaker, and people on low incomes get things like family income supplements, they don't have to pay rates, they get rent rebates, in fact, in local authority housing figures that I have seen recently show that something like 70% of Council houses is practically being paid by the Council. Admittedly because there are a lot of areas of unemployment but in some of these areas of unemployment people are going to be on take-home pay of £119 a week which the Hon Member says is what they get after earning £150, on social security benefits. And at the other end of the scale what does he tell us? That, in fact, the people who are earning £29,000 in UK pay 50% whereas in Gibraltar he has to reach £30,000. Three cheers for the Financial Secretary, Mr Speaker, on behalf of all the people earning between £29,000 and £30,000 of whom I imagine there are about a dozen. I think, Mr Speaker, I have to say, therefore, that when the Financial and Development Secretary tells us the things that he tells us in his statement he is doing it because it is his job not because he really expects us to swallow any of this stuff. And therefore, in looking, and I am not going to deal with his analysis of the world economy or of the United States economy which he says is now hopefully going to do a J-curve nor am I going to deal with the plateau effect, this are 1987 Traynorisms, Mr Speaker, every year he introduces new gimmicks into his Budget speech, this year it is the J-curve and the plateau effect, I am not going to deal with those. I am going to deal with other things closer to the ground.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps the Hon Member doesn't understand.

HON J BOSSANO:

I do, I will explain it to him when I finish with my Budget speech if he likes, Mr Speaker, I don't think anybody else does. The Hon Member has given us an order of increase of the economy of 6% to 8% and tells us on page 5 that although this is high compared to a mature economy it is not high compared with a small and comparable economy such as the Isle of Man which achieved a growth rate of 10%. So if the Isle of Man didn't go through this wonderful experience of receiving out of the blue three million day trippers as a result of an open frontier, if they hadn't suddenly had eighteen banks descending on them, if they are not in the middle of £150m developments which is huge compared to anything we have had in Gibraltar, how come we can only manage 6% to 8% economic growth

and they - and to my knowledge the Isle of Man has seen steady growth over the years with perhaps a couple of hiccups when they started losing their tourism to Southern Europe and they started replacing that with other activities such as offshore banking.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

They don't have an Opposition.

HON J BOSSANO:

But maybe they have got a better Government and a better Financial Secretary, you never know. If that is the case then is it not unreasonable, Mr Speaker, to expect a better performance? Is it not unreasonable to say to oneself that in the coming year we should be looking forward to something more than a balance in Government revenue over expenditure of £1.3m because that is really what we are talking about if we do the exercise of taking out all the loans that come in one way and go out the other? In fact, how can one reconcile on the one hand the level of growth that is being projected and I have had great difficulty in getting the Hon Member to commit himself to any figure but I think it is essential because, in fact, if you are making plans for the future an intrinsic part of that plan surely must be a view on a whole range of variables. If we are saying that what we have seen presented by the Government today and a 6% rate of growth is what is produced by three million people visiting Gibraltar, by one thousand more people being employed in Gibraltar, by £150m development programme by the private sector and by a huge expansion in banking then to get the kind of results and the kind of money that Gibraltar needs to spend on its public services and the kind of changes in the income structure that Gibraltar needs to be taxed no higher than other people, what do we need? Do we need six million visitors, ten million visitors, thirty million visitors? Are we going to have to bring them in and out with a shoehorn into Gibraltar before we can meet those sort of targets? Therefore the Government must be taking a view if they are looking into the future of saying: 'I know that I am going to be able to do this now and I am going to be able to do so much next year and so much the year after that because I can see a correlation between what is happening to the economy and the effects that it is having' but they don't know that, they have no idea. They simply discovered the third pillar, and they have even convinced the Financial and Development Secretary to talk about pillars now, it just shows how bad they are. I would have thought he knew better but even he is talking about pillars now. They discovered the pillar in 1985. The legislation on banking was clearly an essential feature of the attraction of Gibraltar for banks to set up here. Surely Members on the other side know that, the people who are in the banks tell me that,

they must know, after all they are all involved in one way or the other in attracting the banks here though not as a Government so they must know what the problem is and the problem always was that although we had legislation here which said you could set up a bank virtually for next to nothing in terms of capitalisation and with very little controls, it was a two page Ordinance, in practice nobody was allowed to set up because nobody was given a licence. So it wasn't that the banks would not come in, it is that they couldn't come in before. The Hon and Learned Member may think so but the point is that there is no doubt about the fact that the Governor would not give a licence to any bank until the new Banking Ordinance was passed, that is indisputable, there is evidence of that and therefore whether they wanted to or they didn't want to they couldn't until the Banking Ordinance was passed just like it is recognised by the Financial and Development Secretary and by people in the business that unless you have got up-to-date legislation like there is on Insurance and there is on Banking then you cannot develop Gibraltar as an international finance centre. We support the development of Gibraltar as an international finance centre and we certainly do not need the Hon Financial and Development Secretary to explain to us what a finance centre is. So when he says that there appears to be a misconception, page 10, paragraph 32; he says: "I hope this will help dispose of suggestions made in the media and elsewhere that Gibraltar's development as a finance centre is something that financial authorities elsewhere will not like. I think that view is based on a misconception of what a finance centre is". I don't know who he thinks had the misconception, whether it is us, the people sitting beside him over there or somebody else but let me tell him what a finance centre is and what it is not. What a finance centre is not is creating companies here whose sole purpose is buying and selling property in the Costa del Sol to avoid VAT, that is not a finance centre. Therefore, if that is what we are going to do to make a living then we will finish up being pilloried as we were before for these matters being something else now and eventually that loophole will be cut, that is not a finance centre and that is what is being attacked in the press and if the Government wants to defend that let the Government defend it, we will not defend it.

HON CHIEF MINISTER:

What is a finance centre, we are waiting?

HON J BOSSANO:

Well, what a finance centre is is what exists in other places where there is a centre involved in international transactions where there is no physical movement of goods to the place where that centre is and therefore not only is it possible to do that with the transmission of money although it is the easiest, it can be done in a range of other areas. For example, I can tell the Hon Member in case he doesn't know that in places like Guernsey they are now moving away from purely international financial transactions to actually setting up international trading organisations which are buying and selling goods that never go anywhere near Guernsey. There have been people doing that very successfully in Gibraltar for many, many years and that is something worth encouraging and we will support that. But there is a difference between that and what we have always called here a tax haven since the year dot which is somebody having two walls plastered with brass plates and about the most that all the companies put together are worth is the scrap value of the brass and they don't do that now anymore, Mr Speaker, because they are replacing it with plastic now instead of brass, I suppose it is because the Naval Dockyard is not accessible as it used to be, most of the brass used to come from there. I think we are in a position to say that to the extent that confidence for this important institution engaged in serious international business, reputable international household names, to the extent that confidence can be propagated by the knowledge that both sides of the House support that growth and development in Gibraltar then I am happy to say that by saying what I am saying now I am intending to contribute to that confidence which the Hon Financial and Development Secretary says is the most precious commodity. Looking, Mr Speaker, at the other innovations in the Finance Bill, clearly the one that sticks out most as a radical move of which there was no prior indication are the changes proposed in the Development Aid Ordinance. I have already given an indication that we intend to oppose this move. Some Members of the Government may feel that they could still be here on the 1st April, 1988, without having gone to an election.

HON A J CANEPA:

Not here, at the Treasury Building or No. 6.

HON J BOSSANO:

I suppose, yes, the idea of being able to govern without a House of Assembly must be quite an attractive proposition to them, Mr Speaker.

HON CHIEF MINISTER:

I can tell the Hon Member that I did that for six weeks and it is very uncomfortable.

HON J BOSSANO:

We are looking at the measure on the assumption which is the assumption that I think most people in Gibraltar are under, that there isn't going to be a further Budget by this Government and that if the AACR were to present the 1988 Budget it would be because they would have been re-elected to do so and then they can decide what they want to do with the Development Aid Ordinance and with granting or not granting development aid but we think it is totally wrong for the Government to announce now that people who apply in the next twelve months will be granted a Development Aid licence and people who apply after that date will not be granted a Development Aid licence unless it is to build a project which involves housing. Because, in fact, that is a major policy decision and they have no right to introduce major policy decisions now for whoever is in Government in the future. There is, of course, a clear political advantage in doing that. The clear political advantage is that everybody that knows that they can get this virtually lifetime tax free holiday which the Financial Secretary has just spelt out, if I was a developer, Mr Speaker, and I was told by the Financial Secretary of Gibraltar that there is such a loophole in the law that if I get a licence I can virtually get away with never paying tax again in my life then I get told that those licences are going to be available for another twelve months and that's it, I would rush immediately to join the queue to get the licence before they stop issuing them and then, of course, the AACR would put in their manifesto all the developments and then instead of being £150m they will be able to announce £300m of developments under their term of office.

HON CHIEF MINISTER:

If the Hon Member will give way, I haven't interrupted him. Any school boy over fourteen, I imagine, and even below, would know that when you plan, any change of Government can change all the plans but you have to look at the future with one sense of purpose and it will be in the power of any Government which is not this Government of doing totally different things. As he said, anybody knows that, we don't need a speech of an hour to hear that.

HON J BOSSANO:

That is precisely, Mr Speaker, what we are going to do and we are going to make clear that we shall be voting against this and that if there is a change of Government this will not take place and that therefore if people are going to try and pre-empt the granting of this development licences on the assumption that they are running out on the 31st March, 1988, then we, now that the matter has been raised, will take a look at all the existing licences as well as the ones that are issued from now on and then we will decide what we do with the Ordinance not just for the ones after March but for all the ones now. So if anybody thinks that they can get their foot in the door now because it suits them, for example, we are talking about the Marina Project down by Queensway - £20m, so we give them a licence so that they can make £30m of profit before paying a penny of tax and the Hon Member is worried about having lost £20m in the whole history of the Development Aid Ordinance, £20m to date and £30m in one project and that doesn't worry him, he is prepared to give them the licence for £30m and then close the door. No, close the door now. If you are going to announce a measure in a Budget you announce it for the year that you are entering, that is what you do. I have never heard of anybody anywhere in the world, Mr Speaker, saying in one Budget what they will do after the next Budget. It doesn't make any difference whether they were doing it now or whether they were doing it in 1984 the only thing is, of course, that in 1984 they could at least defend their position by saying: "We intend to do it in 1985, as we are going to be there in 1985 to do it we are giving people plenty of time to adjust". But they are not doing that now, they are doing it at the end of their term of office. Their role is to come here and tell us and the people of Gibraltar what they are going to do between now and the time they go to a General Election. What happens after a General Election is up to the people who get elected and therefore they have no business to say: "I am going to pass a law now that takes effect on the 1st April, 1988", no business to do that.

HON CHIEF MINISTER:

Nonsense.

HON J BOSSANO:

And we will vote against it and we are saying now we will not stick by it and if anybody - and we shall monitor the licences from now on - if anybody is working on the assumption that they are going to get an advantage because there are many, many repercussions to this, Mr Speaker, it is not as simple as it is being put here. What happens if a developer comes along and he is competing with another

developer who three months before got the development aid. Then clearly if one hotel is built without development aid and one hotel is built with development aid the two are not on the same competitive footing. We already have a lot of criticisms that we hear in the streets about who gets development aid and who doesn't get development aid. We are not in a position to know because we don't know anybody who gets development aid but we hear the criticisms outside and this, in fact, will make it look even worse. Are we saying with this that the present Government and the present Development and Planning Commission is going to decide over the next twelve months who gets development aid and that's it, period. And we are talking about a situation where somebody can come along and say: "I want to spend £1m" and he has got five years. So he comes along in December, 1987, or in February, 1988, and then he has supposedly got the advantage over two terms of Government because he has got a five-year licence in which to complete the development from the date that it is granted and that is the end of the story and there is a four-year Government which theoretically is bound, if there is what the Hon Member has said about one Government coming in and changing everything that the other Government does that can happen, of course, it can happen when there are fundamental ideological differences but generally speaking what happens is the converse, generally speaking what happens is that Governments respect the commitments of their predecessors, that is what generally happens. Of course, it is because the predecessors make commitments about the time they are in Government. Can one imagine Mrs Thatcher going to an election and saying what the Budget in 1988 in UK is going to do and she goes to an election in 1987 and she expects that if the Labour Party gets in or the SDP gets in or anybody else under the normal parliamentary convention what, they should do the same thing that Mrs Thatcher would have done if she got back? No, she puts it to the test. If the Government wants to do this they go to an election and they put it in their manifesto and if they get support for it they are entitled to do it whether we agree with it or not. As far as we are concerned we are voting against this and we are making it clear why we are voting against it and we must say that in our experience, it may be that a fourteen year old knows all about it but I can tell the Hon Member that I don't know of any Parliament in Western Europe which has ever legislated in a Budget a budgetary measure announced in a budgetary speech to take place after an election and for the following Budget, never known it and I would like the Hon Member when he uses his right of reply and he has got a chance this night to sleep on what I have said because he always says he is going to do that and he never answers me, to do a little bit of research and tell me tomorrow where all the precedents exist because I don't know of any. The Hon and Learned Member, Mr Speaker, tells us in his speech: "No Budget on its own can create the right conditions for economic growth or prosperity or, indeed, correct

the distortions or inefficiencies inherent in the economic system". Is he saying that we have distortions and inefficiencies inherent in our economic system? Well, he has had fifteen years to correct them.

HON CHIEF MINISTER:

Not when they are outside your control.

HON J BOSSANO:

Well, then, Mr Speaker, we should have been hearing about them for the last fifteen years. The Hon Member has made two Budget speeches this year and last year which for the first time makes references specifically to the kind of economic thinking that I have been trying to persuade him about but which I have never succeeded. It is clear to me that that is because he is getting that kind of advice now but the reality of it is he cannot come along and tell us: "We are now working to a plan to correct the inefficiencies of the past". The inefficiencies of the past he is responsible for. I might be able to say it if I am there tomorrow and put the blame on him but he cannot put the blame on himself and get away with it and in any case where is the plan? We are told each Budget should respond to a plan providing set aims and objectives, fine, where is it? What are the set aims and objectives, can the Hon Member.....

HON CHIEF MINISTER:

Where is your plan?

HON J BOSSANO:

Mr Speaker, it is not my responsibility at this stage to bring a Budget to the House. When the people of Gibraltar decide that it is then I will stand up in the House of Assembly, I will not have somebody writing my speech for me and I will not hide behind the coat tails of a Financial Secretary. There will be one Budget speech, the GSLP economic programme will be on the table defended politically in the streets and politically in this House of Assembly and I won't have Financial Secretaries doing acts like Houdini, contradicting themselves in order to play to my political tune like the Hon and Learned the Chief Minister has been doing with Financial Secretary after Financial Secretary and I regret to say appears to be doing even with the present one.

HON CHIEF MINISTER:

The future dictator.

HON A J CANEPA:

All that will happen after the election.

HON J BOSSANO:

And therefore, no doubt the Financial and Development Secretary has spoken with his usual eloquence for the ears of the Hon and Learned the Chief Minister but he hasn't spoken with a great deal of eloquence for our ears, Mr Speaker. What we find is that this is a Budget and a Budget speech which, in fact, does not give the kind of leadership Gibraltar wants in the running of the economic system and there is a failure as far as we are concerned, on the Financial Secretary's part to the extent that he is responsible for giving that direction and on the political side of the Government on their part for the extent that they are now accepting as well that they have a responsibility in this area. Let us take one important area that has been mentioned, it is an important area, the tax treatment of occupational pensions which has been defended by the Financial and Development Secretary. The policy is defended by the Financial and Development Secretary not by the Hon and Learned the Chief Minister. It is in the Financial Secretary's speech and not in the Chief Minister's speech, I don't know why but I would have thought that if there is a political decision, if it says: "The Government cannot accept this and the Government cannot accept that" then why doesn't the Government say it cannot accept it or is it that the Financial Secretary doesn't accept it? Because if the Financial Secretary doesn't accept it then he should be told to accept it.

HON CHIEF MINISTER:

It doesn't work that way.

HON J BOSSANO:

It has to work that way, Mr Speaker.

HON A J CANEPA:

Pitaluga was going to make your tea, Traynor will make your coffee.

HON M A FEETHAM:

No, he won't be around.

HON J BOSSANO:

He will be getting an occupational pension.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have only been given four years.

HON J BOSSANO:

The Government's defence or the Financial Secretary's defence of the treatment of occupational pensions, Mr Speaker, does not hold water. The Hon Member says: "It is customary to allow up to 25% of the capitalised value of retirement pensions to be taken as a lump sum free of tax. This is usually referred to as 25% commutation". I don't know what he means when he says it is customary, it has not happened so far in Gibraltar and therefore it is not customary in Gibraltar. In any private sector....

HON CHIEF MINISTER:

In the civil service.

HON J BOSSANO:

In the civil service and in the MOD, Mr Speaker. In the MOD it has nothing to do with commutation, there is no choice. No, it is no good saying it is the same principle, Mr Speaker. The Hon Member makes a statement.....

HON A J CANEPA:

You have a choice in the.....

MR SPEAKER:

Order, we will not speak across the House. Will you continue with your speech.

HON J BOSSANO:

The Hon Member has made a statement, I have said it is not customary in Gibraltar. He then whispers to the Chief Minister 'yes, in the MOD'. I tell him it is not the case in the MOD and he says it is the same thing, it is not the same thing. In the MOD, in case he doesn't know and I know that he knows, you get three eightieths of your pay as a gratuity, period. The Government of Gibraltar passed a law in Gibraltar saying that if you get a gratuity after twenty years you don't pay tax, nothing to do with whether it is 25% or anything else. In the Government of Gibraltar you can leave after twenty years, get a gratuity, not pay tax and go back to work again and do another twenty years so what is he talking about? The Government doesn't do it with its own employees. In the non-industrial civil service there are no gratuities

and there people have the choice of either taking two-thirds of their pay as a pension or converting a quarter of their pension into a gratuity. Now those people get two-thirds of their pay, Mr Speaker, for thirty-three years service without a contribution. If the Government wants to say that any pension scheme in the private sector that gives two-thirds of pay for thirty-three years service and is non-contributory should not be allowed to commute more than 25% so that they have the same treatment as in the civil service I don't think anybody would quarrel with that but there isn't a pension scheme in Gibraltar that would meet those conditions and the Government of Gibraltar have said here that theirs is too generous and that they would like to take it away. So what are they talking about, they know that nobody else has it. Yes, when they wanted to amend the Pensions Ordinance, Mr Speaker, when they brought the Unified Pensions Scheme they argued that the Gibraltar Government civil service pension scheme was too generous and should be, in fact, replaced by a less generous one. Surely, they don't think that the stevedores have got as generous a pension scheme, I can tell them that they haven't, Mr Speaker. So what are they saying, that this is the same thing? It is not the same thing because the reality of it is that although it may be called commutation it is a misnomer because the contributors in the overwhelming majority of pension schemes in the private sector with some rare exceptions like the banks which actually guarantee the value of the pension, in the vast majority they are what is known as a money purchase scheme and what they really are are endowment policies which do not guarantee a pension, what they guarantee is a lump sum payment. And the reason why this pension schemes have the flexibility of allowing the beneficiary to take the lump sum payment rather than change it into a pension is because changing the lump sum payment into a pension is affected by two important factors. One is the level of interest rates at the time you change it, you have to buy an annuity and it's in the lap of the Gods. If you retire one year and you have been contributing all your life and interest rates are 5% that year you finish with one pension. Somebody else retires a year later, interest rates are 10% the year later and he gets double your pension and you have both made the same contributions, the benefits are not guaranteed in any of these pension schemes because what they guarantee is a lump sum payment. The second thing is that a person may be in poor health and he may wish to leave his widow the lump sum of money rather than buy an annuity and then find regrettably that he has not long to live and he loses his capital to which he has contributed all his life. It is wrong for the Government to penalise people who have got these very limited benefits by forcing them to give up something which employers accept and which have been freely negotiated with unions and which the Government is forcing the employers to withdraw because they have increased the cost to the employer by 50% and there is no moral justification. And it is no good saying

they were going to respect the ones that were approved by the previous Commissioner two years ago, well, it was the same Government. Is it Government policy or is it not Government policy? And, in fact, is he saying that for the last two years none have been approved and if he is telling us, Mr Speaker, the Financial Secretary is telling us that because there have been none approved people should know this and should not now be demanding anything different, then perhaps he can tell me how he as Chairman of Gibrepair approved in December, 1984, the pension scheme with 100% commutation which was offered to the unions in 1985? No? Well, I can tell the Hon Member that Gibrepair which is 100% Government owned and of which he is the ex-Chairman offered 100% commutation even though it was not approved by the Commissioner. No, well, he should go and check, Mr Speaker. I think he can take it from me that I do know what there is in that pension scheme and I can tell him that the problem exists there and then perhaps the Government can explain to the House and to the people of Gibraltar how it is Government policy not to allow such schemes, to tax them at 20% and to have their own 100% owned company operating such a scheme and having agreed it with their employees. They ought to really do their homework before they write their Budget speeches, really. The Government may believe that this is a fair and equitable way of dealing with a difficult problem, we think the problem is not difficult, the problem is unnecessary and somebody ought to recognise that somewhere along the line a mistake has been made and admit it and put it right and get it over with, that is what they ought to do. We certainly will not support that proposal in the Finance Bill and as far as we are concerned the schemes that are in existence, those must be respected independent of whether they were approved or were not approved. This statement that has been made about whether it is not acceptable to Government, frankly, if that is what the Government wanted to do that is what they should have done. They should have come here in the Budget of 1984 or 1985 or whenever it was, if it has not been approved for two years then they should have come here two years ago and said: "We are now putting everybody in Gibraltar on notice that we are introducing certain guidelines about how the schemes must operate in order to become approved schemes and therefore from the day this announcement is made this is what will operate". It doesn't mean we would have agreed with that, we might still have disagreed with it because I don't believe the arguments in favour of this limitation are acceptable and certainly a GSLP Government would draw away with that view, we don't hold that view, we don't share it, we would allow 100% commutation. We don't think that there is this risk of loss of revenue that the Government talks about. But in any case if it is Government policy and they want to do it, fine, they announce because I don't see why it is necessary to tell property developers that they are going to change the rules of development aid a year ahead of time and workers with miniscule pension

schemes that they have changed their policy two years ago, let's have even-handed treatment, Mr Speaker. The question of the payment to non-resident employees of exempt companies, we believe the Government is right in saying that there must be equal treatment for people who are working side by side even if it does undermine confidence in the finance centre and in the exempt companies. But we notice that this will not apply to directors and we wonder whether in practice it is all that difficult to have people working for exempt companies acting as executive directors and therefore the thing being perpetuated because certainly I am sure the House will recall that we have known peculiar situations like company directors breaking up the ground with a drill and digging holes with a pick and shovel in the early days of the frontier opening when it was found that an easy way of getting round the requirement to have a work permit or not to have a work permit was to bring in people as company directors. I think it is worth pointing out to the Government that if they are really serious about closing the loophole then there may be a continuation of the loophole, if they don't really want to do it because they think it is going to undermine the expansion of the finance centre then I think on balance, although it is an unpalatable thing, if that were to be something that we would have to live with in order to encourage the expansion of the finance centre then I think we would have to live with it. I think we cannot proclaim to be in favour of something and then go ahead and do the opposite. I think it is better to see whether we are doing a sufficiently thorough job of it or not. There is also a reference or a failure of a reference to GSL in the Financial and Development Secretary's contribution and, indeed, in the Hon and Learned the Chief Minister's but, particularly, coming to the Financial and Development Secretary's contribution, since we are talking about Government revenue and we are talking to the Finance Bill, Mr Speaker, I would have expected the Hon Member to tell me how much of the rates that he has got in the Estimates of Revenue are going to be produced by rates from GSL. I can well see that he hides his face, so would I in his place, Mr Speaker. Mr Speaker, we have been trying to get the Financial Secretary to do his job in this area, as indeed in some others, and he has produced all sorts of explanations in the past. I remember that one of his earlier ones was that because it was Crown Property it didn't have to pay rates, we then pointed out that the Public Health Ordinance specifically mentions Crown Property as having to pay rates when it is not in occupation by the Crown and when it is being used as GSL was using the place for commercial purposes. We have had him telling us in 1985 that in September of that year GSL was on target for a loss of £3m and failing to answer the discrepancy in that projected loss with £3m rates payment and without £3m rates payment. We were told that because they had this development aid which he now tells us he wants to do away with, they were not entitled to have to pay rates,

they were not required to have to pay rates and we pointed out again in questions, that the limitation on the payment of rates was on the enhanced value produced by the investment in respect of which development aid is granted. The Hon Member then said that perhaps there had been some loss of revenue on the non-estimation of the NAV prior to refurbishment but that it came to very little. Well, that is neither here nor there. If the law requires something to happen then it has to happen, he cannot just say: "Well, it is very little so I am not going to do it". We don't know what the amount of rates is. We do know what the net annual value is in the 1987/88 Valuation List but, of course, it doesn't tell us there how much of it is being reduced by virtue of the Development Aid Ordinance. The value put on GSL for 1987/88 is £360,000, Mr Speaker, and if they were paying full rates that would imply a payment of £189,000 in rates. We want to know whether that is what is shown in the estimated revenue yield from rates for 1987/88. And we question how it is that in May, 1983, the Government experts contracted by the Government, estimated that the rates payable would be £3m before there was a revaluation of commercial property in Gibraltar which produced increases in net annual values of the order of 100%. Is the amount shown - and we don't know that it is £189,000, nor all I know it may be only a fraction of that - but is £189,000 in rates an excessive figure? Is it that they were wildly wrong when they put £3m in the original estimates? Well, the Government charges itself £222,000 rates on the desalination plant, on the Waterport distiller so perhaps the Hon Member can tell me even if it is paying £189,000 how come the Waterport distiller has got a higher net annual value on a fraction of the area because you don't pay rates on the actual plant, you don't pay rates on the cranes and you don't pay rates on the boilers, you pay rates on the building, how it is that the building that houses the desalination plant pays £222,000 which is paid by consumers of water and which we believe should be shown in the Accounts, we are glad that it is shown in the Accounts, not necessarily that it should be charged to consumers of water but that it gives us a better and more accurate picture and that is why we are saying the same should be done in GSL. At the end of the day it might mean that GSL cannot afford to pay those rates and that the Government has got to give them the money to pay the rates but at least we know that the true cost of repairing ships in Gibraltar which is the opportunity cost of doing something else with that area which would produce rates, is so much. We think that is a good way of looking at the viability of the yard and at the true cost of running the yard and we would expect the Government to do it and if they are not doing it we want to know why. Because the Generating Station is £367,000 so that would indicate, Mr Speaker, that the original figure of £3m was not all that far out and there seems to be a very strange discrepancy and it has taken an awful lot of effort, of pressure and of questioning on our part to get them to include

it. I am just checking, Mr Speaker, if there is any other things that I need to give the Hon Financial and Development Secretary, I am sure he wouldn't want me to miss anything. I haven't dealt, in fact, with tourism which will be dealt with by my colleague, Mr Speaker, but I notice on imports that the Hon Member tells us that since 1984 the proportion of foodstuffs to total imports has fallen from one-fifth to one-quarter. I always thought one-quarter was more than one-fifth, perhaps he can tell us if that is a reflection of the accuracy of all the other statistics he is quoting in this Budget.

HON A J CANEPA:

Indeed, that remark is of a mathematician.

HON J BOSSANO:

He can deal with figures, that's right. I think on the employment side, Mr Speaker, we have had a situation where the growth in the number of jobs in the private sector which the Government was proclaiming in 1985 is now showing through in statistics, particularly in social insurance statistics rather than in employment surveys because although, in fact, the Financial and Development Secretary has been quoting and the Hon Mr Perez was using for his political broadcast the Employment Surveys, we have always been told by the man that introduces it in the House that these things are not reliable and that they should only be considered as indicating sort of vague trends. Presumably they only start becoming reliable when the figures suit the Government and can be quoted otherwise it has not been reliable. But I think there is clearly a situation of growth in employment today which.....

HON A J CANEPA:

Mr Speaker, if the Hon Member will give way. Apparently he was the only one in Gibraltar who didn't see Real Madrid on television.

HON J BOSSANO:

I didn't see Real Madrid on television, he is quite right, but I think then, Mr Speaker, the Hon Member, Mr Perez, will have to do a repeat performance on his political broadcast for the benefit of those who were watching Real Madrid on television. The Employment Survey, of course, does indicate a growth in employment which is not inconsistent for the first time, I think, with the figures of December, 1986, in the insurance records although the insurance records, in fact, include almost doubling of self-employed which do not appear, obviously; in the Employment Surveys which are returns filled by employers.

In terms of employment in the private sector therefore, we have had a growth of employment in which Gibraltarians have participated very little. That is to say, the analysis of the composition shows that the growth has been primarily growth through imported labour. The Hon Financial and Development Secretary didn't make much of a reference to this but I think it was the Chief Minister who was saying that this meant that we now had a bigger tax base from which we could collect more revenue and consequently do something about reducing the actual incidence of taxation. Of course, this raises the question that if one attributes the changes in this year's Budget to employing an extra 1,000 people how many extra thousands do we need to employ in Gibraltar to make a real dent in the income tax structure and are we not running the risk, Mr Speaker, looking to the future. We have the problem today of workers who were working in Gibraltar before the closure of the frontier and their liability on pension rights. Are we quantified in this impetus and direction that the Government is allegedly giving the economy, what is it that we are being told, that the way forward for the economy if the AACR get back is what? More flats for wealthy people because they are retaining development aid for home ownership but they don't say that it is for home ownership for local people. If that is what they intend then perhaps when the Hon Member exercises his right of reply he can say that that was what was intended all the time but on the basis of the statement that has been made, presumably the second phase of the Watergardens which I know Dragados y Construcciones are trying to get the Government to agree to and building extra blocks down there, would qualify for development aid even if the Government were to proceed with eliminating development aid for everything else.

HON A J CANEPA:

If the Hon Member will give way. What happens, in fact, is that the Development Aid Committee when considering applications almost automatically gives 100% development aid licence in respect of projects which are clearly home ownership for Gibraltarians having regard to the conditions and having regard to the prices, whereas in the case of what could be termed luxury type accommodation, the percentage is very much lower including as little as 20%. And he can check back over the years of the number of licences that have been given since 1981 and he will see that that is the case.

HON J BOSSANO:

I am grateful for that explanation. But then I take it, Mr Speaker, that the intention is to continue development aid as it has been in the past with a higher percentage for local people but still continue it even for the luxury flats.

HON A J CANEPA:

It is a matter of policy for the Development Aid Licence Committee to take but that is, in fact, what has been happening and I would imagine that it would continue to work to that formula.

HON J BOSSANO:

But, Mr Speaker, what I am saying is the statement made in the speech on the Finance Bill that there will be a continuation of development aid, does that mean that the Government policy would be to limit development aid only to the kind of projects which in the past have had 100% or to continue it for both, the ones that have had 100% and the ones that have had 20%? Which is their intention because I think if what they say is: "As from the 1st April, 1988, development aid will be confined to housing development only as a further measure of assistance to home ownership in Gibraltar" but they don't say 'low paid housing', they just say 'home ownership'. Well, presumably, the people who buy their flats in Watergardens are home owners. Is it intended to carry on with that?

HON A J CANEPA:

I would say for home owners generally because even in Watergardens there are a proportion of Gibraltarians who have purchased accommodation there.

HON J BOSSANO:

This is what we wanted to clarify because it seems to us then that if the Government is saying that in terms of the kind of incentives, I mean the Financial and Development Secretary talked about the distorting effects of this thing and quite frankly the only area in UK that I know of where there has been criticism of the distorting effects of this type of incentives is in connection with regional grants and regional development aid and tax holidays where it has been found that people were, for example, moving their factory from Scotland to Northern Ireland but that the national economy was not benefitting and people were simply transplanting themselves from one corner of the nation to another corner of the nation and getting the whole of the cost met virtually by the taxpayer and this is where economists have questioned the wisdom of doing that. In fact, if we had regional development aid which said 'if you are going to build a factory in Catalan Bay you get development aid but not if you are going to build it in North Front' then that argument might apply. But we are talking about wanting to encourage after 1988 building of residential property, period, as opposed to something else and therefore if one is looking at the philosophy and at the policy that

has been announced in the Budget, apart from the reasons that I have mentioned why we are against it looking at it independent of that issue. It seems to me that what you are saying here is if a developer is going to decide whether the building he is putting up is going to be rented as offices or going to be rented as residential accommodation and in one he gets development aid and in the other one he doesn't, then the economics of the operation could be switched from one to the other. That is to say, it could become more profitable to do a residential development because it has development aid as opposed to an office development because it doesn't have development aid. If that is not what the Government is trying to do then that necessarily must be an implication of retaining it for every type of home ownership in which case are we saying that the Government believes that the development of the economy of Gibraltar and the income flow to the Government of Gibraltar is going to be enhanced by a greater proportion of expatriates taking up residence in Gibraltar? I haven't seen any evidence of that, I would have thought that the office accommodation was better than the residential accommodation. Independent of the date, on the wisdom of the change we have serious reservations and we don't think the Government has made a good enough case to support it even if they were saying, as we think they ought to, if they want to do it, if they were saying: "We are introducing this from the beginning of July this year and then if somebody else is in Government next year they can do something different". We welcome, Mr Speaker, the commitment to look again at the question of the £2,000 payable for a deposit on a home when the deposit is paid during the period of construction. I am not sure what the legal and administrative problems are but I accept that if the Government says that they exist then they must have reasons for saying that but the important thing is, of course, that the principle that it ought to be done if it is possible to do it, has now been accepted and the Hon Financial and Development Secretary in the past, in answer to questions, has been adamant that it would not get that so I am glad to see that we have been able to persuade him on that. I think, Mr Speaker, one area where there is an omission which the Government had an opportunity to rectify in this Budget in relation to the Income Tax Ordinance and we hope that they will give it some thought if I put it to them now and they will consider introducing an amendment because I am not very sure whether we can introduce amendments to the Finance Bill, I think we cannot. There is a situation, Mr Speaker, where we have had representations made to us and we have raised the matter with the Income Tax Office directly regarding a few Gibraltarians, there aren't many, who having left Gibraltar and worked in UK for a number of years have returned home on retirement and they are getting social security pensions from UK which in some cases are no different from social security pensions in Gibraltar and, in fact, in some cases are paid by the DLSS in Gibraltar who gets reimbursed by

UK. Apparently, as the Income Tax Ordinance now stands it exempts Gibraltar social security pensions from tax but it does not exempt UK social security pensions from tax. We feel this is very unfair. If somebody has been outside Gibraltar and paid his stamps and worked in UK and comes back to Gibraltar then we ought to give them the same tax treatment as if he had worked here. The actual revenue loss is inconsequential, it is a question of putting right something which we are sure is not a deliberate Government policy but the way that the law is drafted it specifically mentions, so we have been given to understand, that it has to be a payment made under the Social Security Insurance Ordinance or the Social Security (Non-Contributory Benefits and Unemployment) Ordinance and since these are specifically exempted, a pension made from a different Fund in fact is taxable. We would like the Government to give this matter some thought and, preferably since we are in the process of amending the Income Tax Ordinance, bring an amendment now, if not, perhaps if they feel that further thought needs to be given to this, that they should consider it. I think also, Mr Speaker, it might be worth Her Majesty's Attorney-General giving some thought to the question of the EEC implication. I know that we have raised matters concerning taxation in an EEC context before and we have been told that the question of harmonisation is not, at the moment, established throughout the Community but we don't think that taxing people differently is a matter for harmonisation. As far as we are concerned what there is nothing in EEC Directives about is the whole of the EEC having the same tax system or the same tax rates but what there is something in the EEC about clearly under the social chapter, is that you cannot have, for example, two workers side by side both with the same incomes and you make one pay income tax because he is a non-Gibraltarian and you don't make the other one pay income tax. In fact, the Government changed the Income Tax law and created the concept of permitted individuals to avoid that happening with frontier workers. We think that the same principle applies in parallel with retired workers who are both getting social security pensions, one from the Gibraltar Social Security Fund and the other one from the UK or any other Social Security Fund but one is subject to income tax and the other one is not and the only answer that we have been given is that the Ordinance specifically limits it to the local Funds. I think, Mr Speaker, that I have covered practically all the areas of the contributions of the Financial and Development Secretary and the Hon and Learned the Chief Minister except perhaps that the Hon Member ended his contribution with a burst of poetry, in our estimation very bad poetry, Mr Speaker. However, after looking at the Estimates and after looking at the proposals in this Budget and after looking at his idea for running the economy of Gibraltar, we have come to the conclusion that bad though he is as a poet, he had better stick to poetry rather than running the economy, Mr Speaker.

HON CHIEF MINISTER:

In another ten minutes he would have made two hours.

HON M K FEATHERSTONE:

Mr Speaker, I don't intend to take the time of the House to the same extent as the Hon Mr Bossano. He manages to take two speeches which lasted some one hour and forty minutes and turned it into one hour and fifty-five minutes so I think he has had a fair share of the debate. Two year's ago, Sir, I said that at Budget time we had presented a Budget of cautious optimism. This was derided by the Opposition but I stuck to my guns and I said that I felt that it was a Budget of cautious optimism. Last year, Sir, I said that the optimism had been justified. This year I think I can say that that justification has been confirmed and reconfirmed. The economy is doing well, it augurs to continue doing well. We have already heard that the number of tourists coming in this year are an increase on the number of tourists last year. We have seen more banks setting up in Gibraltar. We have seen that the finance centre is going from strength to strength. It even seems that GSL is perhaps turning the corner when they have said that they hope to break even this year. This year, Sir, we have returned to the people and I use that word advisedly, whether the Hon Mr Bossano agrees with it or not, some £3½m to £4m in income tax. The figure for the single person has been increased by some 33½%, from £1,100 to £1,450 but I would like to bring to the attention of the House that there is also a hidden amount which is given to all taxpayers, or practically all taxpayers, and that is the fact that their social insurance contributions are a tax deductible item, this is worth some £350. It is not the same in the United Kingdom where social insurance contributions are not tax deductible so the £1,450 really should be increased by another £350 before the threshold of tax is actually met. This gives you £1,800, it is getting on to the £2,200 that the Hon Mr Bossano puts as his minimum and perhaps next year or the year after when the AACR is back in Government we will move nearer to those figures. We have broken with tradition and made the married allowance not double the single allowance. We have made a figure for the married allowance which is £2,800 some £600 more than it was previously which again is a 33½% increase and for the first child the increase has been 25%, from £400 to £500. A person who is on a low income rate is actually getting £3,300 plus £350 for his social insurance contributions, £3,600 or some £70 a week tax free. We have taken the opportunity to widen the tax bands. We now pay the first £1,500 at 20% so that the person who is earning a low income will only possibly fall into the lowest of the tax band brackets but we have widened the tax bands all the way up the line so that the middle group of incomes and the reasonably

higher groups will also obtain some relief. In Estate Duty we have taken a radical step and a step I think that was needed for a very long time in which estate duty will be paid progressively rather than as it has been hitherto. Hitherto if you fell into the 20% bracket you paid 20% on the whole of the estate. Now you will pay so much at 5%, so much at the 10%, so much at the 15%, so much at the 20%. This, I think, is something that has been long overdue and I am very happy to see it put in this time. It is also another radical feature that the matrimonial home, that is, the home where it is in the name of the husband and wife should not be included in estate duty on the death of either of the spouses. It will, of course, fall to come into estate duty on the death of the second spouse. I don't say that we should make it a slogan for Gibraltar 'Come here, it's cheaper to die now' but at least it will be of some benefit to many people who have been worried by estate duty over the years. The taxes on cars have been lowered so that now a larger car will only pay 35%. I am not all that happy that larger cars may once again come into the market in great quantities, I think people with large cars are a bit of a nuisance when it comes to parking - I speak for myself. But we are, I think, losing to some extent on the person who feels that he wants a larger car by his going abroad to Germany, France, buying the car second hand, coming back and paying a lower rate of duty. It is also welcome to see that motorcycles up to 50cc go into the 12% bracket and that crash helmets will no longer be necessary for these. It is hoped that many people will take the opportunity of the smaller motorcycles to get around Gibraltar and alleviate the parking problems which we have at the moment. I am not going to speak on the development aid question, I will leave this to my colleague, the Hon Mr Canepa, who I am sure will deal with it very adequately. However, I would say that everything must be done to develop the home ownership scheme and that is one of the ways the Government is looking at the problem. As I have said, Sir, the economy is doing well and it should continue doing well in the coming year. We look forward to this with, not cautious optimism but with the confidence that we have ridden out the stormy years and that we look forward to a period of reasonably plain sailing for the future. Thank you, Sir.

MR SPEAKER:

Do I take it that there are no other contributors?

HON J BOSSANO:

Mr Speaker, as far as we are concerned nothing that the Hon Mr Featherstone has said requires any reply from this side. We haven't heard anything new from him or answering any points that I have made. What can we say about what he said, that he thinks everything is rosy, fine.

HON A J CANEPA:

Mr Speaker, the position is that on the Government side as far as I am aware, apart from the Chief Minister exercising his right to reply and the Financial Secretary, I am the only other Government speaker. I don't particularly mind, it is not that I want to take my turn later on, it's immaterial to me but I thought it might have been useful if I had heard other Members of the Opposition dealing with matters that are more within my purview and give me an opportunity to react.

MR SPEAKER:

Perhaps, if I may suggest, we should recess until tomorrow and that will give both sides an opportunity to gather their thoughts and make further contributions.

HON CHIEF MINISTER:

The only difficulty is that perhaps tonight is the only night when we could have stayed a little longer.

HON A J CANEPA:

I don't really mind, Mr Speaker, let it not be said that I insist on having a say after either Mr Feetham or Mr Pilcher particularly if they give me an opportunity and give way then I think that we can still get a constructive debate going. I don't feel very strongly about it unless you are going to recess the House now.

MR SPEAKER:

I am just trying to gauge the feelings of the House.

HON CHIEF MINISTER:

Well, it does tend with almost an equal number of Members, to have speeches all on one side and then speeches all on the other side, it doesn't add to the debate, it just adds to speech-making which is different.

HON J BOSSANO:

Mr Speaker, the Hon Financial and Development Secretary and the Hon and Learned Chief Minister made introductory speeches and finish up both with an opportunity to answer anything made on this side of the House. We have had one Government Minister standing up who hasn't answered one single thing. I may have spoken for nearly two hours but as far as Mr Featherstone is concerned, I might not have said anything at all because he hasn't challenged

one single element of anything I have said or said anything new, as far as we are concerned. That is why we haven't got anybody here that can stand up and say anything other than reply to the Hon and Learned Chief Minister's speech or the Financial Secretary which I feel I have already done. We can all stand up and say the same thing again, I don't see that that helps.

HON CHIEF MINISTER:

I don't think that the Hon Member should get away with the idea that he is the only one who speaks of any importance and that everything he says must be replied. There are contributions that have to be made which have no reference to that. His points have to be replied under the Standing Orders by the Financial Secretary and myself. The debate can develop in other ways as it has done in the past. In fact, it was because of this impasse that the present Rules have been made and if that is going to be the way that the Hon Member wants it, that all Members have to be busy trying to answer his nearly two hour's speech and nothing else to say, I think the Hon Mr Featherstone has made points in support of the Budget which are very relevant and therefore it doesn't have to be purely in answer to Mr Bossano. We are not here to answer Mr Bossano only, we are here to debate the Budget.

HON J BOSSANO:

We are quite happy to field all seven saying the same thing if that keeps the Chief Minister happy, Mr Speaker, then he'll complain that it takes too long which is what he used to do before.

HON CHIEF MINISTER: . .

We don't complain, you have been one hour and fifty minutes and you have only been asked to give way once.

HON J BOSSANO:

Three or four times, we have always had that.

MR SPEAKER:

Order, we must not have a debate within a debate. The position is very clear. It seems that the Hon Members of the Opposition are not prepared to make a contribution at this moment. The Hon Mr Canepa, I am sure, will be going on for some considerable time. Would you rather leave it for the morning?

HON A J CANEPA:

I would prefer to leave it for the morning.

MR SPEAKER:

Then I think that must be the answer in the circumstances and we will now recess until tomorrow morning at 10.30.

The House recessed at 7.15 pm.

TUESDAY THE 28TH APRIL, 1987

The House resumed at 10.40 am.

MR SPEAKER:

I will remind the House that we are still at the Second Reading of the Finance Bill and I would invite any Member who wishes to contribute to the debate to do so.

HON H J ZAMMITT:

Mr Speaker, Sir, like the Hon the Leader of the Opposition I have been in this House since 1972 and therefore I have witnessed fourteen Finance Bills and we have found it very interesting over those fourteen debates to listen carefully to the contribution of the Hon the Leader of the Opposition. It is interesting to note that his contributions always brought about a very clear exposition of the situation and in looking through Hansard over the years one finds during a period when he was the Lone Ranger on the other side of the House with the then DPBG, the problems that he encountered in being or trying to be the last speaker on the Finance Bill or even on the Appropriation Bill and on examination of Hansard one finds that there were instances where there was so much dilly-dallying by Members of the then Opposition that on one occasion there was no contribution from the Hon Leader of the Opposition on the Finance Bill but he then went on and did expound the reasons why on the Appropriation Bill. Mr Speaker, what I think is rather revealing is that where the Leader of the Opposition is at his best is when, in fact, things during Estimate time or during the Budget Session are a little more lively and more problematic than when things are easy going or, should I say, when there seems to be an improvement that the Government is able to give the community of Gibraltar and therefore one finds that in the last two contributions of the Hon Leader of the Opposition there is not a fraction of the input to the debate or his contribution which, as I say, we all in this House have always looked forward to. In fact, I think it was in 1983, Mr Speaker, that the Hon and Learned the Chief Minister actually stood up and congratulated Mr Bossano for his exposition. Mr Speaker, why should this be the case? In the past there has always been revenue raising measures which are never

well received irrespective of the circumstances or the financial situation prevailing. No one wants to pay more for anything but quite the contrary would very much like to opt for paying less. It is on those issues that the Hon Leader of the Opposition really makes a good case. But I will say one thing, Mr Speaker, in fairness to the Leader of the Opposition, that he has been consistent about one thing and I will refer to the paragraph of the Hon Financial and Development Secretary's speech in the comparison which is an aim of policy certainly of this Government to try and relieve or reduce the heavy burden that the Gibraltarian community has been having for very many years on excess taxation. We know, Mr Speaker, it has been mentioned by Members opposite and by previous Opposition Members and by Members on the Government side, that we accept totally that the middle block certainly, if not all taxpayers in Gibraltar were carrying an extremely heavy burden and we all know the reasons why and there are some very logical contributions in Hansard, particularly from the Leader of the Opposition, as to why this was necessary otherwise we would have had to increase other Funded Services which the Leader of the Opposition obviously makes a very strong and valid case for not doing. But, Mr Speaker, the Government's aim of policy is to try and narrow that gap referred to by the Financial and Development Secretary between almost similar circumstances of an individual in Britain and ourselves and certainly in last year's Estimates we took a step towards that and this year once again a further step is taken and I hope and I think everybody will agree and I think our aspirations should be to try and keep walking in that direction to take this heavy burden off the Gibraltarian or the resident in Gibraltar that is undoubtedly, as recognised by all Members, overtaxed. But, of course, in looking at Hansard one finds that the Leader of the Opposition has been consistent since his time here in not opting for parity of tax measures with Great Britain. And, in fact, I think if the Hon Member cares to look at Hansard of the Budget Session of 1981 at page 193, it is clear - and I will not quote it, Mr Speaker, because I made reference to the paragraph which the Hon Members can, of course, analyse and digest. It is clear that Mr Bossano does not apply that formula and I do not know if, of course, the formula that he had in 1981 with a DPBG majority, is today the policy of the GSLP. It is certainly the policy of the Government to try and relieve the tax burden. Mr Speaker, it is probably because Mr Bossano who has, if I may use the phrase and I hope I am not offensive, the memory of an elephant, remembers that he has said this in the past that he cannot really politically accept the fact that whereas we are criticised for our financial policy there is an aim of policy which runs contrary to what Mr Bossano has been advocating certainly since 1981 and, in fact, I can quote that there are other instances following that throughout the various debates during Budget Sessions of the years I have mentioned, Mr Speaker.

HON J BOSSANO:

I wish the Hon Member would quote because, in fact, it seems to me that that is the point that was made last year by the Hon and Learned the Chief Minister in last year's Budget and I gave the Hon and Learned the Chief Minister a reply last year and if the Hon Mr Zammitt looks at last year's Hansard he will find the answer to the questions he is now asking was given last year. I said last year that the GSLP will not oppose increases in indirect taxation which hit lower incomes in order to finance tax cuts and that is what was done in 1981 by Mrs Thatcher and, Mr Speaker, I then said that it was an indication that the Hon and Learned Member did not support Mrs Thatcher's policy and you intervened at that point in last year's debate.

MR SPEAKER:

Do you remember what I said?

HON J BOSSANO:

Yes, you said that the fact that the Hon Member didn't agree with the taxation didn't mean that he didn't agree with all Mrs Thatcher's policies, that is what you said. In fact, I think the position is clear and, as I understand it, it is a position on which there isn't a major difference between the AACR and ourselves. In 1981 and still today, as far as I can understand, the AACR and ourselves both believe that although our taxation is high by comparison to UK and although our taxation ought to be brought down to comparable levels, we don't necessarily have to have an identical structure and we do not support, for example, increasing basic commodities in order to finance tax cuts. I think it is a clear position we both agree.

HON H J ZAMMITT:

Mr Speaker, I agree with that entirely and I think that that is made clear and I must say that I have checked Hansard and that is made clear by the Hon Leader of the Opposition in more than one instance throughout the very many debates. But it is very clear, Mr Speaker, from what I have quoted at 193 of the Budget Session of 1981 and despite the fact that we certainly would not have said introducing the tax structure of Great Britain into Gibraltar, we would not like to see what at the time was the 98p in the £1 and the capital gains tax and the like, no, but there is a move by this Government, certainly over the last two years, to try and alleviate the strain on the taxpayer. I think, Mr Speaker, that had the Chancellor of the Exchequer not done what he did at the last Budget, of course, the gap would have been somewhat closer but I think that the economic situation of Gibraltar improving

as it is will see in the not too distant future a major improvement but we must go step by step and I think that the AACR policy on this subject is of particular interest and worthy of note that we are and we have not this year but for the past two Budget Sessions done our best to relieve the people of what is recognised as being a heavy taxation. Mr Speaker, we see that during the first intervention of the GSLP in the House, in the Budget Session that was very shortly after the election of February and one can say that for the first two or three months one had to accept that, with respect, it was an apprenticeship other than the Hon Leader of the Opposition who has now over the years mastered the procedures of the House. But there is one thing, of course, that politicians are also caught at and that is in what they say. I remember that my Hon Friend, the Hon Mr Canepa, mentioned the fact that Members opposite were prophets of doom and I am going back, of course, to the Budget Session of 1984 which was the first Budget Session. And one sees that almost everything they said would be a failure, almost everything they said would not occur, has in fact occurred. Mr Speaker, I do not wish to bore the House with quoting various things from Hansard but it is, I think, appropriate because this is probably, possibly not probably, the last occasion of a Budget Session that either this side has as Government and that side has as Opposition or either of us not here at all and I can say that, Mr Speaker, because I remember that at the 1984 elections we were told that the DPBG would be here en bloc and we find that not one of them is here so one doesn't know, Mr Speaker, the future is one thing that we do not know. What we cannot do, Mr Speaker, is to be so emphatic at something that will not occur with total authority and then have to eat humble pie because those things do occur. Mr Speaker, the Hon Mr Pilcher was having a bit of a problem with my colleague, the Hon Mr Canepa, when he was referred to as being senile. Mr Speaker, it is funny but I think it is proper that we should remind ourselves of how careful we should be of what we say. The Hon Mr Pilcher said, page 260 of the Budget Session of the 13th March, Volume II, 1984: "The Hon Mr Canepa was delirious over last year's projects like Casemates, the Command Education Centre, pedestrianisation of Main Street, which do not appear in this year's estimates, by the way, the pedestrianisation, the plot of land beside St Martin's School, etc. Not one of these projects has materialised, Mr Speaker, so he comes back this year with the same projects adding on the Queensway development and the Rosia Bay development. Quoting his own words, Mr Speaker, he must really be frustrated if he thinks that from this side of the House we are going to believe that any of these projects, or at least very few of these projects, will materialise at all. None of these projects, if they do materialise, will come in time to save the impending doom which the Hon Mr Canepa was referring to yesterday in his intervention on the Budget". Mr Speaker, I think Casemates is on, Queensway

is on, Rosia Bay is on, and I won't go through the list, some of them are now ten storeys high and one sees there are twenty-seven tower cranes all round Gibraltar with development. So not only did he make a mistake in forecasting categorically that these things wouldn't materialise, but 300% more than was envisaged is occurring. Mr Speaker, this is the attitude of the Opposition throughout these debates. We are always reminded that everything that we have done is doomed to failure; that we have over-taxed, that we over-burden, that we under-develop, that we do not provide employment, that there was going to be a queue and everything is based precisely on the opposite of what the GSLP Members so emphatically tried to make a case of and that is the opening of the frontier. It is from there, Mr Speaker, and Mr Feetham - I can quote - actually accepted this in one of his contributions. What has occurred, Mr Speaker? There has been a marked improvement in the financial situation of Gibraltar; people have found themselves that we have been able to restrain adding costs to the Funded Services for two years; people have found that they are somewhat better off over the past two Budget Sessions in income tax and the like. And it is here, of course, that the Opposition Members find it difficult to argue because it doesn't matter what they say, there is one thing that cannot be denied, there is a betterment, there is an improvement in the financial situation of Gibraltar. Whether we agree that tourism is the first pillar or the Dockyard the second or the finance centre the third is not for me to say. What is a reality and a visible reality to the community is that there is certainly an improved situation to the very many Budgets certainly prior to 1985. Mr Speaker, it is in that context that one finds that particularly the Hon Leader of the Opposition, I think on this particular occasion as last year and I challenge them to look at the contributions, has been very much poorer than I have always found him to deliver. I think he would agree, Mr Speaker, that he himself knows that every Member of this House, not just of the GSLP present allegiance, of course, that they have to him, but every member of the DPBG or whatever independent alliance or GDM at the time, always looked with great interest and expectation to his contribution. I lament to say that I can only find that the excuse that one can offer for not having done so is because he has been caught on the hop by the financial policies of the Government and we have gone slightly above the expectations that he thought we would come up with and therefore although, quite logically, no doubt Members opposite will say we should have given more, I can say we would have liked to have given more but the facts are there for everyone to see and therefore because the Finance Bill is not one of tremendous controversy but something that can only but be well received, then, of course, it does put Members of the Opposition in a more moderate situation of not being able to argue, of not being able to demand increases in what we are suggesting. Therefore, Mr Speaker, I will dwell no longer on the

Finance Bill other than to remind Members, because they have only been here - the majority of them for four years, that if they do check Hansard they will find how very inconsistent some of them - I say some of them - are in what they say at one meeting which is totally the opposite to what they say a year or two later. I would ask them to do that, Mr Speaker, it is not at the moment the time and place to expose this but I think that in the incident that is about to occur within the next ten or twelve months, they should check before they come out with any political manifesto assurances because they might well find that they could put their foot in it. Mr Speaker, once again I think the Government that is accused and has been accused over so many years of doing everything wrong, that has not been agreed by Members of the Opposition has been proved right. Both the Hon Mr Canepa and Ministers on this side have been reminded by Members opposite that our policies were all wrong and that we were in cuckooland. Well, Mr Speaker, if we are in cuckooland and we are bettering the lot of the Gibraltarians then all I can say, Sir, is 'Viva cuckooland'. Thank you, Sir.

HON J C PEREZ:

Mr Speaker, the Hon Mr Zammitt has been inconsistent. He has been inconsistent in saying at the beginning of his speech that we were consistent and ending by saying that we were inconsistent. He should say one thing or the other, he cannot say that the Leader of the Opposition has been consistent throughout all the Budget Sessions that he has been present in the House and end up saying that the Opposition is inconsistent. Anyway, I don't think that that is something we should go into because I could be here until tomorrow or even until Thursday talking about the inconsistencies on that side of the House and, in particular, about the way they have handled the finances of Gibraltar since 1981 onwards but then the Hon Leader of the Opposition dealt with that yesterday, things which have not been answered by either Mr Featherstone or Mr Zammitt, they seemed to be talking as if no contribution had been made from this side of the House and as if they hadn't heard anything that had been said but just arguing their case regardless of what other people put to them. Mr Speaker, my main contribution will be made, as is usual in my case, in the Appropriation Bill. But I think that one has to say that the Budget does not live up to the expectations of many people, of the expectations created by the same Government. It is the AACR that is saying how well the economy is functioning since 1985 and promising to deliver goodies in 1987. In 1987 they have been unable to deliver much more than they did last year which doesn't say very much for their forecast of how the economy was performing. In fact, they are starting to reduce the burden of taxation in a year where they are finishing up with a deficit rather than a surplus and if they were so keen in past years to reduce the

burden of taxation one wonders why in the years that they finished up with a surplus they didn't go down that path and have waited in 1987 to reduce taxation further in a year that they finish up with a deficit. Because let us face it, the Hon and Learned the Chief Minister has said yesterday that it should not be considered to be an election budget. Perhaps he is right in one context, it should not be considered to be an election Budget in what they thought they could deliver in 1985 and they have only been able to come here with the same tax exercise as last year because the economic picture is not as rosy as they have been painting it to the people of Gibraltar or they continue to paint it, Mr Speaker. The Hon Mr Zammitt has said a lot of nonsense about tax comparisons with UK and so on. Mr Speaker, we in Gibraltar should have our own tax structure related to ourselves. When people compare with UK and with other European countries it is because we have been the highest taxed people in the whole of Europe after Sweden. That is what the AACR have been offering to the people of Gibraltar since 1972 and now they are starting to give back some of the money because the frontier opened and we have been told 'Well, the frontier opened', fine, the frontier opened, Mr Speaker, but the things that are happening are not everything that the Government promised that was going to happen is happening, the things that are happening are happening despite the Government. And if they had a plan and if they were channelling the things towards and giving a direction to the private sector of what kind of economy and what kind of situations we wanted, Mr Speaker, then perhaps the advantages of an open frontier would have been much greater. Mr Speaker, the people of Gibraltar continue to accuse the AACR of doing everything wrong. It is a marvel that they cannot get anything right. Mr Zammitt seems to think that it is hearsay what people actually say in the streets. I can assure him it is not. The people of Gibraltar are tired of putting up with a Government that takes so long in taking decisions, with a Government that promises and doesn't deliver and with a Government that, Mr Speaker, has been here since 1972 and unable to satisfy the aspirations of the people of Gibraltar. I now turn to a couple of issues which I want to raise at this stage to give the Hon Financial Secretary an opportunity to answer me at the Committee Stage of the Finance Bill, Mr Speaker. I think the Government needs to explain the increase in duty of the GG plates from 2% to 5% much better than they have. I am afraid that I think it is inconsistent that they should alter the duties of the cars according to them to stimulate the sale of bigger or greater horsepower engine vehicles and at the same time increase the duty of what is an export market from 2% to 5% when in most places in Europe the export market is duty free. If they want to stifle that market, Mr Speaker, they might as well do away completely with the GG plates. If what they are thinking is that by increasing it from 2% to 5% the rates of sales is going to continue at the same level and their revenue

is going to increase, I personally believe that they are wrong because it is a market with many constraints and very competitive in that people can buy duty free cars in Belgium and have them sent to the Costa del Sol and we have to compete in that world market in terms of selling those cars. Another thing which I think I ought to point out, Mr Speaker, is that on the question of self drive cars there is a loophole which perhaps the Government has not foreseen. By reducing the self drive vehicles to 18% duty you could have a situation, Mr Speaker, where a car that would normally pay 35% duty could be imported as a self drive car paying 18% duty and on paper the self drive agency could hire it out for five years to a particular person after which that particular person would pay at the end of the five years £1 for it and that would create a loophole whereby people could buy larger horsepower engine vehicles with 18% duty and avoid paying the 35%. Other than that, Mr Speaker, the other issues have already been raised by the Leader of the Opposition and, as I said, my main contribution will be made in the Appropriation Bill where I will speak on the Departments which I shadow on this side of the House. Thank you, Mr Speaker.

HON A J CANEPA:

Mr Speaker, I think there can be no doubt that in general terms the performance of the economy in Gibraltar throughout 1986 has been quite satisfactory. Gibraltar's leading growth sectors, namely, tourism and finance continue to expand as indeed the latest statistics very eloquently show. The tourist industry has once again experienced a very successful year with visitor arrivals by land, sea and air being the highest since the closure of the frontier, the figures that are highest since 1968. The activity in the finance centre continues to prosper and evidence of this can be found in the increasing demand for land in terms of offices and premises which this rapidly expanding sector is placing on us. Gibrrepair, the commercial yard, albeit with financial support from the Government for capitalisation, continues to be an important source of revenue quite notably for Gibraltarians who are able to use their skills there. If the yard wasn't there and these Gibraltarian workers had to find employment elsewhere, it would be a case, Mr Speaker, of retraining them to work, say, in the tourist industry and I don't think that it is a very dignified state of affairs that someone who has gone through a lengthy apprenticeship and has been able to practice his skills in a naval yard for part of a working lifetime should have to retrain as a waiter or a hotel receptionist. I think that, in social terms, it is far better to have that sort of skilled individual working in an environment which is much more close to that which he has always known. The other thing that we should keep in mind is what would be the cost, in any case, if there were to be a substantial number of Gibraltarians now working in the yard, if there were

to be a substantial number who would be otherwise unemployed. What would be the cost in financial terms by way of unemployment benefits and supplementary benefits, what would be the cost in human and social terms and what would be the cost, indeed, in political terms? That is a fact that I think that has to borne very much in mind when we assess the direct contribution that the yard makes to employment and we must not additionally forget the indirect contribution that it makes because of the spin-off effect in other areas of the private sector. I very much hope that the implementation of the recommendations in the Price Waterhouse Report will, in fact, secure its long-term viability. It is very heartening too to see, Mr Speaker, that the construction industry after very many difficult years has reached record employment levels as the need to satisfy the demands of tourist and finance related developments has at last made its presence felt. And hence, Mr Speaker, in the reigning economic climate and with the consolidation of the Government's financial position, we have been able to contemplate this year further fiscal measures as a second phase of the process that was started last year. I see this as an attempt to ensure a fairer distribution of income and wealth and that is why we have been pleased to be able to announce once again further reductions in the levels of personal taxation. We also see them for the second year running as part of the process that was initiated in 1981 and which had to be interrupted because of the announced closure of the Dockyard and the other difficulties that the economy went through at the time of the non-implementation, the stop-go situation that we had surrounding the opening of the frontier. It has already been stated, Mr Speaker, that the estimated giveaway by the Government this year is in the region of £2.7m and more like £3½m in a full year. If we take the two years together, Mr Speaker, last year and this year, the giveaway is in excess of £5½m and once the combined effects have worked their way, have operated for a complete year which will be the case in the financial year 1988/89, the giveaway is, in fact, in excess of £7m. I think I should at this juncture correct the Hon Mr Juan Carlos Perez when he states that what we have done is the same as last year. No, he is wrong, we have given in a full year about £1m more this year than last year, the package last year of income tax measures represented about £3m in a full year, it represents much closer to £4m in a full year on this occasion and that is in keeping with the improvements that there are in the performance of the economy. To state, as Mr Juan Carlos Perez has done, that in Gibraltar we pay higher taxes than elsewhere in Europe other than Sweden is a load of rubbish, Mr Speaker. It is a statement that is being repeated ad nauseam and there is no foundation to it unless we are just speaking in terms of personal taxation. When you talk about taxation you have to look at it across the whole board and have to take into account all taxes. Income tax in France is lower than in Gibraltar but they have got other taxes allied to their social

security set-up which mean that the deductions that are made and which is really taxation from an individual's pay packet, at the end of the day those combined deductions are much higher than for the counterparts in Gibraltar. It is total taxation that has to be taken into account and if this is done, if the yardstick that is used is what is the percentage of national income that the Government derives by way of total taxation, then Gibraltar is very far down the European league and certainly far lower than the United Kingdom. In the United Kingdom you have to view up to a point social insurance contributions as being part of the tax system. We are able to afford a level of pensions benefit of the order, in fact they are higher than in the United Kingdom at the moment by about £5 a week, £67 for a married couple as against just below £62 in the United Kingdom, they are tax free in Gibraltar whereas they are taxable in the United Kingdom and we are able to afford that on social insurance contributions which are about half that of the United Kingdom. I don't think that wild sweeping statements such as those made by Mr Juan Carlos Perez and which one sees and hears repeated in the media stand up to the test of closer examination. Having heard Mr Juan Carlos Perez and yesterday the Hon Mr Bossano, particularly Mr Bossano in respect of what he said regarding the expectations that people had for this year's Budget, I am convinced that we have not acted irresponsibly and I am convinced that we have struck the right sort of balance. The temptation a few months before a general election to act irresponsibly is one that politicians have to resist and I think we have been able to do that quite successfully. We have come up with a package which is in line with the improvement in the economy and which by no stretch of the imagination can be described as an attempt to bribe the voters to return us. Let me remind also Hon Members opposite that in 1981, a year after the general election, we introduced a similar package of reductions in income tax because they were also long overdue and there could have been a temptation to have done that a year earlier in an attempt to win a general election. On this side we act responsibly and I think that our actions over the years have stood the test of time and they are indicative, I think they are part of the reason why people repose their confidence in us because they know what they can expect from us and they know that what we say and what we do are not pipe dreams. Mr Speaker, over the past two years, because of the difficulties surrounding the closure of the Dockyard and the non-opening of the frontier, real disposable incomes in Gibraltar had experienced a decline and I am very happy to see the extent to which we have been able to halt that by reducing taxation levels last year and this year and I think that with the availability of cheaper commodities in neighbouring Spain, I think that the situation today for the lower paid, for the more modest consumers, is one that is very, very heartening indeed. What effectively it means is that the adverse effects of fiscal drag, what is termed fiscal drag on

lower income households have been largely changed and the further reductions in taxation levels for this year should lead to increased spending and to boosting demand within the Gibraltar economy although to what extent in the absence of an up-to-date input/output survey, an input/output model, remains to be seen. I think it is difficult to quantify that and that is why we are attaching importance and making provision in the Estimates for a Family Expenditure Survey and for the construction of an input/output model. I am confident, Mr Speaker, and from the reactions that I have been able to assess since yesterday, that these reductions in personal taxation will be generally welcomed by the community at large. They will help to promote our image as a rapidly developing finance centre because low tax levels are, of course, a basic ingredient for an aspiring and successful financial centre. I recall, too, Mr Speaker, that some weeks ago there was an appeal by the Transport and General Workers Union in a reference that they made to the need for a social budget, for a tax giveaway of at least £4m and this I think we have been able to meet. The Government's financial and economic policies are not just manifested by the reductions in income tax. Given the new economic scenario following the opening of the frontier, given the increased demand for land for private sector development projects which I have referred to, the Government came to the conclusion that the 1981 Development Aid Ordinance was very much in need of review. This Ordinance had repealed the 1963 one and it provided a more flexible version by including a number of economic and social criteria with the principal aim of attracting investment and development. The Ordinance in 1981 was formulated at a time when there was little, if any, real economic growth and employment opportunities but the lifting of frontier restrictions and the subsequent spate of developments means that there is now hardly any justification in the Government continuing to provide the kind of incentives for developers with development aid and, in particular, with respect to small scale developments. When we took the decision to bring this to a halt, terminate these arrangements, we were conscious of the need to give a reasonable period of notice. It could have been six months, it could have been nine months, in the event we settled for twelve months but there was no connection between that and the somewhat devious reasons which the Hon Mr Bossano alleged yesterday. I know that it is difficult to believe that sort of thing but one can act with good and honourable motives but it is a fact of life, it could have been six months, it could have been nine months and there is no strong view about it other than it was thought that people should be given reasonable notice because a number of projects might be in the pipeline, for example, Rosia and Queensway, people have been working towards these and planning for these. In the case of Queensway they won't get possession before July this year and their costings are based on the reasonable expectations of applying and getting a development aid licence

and we wanted to give those people an opportunity to put in their applications. After all, these were sites that we ourselves had put out to tender, so we had an element of control over the situation. And in the case of Rosia there have been serious delays, the project would have got underway because of, rightly so, a feeling of disquiet about the nature of the development, the need to get it right to the extent that we can and so we thought that we should give those people a reasonable opportunity to put in a project application. That was the reason and I think it has been turned around in a way which is unfortunate. I think that the objections of Mr Bossano initially were based more on the question of the twelve months but here we were legislating for something that could perhaps take us into the next term of office of the next Government though I don't think that in political practice there is anything against that, there is nothing constitutionally wrong. One Government is able to legislate for a period of office well beyond its lifespan in the knowledge that the incoming Government can then do whatever it wants to, whether it is a budgetary measure or whether it is a legislative measure of any other nature. An incoming Government can seek a mandate from people and having been elected into office they can do pretty well whatever they want to provided they do not act unconstitutionally. What we have had, Mr Speaker, with the development aid licence and I think it is worth recapping, is a situation in which between 1963 and 1981 any developer applying for a development aid licence would, if the application was successful, automatically get 100% relief or else nothing at all, the application would have to be turned down. That wasn't working well at all and so we amended the Ordinance in 1981 mainly in two respects. We provided for a lower percentage of relief to be given and we also introduced into the body of the Ordinance economic criteria in order to enable the Development Aid Committee to use policy guidelines to arrive at decisions on the extent of relief that should be given. So that was the second step. Now, in the new economic climate, we honestly feel that these incentives are no longer required, that the profits to be derived from development in Gibraltar are such that they in themselves should be a sufficient incentive and that the Government doesn't need to give a tax holiday to these companies for years to come. I think the Government today would have been able to cut income tax even further if we had been able to accumulate the £15m or £18m or £20m of tax to give away over a period of time. The only snag, of course, is that some of those developments might not have taken place. But the climate is today different and so we think that we are able to move in the direction in which we are doing and that is the justification that lies behind our thinking. I don't know having regard to the objections of the Hon the Leader of the Opposition whether if a shorter time period was allowed of six months or nine months, whether that would meet the point, perhaps the matter can be considered further in Committee. Mr

Speaker, we have also, in addition and again thinking of home ownership, we have restricted for the future the award of development aid licences for home ownership schemes and I will say more about that in a moment and in addition we are increasing by £100 the amount of interest which is free of tax on accounts held at the Building Society in order to ensure that further funds are attracted to stimulate home ownership. I think the Building Societies have got enough funds at the moment, certainly for the Rosia Dale sale but there we are dealing with prices which are much lower because it involves Government selling accommodation and therefore the extent of the mortgage requirements is very much less but with other home ownership schemes, notably Vineyard in the offing, within the next year or two it could well be that the Building Societies may require a higher level of funds and hence the incentive. The Chief Minister mentioned yesterday that there had been an oversight in the speech of the Hon the Financial Secretary on the question of the amendments to the Estate Duties Ordinance in respect of the concept of the matrimonial home and what we have in mind here is, again it is a further step in developing the concept of home ownership because one thing is to give incentives to young families so that they are able to buy a home but then you must not put them in the situation in years to come or in the event of an unfortunate death of one of the partners that the surviving partner would suffer hardship in not being able to meet estate duties payment. What we are doing is that we are taking out of the estate the home, their property, the house, if it is in the joint names of husband and wife. That will only apply for husband and wife and not to children. In the case of children it will form part of the estate in the normal way. That, I think, is important as is also the provision that we are going to allow tax relief subject to the administrative and legislative problems that may have to be overcome and that is why we want to look at the matter a little bit more closely, we are going to allow relief in respect of the deposits that are made by home purchasers during the period of construction. At the moment it is £2,000 in a tax year once the purchase has been completed, once the title deed has been registered in the Supreme Court and that can take some time and to enable young families to adjust to the situation I think that if we are able to give them tax relief as they go along over a period of eighteen months to two years, that will also be highly beneficial. Mr Speaker, the Government has also been receptive to representations from areas of trade and business where matters need to be looked at. Again this has been part of an evolving pattern, it was first carried out in the case of tobacco and wines and spirits at the time of the opening of the frontier, in fact, in anticipation of that Budget because the Government can legislate by regulations when it lowers import duties, it doesn't have to come to the House and we have been receptive to representations from trade and business where that is totally justified. Two years ago we didn't think that

the situation was that clearcut in respect of the motor trade. In any case we knew that with the opening of the frontier there would be sufficient incentive for a lot of people to buy new cars so why shouldn't the Government rake in the benefit of revenue in the spontaneous purchase of new cars that was bound to occur? But now we have been able to assess the situation and we have identified key areas in the motor trade where the Government had to give assistance with the sale of large motor cars to help export sales, in the case of spares where spares are very expensive in Gibraltar and therefore the motor trade have to have lying almost dormant a lot of capital if they are to have spares readily available though the situation has improved enormously in that today with better communications if spares are not in stock they can be usually obtained within a couple of days. And so we were able to make a sympathetic response to the representations by the motor trade for a restructuring of import duties for motor vehicles and spares. The risk of a revenue loss that was referred to by the Financial and Development Secretary as being perhaps of the order of £200,000 may, in fact, be much less if we are able to divert some of the repairs and some of the purchases of spares that have been going to Spain in the last couple of years because of the high costs locally. It may well be a case as very often happens with fiscal measures that when you lower taxes, when you lower duty, in fact, the yield is either the same or perhaps even higher. I want to dwell now with the contribution of the Hon Mr Bossano yesterday and not being an economist, I am only a politician, I am certainly not going to reply in detail to the points that he made. I replied to some of them already and no doubt in their winding up speeches both the Chief Minister and the Financial and Development Secretary will also have something further to add. But as one could have expected, we have had a repetition of the statement that he has been making for some years that there is no economic planning on this side of the House, that the Government has no economic planning. I think he is really at a disadvantage because being an economist himself he doesn't perhaps understand economics, it is a failing of many economists. The Hon Mr Zammitt made reference to the speeches that Mr Bossano has been wont to make during the Budget debate over the years and I agree with Mr Zammitt up to a certain extent. For very many years those speeches were very interesting, they were worth listening to and for some of those who came in in 1972, who weren't even amateur economists it was, up to a point, a valuable lesson and highly worthwhile listening to Mr Bossano. But I am afraid that of late the situation has changed. He has really become a bit of a bore and he is not realising that you can get your message across in fifty minutes much more succinctly and much more to the point than in an hour and fifty minutes. I really don't know why he feels that he has to speak for an hour and fifty minutes or for two hours last year when the impact is no greater, certainly it

isn't any greater on this side of the House. We have an economic policy, Mr Speaker, it's a simple one, it is based - and the Hon Member's opposite laugh - on the three pillars, the three planks, as I prefer to think of them, well known finance centre, tourism and the Dockyard and an important contribution which the public sector continues to make and not the least the Ministry of Defence which is very welcome and which in the past assisted the private sector enormously because one of the fallacies today is that the private sector think that they are the only ones that are keeping the economy going and they are mistaken. The public sector continues to be important and the public sector saved the day for Gibraltar during all the years of a closed frontier and it managed to keep the private sector going and that is why today they are able to take advantage of the present situation. That should not be forgotten. It is a simple policy and what is more it is working and if we were being criticised during the years of the closed frontier and I have said time and time again and before Mr Pilcher's time Major Peliza used to make fun of me when I said that I was frustrated because development wasn't getting off the ground and if Major Peliza chastised me then, today one must be given some credit for having some vision, for preparing at least the groundwork so that when the scenario, when the climate changed all these projects can come on stream. I am not the architect because they probably would not have occurred but for the opening of the frontier but the frontier has opened, the projects are a reality, the economy is benefitting and Gibraltar generally is benefitting. People in employment are benefitting, taxpayers and consumers are benefitting and that is a fact of life. So our economic policies whether Hon Members opposite like it or not, regardless of what professional economists might say, our economic policies are working and they are bearing fruit. We don't say to the electorate 'Elect us at the next election. Give us power and we will tell you then what we are going to do, we will reveal to you then what our economic plan is'. We don't say that. We don't even tease the Chamber of Commerce after they have filled our bellies at a dinner, we don't do that. I think the Chamber of Commerce know perfectly well where they stand with us. But insofar as his economic plan is concerned, Mr Bossano really leaves, he has been behaving, I think I could best describe it as a strip tease artist and he has left Gypsy Rose Lee, that renowned strip teaser - I was going to say 'en panales', Mr Speaker, 'in nappies', but that would be a contradiction in terms. And why do I say that? Because he takes a glove off here, drops a stocking there, perhaps after the dinner of the Chamber of Commerce, I don't know I don't think any of us were there, perhaps he might even have disposed off his bra, we don't know, but one thing that he certainly didn't do was to stand stark naked before them in his G-string. That he hasn't done, he hasn't revealed himself fully. So we are all kept waiting and he is teasing everybody.

If he gets away with it at the next elections then he can stand in the G-string in No.6 if they return him there. But if he doesn't get away with it then he has miscalculated well and truly. He said that if he were to be Chief Minister he would write the speech. I have no doubt, we can see his ability with a few notes to address the House for an hour and fifty minutes, I don't doubt his ability to do that but I have told Mr Bossano in the past and I repeat it again, he ought to give me some credit for knowing a little bit about the workings of Government or the lack of workings of Government after fifteen years. I have told him before and I will tell him again, if he thinks that if he is ever elected Chief Minister he is going to be able himself to do all that he thinks he is going to do he is mistaken. He will need the civil service, he will need people to write speeches for him, to prepare papers for him, it is a fact of life because one of the things that we Ministers have to spend most time at and certainly the Chief Minister and I do that, is in meetings and when you are chairing various Committees or when you have meetings with different groups of people that demand to see you, you cannot write speeches and you cannot draft papers, your time and a very large proportion of your working day is taken up in meeting with people and in talking to people. Therefore what you do is you have your civil servants to advise you and if they are economists all the better, you get advice from them on the ground roots but the input that the politician puts in is his political philosophy. And whatever speech is drafted by any civil servant, if a Minister looks at it and it doesn't fit in with his political philosophy he is either going to ask for it to be redrafted, he will redraft it himself or put it into the waste paper bin, that is a fact of life. You have to get the civil service to work for you and with you, you cannot run the show yourself. Even if you burn the midnight oil you cannot do it and if you burn the midnight oil year after year you will just burn yourself out and then you cannot do everything that you wanted to do. That is a fact of life. I know and I have seen the enormous capacity for hard work which the Hon Mr Bossano has but, believe me, I think he is mistaken. I shouldn't be giving him this advice as his political adversary, I shouldn't be giving him what I consider to be good advice but it is a fact of life. And he shouldn't think of converting top civil servants into teaboys or the Financial and Development Secretary into his coffee boy, that would be a fundamental error. Even if they are all full-time Ministers and even if Council of Ministers meet every day of the week which would be a mistake to meet too often. The IWBP found that to their cost. You can get a lot of business done, Mr Speaker, in short meetings, it is just a case of how businesslike you are. Clement Atlee had a tremendous ability to run Cabinet and to get things moving, I think Mrs Thatcher does the same thing. I am giving him a bit of friendly advice, if he takes it to heart he might find his electoral chances

improve, perhaps in 1992. The trouble with Mr Bossano is, Mr Speaker, that he has created such an aura of expertise, of being such an authority on the economy that he doesn't seem to realise - and this is why I say that he is beginning to bore us - he doesn't seem to realise that he is speaking above the level of the heads not just of Members of the House, and I include Members opposite for all their nodding of heads sagely and wisely when they hear their master speak, and if he is speaking above the level of the heads of people here, just imagine what it must be like for the general public that today are privileged to hear him on radio. Should I remind him that the electorate does not consist of accountants? They might have found his speech yesterday very interesting. The electorate is not made up of economists and is not made up of other people who have a fairly intimate knowledge about the workings of the economy and that is why I think he is making a mistake because the message is not getting across, the theme of his speech is not getting across because he is speaking at too great a length and above the level of the majority of people. I think that the party faithful are astounded and amazed by his intellectual power and knowledge but the party faithful of the GSLP will not return him to No.6, they are not sufficient. He has got to win the support of other people and the other people are not just astounded by his intellectual capacity, that is not enough. They give him a very big personal vote but it is the other members of the party that he has got to carry, the seven of them, he can get 10,000 votes and if he doesn't get the eight elected he still will not sit in No.6, he will still continue to be Leader of the Opposition. The Hon Mr Bossano has been a Member of the Opposition now for fifteen years, it is a staggering record. I think there aren't many people in many Parliaments - perhaps some, yes, in some of the smaller islands where the Government has been in office for thirty years - but there aren't many people who have been Members of the Opposition for fifteen years without a taste of office. As I say, when I give him this advice I do so professionally as a school teacher who knows a little bit about how to get a message across to the unenlightened. The fundamental flaw that I find, Mr Speaker, in the analysis that he made yesterday is that the difference between the economy and the way that it is performing today is different to how it was performing at any time since 1969 and at any time since we, he and I, came into the House in 1972. Today there is economic growth and there are prospects of continuing economic growth and therefore the Government is able to plan, the Government can set itself objectives in the knowledge that it has a very fair chance of bringing those objectives to fruition if not in any period of twelve months then in the following period. That is, I think, the difference and that is why his thesis, I think, continued to hold good for very many years until perhaps the last couple of years. I want to say a little bit now, Mr Speaker, about the statement that he made regarding shop assistants and I think it fits in logically

with what I have said about the private sector. Today the private sector is making a much bigger and a much more important contribution to the creation of wealth in Gibraltar and to the revenues being collected by the Government. But he also made reference to what I had to say last year about the benefits of the policy of parity with the United Kingdom, a policy that we were against, a policy that we had to stomach and which we are today defending and have been defending for a number of years because we have seen the benefit in economic terms and, by and large, in terms of industrial relations. I think industrial relations would have been much worse throughout Gibraltar had we not introduced the policy of parity. But the recommendations of the Regulations of Conditions of Employment Board to the Government breach parity for shop assistants, that is based on the information that we have about the wages being paid to shop assistants in the United Kingdom. If that information is wrong then the matter ought to be clarified but on the basis of the information that we have, they breach parity and they breach parity seriously and what we don't want to see is a situation in which in the private sector one group of people breach parity, say, the shop assistants, the Government endorses that by accepting the recommendations and legislating accordingly and then that can be used as an argument by the trade unions to support claims in the private sector which would also breach parity. Because from there once that were to happen in the private sector I have no doubt, and in particular the faction within the TGWU that has never supported parity would really go to town. I think the TGWU would then be used in the public sector, inexorably would be used to breach parity and we would get into a situation of parity-plus in the public sector and any semblance of relative industrial peace will have gone forever. That is the analysis that I make and that we have made in the Government, we may be wrong in our analysis. If we are mistaken then there should be a dialogue about it and consultations about it in order to arrive at a fair and just solution. We do not want to deprive people of the wages that they are entitled to but it is not correct to say that shop assistants are the lowest paid members of the community. There are many employees in the public sector, particularly those whose salaries are age-related who are getting far less than what shop assistants get in the private sector. This is the disquietude that we have, this is the worry that we have and the reason why the Government has acted in the manner in which it has on the question of the wages of shop assistants. Mr Speaker, the Leader of the Opposition said yesterday, and I quote: "We support the development of Gibraltar as a finance centre". Let me tell him that although I will not attempt to define what a financial centre is, he has some way to go to convince the interested parties - and I don't mean political parties - that those are not just empty words. I think, Mr Speaker, that I have covered most of the ground that I wanted to cover and therefore I will sum up by saying

that the Government has and will endeavour to continue to create the right conditions for a competitive market. It is essential if we in Gibraltar are to fulfil one of our prime objectives and that is the maximisation of the benefits to our economy which the fully open frontier is afforded. We will continue when we are returned to office next year, at next year's Budget, we will continue to study further fiscal incentives, consolidating the position of the Government deriving some revenue benefit for the Government that can also be diverted to improvements in areas of social development. We are aware as I have said already, of the important role which the private sector plays and which will continue to have to play in the development of the economy of Gibraltar. The House, Mr Speaker, can rest assured that the Government's fiscal strategy next year will take all these factors into account.

HON M A FEETHAM:

Mr Speaker, I am tempted though I have persuaded myself listening to Mr Canepa, not to take the same course as Mr Canepa has done in speaking on the Finance Bill and spending all his time criticising Mr Bossano which I don't think was, in fact, a contribution of real substance in defence of Government policy, quite frankly. I will say that I will not accept any interruptions, Mr Speaker.

MR SPEAKER:

May I say, you are completely right. The person holding the floor should be heard in silence but it is my decision whether I call anyone to order. Will you please continue.

HON M A FEETHAM:

Yesterday the Chief Minister seemed to be rather aggravated by the fact that Mr Bossano had spoken for an hour and forty-five minutes and, in fact, went on to comment and said if he had spoken for another fifteen minutes he would have taken two hours and there has been further comment about Mr Bossano's lengthy contribution. I thought, quite frankly, it was a balanced contribution if you are talking about time because the Financial and Development Secretary spoke for an hour and a half and the Hon the Chief Minister spoke for half an hour which was two hours and Mr Bossano had to reply to both. So if Mr Bossano took an hour and forty-five minutes, I would say considering that they have got the Estimates and all the planning weeks ahead of them by the time they come to this House, I think that Mr Bossano was quite reasonable in having spent at least two hours in replying. The point that was made yesterday I thought was really not in keeping with the sort of standards that one likes to see in this House. However, why is it that Mr Bossano spent time in analysing the Government's Estimates and Government's

revenue raising measures? Why? Because he does and I think it has generally been accepted that he does a good job in trying to inform the House and come up with constructive analyses of what Government's policies are all about. The problem is - and that has become quite clear these last four years especially with an increased number of Members in the House of Assembly and therefore a more coordinated Opposition policy - it has become quite clear that there are serious differences about the economic strategy that one should follow with regard to Gibraltar. In that sort of situation it is obvious that Government should feel aggravated by Mr Bossano's persistence that we should advice Government that they should be taking this direction and not the direction they are taking. Let me say straightaway, Mr Speaker, that when we are on that side of the House I will welcome Government being as persistent and as critical and, in fact, I hope that the Chief Minister when he is the next Leader of the Opposition will spend as much time as Joe Bossano in analysing us and coming forward with constructive criticism because we will welcome it and it is up to us to accept the advice or not to accept the advice as the Hon Chief Minister now does. I think that answers that point. The thing that I have to draw the attention of the House to is that I find it deplorable that we should have a civil servant here who is ex-officio in the House, whose prime task is to put over Government policy and, in fact, he is as far as Government is concerned, clearly, they depend quite a lot on him and I am referring to the Hon Financial and Development Secretary who should limit his comments to Government policies and should not at any time shout 'nonsense' across the House. I think that is something which is deplorable because he is shouting 'nonsense' at political comments from this side of the House and I don't think that is, quite frankly, in keeping with the position that he has to maintain in this House. Perhaps he has been carried away by the fact that he wasn't so much a blue-eyed boy in his initial entry as Government FDS and seems to be a far more blue-eyed boy these days and consequently he feels that he has a right to shout 'nonsense' across this House and I think it is deplorable. Mr Speaker, as I have already said, one of the problems that we have and I think the general public in Gibraltar have had to bear with both sides of the House is that there are serious differences about how the economy should be managed. Consequently it becomes much more obvious that no matter what is said we tend eventually to repeat each other on policy and it can become, as the Hon Minister for Economic Development said, it can become a bit of a bore. But, unfortunately, there have been very fast and quite fundamental changes taking place in Gibraltar in the recent years and consequently the management of the economy and the future direction of the economy is something which has come far, far more to the front of Gibraltar politics and therefore it has become a much more serious issue to discuss. Mr Speaker, despite the Rambo tactics of the Hon Minister for Tourism

when he, from time to time, makes his intervention, it isn't something that one does on this side for the sake of doing it, it is because at the end of the day people will decide which way they feel Gibraltar should go. And now, Mr Speaker, having dealt with one or two of the comments that were made yesterday, there is no doubt that we are faced, in my view, with the last Budget before the elections. And though people have awaited it with expectation as an election Budget, the GSLP is not approaching it any different than we have done on previous Budgets. The 1987 Budget has been looked at on the basis of whether it strengthens the economy and not on the short-term popularity it may bring or not bring the AACR because this is the only consistent way one should look at the Government finances. Mr Speaker, the Minister for Economic Development said last year in the House that in 1985/86 the Government had advocated a policy of wait and see and that the forecasts made then were against the background of a closed frontier situation. As it turned out the new outturn for 1985/86 had, in fact, been much better - this is what he told us last year - and so in 1986/87 Government were in a much stronger position than in the previous two years. The Minister ended his speech last year by saying that the foundations had been laid for sound realistic economic planning to be seen as a permanent and assured feature of Gibraltar politics. In the light of that statement last year and in continuation of our differences on economic direction I obviously have given some thought, as the person that tends to shadow Mr Canepa, to what sort of economic strategy would be reflected for the first time by Government in this Budget. I had done that by the time the estimates came into my possession because clearly we needed an economic strategy to meet our future requirements in the new situation, Mr Speaker, because this being the third year since the frontier opened, it is not the first year, it is not the second, it is the third year. Though I have to admit, Mr Speaker, by way of making a political point, I held little hope in this respect and my fears - as I will explain - were well founded, Mr Speaker. When we have forgotten all the political speeches and we get to details, Government in the estimates and true to form give no indication to suppose that it is acting with complimentary changes as a Government to meet the new situation. In fact, the estimates presented in such a manner as to make them look good, confirmed on closer scrutiny that whilst matters may have changed and they obviously have changed with the effects of the opening of the frontier, Government's approach to economic policy, on the other hand, show no change to what it was before the frontier opened. One can only conclude therefore that far from laying foundations for sound economic planning, as the Minister referred to and as repeated again this year, the Government continues to plod along on existing foundations and this is a crucial mistake and this is where the differences lie between us. Mr Speaker, reference has already been made but I wish to reiterate. With the sustain and support

policy of Her Majesty's Government now clearly over and the continued decrease in MOD expenditure, Gibraltar requires an economic policy, Mr Speaker, which has little to do with the continuation of the economic structures of the past, one that meets the reality of today and the challenge of the future, a challenge that has been laid at our door of making our own living in the world, Mr Speaker, and this is a crucial aspect when we talk about economic strategy. There is, of course, nothing in the Chief Minister's speech which refers to a strategy. In fact, the only thing he mentions is that each Budget should respond to a plan, provide a sphere and set aims and objectives. And I am asking myself where does he say what the plan is, what is the sphere and what are the aims and objectives of the Government economic strategy? He doesn't. There is no doubt about it at all that the Gibraltar Government's finances have been sustained in part by one of the highest levels of personal taxation in Europe and that is why, Mr Speaker, when we talk about taxation we are talking about restructuring of the whole tax system. It cannot be done in isolation. The moment we do something in isolation we begin to create distortions and what is needed in the new situation is a complete restructure and that, again, is the difference that we have. It is no good the Minister for Economic Development talking about the national insurance contributions in UK and so on, and talking about the wide aspects of taxation. We are saying that the economy of Gibraltar no longer meets the requirements of a defence expenditure and consequently with a shift clearly there from public sector to private sector, we need a comprehensive view of our tax system. However, Mr Speaker, nothing can convince the people of Gibraltar that the time has not come for repaying to them the long years of high taxation, of subsidising the rest of the community through high taxation and the revised allowances announced in this Budget fall short of a just reward. Because, Mr Speaker, again, there is no denying that the new growth in the context that the AACR state and has been stated on more than one occasion, is as a result of their accepting the Brussels Agreement, a claim which is a complete nonsense, Mr Speaker. People are not seeing it in that context but they are seeing it in the context, Mr Speaker, that Government were previously saying in a closed frontier situation when the AACR accepted the £28m and the land package, that it was a generous deal in itself. The opening of the frontier from the AACR's point of view can therefore be termed as a bonus and that is the difference. A bonus which has not been so far reflected in a fair redistribution of income and wealth because that requires a fresh economic and tax approach to Gibraltar. The reality of the road the AACR is taking Gibraltar down in all aspects of our economic wellbeing is what this Budget and estimates require to be examined on. I think at this stage, Mr Speaker, by way of example of the lack of philosophy apparent in the Government's economic strategy, for it is easy to say one thing and do nothing or do something different, I wish to remind the House that in 1986 the Chief Minister

said in the Budget in relation to the Improvement and Development Fund, that it was the bare minimum and that it had been set at that level because Government had not had a reply from UK regarding the aid submission and that the actual reply had only been given in response to a question the previous day and that it was in the process of being analysed, which was fair enough. The indications, however, were that they expected to come with supplementary expenditure during the course of the year. Mr Speaker, not only have they not done that but they have practically not spent what they were planning to spend which was £64m as opposed to what they now said they have spent which is £4.1m, a shortfall in expenditure of £2.5m, a matter I will be dealing with further together with the estimated expenditure in the I&D Fund for this year when we debate the Appropriation Bill. The Chief Minister referred to, in passing, in his speech in the House yesterday, to the 1986/90 Development Programme and Mr Canepa has also re-emphasised some aspects of the Development Programme and projects. But we have to see the statements being made in this House today with what was Government's view as to the kind of development programme Gibraltar requires because there is a statement made by the Minister for Economic Development and Trade in 1985 and that was that Gibraltar required a £50m Development Programme to take Gibraltar into 1990's. This was published in the Chronicle. It says that the Government were preparing a £50m Development Programme as a requirement to take Gibraltar into the 1990's. These £50m, Mr Speaker, which the Minister said was required is in sharp contrast with the figures he gave me at the last meeting of the House which was £20m. A reduction in the envisaged programme of £30m. Is it, Mr Speaker, that Government now thinks that they don't need £50m or is it that they do need £50m but have not proceeded with it because they cannot afford a £50m programme? This needs to be explained by Government and no explanation has so far been given. I doubt whether it is that the Chronicle was misquoting the Minister because otherwise the Minister in his usual efficient manner would have written to the Chronicle and denied what the Chronicle was saying. Mr Speaker, there is a clear indication in the Improvement and Development Fund expenditure in this Budget, coming as it does at the end of their term of office that if the AACR get back into office we can expect them to do only this kind of programme and nothing else. I wish to say, Mr Speaker, that we cannot support this Development Programme, not because we think it may contain anything unnecessary, that's not the point and doesn't need to be done but because it does not contain anything new, Mr Speaker, and again this is where we begin to part ways. It is not an indicator of the kind of impetus that the Government of Gibraltar needs to give the economy. There is no indication of that at all in the Improvement and Development Fund. Therefore, when we are elected into Government at the next elections, we have to make it quite clear that we shall be coming in with an investment programme of our own and consequently we cannot give the impression

to the public today that if we are elected we shall be carrying on from where the AACR has left. The only thing is that the FDS in looking at the income side of the Improvement and Development Fund, referred to receipts from the sale of Government property. Mr Speaker, the income of the Improvement and Development Fund seems to rely very heavily on the sale of land and houses to sitting tenants. And, again, Mr Speaker, we do not support the present AACR proposals in this respect. We think it is wrong for the government to be seen to push their proposals now when they have only a few months to go. Quite frankly, Mr Speaker, they had the right to come and do it after the 1984 election which they did in the case of Shorthorn Estate. If they had gone ahead, Mr Speaker, let me qualify, and sold Shorthorn Estate and sold other properties at that time, as far as we are concerned they had a mandate and therefore a right to do it. But having failed to sell in three years, to attempt to sell them a few months before the next election is completely wrong and we shall seek to discourage people from buying them.

HON H J ZAMMITT:

If the Hon Member will give way. I think he is wrong, Sir, he has got the facts wrong. Shorthorn Estate has been sold.

HON M A FEETHAM:

I have said so, I have said Shorthorn Estate has been sold.

MR SPEAKER:

If you do not give way you cannot reply to what the Minister has said.

HON M A FEETHAM:

I shall repeat it for the benefit of the Member opposite. Quite frankly, they had a right to come in and do it after the 1984 election which they did in the case of Shorthorn Estate. If they had gone ahead and sold Shorthorn Estate and sold other properties at that time, well and good because as far as we were concerned they had a mandate to do it and therefore a right to do it. But we are questioning that having failed to sell them in three years, the rest of the properties which are for sale now, to do so a few months before the next election is completely wrong and we shall seek to discourage people from buying them.

HON H J ZAMMITT:

If the Hon Member will give way. I am very grateful to the Hon Member for giving way, Sir, because he is getting his facts wrong. I don't think it is proper for him to say that the AACR is introducing a change in the Development Aid Ordinance several months before an election. In fact, if he looks at Mansard of 1985, again the Budget Session, Mr Speaker, he himself had crossed words with the Minister for Economic Development where the Hon Member was not satisfied - I am referring to page 54 of the Budget Session on the 26th March, 1985 - where he was not satisfied with the amendment that the Hon Mr Canepa had brought in and then Mr Canepa actually clearly states that the amendment is to encourage home ownership. Mr Speaker, that we haven't sold is one factor but it cannot be alleged that the Government is introducing legislation now to have a popular feel amongst the electorate on home ownership. We have been at home ownership since the 1970's, Mr Speaker. I think he is giving a different colour which is less than being fair.

HON M A FEETHAM:

Mr Speaker, I am amazed because I haven't said anything about the Development Aid Ordinance at all. What I am talking about is that Government now are estimating to sell land and houses to the tune of £3.1m and we are questioning the home ownership scheme because they have sold Shorthorn and they could have sold other properties but what they are doing is they are beginning to sell now. I am not talking about the Development Aid Ordinance, I am questioning the wisdom of doing this and, in fact, I am saying that we shall discourage people from buying them. And why are we doing that, Mr Speaker, having now corrected the Hon Member opposite? We cannot accept this because when we are elected we should not be stuck with proposals which the AACR have put forward which we do not think make sense either for the Government or for the tenants, quite frankly, because we believe we can give the tenants a better deal. Therefore, Mr Speaker, I have made that point because what confidence, we have to ask ourselves, what confidence can we have in the Improvement and Development Fund expenditure when it seems to be totally reliant on the success of sales of Government property. The Government, Mr Speaker, has got as income a situation where from the local funds we are talking about £5½m and from that £5½m, £2½m is money raised from borrowing and £3m from selling land and houses. Mr Speaker, does that mean that the AACR are really going to spend £8½m in the next year? Suppose that the sale of properties does not go as planned, that means that the whole Development Programme is cut in half so, in fact, it is not a Development Programme which seems to address itself to the problems of Gibraltar's needs. It is not a Development Programme that seems to meet the requirements that the Government

said was required two years ago of a £50m Development Programme and it is certainly not a Development Programme, Mr Speaker, that can be guaranteed to be spent because the money on which it is dependent is not money which can be guaranteed to come in. Mr Speaker, if there is no money for housing here, what happens if the money from the land and property sales starts faulting? The Financial and Development Secretary is surely aware that in looking at last year's picture in home ownership sales Government expected to raise a total of £0.9m. The breakdown last year was given as follows: in 1984/85 - £0.08m; in 1985/86 - £0.2m; a total of £0.3m and they said that they were leaving £0.6m for 1986/87, bringing the totals I have already said, to £0.9m. In contrast this year, Mr Speaker, the estimates are raised to £0.4m and they now bring in their estimates a total of £1.3m. However, the breakdown - this is a curious thing and I think I know the answer but I will expect the Hon Financial Secretary to give it later - however, the breakdown he has given this year shows no revenue sales in 1984/85; 1985/86; 1986/87 and, in fact, they are estimating in 1987/88 to raise the £1.3m and I have to ask is this new figure of £1.3m on top of the £0.9m and if so where has the £0.9m gone as projected last year? What happened with the estimated sales for 1984/85 and 1985/86 totalling £0.3m? On the other hand, Mr Speaker, if the Government is now saying that the £0.9m has not been raised through the sale over the last three years, how can we expect the Government to raise through sales £1.3m in one year? And, if so, Mr Speaker, quite frankly, for what? If Engineer House is going to cost £35,000 per unit, is Government saying that they are going to sell £1.3m of houses to construct forty-plus units? Does it not make more sense to consider that Government borrowed £2.3m in 1985 to cover recurrent expenditure, a departure from the previous policy of borrowing to use for development projects, the FDS talks now about further borrowing if the sales fail to materialise as envisaged or in the projected time but, Mr Speaker, there is no denying that the £2.3m is still in the reserves and he is talking about borrowing. Should Government not proceed to put the £2.3m in the Improvement and Development Fund as we have said on previous occasions and start building houses without having to rely on income from sales of Government housing stock? At the very least the risk in this approach is minimal and if the money, Mr Speaker, from sales does come in, well and good and at least we are starting to build houses, Mr Speaker. Mr Speaker, insofar as income from the sale of land is concerned, I can well understand the statement the Chief Minister made, in page 3, yesterday when he said: "To some extent, renewed private sector investment is currently experiencing an early burst which should eventually taper into a more settled pattern. Additionally, as the estimates of expenditure reflect, this surge in activity is accompanied by increased demand for public sector services, notably in infrastructure. It is therefore necessary not to be overcome by a false sense of over-optimism". I agree absolutely

with that and it is reflected again this year because if we talk about income from the sale of land, Mr Speaker, this is where we begin to talk about infrastructure provided by the public sector, if we can discard the area of the Vineyard which was sold for £100, Government is clearly putting on top money for the services to this development but on the other hand, to be fair to the developer, it is a development where Government as well were putting limitations of prices and consequently in that sort of package there is an argument in favour. However, Mr Speaker, what about the other areas, this is what we have to analyse, what about the other areas? They are supposed to be for commercial development. What is Government going to get out of this for the land if, Mr Speaker, they are financing the development programme with the sale of land and property and from borrowing and the contribution from the sale of land is all spent back on providing services, etc for the developer, the infrastructural set up, Mr Speaker, free of charge and that may not be enough because on top of that we may have to borrow money which the public and the taxpayer has then to service interest and repay. What is Gibraltar getting back for that land, Mr Speaker? Are we giving the land away for nothing in practical terms and, if so, why is Government doing it especially when they know that we are working under a false sense of optimism, Mr Speaker? How can we be putting money away from the sale of land for development and on the other hand spending money to provide the developers with services, Mr Speaker? It certainly makes, to some extent, a contradictory situation when we talk about the restructure of the Development Aid Ordinance which has already been tackled by my colleague and Leader. Because, Mr Speaker, if we have an economy which the Government admits is overheating, a statement made by Ministers opposite, the economy is overheating because there is enough development now to keep the construction industry fully employed, is Government not responsible for that situation? Are they not responsible as well for the fact that in that rush of development that they have not spent their own money, their own estimated expenditure for last year because of the overheating. Last year, Mr Speaker, Government introduced new projects of which £2.5m was to be spent in 1986/87, if I have got my figures right. In fact, as it has turned out, they have only spent approximately £200,000 out of £2.5m because of the overheating, Mr Speaker. Do they intend to spend it this year in the light of what has happened last year and in the light of the change in the Development Aid Ordinance which has been introduced in this House? If the situation is not going to change why have they earmarked money for expenditure at all? I have to make that statement, Mr Speaker, because I will be saying exactly the same thing next year from this side if we are on this side of the House. Do they really believe they can spend it, Mr Speaker? Much has been said about the construction industry. I think Government should give some thought to the construction industry, quite frankly, and show that they are in a position to exercise some control over

future construction. Because we now have, of course, over 1,000 employees in the construction industry what we should be asking ourselves is, do we want a construction industry of more than 1,000? And is it Government policy, which they haven't said at all, that this is the correct size for the construction industry? Does Government believe it should be 2,000 people? Is there any limit at all in Government's view or policy as to the number of people that should be employed in the construction industry because that is a vital area where we are likely to be faced with enormous problems in the future and I think we need to have some policy on manpower requirements, Mr Speaker. I put it to you, is it not more sensible to operate Gibraltar's development in view that we are overheating on the basis of giving long-term employment to a reasonable and realistic number of people with good conditions of work where we can for the first time begin to do away with that myth that the Gibraltarians will not go into the construction industry because it is not the sort of job they would like to do. There are lots of young people, given the opportunity and the incentive and it is not just giving them a job, it gives them training, it gives them good conditions of work, it means having continuity and security of employment which has been lacking in the construction industry because of the closed frontier situation. If we are now thinking that that is a vital area of our development, it is an area where we can because we are not talking about a lot of youngsters, it is a problem which affects the house where that youngster is unemployed and it is a big problem for them and we are talking, perhaps, of forty or fifty youngsters that we can give proper training to and we have to guarantee them good conditions of employment. And it cannot be an industry where we have jobs going for three months and then redundancy and then unemployment for three or four months and then back again, it cannot be done. It can be done, however, if we have proper manpower planning and we have a stable construction industry and that is where Government has to give policy direction. They haven't said anything at all, Mr Speaker, about what should be the limit and what should be the basis of future employment in the construction industry. I think, considering the vulnerability that we are faced with in Gibraltar in many aspects, primarily political, we cannot get away from that fact, that we have to consider when we are making economic decisions that Gibraltar, to some extent, is a small place which is vulnerable and it is vulnerable when we have got a neighbour despite all the overtures, that will try to do everything possible, as I will give some examples later, that will do everything possible to undermine Gibraltar's economy. Democracy in Europe extends only to the national interest, once you get outside the national interest it doesn't matter about anybody else but we are faced with that problem and consequently I think, Mr Speaker, that it will be better for Gibraltar, and I make it quite clear publicly, that rather than importing labour on short-term for a year or eighteen months who then will, under Community law, Mr Speaker, if they are Spanish nationals, acquire rights to social security benefits

in the long-term, rather than that, Mr Speaker, we should have a different policy as I have tried to outline previously. Mr Speaker, we should learn from experiences and we have got the experience of what happened when the construction industry overheated some years back and it became vulnerable to economic pressure and it wasn't a direct economic pressure, it was a fact that there was a rundown and it was the fact that the British Government for their own economic consideration as to Gibraltar's future economic direction started to put the clamp on development aid for Gibraltar and what happened? The whole construction came to a grinding halt completely and whether we like it or not, I have to say that we were to some extent fortunate that during that period the economy lost 1,500 jobs and because they were, Mr Speaker, quite frankly, Moroccans who went off and getting the thirteen weeks unemployment benefit and we were able to sustain the situation. It is a different kettle of fish now and that is where we have to seriously consider what we are doing because it is a new ball game that we are playing. We are talking about multi-nationals, we are talking about Community rights and we are talking about defending Gibraltar's national interests however small they are and employment is an area which will be vital to sustaining Gibraltar's economic independence. That is why I have said after having had the experience of the past let's not overdo it because somebody will regret it in the long-term and the problem is that some of us may not be around to take the responsibility for it but there are a lot of young people who could be given an opportunity if we persevere with them because I know it also requires a change of attitude on their part, I can understand that. It is our responsibility to ensure that we are successful. I think, Mr Speaker, that a policy statement from Government on this is required. Mr Speaker, I have to ask them if this Development Programme which the Government now is pursuing and the line they have taken is compatible with taking into account the private sector development and UK development expenditure, the three things. Is it compatible with the size of the industry that we have today or does it mean that the industry will have to get bigger? That is another thing which Government has to consider and reply. Insofar, Mr Speaker, as the comments which have been made about Gibraltar's competitiveness vis-a-vis Spain and the question of sales having improved and import duty having gone up and so on which is obviously a hallmark of more movement of people, we accept that, we didn't accept anything different was going to happen, Government has not made any move on import duty. I can understand why they haven't done so. If it means that three million people are coming through the frontier and Gibraltar clearly is developing as a shopping centre, clearly, it is not developing as a day visit because they are going sightseeing, we have a statement made which is quite right, the statement made by the Hon Minister for Tourism that it is unfortunate that people don't see more of Gibraltar's historical sites and, in fact, there has been a decrease in receipts in that aspect. It is

clear from these figures that Gibraltar is developing as a shopping centre and there is no reflection here at all that Government wants to maintain the edge generally in trade in that area. The week before last, Mr Speaker, there was an exhibition - I don't know whether any Members opposite went - in the Holiday Inn where they gave us information, they informed us about the Sotogrande shopping centre. One of the arguments that was being used there and I think to some extent the arguments were being forced by the fact that His Highness Prince Charles has visited Spain, one of the ideas behind that visit is to increase British exports to Spain, there is no doubt about that. Of the arguments that was being used was that this shopping centre was going to be a major development for the sale of British goods on the other side of the frontier. And, in fact, they are so optimistic about it that they were inviting Gibraltarians, businessmen in Gibraltar to set up their businesses over there. During question time somebody asked: 'Gibraltar will still have the advantage because of the tariff structure that Spain has to endure through the transitional period'. And the answer was given quite clearly: 'By the time that project is finished which will commence in the near future, the tariff barriers will have been removed'. I ask myself, what timing do we have in order to make a move in the area of trade to make Gibraltar sustain itself in the competitive element with Spain before this sort of thing begins to happen on the other side? Today, well and good, today we are saying three million people are coming into Gibraltar and consequently import duty has gone up and we see no need to make any move on import duty. But it is a vulnerable situation because it could be one million tomorrow and if the shopping centre is what makes people come to Gibraltar, primarily, which is a fact, it would mean that if they have got British goods on the other side of the frontier as competitive as Gibraltar people are not going to come into Gibraltar and we will lose revenue in that respect, it is clear, how much we will see, we are going to lose revenue because coming to Gibraltar, a two and a half hour ride, finding the problems that we have in Gibraltar in circulation, congestion and so on, to buy when they have got the goods on the other side, is something that quite frankly we need to give very serious consideration. We see that no measures have been taken this year in the Budget, fine, but I think that it is something that needs to be considered very seriously by Government. Mainly, too, because the Hon Minister for Economic Development told us a little while back in his speech that it has been of benefit to Gibraltarians that as consumers they have been able to buy cheaper and that to some extent has been welcomed. The same argument will apply when the situation changes insofar as this complex is concerned. Mr Speaker, having made those points we consider that the Government are not coming to the House with a realistic Development Programme and that is quite clear and therefore there is little comfort that one can draw from it for the next twelve months. Since everybody is talking about the elections

and who will be elected and who won't be elected, I think that the only answer to that is that the sooner the Chief Minister calls the elections the better or in the event that a GSLP Government will be elected this Development Programme, let's be clear about it, will need a complete reappraisal, there is no doubt about that. It will have to be more realistic and, above all, in keeping with Gibraltar's potential and future needs which is now a matter of serious urgency, Mr Speaker.

HON G MASCARENHAS:

Mr Speaker, I would like to say a few words on the general principles of the Bill and reserve the right to speak on my Departments in the Appropriation Bill. I shall certainly attempt to be brief in order to go home for lunch. Mr Speaker, I was very disappointed with the Hon the Leader of the Opposition like my Hon Friend, Mr Canepa said earlier. I look forward to his contributions, occasionally there is something that we on this side take on board which makes sense, unfortunately yesterday he left us in a state of limbo. One can accept that the Leader of the Opposition should consider this Budget unfavourably, we cannot expect otherwise from Members of the Opposition, but whether we take certain measures or we don't take them, I think we would come under the same rhetoric of nearly two hours as we did yesterday. Particularly since the glimpses of the still very secret economic plan that we have been getting lately, point to an economic direction which certainly differs from our economic direction. It certainly does not fit with our way of thinking, our economic way of thinking. That makes it even more sad that the Hon Leader of the Opposition yesterday could not find much good in the Budget that we have presented this year. The different management approach of the economy by the party in Opposition is certainly going to give us a few surprises in the future and if as they state they intend to make it more public in their manifesto, then we are all looking forward to that. But it would have been very plausible yesterday for the Hon Leader of the Opposition to have, at least as he has done on many other occasions, given credit where credit is due. This year's Budget, Mr Speaker, is one which is excellent, progressive and certainly a clean Budget. I say clean because as the Chief Minister said yesterday it responds to the need to improve economic conditions and certainly not to win votes. The 'Panorama' news weekly published yesterday I think confirms the general view in the street that the Budget cannot be described as an election Budget after all. Whether the Leader of the Opposition and certainly the Opposition as a whole like it or not, this is good management, good Government and an honest approach to politics. We have carried on where we left off last year. We have tried to improve the lot of the people when we have been able within the financial constraints and certainly this year by at the same time making substantial contributions to the I&D Fund in order to improve the public services to the people.

We have introduced various measures which, although small when you take them in the global side of this year's Budget but, nevertheless they will have an effect on many people and I think it will alleviate them to some extent. For example, the qualifying limits of income for the over 65's which we have increased substantially from £3,000 to £4,500; the blind persons allowance from £150 to £250; the apprentices allowance from £200 to £250; and tax deductions for the maintenance of children where alimony is paid. Surprisingly, yesterday the Hon the Leader of the Opposition did not mention the changes or the proposals being made to estate duty. I do not recall at all in his two hours speech, he might correct me, he did not mention it. I am surprised because this is something that affects us sooner or later and what the Government have done this year is very progressive. If anybody has been affected by a death recently or not too recently, he will know that the hardship that this causes many people is quite substantial and really when you are talking of people of moderate means it is very, very bad that people should be affected in their pockets when they can least afford it. We have increased the first threshold where estate duty will not be paid to £20,000 and we have taken, as Mr Canepa said earlier in his contribution, that the matrimonial home should not form part of the estate of the survivor. Not only that but the threshold of the table has been taken to such an extent where the moderate estates will not suffer heavy taxation until the level of estate gets to the stage - if I remember correctly, I am quoting from memory - between £400,000 and £500,000 which I think will put the majority of people at a level which will not create hardship for them. I am surprised that the Hon Leader of the Opposition, I must say so again because he is usually very humanist in his outlook and I am surprised that he has not made any mention of this. Certainly he must give us credit for that.

HON J BOSSANO:

If the Hon Member will give way, Mr Speaker. I understood the statement to say that this was only a temporary measure that the Government was taking and that they would be coming back with a major restructuring of the system of estate duty. That is how I understood the statement. If that is the case, when they come up with the restructuring I will react to it.

HON G MASCARENHAS:

Mr Speaker, that is not the case. I honestly don't know why the Hon Leader of the Opposition gets that impression.

HON J BOSSANO:

Because that is what the statement says, Mr Speaker.

HON CHIEF MINISTER:

What was said to be done outright was to leave estates under £20,000 the non-payment of any estate duty. The rest of the figures would be given later because it was rather complicated. There is no conflict about it.

HON G MASCARENHAS:

Mr Speaker, this year's Budget, the same as last year's and the same as the year before, is an egalitarian Budget. The monthly payment of PAYE for slow payers will be speeded up. The Commissioner will be empowered to institute legal proceedings on his own assessment. There is no reason why PAYE money which is owed should be retained by any employer, this is totally immoral and is totally unacceptable to Members on this side of the House as I am sure it must be to Members on the other side of the House.

HON J BOSSANO:

If the Hon Member will allow me to interrupt him, I am sorry, I don't want to cut his speech but I think for the sake of the record, the statement by the Financial and Development Secretary says: "The Government is to carry out a review of the provisions of the Estate Duties Ordinance with a view to introducing a progressive system, that is to say, where duty is charged at a higher rate" and so forth. "As an immediate measure the amount of estate on which no duty is charged will be raised to £20,000". We understood that statement to be that what we are getting at the moment is the immediate measure and we have still got to await the other thing mentioned in the first paragraph. If that is the case we will react when we know what it is, not before.

HON G MASCARENHAS:

But, Mr Speaker, what I meant to say was that I would have hoped that the Hon Member would have reacted to the £20,000, with £10,000 these days very few people will get away without paying a penny in estate duty. Anyway, be that as it may, Mr Speaker, finally, I would like to stress something that has been uppermost in our minds during the deliberations in the weeks preceding this Budget Session. We have tried to maintain a proper balance between the every day living of the people of Gibraltar and the new opportunities which are arising and which will continue to arise. We are conscious and it is imperative that we do not lose sight of this, we are convinced that we have succeeded in maintaining a right balance in what is good for Gibraltar's future prosperity and what is the people's right to enjoy a

superior standard of living in every respect, in social terms and in economic terms. This is the aim of the Government and if I may say so, we have succeeded beyond what many of our opponents expected. It is important that the cake should be fairly shared and in doing so and at the same time making improvements to all the public services as shall be seen later on in the proceedings. Mr Speaker, what we started last year has been taken further this year and it is certainly our intention to take it even further next year.

MR SPEAKER:

Perhaps this is an adequate time to recess until this afternoon at 3.15.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

I will remind the House that we are still on the Second Reading of the Finance Bill and I invite any contributor who wishes to take part in the debate to do so now.

HON J E PILCHER:

Thank you, Mr Speaker. In delivering my contribution on the general principles of the Finance Bill, Mr Speaker, I will try to be brief because I know how much it upsets both the Hon and Learned Chief Minister and his colleague for us to give long speeches. I will try as well not to bore him because although that is more difficult since I have and, in fact, the Opposition have been expounding the same message year after year with it falling in deaf ears but I suppose after a while it does tend to get boring for both sides of the House. Certainly, although I am only a Member since 1984 I was, in fact, one of the members of the general public who did attend the House of Assembly before 1984 and I also remember the congratulations from that side of the House at the speeches of the Hon Joe, the then 'Lone Ranger', as he was called this morning, by the Members on the Government benches. It has changed since 1984 not because the speeches were different, Mr Speaker, but what was different was that Mr Bossano was no longer the Lone Ranger, Mr Bossano was backed by a team in Opposition threatening the Government.....

HON A J CANEPA:

A posse.

HON J E PILCHER:

A posse, yes, threatening the Government in their position as Government and I think that is what has changed. Since 1984 we have seen criticism on that side of the House not because Mr Bossano's speeches got any more worse or any more boring, because I remember he used to speak for over two hours, I remember if I am not mistaken, in 1983 or 1982 when he spoke for nearly two and a half hours and all that was levied from that side of the House was praise at his economic brain. That has changed this time round, obviously, and the same criticism from speech after speech from that side of the House because, in fact, we are now threatening them in a way that the AACR have never been threatened before. Coming back to the general principles, I think I have to mention - it has been mentioned, in fact, by my Hon Colleague Mr Perez but I think I have to mention it again because I have done this certainly over the last two years, in 1984 I was a newcomer and I take it that perhaps that year was the year of apprenticeship if we can call it that, but since 1985 we have been making the same points. I think it is a point which marks a difference in the way people see the dealings of the House of Assembly. I think Mr Featherstone in 1985 together with Mr Mascarenhas, spoke of the goodies that the Government were going to give away and they also spoke - and they have again this year - I think, again, it was Mr Mascarenhas this year, of the situation of the GSLP being prophets of doom. I think this is where perhaps, and I have, for example, today I don't know if Members opposite have heard comments by the general public on the Budget and I think the underlying comment has been 'disappointing', 'we thought there was going to be more', 'not enough', 'in an election Budget we thought it was going to be different', 'with the boom that is occurring in Gibraltar we should get more'. This mentality, Mr Speaker, has been created by the AACR Government because they continually call us prophets of doom and in doing so there are two elements that happen. One is they disassociate from the reality, the reality which I will be bringing them back to in a moment when we analyse the accounts, page 5, for 1987/88, but what they also do is they make the ordinary man in the street believe that everything is rosy and everything is fantastic and the boom has occurred and there is enough money.....

HON A J CANEPA:

If the Hon Member will give way, I am very grateful. I counted seven persons who were interviewed on radio after the 1.30 news. One of them I regard as irrelevant, Mr Tony Loddo is not an independent person, he is irrelevant, his views are of no relevance.

HON J E PILCHER:

Why?

HON A J CANEPA:

Why are they not relevant?

HON J C PEREZ:

He is a member of the public.

HON A J CANEPA:

He is as much a member of the public as Mr Aurelio Montegriffo would have been a member of the public and I would not have regarded the views of Mr Aurelio Montegriffo as being those of an ordinary member of the public, so that leaves six. The last three were quite happy with the Budget, the first three were not. I made it my business to count the opinions because that is important and I think that the interviewer was very good, very professional in presenting a balanced point of view.

HON J E PILCHER:

Be that as it may, Mr Speaker, I still think that the majority of Gibraltarians, I said that because it highlighted it in mind during lunch time but I still believe that the majority of people are very disappointed at what they see is a supposed boom situation in which the Government promised in 1985, in the Budget of 1985 were announcing that they would be very shortly giving out the goodies, in 1986 they gave out £3m on income tax but then everybody was expecting that the boom would materialise this year in an election Budget and this has not happened. There are two factors which I think refer directly to a Budget. One is the Finance Bill and the other one is the Appropriation Bill. I will not comment on the Appropriation Bill because obviously we will have a full debate and Members of both the Opposition and the Government will have a chance to speak but I think I individually take the Budget as a whole and it is not only whether you lower direct taxation or increase direct taxation or you do it with indirect taxation, it is the package in both expenditure and revenue that creates the economic base for the following year. We have not discussed the Appropriation Bill yet but there are already pointers that in areas which, obviously, will be highlighted by other Members of the Opposition, medical services, housing and a lot of other factors; there are not any substantial improvements as a result of which the society in which we have been living in in the last three years will continue to be the same for the next year. The fact that somebody has £4 or £5 more in his pocket does not

make a lot of difference when you look at the whole scenario of what is living in a society. The scenario that was created and I think I will take the Members back to last year and, in fact, I will read what I said last year because it hasn't made, in my mind certainly, a lot of difference and I do accept that sometimes the Hon Leader of the Opposition is a bit technical in his explanations and therefore he might lose some of the audience, in fact, this year we have a much greater audience than we have ever had but irrespective of that, he does sometimes lose the audience but I do not because I tend to bring down the situation to very, very concrete examples and I will read what I said on the Finance Bill last year: "And we were talking mainly, when we were talking about last year, about the underestimation in last year's Budget, which we consider is very important because I certainly think that it is a political manoeuvre by the Government. The underestimation is a political manoeuvre by the Government to get us to be the prophets of doom because it is how you present the thing that you get a reaction from people. If I were to say to somebody: 'I have just had an electricity bill for £30 and I only have £15', the person would have every right in the world to say: 'Well, he cannot afford the electricity bill'. But if then I say two months later: 'No, I had £50 extra in the bank', then obviously the scenario has changed and this is what the Government are doing year after year and I will give you an example, not in the import duty because in the import duty, I accept that last year was an area which I certainly think was completely underestimated, but the excuses of Government can, if anything, be that. Let us look at the income tax, Mr Speaker. For 1983/84 the Government raised £20m for income tax which was nearly £1m more than they estimated for. In 1984/85 they estimated for £19½m and they got £20½m. In 1985/86 they estimated for £21½m and they got £22½m. This year, Mr Speaker, the Government estimated for £21½m and ended up the year with £24m. Mr Speaker, it is not a question of being prophets of doom, it is a question of reacting to the papers laid before us by the Government party. If we analyse page 5 of the Estimates this year and we take away the borrowing rate that the Government has included since last year into the financial statement, we see that last year the Government ended the year, in 1986/87, with a deficit of £384,000. This year the Government - when I say this year I mean 1987/88 - after you take away the £1m of the borrowing capability we end up with £1,397,000. I would like the Financial and Development Secretary in his contribution to let us know what is the forecast deficit as a result of the Finance Bill. Because if the Government say that they are going to give back nearly £3m then, obviously, that will come, £4m according to the Chronicle, but we all know that we are talking about nine months, we are talking about nine months and we are talking about nearer £3m - £2.7m or £2.8m - then that must be taken into account and we will end the year, according to

their own Government Estimates, with a deficit something in the region of £1½m. That is what we react to. We react to these figures put in front of us and if the Government is telling the Opposition that at the end of next year we are going to have a deficit of £1½m then we can only say 'well, that is not a healthy state of the economy'. If you come back next year and say 'instead of having £1½m deficit we have £5m surplus', well, we cannot react next year to something that we have already said this year but the next year you do exactly the same because you have been doing it successively for the last three years. I think what certainly is unfair is that the Financial and Development Secretary is playing around with the figures so as to hide away the real value of governmental assets in the financial statement. Of course, we then have what I myself call reverse logic, it could be 'Con la verdad te engano'. The Hon and Learned Chief Minister saying 'There are those who may find it irresistible to say that we have produced a Budget geared simply for an election'. I leave it to the people of Gibraltar to decide whether if the financial position of the Government is as it is shown in the Estimates, whether the Government can really afford £3m/£4m in tax cuts to end up the year with £1½m deficit. That is something which the Government have to explain because if they didn't do it and this was the point made by my colleague, the Leader of the Opposition, yesterday, if they didn't do it in 1984, if they didn't do it in 1985, if they didn't do it in 1986, well, they did it in 1986, but they haven't done it in subsequent years, why is it that this year we are giving away £3m/£4m and end up with £1.5m deficit? The reality is that behind it all the Government know very well that by the end of 1987/88 they will probably be getting quite a substantial amount of additional money than they estimated for under page 8 in the summary of revenue. Mr Speaker, I would now like to go on to the comments made in the statement of the Hon and Learned Chief Minister yesterday. I do agree with the comments made by Mr Canepa that it doesn't matter who writes your speeches or whether you write speeches or you speak off the cuff, the only thing that matters is that you mean what you say and that the subject reflects what you have to say about it. There are some like myself who prefer to speak off the cuff, others prefer to have copious notes but the reality is that what we cannot get away from is the fact that what he said must reflect what the person wants to put across. The Chief Minister said: "The formulation of a Budget is not solely an exercise in financial reconciliation and discipline, it goes much further. It is an exercise in the management of resources to create and distribute income and wealth", etc, obviously referring to, which is something now that everybody wants to jump on the bandwagon. Everybody criticised the fact that we have an economic plan and don't say to people what the economic plan is. Obviously, democracy in reverse because I would like anybody to

tell me what prospective Government or what Opposition party give away all their secrets before they enter and say to people how things are going to be done. What they do is they give out the general principles of their policies. How those principles are going to be implemented is something that the Government do not reveal until they become Government and come here. In fact, in today's session, in the Finance Bill, this is when the Government gives away the secret of its economic plan, in the Finance Bill. They don't do it when they are in Opposition. And it surprises me to see a person like Mr Canepa who I respect, who delves in politics because he does mention people like Atlee and people like that who have been uppermost in politics and who says that Mr Bossano has never revealed himself in his G-string. Well, we might not, as a party, have ever revealed but we have said much more than the AACR ever have because if I remember correctly in the last election we went to an election with a series of policies. We intend to go much further this time round but if I can remember correctly all that the AACR went round saying was 'If you want Hassan vote for the eight'. In fact, that is the same message that the Hon Doctor mentioned on television when he showed the picture of the Hon and Learned Chief Minister when he said 'Would you not have a person like this leading the Government?' I have nothing against the Hon and Learned Chief Minister, he might have won the election but the reality is that at no time did Dr Valarino, Mr Perez, Mr Mascarenhas or anybody defend Governmental policies. I did not see the political broadcast by Mr Perez because I also was watching Real Madrid but I did tape him and it is surprising that the Hon Mr Perez has not spoken on the Finance Bill because he seemed to be giving the audience a measure of this strip tease effect, he seemed to be taking his stockings off and he said 'you will see what we have in stock for housing when the Budget comes'. Well, the Budget is here and there is nothing for medical services and there is nothing for housing. The reality is, Mr Speaker, that when the Hon and Learned Chief Minister spoke about that he spoke about, obviously, an economic plan. The Hon Mr Canepa called it objectives. Well, it is one and the same thing, whether it is called an economic plan, it is called objectives or it is called your policies or whatever, the reality is that the Government have as a duty, we think and now the Government think because over the past two years they have been mentioning it, to come to this House and give us an insight as to what that policy is, as to what that economic plan is or as to what those objectives are. In two of their main pillars, if we remember in the 1984 election they had two pillars: tourism and Gibraltar Shiprepair. Two of those areas they have mentioned, in passing, and they have not said what their policies are. The Hon Mr Zammit, Minister for Tourism, got up to intervene in the Finance Bill and I honestly thought he was going to say something about tourism.

HON H J ZAMMITT:

Mr Speaker, if the Hon Member will give way.

HON J E PILCHER:

I will not give way because I remember we had the same argument last year. I remember what Mr Canepa said 'this is part of the Appropriation Bill or part of the Finance Bill'. The reality is that the Chief Minister and Mr Canepa and the Financial and Development Secretary have mentioned, en passant, tourism, GSL and the finance centre. At no time have they given us what is going to be the policies of the Government on either of those. If I may refer to tourism. The tourist industry had a better year in 1986 than in 1985, visitor arrivals totalled 2.8m, a very, very rosy picture indeed but the question which if the Minister is going to handle in the Appropriation Bill, well, so be it, at least I will then have a chance of hearing it and then I will have a chance, hopefully, of answering him. The reality is that there is a difference and there always has been a difference in our minds and I think I have expounded this on various occasions, there is a difference to us between tourism and the tourist market and the excursionists and the excursionist market. There are, to my mind, two different things. The Government themselves in 1984 when they commissioned the Pitaluga Report were in fact thinking of expanding tourism with a closed frontier and although many of the experts said that it was very difficult to do so, we can go through the Pitaluga Report but it is there, Mr Pitaluga expounded and the Government expounded the idea that we could have an expansion of tourism even with a closed frontier. It never happened in 1984, it never happened in 1985, the frontier opened in 1985, we run through 1986, we run through 1987 and after a series of endless Committees we still are no nearer solving the problem of tourism as we were in 1984. The reality is that the only difference is the difference that today there is an open frontier and people are coming in despite the Government, as my Hon Colleague said. But the reality is that even if there were no Government people would still be coming in, that is the reality, whether there is a Government or a City Council or whatever, tourists would be coming in. The other aspect, the aspect of excursionists, the Minister himself said that only 10% of those visit St Michael's Cave and visit the other sites. Is the Government concentrating on that area? What are the Government doing as regards the excursionists and the arguments which I think were, in fact, mentioned by my Hon Colleague, Mr Feetham, this morning as regards the shopping centre which is again one of the tiers of this tourist expansion, excursionists, shopping centre and the tourists. As far as I am concerned I have been here in the House

nearly four years and I don't honestly know what is the Government policy on tourism. Are we going one way, are we going the other? Is our frontal attack on tourism and trying to get people to come here on a two-centre holiday? Is our frontal attack on the excursionists, is our frontal attack on making Gibraltar a shopping centre? We all know the situation explained by Mr Feetham this morning. There is nothing to show that in this year's Budget the Government is taking either one or another road, the only thing that we have and which we will discuss in the Appropriation Bill is the fact that a certain amount of money is going to be spent in different areas of Gibraltar: St Michael's Cave, the nature reserve which is again another red herring because the Minister must be aware that I wrote to him trying to find out what the nature reserve was and he said to me that the only thing on the Budget, the expense this year would be to do a feasibility study: "The main project envisages the consolidation of three major sites into tourist interest. This would also include Lower St Michael's Cave, provision is being made in the Estimates for a survey of the area by local experts. The study will look into the best possible ways of exploiting" - so that is still in the study stage. It is not a criticism, it is that this is still in the study stage.

HON H J ZAMMITT:

The Hon Member did not write to me.

HON J E PILCHER:

I wrote to the Minister because he was the one that announced it in the House so I wrote to the person who announced it in the House.

MR SPEAKER:

Order, if he gives way to you most certainly, not otherwise.

HON J E PILCHER:

It is economic development and I sent it to the Minister for Economic Development, in fact, the Minister mentions 'Horace Zammitt also informs me that consideration is being given', so obviously it doesn't really matter, I write to the Government, it doesn't really matter which Minister it is although it does on that side of the House. Therefore, there are no moves at all, as far as I am aware, to go one way or the other. Again, I have to refer to the Hon and Learned Chief Minister when he says, in fact, I cannot find it, but he did say that in large measure this was due to the opening of the frontier or words to that effect. The reality is not in large measure, it is totally as a result of

the opening of the frontier. The result is that in 1984 we had the worst ever tourist year and the only thing that picked it up in 1985 was the opening of the frontier and it has been picking up ever since. One thing that does up to a point, because it does tend to show the - perhaps inefficiency is too strong a word - at the bottom of page 2: "In large measure this is attributable to frontier normalisation which has enabled the private sector", what I am saying is that as far as I am concerned it is totally because of that. One thing that I am worried about because, as I say, it shows perhaps not the inefficiency of the Government but certainly the way the Government do things. In his explanation the Financial and Development Secretary, he was referring to developments at Queensway, Rosia, Catalan Bay etc. Then he says: "There is some doubt about figures of hotel occupancy. During 1986 these are thought to range from 49% to 52%, similar to those for 1985" which tend to show that the tourist boom has not affected the hotels. This is what the figures tend to show. He then says: "However, these figures are imperfect as an indication of full, half-full or empty hotels. There is a hidden figure of unfilled double beds or unfilled rooms. In short, information about demand does not suggest that there is a genuine 50% spare capacity and current hotel developments do not suggest that either. The availability of data on room occupancy in the near future will be helpful". But, surely, is that not putting the cart before the horse? Should we not have found the proper information on hotel and room occupancy before we started giving out licences for people to build hotels? I am sure and I do not doubt what the Financial and Development Secretary says that there is a genuine 50% capacity and current hotel developments do not suggest that, but we have never ever studied to see or looked at a way of assessing whether or not the hotels who still maintain that they cannot fill the hotels, whether it is true or not because if it is what will happen when we have Rosia Bay development, the Queensway development and, perhaps, the Catalan Bay development? What will happen when we plough into the economy so many hundreds of hotel beds? Have we not thought about that, in a situation where - as we spoke about this morning - the hotels at Queensway, for example, will be in a better position to trade than those existing already because of development aid and because they will have virtually what has been termed by that side of the House 'a tax free holiday'. I don't understand how the Government can take those steps. I know that development is important but what we don't want is what we are doing with one hand to be stifling what we are doing with the other. In these figures the Government has not proved to us that there is a need to have more hotel beds in the economy of Gibraltar. In fact, when I asked the Minister for Tourism in, I think it was, October and in November last year, he said he didn't know. He didn't know what the figures were, he didn't know how many excursionists we have

had from sea, from land because these are figures kept in the Statistics Office and all he could give me was virtually the conservative estimate of £26m expenditure, and what he assumed had been the amount of people that had come into Gibraltar. This is important, Mr Speaker, it is important because you cannot say that you are looking at objectives, you cannot say that you have an economic plan and then reveal that you don't have one. What you are doing is you are meeting situations on a crisis basis. Somebody comes to you and says: 'I am trying to look for hotel beds that don't exist'. Right, you give out more licences. When you have given out the licences and hotels are built they come back and say 'Now we cannot fill the hotel'. What do we do? We go back to the situation where we used to give them tax relief and rent relief and whatever in order to keep the hotels going so that we don't have an unemployment situation? We cannot run an economy this way, Mr Speaker. We move on to air traffic. I think, again, here there is an anomaly in air traffic. "Figures of air traffic do not suffer from similar imperfections. There was a further increase in arrivals by air which were 90,000 compared with 74,000 in 1985". I am not an economist and therefore I can delve in mathematics which is the point that Mr Canepa made the other day, that economists cannot delve in mathematics, I as a pupil of Mr Canepa in mathematics, I think I can delve in mathematics and 90,000 minus 74,000 makes 16,000, am I correct? If you look at page 9: "Gibraltar estimates - revenue: airport departure tax, 1985/86 - £69,000; 1986/87 - £135,000". There was a shift from £1 departure tax to £2 departure tax so, obviously, the £69,000 if doubled would make it round about £135,000. Where are the 16,000 extra people that came last year? And where have they budgeted for 1987/88 where it is only shown as an extra £30,000? Do we not expect there to be a major increase or is it that the Financial and Development Secretary can say one thing in his speech and then that is not reflected in the Accounts. Remember, that we might be wrong but we can only work with the accounts that the Government present to us which is the point that I was making before. There is another point that I want to make because referring to air traffic, he said: "In-transit visitors to Spain increased by almost 50% from 15,000 to 22,000" which makes it an increase of 7,000 from one year to the other so there is a substantial amount of in-transit traffic but it is also a substantial amount of increase in traffic coming to Gibraltar because if from 16,000 you take away 7,000 you are left with 9,000. Were the hotels able to cope with those 9,000 extra that came to Gibraltar or were they not able to cope? These are things that the Government is not telling us. They say they are going to build more hotels, development is necessary, more hotels. Were the hotels able to cope with the 9,000 extra, if so, how many more thousand can come before our hotels cannot cope? How many hotel beds does that mean for the future? These kind of equations, as far

as I am aware, are not made by the Government and then they talk of economic planning, well, it doesn't make sense from this side of the House. We move to Port activity and it is only a minor point because I would have liked to have known whether there was an increase in liners calling at Gibraltar because there has been a 30p to 50p increase in passenger sea arrivals and I would like to know what is behind that move. Is it that we are increasing our liner activity in Gibraltar and, if so, what is Government policy on that? Is it just to put up 20p or are we once and for all going to fix up and finish the Port development? It is now, if I remember correctly, some six year's ago or five year's ago when we moved the Cold Stores down at Waterport because we were going to do all these new things for liners. Well, as far as I am aware and I have been there of late, it is still the same. What is the Government policy on that aspect of tourism, liners coming into Gibraltar? Gibrepair, my favourite topic. I do not want to either, as the Chief Minister said, I do not want to revive a debate on this matter today because I think a lot has been said about Gibrepair and I think it is, honestly, time to sit back from the Opposition side and see what it is that the Government are going to do but this is precisely what we want to know. The Hon Financial Secretary, in passing, I think, just mentioned the fact - "I do not propose to say a lot about Gibrepair because a lot has already been said during recent debates. Gibrepair and the Hotel Industry are both labour intensive industries which are vulnerable to the effects of a high wage cost economy and the price of services". Certainly, as far as the public is concerned, a very neat and packaged phrase which doesn't say anything at all because it doesn't mean anything at all. The Hon and Learned Chief Minister then said: "I do not intend to revive a debate on the matter today but it is important that I should repeat the message that both management and the workforce" - and he went on again to talk about the industrial relations of Gibrepair which on both sides of the House we feel it is important. But where are the objectives or the policies or the economic plan of the Government as regards Gibrepair?

HON CHIEF MINISTER:

In Hansard.

HON J E PILCHER:

Mr Speaker, the Government have been sitting on the Price Waterhouse Report which makes certain recommendations or which mentions certain avenues that the Government could take: lowering of employment to bring it to a lower situation. I don't have to mention them, we have, in fact, discussed it a month ago in the House.

HON CHIEF MINISTER:

If the Hon Member will give way for the sake of avoiding repetition. I think apart from the fact that you don't mention it, by omission it could be significant so you have to mention it, you just make a very brief statement. But in fairness to the Price Waterhouse Report, a reference, my colleague this morning said: "We hope that the recommendations are being implemented" and so on, he said that in his contribution.

HON J E PILCHER:

Mr Speaker, that is the difference and it has always been the difference and apparently it will continue to be the difference between the governing party and ourselves. We do not believe that it is up to the company to implement or not to implement the Price Waterhouse recommendations. We believe it is up to the Government as the 100% owners of the yard to give a directive to the Board of the company. That is our opinion and that is part of the economic plan of the GSLP and of the objectives which supposedly are part of the Government party. We are and, in fact, again we will discuss this when we come to the Appropriation Bill, we are going to give £1m, another £1m to Gibrepair and we - I will not pre-empt what I am going to say in the Appropriation Bill - but we would like to know what are the objectives of the Government, what is the policy of the Government as regards Gibrepair? Do we just all sit back and wait for it to collapse again only to give it another £2m or another £3m or another £10m? The Government have to say once and for all what is their position and what they will insist that their Board does with the company for the future because it is very worrying, Mr Speaker. As I said before I do not mind who writes the speeches but I mind what it says because perhaps I read too much into things but if I can just read you a piece of a contribution of the Hon and Learned Chief Minister as regards Gibraltar Shiprepair Limited, it might not mean anything but certainly the way it is written it is a departure of what has always been uppermost in our minds. He said: "This spirit of consensus is vital if Gibraltar Shiprepair Limited is to continue making an important contribution to the stability and development of the economy. As I explained last year, the Government sees that contribution as complementary in packaging the role of Gibraltar as a centre for shipping". What is it that GSL is now a complement for shipping. I thought that Gibraltar was going to be a Shiprepairing Centre and all the other things were complementary to that shiprepair centre. The pillar of the economy, and the registry, and the berthing and the bunkering, that was going to be complementary to GSL. And I am worried, as I say, perhaps I read too much into things but I am worried to see the contrary - "the Government sees

that contribution as complementary in packaging the role of Gibraltar as a centre for shipping together with bunkering and other Port activities". The Naval Dockyard goes, Gibrepair comes in and that is the pillar of the Gibraltar economy, according to the AACR not according to the GSLP, and anything else is complementary to that. I dare say that perhaps we will not get from the Government their policies and their objectives and their plans as regards GSL because there is a difference but at least I would like that cleared when it comes to the point that there is not a shift in emphasis now but perhaps a shift in.....

HON CHIEF MINISTER:

If the Hon Member will give way because I don't propose in my reply to deal with Gibrepair. It makes sense that if you have a shiprepair yard that is working well, you stimulate the question of registration of ships, if bunkering goes up Gibraltar is a shipping centre with all the requirements. A place where to repair, a place where to bunker, a place where to register, that is what it means, there is no ulterior motive. It is just a combination of things that adds up to each of the separate assets together.

HON J E PILCHER:

Fine, Mr Speaker, I am glad for that because, as I say, I was a bit worried that we were now shifting our emphasis from.....

HON CHIEF MINISTER:

You are being suspicious.

HON J E PILCHER:

No, I am not suspicious because in a couple of weeks time we could hear that the fourth pillar of the Gibraltar economy is bunkering, that is the way that the Government works.

HON CHIEF MINISTER:

It may be funny now but if it isn't true you will forget about it.

HON J E PILCHER:

I am not trying to be funny, Mr Speaker, I am just quoting what to us appears on this side of the House. The finance centre activity starts to make a profit and show in the economy and create employment and the AACR are there

and say that is the third pillar. It is not a joke, on the contrary, it is not a joke. We are very, very serious on this side of the House when we refer to the lack of economic planning by the Government, it's no joke, believe you me. I would also like to make a comment on the comments made by the Hon Mr Canepa who is not in the House at the moment. He was referring and I think the Hon Financial and Development Secretary as well, when my colleague Mr Perez said that Gibraltar was second only to Sweden as far as income tax was concerned, that is a statement of fact. We are talking obviously about personal taxation, personal allowances and whether the Government like it or not it is a statement of fact. I cannot agree that we should then use either the equation used by the Financial and Development Secretary or equations used on that side of the House because you cannot take, I mean you take personal taxation and compare it with personal taxation somewhere else. You can take social insurance contributions here and compare them with social contributions in the United Kingdom. What you cannot do is join two elements because it suits you to join them and forget about everything else. I could make the same kind of equations made by the Financial and Development Secretary but, put in it electricity, water and rates, for example, which would, I am sure, bring down that average wage that the Hon Financial and Development Secretary is referring to because I happen to work with a lot of UK based civilians who pay electricity at the rate paid in UK and I can say that their quarterly bill is nearly three times less than my monthly bill. They are paying for a quarter what I am paying for a month, more or less. You cannot just compare because it suits your social insurance. Social insurance contributions, I won't repeat what the Hon Leader of the Opposition said, but the things that you get back because of your social contributions in UK are much, much greater than what you get here. Mind you, I am not criticising the social insurance system in Gibraltar but we cannot compare it with that of the UK where you get a host of things, a lot of things which do not apply to Gibraltar and therefore you cannot compare like with like. Therefore I just cannot agree that you can make a comparison, the comparison that you want without taking into account charges for municipal services, benefits, standards of living and we can do an equation like we did with parity. The Government was saying at that stage, if I remember, 'No, parity won't work' and at that stage we or the unions were saying: 'Parity will work'. That was the kind of equation that was done then. Today it is a statement of fact that Gibraltar as far as personal taxation was only second to Sweden in Europe and that is a statement of fact. The point about Mr Canepa being senile which I mentioned, I think it was in 1984 and the Hon Mr Zammit reminded me of it today. I will not today say whether I believe him to be senile or not but I certainly believe that Mr Zammit is now senile because when I said it in 1984 and, in fact, it has been agreed by the Hon

Mr Canepa today. He said himself in 1984 that he was a frustrated Minister for Economic Development and he has said today exactly what I said in 1984. He has said today here in this House, if the frontier hadn't opened perhaps some or all of those projects wouldn't have taken off the ground. When I said it in 1984 the frontier was closed and at that stage it was very, very difficult even with development aid and even with a lot of things that we were trying, it was very, very difficult to get it off the ground. And it was in that context that I said it in 1984, not that I am inconsistent today because, in any case, half of the things that Mr Canepa was saying then in 1984 haven't still materialised. The Command Education Centre is on the way but a lot of things haven't materialised—yet so I wasn't too far off in saying in 1984 that with a closed frontier they perhaps would never have materialised. It was in a different context that I said it then and it is not that I am inconsistent but that if things change, a major change like the opening of the frontier then situations change as can be seen from tourism. I was also very, very glad to hear the lecture of the Hon Mr Canepa. It seemed to me that instead of being a contribution on the Finance Bill it was one of his lectures that he gave me at school of how to get into Government because this is what he was saying to us.....

HON A J CANEPA:

Gratuitous.

HON J E PILCHER:

Gratuitous. How we should get into Government and he was giving us certain tips of how to get into Government. I have to tell the Hon Mr Canepa that though we appreciate the tips we know how to get into Government as he will, indeed, find out in the next couple of months. I don't think I have left anything out. I think Mr Mascarenhas was a bit unfair when he said that we had made an unfair comment and that he didn't expect otherwise from us. I think since we have been here since 1984 we have had many, many discussions and many, many differences of opinion with Government but one thing that we have certainly done is give credit where credit is due and when we found that the Government was doing something that the Government we thought were right we have gone down that path with the Government and I think it is an unwarranted remark to say that he cannot expect otherwise from the Opposition. What he cannot expect from the Opposition is to say something that we do not agree with. If we don't agree with certain things in the Budget then we say so and we have always said so and our main attack since 1984 as far as the Finance Bill is concerned is the lack of economic planning, the lack of policies, the lack of objectives. The Hon Mr Feetham this morning

was talking about the construction industry. They don't have any plans for the construction industry, do we allow more employment, less employment? I won't go into that because he himself went into it in depth and I think he did a very, very good job of it but the Government do not seem to have. As far as they are concerned in no area of the economy have the Government got any clearcut objective. Perhaps, the only one where they have an objective is in development but then, as I have mentioned, perhaps what is there as the objective for development does not go hand in hand with something else and this is what an overall economic plan is. I am not an economist and I won't preach to Members opposite who have been in the House long before me but that is what we mean from this side of the House. There is one matter that I certainly, I see that I am nearing the hour, I don't want to disappoint Mr Canepa and speak more than he did, but I think one thing that I have always done in this House, I am a fervent believer in the democratic process. I believe in the House of Assembly and I believe in the way that Parliament do things. I have been very upset in this House many a time because of the Government's rushing of the First and Second Readings and Committee Stage and Third Reading of Bills and I have objected very strongly because I believe that the natural process is for the Bill to receive the First and Second Reading, for us to take it away, for the Opposition to be able to look at it, for people to be able to make representations to both Government and the Opposition and that is the democratic process which should be followed. And in the same way as I am upset with that, I am also upset with other things that have been happening this year. I will not go in depth into them because they have already been mentioned by the Leader of the Opposition. Things like pushing rates increases until 1989 which is over the four year term of Government, which brings with it an increase in rents in 1988/89, obviously, things which will obviously materialise in 1988/89 like debt servicing, the end of the MOD assistance, if you like to call it, subsidy of the RFA's in the naval base. I think there is too much of a correlation of things which are being left to 1988/89. I honestly feel that it is not as the Hon Mr Canepa said, it is not the right of a Government to come here and change everything else. If we have that kind of democracy then it wouldn't work because if we got into Government for four years and changed everything and they go back into Government four years later and changed everything, a democracy does not work in that way. The way democracy works is that you believe that the Government are elected for four years and though you might in principle have to change some of the things they did, you accept that for those four years they had a mandate from the people to change certain legislation and to change certain laws, what I cannot agree is that legislation can be changed after the period of four years and I think this is why the Hon Leader of the Opposition was so upset

yesterday and I think the Hon Mr Canepa hit the nail on the head when he said that is what we were becoming upset at, not because they want to change the Development Aid Ordinance because that is entirely up to them in their term of office. What they cannot do is announce today that they are going to change it in June, 1988, because in June, 1988, they might not be there. As the Hon Mr Zammitt said neither of the two parties might be here. In any case, I do not see the need to have brought the Development Aid Ordinance changes with the Finance Bill, why wasn't it brought at an ordinary meeting of the House with ordinary amendments so that it could have been discussed in the normal process?

HON A J CANEPA:

If the Hon Member will give way. It has been the practice, all the amendments that have been made to the Development Ordinance have been seen as part and parcel of the Budget. They are an integral part of the Budget and so they were in 1981, in 1986 and now in 1987. I think it is in conformity with previous practice so that you can take an overall view of the situation.

HON J E PILCHER:

But what you bring in a Budget, whether it is the Appropriation or the Finance Bill, falls within the next twelve months, within one Budget and another. I don't make a comment today, if I were in Government, about a measure that I am going to take in the next twelve months when I might not be there in twelve months time.

HON A J CANEPA:

If the Hon Member will give way. I gave an indication this morning and I think the Government is open to proposals from the other side. We don't feel strongly about the twelve months, it can be six or nine. For the reasons that I explained we wanted to give as much notice as possible but if Hon Members want to, if their preoccupation is that we should not exceed the life of this House, the life of this House has to expire by, at the latest, the 22nd of February, 1988. The House will have to be dissolved in the normal course by the provisions of the Constitution on the 22nd February, four years after the Ceremonial Opening of the House. If that is what is worrying Hon Members we are quite amenable to saying that the Development Aid Ordinance, that these provisions will come into effect on the 1st January, the 1st February, we don't feel strongly about that.

HON J E PILCHER:

That was the point that was being made yesterday by the Leader of the Opposition. The fact that if it is Government's intention to curtail certain things under the Development Aid Ordinance then they should do it within their time as Government of Gibraltar. Although we too to a point share in the point made that people have already been making certain calculations and costings with that and that, for example, perhaps in some of the cases it is not possible now to go back to them and say: 'It is finished as from now', the time factor should be such that it must be seen that it is a Government policy which is implemented as soon as it can be implemented and not to allow or leave a loophole. I accept what the Hon Mr Canepa has said and he said this morning that sometimes he does things in all good faith and that we read things into them that are not meant to be there. Well, he has to make sure that in so doing he doesn't leave any loopholes for people who have not notified that they have got certain projects to suddenly come running in and bring those projects. That has to be quite clear and if the Government bring down the period to well within their term of office then I am sure we will look at it favourably when the time comes in Committee Stage.

HON CHIEF MINISTER:

I think the wrong interpretation has been given.

HON J E PILCHER:

It might be the wrong interpretation but we do not want to leave anything to chance, Mr Speaker. It is better to stand up here and say something even though the interpretation is wrong, than not to say it because the interpretation is right and then to find out later that it is not the interpretation that we gave on it. That, basically, Mr Speaker, is all that I have to say on the general principles of the Bill other than to say that I am disappointed at the Government because I am disappointed at their record because they have been saying to the people of Gibraltar 'there is a boom, everything is alright, everything is rosy, the Opposition are prophets of doom'. The accounts do not prove that. The accounts prove not that we are prophets of doom but that we are working with reality and we have both feet firmly on the ground and it is the Government who have created the boom psychology in the people of Gibraltar and they are to blame for that, Mr Speaker. Thank you.

HON J B PEREZ:

Mr Speaker, I must confess I didn't really intend to make a contribution on the Finance Bill but I think Mr Pilcher has more or less expressed that he would be disappointed if he didn't hear what I had to say, particularly after he missed the electoral broadcast which I gave last Thursday, he was watching the football on the other channel so in order not to disappoint the Hon Mr Pilcher, I think I would like to, with your indulgence, say a few words in support of the Finance Bill at present before the House. Mr Speaker, my Hon Colleague Mr Canepa in his contribution on the Bill drew a comparison between Mr Bossano and a strip tease artist to the effect that Mr Bossano seems to be, particularly in the last year when there were so many rumours of a General Election, whereby Mr Bossano was going with the Chamber of Commerce and taking a glove off, with the unions taking a stocking off, with the Finance Centre Group also taking other items of clothing except that Mr Canepa says that he has not yet revealed himself completely or with a G-string. What I would like to say, talking on the same basis of undressing, is that what I honestly think has happened to the Hon Mr Bossano and, in fact, to the GSLP as a whole is that in the last two years they really have been caught with their pants down and perhaps in the case of.....

HON J BOSSANO:

With a G-string.

HON J B PEREZ:

No, you have been caught with your pants down and, perhaps in the case of the Hon Miss Montegriffo, she has been caught with her knickers down. Why do I say that? Well, quite simply, since the last General Election of 1984 the GSLP and, in particular, Mr Bossano, they have been prophets of doom and I will claim originality for those words because I used those words three years ago in a political broadcast just before the Budget and I have kept on using the same phraseology for the last two years. So it is not Mr Mascarenhas or Mr Zammit who were accused of using the words 'the prophets of doom', it was I who did it. Quite simply, in 1984 at the last General Election you had the Hon Mr Bossano and his party saying how badly the economy was, Gibraltar was in a state of bankruptcy, Dockyard closure was a total catastrophe, the AACR's plan, the AACR's policy on what the only possible alternative was to a closed Dockyard was a disaster for Gibraltar, they expected the British Government to give them the money and they would do what they thought would be the best thing for Gibraltar except, Mr Speaker, that they never told us or the electorate what they would have done with the money. The Dockyard closure meant certain

bankruptcy for Gibraltar. The frontier opening was also a disaster and a catastrophe for Gibraltar. All Gibraltarians, we were going to lose our jobs, we had petitions signed, traders would not sell, we were going to be invaded by I don't know how many millions and millions of unemployed Spaniards and millions of traders in Spain. We were going to be engulfed, there was going to be - I think the word was 'osmosis' - we were going to be taken over completely and this was a total disaster or so Mr Bossano and the GSLP told the electorate and have been telling the public and continue to tell the public even today when the facts say completely otherwise, they carry on telling the public how badly the economy is doing. Why are they doing that? Why are they still telling the Gibraltarians that the management of Gibraltar's economy is terrible by the AACR when all the figures, both the tourism figures, the economic figures I don't see why the Hon Leader of the Opposition smiles.

HON J BOSSANO:

Is the Hon Member taking the credit for the two and a half million people coming across?

HON CHIEF MINISTER:

If we had done what you wanted they wouldn't be there.

HON J BOSSANO:

And a year later.

HON J B PEREZ:

That is, it is as Mr Pilcher said at the end of his contribution, that he was disappointed by our record and they were the ones who were realistic, that they looked at reality. I am sorry to say, Mr Speaker, that that is sheer and utter nonsense by Mr Pilcher. They are not being realistic at all. They are just playing to the gallery - today we only have a few people but, of course, the House is being broadcast but who are they really trying to fool, Mr Speaker, by expecting the people of Gibraltar to believe that the economy is doing very badly, that the AACR's plan and economic policies are not working, who are they trying to kid? In the last two years they have been caught with their pants down. That is the truth, that is being realistic, Mr Speaker. That is being realistic, look at the figures. They don't like Mr Pitaluga, they don't like Mr Brian Traynor, I don't know. Any Government employee who comes up with facts and figures and statistics which tend to be different to what would suit the Hon Leader of the Opposition, that person is pro-AACR, Mr Speaker, he would be used by Mr Bossano either to make his tea or his cup of coffee. That is not being realistic,

Mr Speaker. We have many civil servants in the Economic Planning and Statistics Office who bring out all these figures. What are they saying that we are cooking the figures to suit us? On the general economy for the last two years, in fact, since 1984, again they have been telling the people outside: 'Look how badly the economy is doing, disaster for Gibraltar'. That isn't true, Mr Speaker. When Budget time comes and the figures are available, the Employment Survey which came out, you see the number of new jobs that have been created, you see how well the economy is doing, you see the growth which, okay, I think it has been estimated at 6% not as high as perhaps one would have liked them to be but I think the prospects, the foundation has been laid by the AACR's plan and economic policies. That is the reality. Gibraltar has gone through many difficult years, years in which the AACR has had to enact legislation which has been unpopular and which has lost votes but the AACR has been here and we continue to be here, Mr Speaker, for the good and for the bad. What is happening today and what has been happening in the last two and a half years is that now Gibraltar is reaping the benefit of having had successive AACR Governments, that is the reality, Mr Speaker. Nobody can deny, Mr Speaker, that the economy is picking up. I don't see how some of the Members of the Opposition with tongue in cheek are saying that the economy is not picking up, I think that is pure nonsense. What is happening, quite frankly, is that the GSLP's viewpoint, what they have been promulgating since 1984 from the time they fought the General Election is that the economy has been mismanaged and they can do better or Mr Bossano who is the Almighty has all the answers to Gibraltar's economic ills. That is what they have been doing since 1984. But they have been doing it very conveniently and with words, Mr Speaker, because we have yet to see, we have yet to be told what it is that they would do or what they would propose to do if they were in Government. We haven't been told that. We were not even told in 1984 during the last General Election what they would have done if they had got the funds that we were able to obtain from the British Government. The electorate was not even told that, we don't even know today after we have nearly finished the Second Reading of the Finance Bill. I have not heard, Mr Speaker, a single Member of that side of the House telling Gibraltar as a whole what plan they have. What is it that they would do? Where is it that we are going wrong? At least we are telling the public: "Look, this is our philosophy, these are the pillars of the economy as we see them" - I know they have made a sort of song and dance about the word 'pillar' but it is true, we have made it public. 'The pillars of the economy are these, this is our reaction, this is our plan, this is our policy' and we stand or we fall by that. But the Opposition have it very easy, Mr Speaker, they have it very easy. They don't announce a plan, they don't say anything, they just come to this House, I have heard the words policy and plan mentioned I don't know how many times, I wonder if they know what

the meaning of the words 'economic plan' and 'economic policies' really is because that is not the impression that I got, Mr Speaker. They used the words a lot, the policies and plans and plans and policies but I don't know what they mean, quite frankly. The finance centre, the Hon and Learned the Chief Minister asked Mr Bossano in his contribution what was the meaning of the finance centre, he didn't have a clue, Mr Speaker, he didn't know what he was talking about and yet he is the man who has all the answers for Gibraltar, all the answers, all these secret economic plans and secret policies which will cure all our ills. Well, I think, Mr Speaker, the truth of the matter is that the AACR doesn't just play with words as the GSLP in Opposition can very conveniently and very easily do, play with words. We translate words into action, Mr Speaker, yes, they may laugh, but I think the public should look at the last two Budgets, last year and this one, don't look at them in isolation and I am sure the public will realise that they can look forward and with confidence to a good future for Gibraltar, to better prosperity with AACR Governments and not the GSLP.

HON R MOR:

Mr Speaker, I have a confession to make as well. I also missed the party political broadcast by the Hon Member and if the broadcast was anything like his presentation just now I am glad I missed it. But I think there is a lesson to be learnt, Mr Speaker, if the AACR organise our economy in the same way as they organise their party political broadcasts then I think we are in trouble. Who else but the AACR would organise a political broadcast to coincide with Real Madrid playing, I don't know. If I may refer to the general policies of the Government, Mr Speaker, we have been hearing a lot lately of how well Gibraltar is doing economically, we have been told of how well the tourist industry is doing, we have millions of tourists coming, they are spending millions of pounds, St Michael's Cave and the Upper Galleries and all the other tourism attractions are having a boom and a lot of money is being spent in our shops. The building construction and the building industry are doing well, employment figures are up so, Mr Speaker, we find that all of a sudden Gibraltar has become a paradise. Of course, that this should happen all of a sudden and that it should happen in election year is purely coincidental, Mr Speaker. All this has been brought about by the sound economic planning, the efficiency and dedication of the Government Ministers. Obviously, Mr Speaker, this is what they would have us believe because I think the Government must believe that the Gibraltarian people can be brainwashed into believing anything they say but the reality of the situation is that the people cannot be so easily misled. In this respect little things count and it is small things which make people suspicious. For example, people must be wondering

how is it that during all the years of economic siege when the Tourist Office was making little or no money at all, it was able to send Miss Gibraltar to compete in other beauty contests apart from the Miss World Contest and yet despite the fact the Government is now saying how well the Tourist Office is doing and that we have a tourist boom and all the rest of it, that the present Miss Gibraltar is not attending the Miss Universe Contest because the Government cannot afford to send her. Mr Speaker, it is shameful since the present Miss Gibraltar, perhaps one of the best contestants that Gibraltar has ever provided and it is truly incredible, Mr Speaker, and only confirms what the Government is doing now, in fact, it is doing a public relations exercise with a view to the next elections. As to the traders doing so well, again, Mr Speaker, people must be wondering why it is that the Government has not accepted the recommendations of the Conditions of Employment Board and although the Hon Minister for Economic Development and Trade explained this morning he didn't want to give parity plus, well does that mean then that the traders or business people can be allowed to make as much as they like and to still maintain the standard of the employees at parity level even if it is possible to go beyond that? Mr Speaker, again I think it is, indeed, shameful that the Government should be taking that line. But according to one of the recent party political broadcasts on television the secret for the success of the AACR is that they provide a broad front. I thought for a moment they were going to say they provided a broad left but that would have been quite a shock to this side of the House. What they meant was that they represent a cross section of our community. Mr Speaker, I would definitely be very interested to know who on that side of the House represents the shop assistants or, indeed, the lower paid workers. The truth is that the Government is not really interested at all in the welfare of shop assistants nor, in fact, are they interested in the welfare of the lower paid workers, at least not until the year when elections are taking place and it is only then that they will make all the promises they can come up with and then when they get back in office they forget about everything until the next election year. It is well known, Mr Speaker, where the Government's real interests lie. As I have just said, the Government rejected the recommendations of the Conditions of Employment Board. Mr Speaker, who are Government protecting by this action? Quite obviously, Mr Speaker, in this case the trader is being protected and obviously the traders must have complained that the recommended wages are too high despite the fact and according to the Government traders are making lots of money as a result of the frontier opening. But, Mr Speaker, the traders also complain not only about direct wages, not only about direct wages but also about the exceedingly high overhead costs. The traders also complain about electricity, they complain about bank charges, about rate charges and about transport charges but above all, Mr Speaker, they complain about

the rents they have to pay. What protection does the Government offer traders in this respect? How does the Government protect the traders against the exorbitant rents that traders have to meet? No, Mr Speaker, the Government will protect the traders against the shop assistants but not against landlords because, Mr Speaker, landlords would appear to exert considerable pressures on that side of the House. You will no doubt recall, Mr Speaker, how this Opposition has attempted to bring amendments to the Landlord and Tenant Ordinance to try and introduce some sort of control on rents charged by private landlords and they have always been defeated by Government majority. Because, Mr Speaker, this Government has created a paradise in Gibraltar but not a land paradise to be enjoyed by all sections of our community, but a landlords' paradise. Mr Speaker, Gibraltar has become a landlords' paradise because of the policies of this Government and this is one of the greatest dangers that Gibraltar has to face today. The indiscriminate increases in rents applied by the money-grabbing landlords of Gibraltar under the passiveness and, indeed, with the blessing of this Government will eventually lead to many of our traders being forced out of business and their premises will be let to outsiders who can afford to pay them much more. A similar situation exists as regards private housing as well, Mr Speaker. Because of the acute shortage of Government housing the only other alternative for any Gibraltarian couple is to start to find or seek private accommodation but because the rents are totally out of their reach they then find no alternative but to seek accommodation in Spain. Mr Speaker, we may well find that future generations of Gibraltarians will be commuting to Gibraltar from Spain whilst Gibraltar will be populated by non-Gibraltarians and we are all, of course, familiar with the political implications this may bring about when deciding any constitutional changes for Gibraltar. It is sad, Mr Speaker, and I believe it is deplorable that the policy of the Government should be so stubbornly set in protecting the interests of very few at the expense of the misfortune of the very many who require accommodation. Thank you, Mr Speaker.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I know you are usually very lenient on what we speak about during Budget time. I would like to be consistent and start the way I started last year when I talked on defence, on productivity and on the action over Libya by the United States, I think I started that way.

HON J C PEREZ:

That was on the Appropriation Bill, if I remember.

HON MAJOR F J DELLIPIANI:

But let me say that I try to be consistent but, of course, I don't think consistency is a virtue. You can be consistently wrong and I hope in the case of defence I will be proved wrong forever but I still insist that British policy on the defence of Gibraltar is totally wrong because it is based on the assumption that the airfield will still be of use for the defence of Gibraltar and the first thing that is going to go up in any move against Gibraltar will be the airfield.

HON CHIEF MINISTER:

You had better tell the Minister for Tourism.

HON MAJOR F J DELLIPIANI:

I am consistent on that and I wish to be proved wrong forever. On the question of the Libyan affair, I expressed sympathy with the American people. I don't know whether it is because it scared them off from going to Europe or a combination of both, but there have hardly been any attacks on American citizens this year. However, I am extremely disappointed at the way the Americans have, and I mean the President and his staff, have played the question of the hostages in Iran and in Lebanon when they have been consistently saying that they will not negotiate with terrorism so that I think it is the right attitude to take as a Government but as a human person I think it is wrong. Of course, if you negotiate with terrorists it is never ending and here we have behind the backs of everybody a Government that was secretly negotiating with Iran with arms. I find it incredible. Just the way I had sympathy last year I find that situation incredible and I find the situation in Nicaragua even more incredible because they are not going to win.

HON CHIEF MINISTER:

I think you ought to ask Khomeini to resign.

HON MAJOR F J DELLIPIANI:

On the question of productivity, again I must be wrong.

HON J E PILCHER:

Productivity in Nicaragua?

HON MAJOR F J DELLIPIANI:

Because productivity in Gibraltar must be fantastic. I have been researching dismissal cases on all Government Departments and I have been unable to find either a clerk, a labourer, a craftsman, an engineer, a teacher, or any grade who has been dismissed for not producing so obviously why must I worry about productivity? We must have the highest productivity rate in the whole of the world as a Government. I would like to mention a point that the Hon Mr Feetham mentioned on the construction labour force and the worries that he has of the future. Let me say that I share that worry too but that doesn't make me think on the question of the Development Aid Ordinance. Let me assure Hon Members opposite that when we thought up this question of a year's extension we hadn't given it the interpretation that the Hon Member has given to it. We thought, and this is the way I thought and I think I am honest enough that I am saying what I thought, we thought that it would be too drastic to cut it off all of a sudden when there were people who had ideas and were coming forward with these ideas for the good of themselves and of Gibraltar. We thought and I thought that it would be a bit harsh to say: "Your idea is too late, off". We said: "Well, we will extend it for a year". But it has made me think now, the question of the construction industry, and it is very hard to gauge whether if we took this Development Aid completely off in a year's time or now, whether that would have effect in the building programme or the development programme of the future and then the reality would be that the labour force would be very, very big indeed. It is very hard to gauge because you could say: "Well, because there is no development programme they have only invested £1m. If there had been a Development Aid Ordinance they would have invested £10m". It is a very difficult thing to be able to look into the future but I am concerned, I am having second thoughts. I am having second thoughts because of the way the construction industry has built up suddenly. Unless there are incentives it might decline and then we are going to have quite a drastic unemployment problem. So here I am not being consistent, I have just changed my mind and we have only discussed the question of the Development Aid Programme last week but I think the Hon Mr Feetham has prompted me to give serious thought to the matter. May I, Mr Speaker, also mention the question of the reduction of the import duties on vehicles. I always find it amazing that traders always look to Government to help them to sell more, to sell more and to sell more because it is good for the economy and it is also good for their pockets. I seldom see any action by traders as a whole - there might be a few exceptions - where they say 'Reduce the import duty or reduce this tax and we will try to reduce the profit margins to have a bigger turnover'. It is always at the expense of Government. I would like to mention now, Sir, the question of parity

which was mentioned, I think, by the Hon Member opposite and on my side. From the beginning when I became a Minister in 1976 in this House, I said 'the only reason that I accept parity is because it looks as we were going to have a situation where industrial relations are going to improve', because the question of wage negotiations was always the question that spread most industrial unrest. Unfortunately, it must be the fault of the Government, I have seen no improvement in industrial relations. I think people now spend their time trying to improve on parity by playing around with banding and I think parity is beginning to lose its meaning. The amount of thought given for people to upgrade their banding and increase their salaries is incredible. There is also the question of industrial relations and I think the Hon Member, Mr Mor, mentioned the high overheads and he particularly mentioned electricity. Well, electricity apart from the capital investment of the engines, the two main running costs that it has are the fuel element and the manning level. The fuel element, there is a monopoly situation in Gibraltar which unfortunately we cannot do anything about because we haven't got the storage space to order our fuel from whoever we want. But on the manning level, agreements could be made where the manning levels could be reduced by natural wastage and the men get extra wages because of productivity and the Government gets its benefit and there might be a reduction in electricity and we might get the third engine which is lying at the docks, we might get it back and I hope we do because otherwise we are in for serious trouble in winter. I know that part of the Hon Member's economic plan, something that I have heard

HON CHIEF MINISTER:

Oh, you have?

HON MAJOR F J DELLIPIANI:

I have heard something, something to do with a free Port or something. Whether we like it or not. Spain is over there and anything that we do in Gibraltar we must take account of the fact that Spain is right across the border, whether we like it or not. I think, Mr Speaker, that we are having situations where the people have become aggrieved with certain things that are going wrong with law and order, etc. The Police do their best to try and prosecute people who break the law but there seems to be a lack of understanding by the Courts in Gibraltar as to what the people of Gibraltar want, as to what the Government of Gibraltar wants and I don't want to interfere with the Courts, it is not my duty to do so but we have had two recent instances that highlight the different attitude of the concern of the people towards certain crimes, towards certain laws that have been broken and the way the Court is behaving. Two come to mind. One

is the question of litter and disposal of trade refuse all over Gibraltar and the other one is the fast launches. On the question of trade refuse the Government has no obligation to pick up trade refuse from anybody, from any business. If you look at the laws and rules of Gibraltar there is no obligation. If a trader has any trade refuse the Government will supply the service at a price. What is happening? The traders are dumping trade refuse all over Gibraltar, a few of them have been prosecuted, they get fined £10 and the charge normally by the Public Works Department will be between £40 and £50 so they are laughing all the way to the bank with £40 in their pockets. This is an unrealistic situation in Gibraltar. I don't know what the Magistrates' Court and the Magistrates are doing but litter is one of the problems that we have in Gibraltar. The other one is the fast launches. The Government deliberately imposes some very high fines to discourage this question which is bringing a bad name to Gibraltar because of the connection with soft drugs. I am not worried about the exportation of cassette recorders, video recorders, the more the merrier, I don't care two hoots. But the question of smuggling whether it is soft drugs or hard drugs is something that the world is looking to and here we have people being given bail in the sum of £50 and the next night they go again with the same fast launch and they break the law. The Courts are making a mockery of the efforts that the Police and the Customs Officers are putting to this problem. Where are these people sitting, are they somewhere in the Bahamas? The problem is in Gibraltar, in the Bahamas they have enough problems especially with drugs. I would like to talk now, Mr Speaker, on the question of the Finance Centre. I am very excited with the way the Finance Centre is developing in Gibraltar, banking, etc. I am concerned, however, that with very few exceptions very little effort is being made to attract and train Gibraltarians to look after those jobs. I don't want Gibraltar to become a paradise for expatriates of whatever nationality. Gibraltar must be a paradise for the Gibraltarians first and I would like to see either a willingness by the Finance Centre to take a more active part in the training and attracting the local people and the local youngsters to stay in Gibraltar and to come back to Gibraltar or the Government of the day will have to take some positive action to do something about it. Sir, I would like to make just one quick remark on the Hon Joe Pilcher and the Hon Robert Mor on the question that they didn't see the broadcast of my Hon Friend Mr Brian Perez. I was watching the other channel, too, hoping for Real Madrid to lose. Let me say that what I did and I am sure that they have, I taped the broadcast so they have no excuse. If they had a genuine interest to watch Brian Perez they should have taped it.

HON CHIEF MINISTER:

On a video recorder, very wealthy.

HON MAJOR F J DELLIPANI:

Sir, in conclusion, Mr Speaker, I would just like to say that I don't seem to share the attitude towards politics that Hon Members have and possibly my Hon Colleagues have. I will say this, I think I said it last year. I am not interested in being in politics for power, I am interested in what is best for Gibraltar and if I had an idea which would be the solution to all our problems I would give it to Hon Members opposite. I have no idea otherwise I would have given it to Hon Members on this side. Thank you, Mr Speaker.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, whatever has been said and I may say in reply, there is one thing that has made me very happy with this Budget. Having been here now, unfortunately or fortunately, for thirty-seven years, I am very happy to hear the Leader of the Opposition saying 'People will see this Budget as a total disappointment, it fails to meet expectations', and, in fact, one of the persons who was interviewed said that this was not an election Budget. Well, I am very proud of that and I am very proud that after years in this House I can still preside over a Government that looks at the preparation of the Estimates in the year of an election in what we consider to be the best interests of Gibraltar irrespective of the effects. Had we given away some of what we have given, of course we would have been told: 'You haven't got the money to give it, you are doing it because you want to win an election' so you are never right in these matters. But I think, as far as I am concerned, I consider it of credit that people should say that we have failed to meet people's expectations because if we do not do that in an election year by straining the economy, we will never do it and it is proper that we should not do it. We should do not what is popular but what is right and that is what we have attempted to do in this Budget. I will deal with some of the points which have been made by the latest speakers and I will refer back to the contribution of the Leader of the Opposition. I marked six times in the course of Mr Feetham's speech, allegations of lack of economic planning, seven times, but there was no positive word of what their planning would be, just 'you haven't got a plan', 'you have lack of vision', 'challenge at our doors'. I have taken note of all of them but not a word of what they would do, very, very easy. Then there is another point - I think it was Hitler who said that if you repeat a lie often enough it becomes true.

HON DR R G VALARINO:

Goebbels.

HON CHIEF MINISTER:

Goebbels, sorry, I got it wrong. Well, it is not true that we have been saying that the opening of the frontier was a boom to everybody. In fact, we had a big discussion with Baroness Young on this matter from the very beginning because the concept in certain sections at the Foreign Office was that the opening of the frontier was the end of all our problems. And, in fact, it had to be rubbed into them very clearly. "There is no connection with the possibility of lessening development aid, no. In general, all your problems are over". And we took a long time to persuade if, in fact, we have persuaded because she continues to see Members of Parliament of the Gibraltar Group and tells them: 'I think it's alright, the frontier has opened'. We didn't say that this was a boom, we said many times that the years of closure for the frontier had created a number of distortions in the economy that they require a long time to rectify and what is happening now is that it is slowly being rectified. But the other interesting point which I think was made by my colleague Mr Perez when there was no football match this afternoon here and that is that if, in fact, things are going as they are well and very few people except those who may consider themselves prophets of doom, I am not going to point my finger at anybody, anybody who says that things are not getting alright, I am going to say that things are alright, may be living in a world of their own but there is no doubt that there is an air of prosperity, a climate of prosperity, a climate of confidence, a climate of development and people are living a better life than they were before. But would all this have been possible if this famous petition that was prepared and even dogs were supposed to have signed it, certainly it was circulated in 3rd and 4th Forms in schools which was never delivered, not to proceed with the Brussels Agreement. No doubt Members opposite.....

HON J BOSSANO:

If the Hon Member will give way. The Hon and Learned Member has had the opportunity of making an opening speech as has the Financial Secretary. He and the Financial Secretary have got the right of reply, my contribution has already received answers from several Ministers and at no stage has the Brussels Agreement been brought up and I don't have the right of reply. This appears to me to be introducing a new matter into the debate. I am happy to debate the Brussels Agreement any time the Hon and Learned Member wants but it is the Finance Bill I want to hear about.

MR SPEAKER:

I most certainly take your point that no new matter should be introduced into the debate.

HON CHIEF MINISTER:

Of course, I shall not raise any matter that has not been raised before. It has been the subject of discussion, the opening of the frontier.....

MR SPEAKER:

The opening of the frontier has most certainly been raised.

HON CHIEF MINISTER:

Of course it has been, call it the Brussels Agreement or call it what you will but that is true. It is true also that we were severely criticised for it and I have to give an account of it because it has been mentioned and that is that the supposed argument that the frontier would have had to open and this is very relevant to the economy, if this is not relevant to the economy I don't know what is relevant to the economy. He said: 'He has to wait only a few months and then the Spaniards would have opened the frontier because they had to'. Look at the position nowadays when there is any bit of a hiccup on traffic at the frontier. Would that be the spirit in which the Spaniards would have done what they would have been compelled to do? I leave people to decide that, people know it too well, I only have to refer to it briefly. Then in the latter part of the debate Mr Mor made a number of remarks in his prepared statement about landlords and tenants. I couldn't follow much but if I remember rightly only recently the Action for Housing have issued a statement offering people to go and see them in order that they can exercise their rights of having their rents reviewed, those that are controlled and therefore let me say that more protection was given to tenants of both business premises, it may not have gone as far as Hon Members opposite wanted, I agree, but more protection was given to tenants of business premises and to tenants of controlled premises of dwellings by the amendment to the Bill than otherwise. It was not a landlords charter it was a tenants charter, it may not have gone as far as Hon Members wanted. There is a remark made by the Hon Leader of the Opposition, again on this question of the open frontier because it is all relevant to the situation of the economy, that the banks would have come in with a closed frontier anyhow. Perhaps a bank or two might have come, one did come, but would we have the extent of interest that there is in Gibraltar now? Let me say also that the Hon Leader of the Opposition said

something yesterday that was rather mischievous, if I may say so, because it isn't true and that is when he said that if all that the finance centre was going to do was to create companies in order to hold properties in Spain that then we were going to get the same name.....

HON J BOSSANO:

No, Mr Speaker, I didn't say that.

HON CHIEF MINISTER:

Just a moment, I will give way in a minute.

HON J BOSSANO:

The Hon Member is quoting me and what he is quoting is incorrect, I didn't say that.

HON CHIEF MINISTER:

I will give way in a minute, I will finish what I have to say and then you can correct the whole of the sentence because I have not finished. The Hon Member said words to the effect that he did not want the finance centre to become a place where only people who wanted to have properties in their names in companies in Gibraltar against Spanish laws were going to take advantage of it.

HON J BOSSANO:

Mr Speaker, when the Hon Member started speaking he said that I had said I didn't want banks to come to Gibraltar to set up companies and when he asked.....

HON CHIEF MINISTER:

No, I didn't say that.

HON J BOSSANO:

Yes, that is what he has just said, Mr Speaker, Hansard will show it.

HON CHIEF MINISTER:

No, you said that banks would have come to Gibraltar with a closed frontier, is what I said you said and I have got it in your words.

HON J BOSSANO:

Mr Speaker, the Hon Member has just gone on to say that I have said that I didn't want banks to come to Gibraltar to set up companies that would buy property in Spain.

HON CHIEF MINISTER:

No.

MR SPEAKER:

There may have been a misunderstanding but he has corrected it.

HON CHIEF MINISTER:

No, two different things.

HON J BOSSANO:

He has corrected it but this is what he said when I tried to interrupt him.

HON CHIEF MINISTER:

No.

MR SPEAKER:

With respect, order, I didn't hear the Hon and Learned the Chief Minister say anything about banks connected with companies and land but I most certainly take the point that the Hon Leader of the Opposition says that he heard him.

HON CHIEF MINISTER:

No, it is quite clear, it is two separate points and the first one I have the wording there - I have got a little practice in taking notes of relevant facts - banks would have come to Gibraltar in a closed frontier situation. I did say that one or two had come and one or two might come but we would not have the spate of banks who are interested to come to Gibraltar in a closed frontier situation. That was one thing that has nothing to do with the other. Then I went on to speak about the finance centre and I said that the Hon Member had said that he didn't want the finance centre - or words to the effect, I cannot quote - he didn't want the finance centre if all that it was going to do was to hold exempt companies in Gibraltar, to hold properties in Spain and create

the same discontent on the other side as contraband had created in the past. I am quoting correctly, I don't like to misquote deliberately I can assure the Hon Member, he knows me well enough. The Hon Member will be surprised to hear that I have never formed one company, I have never formed one company so I don't know much about it, I don't spend my time forming companies, I have better things to do both in my Chambers and in the Government. I can assure the Hon Member that the thousands of companies, first of all, that were here before the frontier was opened and therefore there was no question of holding property because it was unacceptable and subsequently the bulk of the work of the finance centre in Gibraltar today is really international work of the utmost importance bona fide and genuine. That people take advantage of these things to form a company, well, certainly, if that is not right in the eyes either of Spain or the EEC, we would not have Spanish banks applying for offshore licence work to carry out the same kind of work. So that really that attempt to criticise or belittle the finance centre by saying that if that was all that was going to happen we would might as well not have a finance centre....

HON J BOSSANO:

No, Mr Speaker, the Hon Member is misquoting me again. The Hon Financial and Development Secretary in his prepared statement made a reference to the misconception that people might have about what was a finance centre and I was asked by the Hon and Learned Member to say what we understood by a finance centre and we told him that whereas we are completely in favour and support and we were giving our support publicly in order to assist in what the Financial and Development Secretary said was the most precious commodity, the confidence factor, the kind of definition of finance centre that he has just talked about which is people genuinely involved in international finance, if what was understood by a finance centre was what has been the subject of public criticism, that is, people who are exclusively setting up artificial institutions for the purpose of evading tax in the next door country, then we are not in favour of that development as the development of the finance centre and we drew a distinction between the two things. We didn't say that the one was doing the other or trying to belittle the existence of the bona fide banks or anything else, it is very clear what we said.

HON CHIEF MINISTER:

Well, I will then put the positive part of the answer to that and that is from my knowledge of the working of the finance centre that if, in fact, there are any schemes for avoiding or, perhaps, for the sake of neatness of having to avoid the kind of bureaucracy that people have to deal with on the other side, that that is a very infinitesimal part of the work of the finance centre.

HON J BOSSANO:

I am glad to hear it.

HON CHIEF MINISTER:

The finance centre, from what I know, is doing work of much more importance than that. I would like to make the point that as the Financial and Development Secretary quite rightly said, we do not allow, coming back to banks because one thing is connected with the other, we do not allow or give licences, or rather they don't because we have nothing to do in the giving of licences, that is a matter for the Banking Superintendent and the Banking Supervisor in whatever form it is, without the approval of the State from which that bank comes. And it is interesting apart from the fact that there are already two prestigious Spanish clearing banks in Main Street, that there are quite a number of Spanish banks in the queue not so much for clearing banks but for offshore business with the consent of the Government. In fact, at one stage it was mentioned to us that we were taking too long to consider their application and we were able to show that they were being dealt with like everybody else according to the standing that they had. I think there is a difference in the approach of the Leader of the Opposition to the Estimates this year than last year that there was in his original expositions. I think, perhaps he got tired and he had every right to feel tired of saying the same thing for many years but what normally happens is that occasionally he got the praise, more often than not, he got the praise of Members on the analysis that he used to make some years ago of the Estimates and his approach to them. Unfortunately, yesterday he spent his time repeating himself, repeating last year's contribution, getting annoyed which he didn't do before, I don't know whether it is the nearness of the elections - don't worry, there is plenty of time - that kept him edgy about this matter. He shouldn't quarrel with himself or with other people because he has always been germane except on very rare occasions and correct so he mustn't get very annoyed. Let me tell the Hon Leader of the Opposition that I spent some time last night trying to find out whether there was any semblance of truth in this wide-sweeping statement that he said that it must be the first time in the history of Western civilisation that a Government had brought a measure that went into the next term of office. That is absolute nonsense. I even finished up reading Richard Crossman's Diary to see whether I could find something that I would be able to give him one way or the other. But reading back some of the Budget statements of Nigel Lawson and one or two others, of course, it is clear that when a statement is made they cannot project the ideas that they put forward limited to the period of their term of office are much less limited to the period of their term of office towards the end. Therefore,

as my colleague has already explained quite clearly, the question of the Development Aid Ordinance has not been geared in that sense at all. It was a matter that when you are in Government, even if you are not coming back, you have to leave things in order and you have to give as was mentioned by the Hon Mr Pilcher, he realised that people who had something in the pipeline required time to make their arrangements and put them on. There is no ulterior motive in that, nor indeed was there any in the other one about rates. The only point was there was a picture for the revision of rates in 1987, and it looked because of the instability of the situation, the uncertainty of rates and things like that and the fact that rates are already pretty high, that it was thought that another couple of years might give a respite but it would be perfectly in order for any Government to decide then not to have it. I think all the suspicions arise, again, I don't want to rub it in but they arise out of sheer ignorance of how Government works: Another clear example of that is the alleged conspiracy between the Financial and Development Secretary and the Chief Minister or the Government and so on. If you ever were in Government and you gave it a chance to work as it works now - I am not saying that either you are going to be in Government or you are going to give it the chance even if you are - but if you were and you gave it the chance you would see that it is all nonsense, that things don't work the way you imagine. Things work in a much more civilised manner, there is no pressure from one to another at all, the Financial Secretary is the financial adviser to the Government, he has certain responsibilities, policy matters are matters for the Government and you can have a word of advice like you have in 'Yes, Minister' or in 'Yes, Prime Minister', but it stops there if you want it to stop there. The fact that there have been seven different Financial Secretaries who have looked at the situation differently is perhaps a breath of fresh air for people who have been continuously in Government to see that other people take a different view. We are fortunate in the fact that we do not have now, and I think except for one isolated exception, for the first time we haven't got a Colonial Office type Financial Secretary.

MR SPEAKER:

I will then call on the Hon the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. With the applause ringing in my ears, I would just like to answer some of the points made during the debate and, if I may, I will start from the end, so to speak, with Mr Pilcher's query which I think was about the airport departure tax.

HON CHIEF MINISTER:

The sea departure tax.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The sea departure tax.

HON A J CANEPA:

The airport departure tax is not being touched.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In that case I won't answer.

HON J BOSSANO:

If there are more passengers shouldn't there be a bigger yield, that is the question.

HON CHIEF MINISTER:

The other point he was talking about was if the increase in passengers is not affected in the draft estimates of revenue, that is something that we ought to say a little about and that later when we come to the Appropriation Bill I will say something about the Estimates.

MR SPEAKER:

Or the Committee Stage of the Finance Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As I understand it, the Hon Mr Pilcher's query was on the figures for the airport departure tax comparing 1985/86. I am not quite sure that I understand the basis of his query but he did seem rather upset about it. We had a figure of actual revenue of £69,000 in 1985/86, in last year's Budget we announced the doubling of the tax. That, of course, took effect in November, not for the full year. In fact, if you allow for a doubling of £69,000 and add 20% you come very closely to the figure of £165,000 which we are showing in next year's estimates. I hope that clears that point up. Obviously, these are estimates and one can never predict what the increase in traffic is going to be exactly. Mr Feetham raised the question of houses and the money which was required. I think I can only say on that that if we don't sell the houses and raise the money which we are expecting and, again, assuming that the projects which are in the Improvement and Development Fund take place as planned, then we should

have to have resort to further borrowing. I cannot really say anymore at this stage because of the uncertainties. I think he complained when I said 'nonsense' at a certain stage in the proceedings, Mr Speaker, and suggested that civil servants should not actually say 'nonsense'. He might like to know that a former Home Secretary in the United Kingdom, Sir Henry Johnson, one of the old style mandarins, was in fact the only person who ever got into Hansard and he was reported there, that is when he was in the official box, Hansard read: 'An Hon Member - rubbish'. So I am following in distinguished footsteps if I occasionally say 'nonsense' across the floor of the House. The Hon Juan Carlos Perez on whose brevity I would like to add a word of congratulation, even more brief, I think, than last year. He did raise two points, one was on GG plates and he queried what we are doing. I think I can only say that the best advice we have is that the market can bear it, that is to say, it can bear an increase in duty from 2% to 5%. The granting of re-registration on change of ownership is regarded there, again, on the advice we have received, as being the chief deterrent and if we remove that, or rather if we grant that concession we are told it should lead to increased sales. Obviously, we will have to wait and see and monitor it. He suggested there might be wholesale tax evasion as a result of the 18% net duty on car hire. I think this is a very ingenious point. If the car hire industry, so to speak, replaced the normal car sales industry, well, we shall have to do something about it, again this is something we must clearly monitor. I now come to the points made by the Hon Leader of the Opposition. The first one I have is the £14m contribution to the Consolidated Fund. I explained I think why this is not being made. It was not required this year, one could regard it simply as a revote and this is not unusual. The law, as far as this particular borrowing is concerned, provides for the amount to be paid into the Consolidated Fund. In the Ordinance under which we borrowed the money it says: 'in aid of general Government expenditure'. I think what we are doing is certainly within the law and from the point of view of financial management it gives me greater flexibility if the money is paid into the Consolidated Fund because then from the point of view of placing the money to the best advantage when we have spare resources I can do this more readily.

HON J BOSSANO:

Can I ask the Hon Member to give way a moment on that point because the point that I was making, Mr Speaker, is that if we have a situation where we vote in last year's Budget and we make clear that if we are appropriating, and we don't agree with the methodology, that is to say, we don't agree because until he introduced this innovation very recently, contributions from the Consolidated Fund were not the result of borrowing, contributions were

the result of Government revenue. He has introduced this innovation of borrowing under an Ordinance that gives him the power to borrow for either the purposes of meeting general revenue or the purpose of meeting capital investment. He comes to the House and he says: "I am borrowing for the purpose of meeting general revenue and I am asking the House to vote that I use it for the other purpose for which I can use it". And then having got our support on that premise he doesn't do it. We would not have voted for the £1m to have been borrowed to have been put in the Consolidated Fund because we have already told him that we disagreed with that in 1985/86 and we would have said no in 1986/87 and if we are going to vote in this House in 1987/88, we have told him we are in favour of the new £1m debenture but we are not going to be in favour of that new £1m debenture if we are doing it on the premise it is going to go into the Improvement and Development Fund and it doesn't happen because he decides during the course of the year to put the money into the Consolidated Fund and for one reason or another it doesn't get transferred. It seems to us that the whole purpose of coming here and putting a piece of paper in front of us and having a debate and taking a decision is that we expect the decision which is a decision of this House to be implemented. So it isn't just like a revote, no, as far as we are concerned, it would be a revote if having put the money into the Improvement and Development Fund and having voted the expenditure out of the Fund, that expenditure did not take place. We have got a number of revotes in the Improvement and Development Fund of money that would have been spent last year had the £1m got in. We need to be quite clear. Either the purpose is that it is going in or we are not in favour. The Government can still do it but we then reserve our position.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am afraid I don't really understand the point. Last year in the Estimates we had a provision - contribution to Improvement and Development Fund - £1.5m. This, as I have explained, we did not contribute because the money was not required and that, as far as I can see, is the end of the matter. The next point which the Hon Member raised was about the rates for GSL and, of course, the disallowance for development aid. The NAV for 1986/87 is approximately £114,000 and the rates payable will be £70,000 on the basis of the assessment made by the Valuation Officer. In 1987/88 the figures are £316,000 for the NAV and £196 payable as actual rates. The Hon Member expressed some surprise that the figure for Waterport was larger than GSL because of the smaller area. However, I am informed that the value of plant and equipment is also taken into account for the purposes of assessment of the rateable value. That is my information.

HON J BOSSANO:

Mr Speaker, is the Hon Member saying, let me get that quite clear, that rates under the Public Health Ordinance are not levied exclusively on premises, that they are also levied on plant and equipment inside the premises?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly in the case as far as Waterport is concerned, yes, Sir.

HON J BOSSANO:

But is he saying that this is just the case in Waterport or that this is how rates are levied on all commercial premises in Gibraltar?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, it depends very much on the kind of premises, Mr Speaker. I couldn't say whether this is true of all hereditaments but it is certainly true of Waterport Power Station that the plant and equipment, the value of the plant and equipment are taken into consideration, this is the information I have been given. If there is some query we can pursue this outside the meeting, I am quite happy to do that.

HON J BOSSANO:

Well, what I would like the Hon Member to find out is under what provision of the Public Health Ordinance this is done.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have no doubt we can provide this information, Mr Speaker. The next point I have down is foodstuffs. I apologise for the fact that in my speech, in fact, in the written speech, I showed the proportion of foodstuffs of having fallen from one-fifth to one-quarter. I think the explanation for this maybe, those who had a copy of my speech will have seen that my Secretary's typewriter typed 'one-fifth' in a way which makes it look rather bigger than one-quarter. That is the only explanation I can offer for that particular slip but I didn't notice it and the Hon Leader of the Opposition with his usual sharpness did. I am sorry that I have to insist that national insurance in the United Kingdom is a tax and the reason why I say that is because the rates payable are proportionate to income whereas the benefit, I am talking about the flat rate benefit now, are flat rates. This, of course, is rather different from the Gibraltar position which, I think, is more equitable personally, that is to say, your contribution is a flat

rate contribution for a flat rate retirement pension. But in the United Kingdom, for example, it is 7% of earnings up to £285 a week which is about £1,000 a year and for that you get, of course, the same flat rate pension, and I am talking about the flat rate element not earnings related, as an employee who makes a contribution of 7% of the minimal earnings or average earnings. Not only that, of course, as far as the employer's contribution is concerned, it is 10% without limit on salary. So that is really a form of employment tax or payroll tax, if one would care to use that phrase, and I think this is one amongst many reasons why the overall level of taxation in the United Kingdom, the amount of tax raised as a percentage of national income is very high and, indeed, as I have said and as the Hon Mr Canepa said, is higher than in Gibraltar as a proportion of national income. I do have a slight correction to make to my speech in that I mentioned that the apprentice allowance was to be increased from £150 to £250. It is, in fact, to be increased to £300 and this figure was included in the Finance Bill. I am sorry my speech was £50 inaccurate. The apprentice allowance is to be increased from £150 to £300 and not to £250 as I said in my speech. We will give consideration to the point raised by the Hon Leader of the Opposition as to whether we should exempt UK social security benefits. I think the principle here a not unreasonable one in that the person concerned would be a resident of Gibraltar, another resident who was receiving a social security pension here would not be taxed and so equity, perhaps, suggests equal treatment. On the other hand, the Finance Bill does provide and this is something, again, which I regret I rather omitted to mention in my speech, but it does provide for pensions which are not social security pensions but which may be payable in the United Kingdom and so it might be paid into a United Kingdom bank account by a resident of Gibraltar which if it were paid in Gibraltar would be taxed, it also provides for these to be taxed, I am thinking now of occupational pensions like the MOD, that is to be provided. Absolutely to conclude, I must, I think, respond to the criticism which the Hon Leader of the Opposition and, indeed, other of his colleagues have made and I am responding here to a point raised in the debate, Mr Speaker, about the failure on the part of the Financial and Development Secretary to give a lead in running the economy. I am never quite sure whether Hon Members mean running the economy or Government finances. I regard my responsibility as far as the economy is concerned, as being part of those which I share with other Ministers and that particular point has been covered adequately, I think, in the response of the Chief Minister and the contribution of other Ministers during the debate. But as far as the Government finances are concerned which I think is more clearly my responsibility, we had a certain amount of knock-about, again, the ghosts of Alistair McKay and Alan Collings and even Reg Wallace were hauled out of retirement. I must assure the Hon Leader of the

Opposition that, in fact, I am due to stay here for five years and so, possibly, one of those five will be after the next election. It may be that I will have to present the Budget from the Opposition benches. My responsibilities under the Constitution are very clearly laid down. The Hon Leader of the Opposition takes me to task in the most extraordinary way, I suppose it is all part of Traynor--bashing, but if it is not public debt it is surpluses and it is the reserves. Not so long ago he was complaining that public debt had increased from £9m in 1981 to £28m which was a situation I inherited, by the way, he was contrasting my performance with that of my predecessor. Indeed, when I came here the Hon Leader of the Opposition was complaining that the Consolidated Fund Balances were all constituted in terms of municipal debt, he said that there is no cash there and he even went off to complain to Baroness Young rather like a sort of schoolboy who snitches to teacher, he went to tell Baroness Young that there wasn't any money there. He had half a point, I think, because there was difficulty at that time with the collection of arrears of revenue but I did, in fact, look up the figures, Mr Speaker, and I think this is my answer to his other point about the deficits and surpluses at the end of the year. I don't think that they are themselves particularly significant. What is significant and I have said this all along and if he checks on my previous statements, is the Government's overall liquidity position. At the end of 1984/85 we had in terms of cash balances and Consolidated Fund investments, which is what I would call the overall liquidity balance, £7m. This figure increased at the end of 1985/86 to £11m and at the end of 1986/87, like as of now, we are talking of something like £14m and it is against that background that the Government has been able to reduce taxation because the Government's financial position is a very healthy one. I do wish Hon Members would begin to understand that this is what financial management is about. In the last three years, despite the recent Traynor-bashing, I would just like to say we have reduced public debt, we have reduced taxes, we have improved cash balances, we have reduced debt charges, we have borrowed less, borrowed less than in previous years, and we have improved the collection of municipal revenue and that is my record, Mr Speaker, and I will stand by it.

HON J E PILCHER:

If the Hon Member will give way just before he sits down. He hasn't answered the question that I put to him.

MR SPEAKER:

We might perhaps get it at the Committee Stage.

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

The House recessed at 5.45 pm.

The House resumed at 6.15 pm.

SECOND READING OF THE APPROPRIATION (1987/88) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Appropriation (1987/88) Ordinance, 1987, be read a second time. I don't propose to say very much, Mr Speaker, because this is an occasion when Ministers who are responsible for all the spending explain the nature of their budgets and their plans for the year. The Estimates before the House show that Government revenue for 1986/87 was more than £3m over budget, but matched by a comparable increase in Government spending. Of course, the Government contribution to GSL accounts for a substantial proportion of that, more than £1½m and there was another exceptional item of expenditure which was the repayment of an outstanding bank loan, the Barclays Bank loan prior to termination. Increased spending by Government Departments in excess of the budget for 1986/87, is therefore expected to be of the order of £1m. This is, of course, disguised in the Estimates by the deferment of the contribution to the Consolidated Fund which we were just talking about. As far as 1987/88 is concerned, spending by Government Departments will increase by some £3m. That is inclusive, of course, of the provision for pay increases in 1987/88 which represents just about half that amount, just under half, but offset by a reduction in debt charges, a reduction of £700,000 in the Consolidated Fund charges which is a contra of the increase which I mentioned in 1986/87. That is the consequence of the earlier repayment. There is only one other item I think I ought to mention, that is Hon Members may already have noticed that a number of items which were previously classified as special expenditure have been shifted from the current to the capital account this year, that is to say, they are included in the Improvement and Development Fund for the first time. The items are all of a capital nature, such as vehicles, computers, plant, and equipment and, of course, the Public Finance (Control and Audit) Ordinance specifically provides for such items to be included in the Improvement and Development Fund. I am not sure why they have not been included before now. There is some doubt as to whether a hearse can be regarded as improvement and development but it is certainly of a capital nature, I think. On the other hand, such items as election expenses, while they may be a capital idea, they produce nothing and are clearly not such. That is all really I have to say by way of introduction, Mr Speaker. I commend the Bill to the House.

HON CHIEF MINISTER:

I don't have much to say at this stage except in general terms. I shall deal with one or two items of expenditure which I know Hon Members will be interested when we come to the particular items in order to explain matters which have been the subject of discussion in this House. But, first of all, the question of putting capital expenditure where it ought to be is something which I have advocated for many years because it was the practice in the City Council that what is capital is not fair to be charged on the taxpayers of today only on what has a lifespan of fourteen or fifteen years and you repay over capital, you have the repayment charges and so on. This is how most of the big capital expenditure has been done in the past but it has been put, I think, improperly, or rather, the purpose of the Improvement and Development Fund was different. I can tell Members that many years ago, ten or fifteen years ago, this idea of obtaining capital for funding big charges was not as well known to the central Government as was the practice and the norm in the municipal accounts, in the old City Council Accounts. I would just like to say that apart from the normal increases in Departments, Ministers made special bids and we go through the Estimates very carefully to make sure that the money that they are putting for expenditure of which there is an excess of £3m, as the Financial Secretary has said, each Minister has to satisfy not only himself but his colleagues. There is a competition, there is a limit set, to some extent, because otherwise the kind of applications that are made are sometimes fantastic, people in Departments who are not aware of the repercussions, can submit projects of millions of pounds which, of course, must be looked at very carefully. Therefore the Estimates, apart from reflecting the normal increases, allows for improvements and also for a much more generous approach than was the case three or four years ago when the financial situation was different. Because the situation is better Members are allowed more money in respect of improvements, they never get all they want because then it would be endless but they are allowed much more but they have to defend it strongly so that really we go through the expenditure estimates very carefully. I would like to mention something which has been referred to earlier and this is perhaps the best place in which I should mention it and that is that Ministers have no direct say and there is no reason why they should, anyhow. Ministers have no direct say in the Estimates of Revenue. The Estimates of Revenue is much more a financial administrative matter more than a political matter in the sense that we get a report of how revenue is doing in the various Departments from month to month and you see whether the graph is up or down and how far up and what are your expectations. If you manipulated the Estimates of Revenue you could mislead the people certainly one year by either wanting to reduce

them or wanting to increase them and give a completely different answer. It is much more a financial than a political approach that is made. It is based on expectations, it is based on the performance of the particular one. In that respect, I recalled in the course of this year's Estimates, on the Estimates - I don't know whether they are separate now or they come under the general Head, in the old days what was estimated to be yielded from estate duty. There was a time when a certain Financial Secretary had his eye on five or six people who might die during the year and according to his expectation of their life he would put up or put down the amount of money that could be expected from estate duty, sometimes he was very disappointed at the end of the year because some people were still alive and had not yielded the income that was expected. That is really a very difficult exercise and therefore anybody can be right or wrong in that respect.

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 MISS M I MONTEGRIFFO:

Mr Speaker, my contribution on the Appropriation Bill will, as in previous years, refer to those areas I am responsible for in Opposition, namely, the Medical Services, Sport and Culture. I will deal first with the latter, Mr Speaker, Sport and Culture. There are important matters here which I wish to highlight and I would like to start by saying that what the GSLP feared would happen, something which I warned the Government about in my Budget speech prior to the full opening of the frontier, is happening today. Due, Mr Speaker, to the lack of certain sporting facilities in Gibraltar, sporting associations and clubs are being forced to seek recreational facilities outside Gibraltar. The Minister himself confirmed in the last Budget that the open frontier had not reduced sporting activities as envisaged, they had increased he said. Gibraltar, Mr Speaker, is still awaiting the realisation of the AACR's long-standing commitment given some twelve years ago to construct a swimming-pool. That they included this in their election manifesto does not say much for their credibility. Last September, Mr Speaker, the Minister, the Hon George Mascarenhas, went as far as to say in a radio interview that we would have a pool in the very near future and that the plans that had been presented by the developers not only were acceptable by the Government but that he thought that the pool would be built at Montagu Basin. I hope, Mr Speaker, that therefore the Minister in his reply can shed light on what has now become the never-ending swimming-pool fiasco. We also have reason to believe, Mr Speaker, that there are problems being

encountered by the Gibraltar Hockey Association on the question of the astro turf. We would like to hear what the Government's position is on this matter and whether they intend to assist the Association in making this a reality. A year, Mr Speaker, has already elapsed since the Minister for Sport in last year's Budget speech said that the Government and the Gibraltar Squash Rackets Club had got together because the Club had expressed an interest in providing financial assistance in building two squash courts at Victoria Stadium. He said, Mr Speaker, that an agreement had been reached. Yet, as we understand, agreement has not been reached and we hope that this will not be another swimming-pool fiasco. Last month, the Minister confirmed in answer to my question on Government's intention to collect fees for the use of sporting facilities, that they would not be back dating them. The GSLP has been pressing for this policy to be abandoned by the AACR and the Minister for Health, after our request, changed his mind on the question of the GPMS increased contributions which Government were hoping to charge retrospectively. However, Mr Speaker, when I asked the Minister for Sport for confirmation that he, too, had changed his mind, on the one hand he denied that the Government had reversed its policy and on the other he confirmed that he no longer intended to proceed with it. Perhaps, Mr Speaker, the Minister for Sport does not like admitting that he has made a mistake. Nonetheless, the GSLP hopes that when the Government start collecting fees in June, the actual amount of money collected will go to sport. We are very disappointed, Mr Speaker, that in a financial year when the Government will be collecting sport fees for the use of their facilities, they are not increasing the contributions to sporting societies which still remain at £15,000. There are, Mr Speaker, in the region of about thirteen sporting associations, a great number of which participate in international events and they are certainly to be commended for the inroads they are making in getting Gibraltar recognised as a nation in its own right by international federations, especially when there has been very strong opposition from Spain. This is, undoubtedly, an extremely important achievement. Therefore, given these two reasons, £15,000 is clearly not a very realistic figure and I am giving notice to the Minister, Mr Speaker, that when we come to discuss the Estimates in detail, I would like a breakdown of how the money was distributed last year and a list of those persons whom they have selected as members of the Sports Committee. The GSLP is totally committed to sport and to improving the quality of life in Gibraltar so that Gibraltarians do not need to go elsewhere to look for recreational enjoyment. Certainly, Mr Speaker, the AACR have managed the very opposite and this Budget is not going to improve the situation. I would like to say here and now that, if elected, the GSLP would start by increasing the figure of £15,000 substantially. We will be outlining in more detail our plans, Mr Speaker, during the forthcoming elections. We now come to Culture,

Mr Speaker. We note that the money allocated as financial assistance to youth and cultural activities is being increased in this Budget by a figure of £200 and on the question of the restoration and maintenance of historical buildings and sites, the GSLP has on many occasions expressed concern at the money that the Government has been providing. Our heritage, Mr Speaker, is definitely an important facet to attracting people to Gibraltar apart from the fact that Gibraltarians can enjoy living in better surroundings. It appears that the new Heritage Trust soon to be constituted has now been given this responsibility and we hope that the Government will participate in a way which will not see a recurrence of what has happened with the Gibraltar Museum Committee. This Committee has been critical of the Government in their latest Report saying that they have not contributed enough to important schemes in order to be able to get them off the ground, Mr Speaker. Therefore, we still have to wait and see what the AACR intend to do in relation to our heritage. In looking at the Estimates for the Medical and Health Services, the GSLP cannot but express its extreme disappointment in the resources the Government are providing for this essential service. With the amount of money they are allocating, we are sure no marked improvements will be possible in such an important area which has been the focal point of so many complaints, not only from the patients themselves but also from the medical and nursing professions. What they are doing in this Budget, Mr Speaker, is something which has never been done before and that is putting money in the Improvement and Development Fund under Head 112. This Fund is used for totally different reasons and not for what the Government are intending like, for example, purchasing ward furniture, electrical cookers, a hearse for the hospital, which should be shown in the Departmental vote as Special Expenditure. If they were to put money in the Improvement and Development Fund for the purpose of building a new hospital then, Mr Speaker, this would be a totally different matter and we would accept it. However, this is not the sort of action that they have been urgently advised to take by the experts and certainly it is no answer to the state of the Medical Services. Moreover, Mr Speaker, when we look at the financial statement in the Estimates we see that this amount of money in the Improvement and Development Fund is actually money which has been borrowed from the banks. The reality is that when we are hearing so much about the economic boom all around us, the Government are still having to use borrowed money to provide essential things as furniture in the wards of the hospital, Mr Speaker. The Minister for Health has always stood up in this House in defence of what he has claimed to be the exemplary and healthy state of the Medical Services and he has denied on many occasions that there is cause for concern. He has even taken this line, Mr Speaker, only a few months prior to the announcement of the commissioning of a major review which, incidentally, was announced by him last autumn to the media and not

to the House of Assembly. We have not after all, Mr Speaker, been the prophets of doom, an accusation often mooted against the GSLP from the other side of the House. Our analysis of the situation within our Medical Services, since we became the Opposition Party in 1984, has been totally accurate and today these Services are in a very dangerous predicament requiring urgent and positive action on the part of the Government if they expect to be able to redress the situation at all. The major review undertaken by a team of three top UK experts cannot but be a recognition in itself that things are not well at all and we cannot accept the Minister's interpretation that the Review was simply undertaken because certain areas within the Medical Services could be improved. We are very surprised he has taken this line when, in fact, the very same team he engaged have been very critical in their analysis of the way the Medical Services are functioning in Gibraltar. As I have already said publicly, Mr Speaker, the Review Team met the GSLP at their insistence and they painted an extremely grey picture, one which they were adamant could not be put right unless the recommendations of their Report were implemented right away by the Government. Moreover they said, quite categorically, that a piecemeal exercise would be a total waste of time. They informed us that their Report envisages a whole series of major and radical changes and at this stage I wish to make it quite clear that these changes which they outlined to us would totally fall in line with GSLP policy. Of course, I cannot let this opportunity pass by without telling the Government 'we told you so'. We have been warning them that unless they abandoned their laissez faire attitude they would be in deep waters. The GSLP has taken a conscientious approach, we have never spoken in this House on any matter without first obtaining facts and figures, Mr Speaker, and without having evidence that what we are exposing happens to be correct. If, Mr Speaker, on top of it all we now have the team of experts coinciding with our analysis and advising very urgent action if the Medical Services are to be held together, the GSLP cannot but regret the Minister's continuous attitude of trying to defend the state of the Medical Services in this House and denying things which he has eventually had to retract on like, for example, was the case with the shortage of nurses. In our opinion he has acted either irresponsibly, misleading the House by giving the wrong information in order to avoid political embarrassment or he has simply not tried to find out exactly what has been happening within the Services. It must necessarily, Mr Speaker, be one or the other explanation given the evidence before us today. Going back to 1985, Mr Speaker, I brought to this House a motion on the critical state of the Medical Services and it was defeated by the Government who claimed, amongst other things, that doctors earned a lot of money and that they should exercise a little more vocation, that they didn't know what the nurses were complaining about and that Gibraltarians were demanding as patients and the Minister said, in his words, that

they would rather go and see a doctor instead of taking an aspirin. I have brought, Mr Speaker, a very wide-ranging number of questions to this House since 1984: on the general resources available within the Medical Services; the insufficient number of doctors, nurses; the alleged shortages of supplies at St Bernard's; complaints on private practice; requests for chronic patients' eligibility to free prescriptions; the geriatric problem; and the maintenance and conditions of our hospitals, to mention but a few, Mr Speaker. As to the number of doctors at the Health Centre, after my motion the Government agreed to employ only one when the Gibraltar Branch of the Medical Association were requesting five as a minimum, Mr Speaker. Soon after the Minister acceded to our request for an extra nurse for the extra doctor. We have been able, Mr Speaker, to change the Minister's mind after two years on the question of creating a post of dental clinic assistant and of employing another Mental Welfare Officer. We also moved them on the availability of free prescriptions and free doctors house calls to those within a low income bracket. More recently, the Minister has agreed to our requests to introduce the Prescriptions Only Medicines List and to advertise the post of Dietician, two matters which have been pending for a very long time. All this, Mr Speaker, after constant pressure from the Opposition. On the question of the geriatrics and the nursing domiciliary service, the Minister has denied our request that he commits himself specifically to improving this. He has said he needs to study the recommendations of the major review. We see no provision, yet again, for improvement in this area from the Estimates. We were able, Mr Speaker, to get the Government to give the House a breakdown of the maintenance money for the hospitals which formed part of an overall maintenance vote for the Public Works Department. As regards the level of maintenance at St Bernard's, the Minister has admitted he is not totally satisfied but he has said that Government finances are restrictive. We cannot, Mr Speaker, accept this explanation given the conditions of some of the wards at the hospital and the lack on the part of the Government to improving this situation. In the Estimates they are only allocated £3,000 more than they did last year. The GSLP, Mr Speaker, also started questioning the Government on the desirability of introducing in Gibraltar an educational campaign on the dangers of AIDS and the purchase of a screen-testing machine which detects the syndrome. This we started in November last year and the Minister confirmed to us in last month's meeting of the House that the machine is in Gibraltar and that the campaign is due to commence. We believe that we have also been responsible for the commissioning of another review within the Medical Services and that is the Nurses Review. The Minister has stated in this House that this Review will be taking care of the nursing shortages and the question of the Gibraltar Nursing Qualifications, two matters which we have given prominence to in this House. We are, nevertheless, dissatisfied with the way the Government have handled this

situation and, again, we cannot accept the explanations they have given to us for the extraordinary delay in getting our qualifications accepted by UK and the EEC since 1978. After waiting for nine years, Mr Speaker, we are now told that only minor details were required. We trust that they will start giving this matter the expediency it merits and since we are today expected to recognise qualifications throughout the whole of the EEC and no one in the EEC accept ours, we hope that the Minister can confirm that we will have a date by which Gibraltar qualifications will be accepted by the EEC. The GSLP, Mr Speaker, have proved that their policy in this House has been one of continuous questioning until problems have been solved and solutions have finally reached fruition. The expenditure, however, estimated for the forthcoming financial year for the Medical Services is already proof, Mr Speaker, that the Government once again wish to maintain the status quo. They are only creating four new posts which are the result of the nursing review. This, Mr Speaker, is simply not enough. The Government must be seen to be making an initiative in implementing the recommendations of the experts, promises and promises that they will is typical of an AACR administration who have proved in their last forty years that their handling of a problem is to patch it up as much as possible. In this Budget, therefore, they are once again sitting on the fence. The report of the experts was submitted at the beginning of the year and they advised its very urgent implementation. The Government are still doing nothing about it. Although the Minister handed me a copy of it last Wednesday, it was on condition that I adhered to its confidentiality. We cannot therefore go into a debate about its contents. The GSLP believes, Mr Speaker, that the Government has had it long enough to have taken a decision on it already because of the urgency given to it by the team of experts who submitted it. This decision should have been announced in this Budget, this is the appropriate time and financial resources should have been made available in the Medical Vote. We cannot see how the AACR expect to do anything about the Report in the financial year for 1987/88. I am now, Mr Speaker, giving the Minister for Health notice that as soon as the major report is made public, I propose to bring a motion to this House to debate the matter. We believe that the economic restraints that the AACR have imposed within our essential services is therefore the result in which they have allowed the continuation of a system too outdated for today's requirements as it has been allowed to remain static and adverse to change. That the AACR want better Medical Services as stated by the Hon George Mascarenhas in his last TV political broadcast, is a totally different matter from providing it and they are certainly not going to provide it with the sort of Budget they have presented. The people cannot be fooled all of the time. We believe that in consonance with the GSLP's policy objective in a new and more efficient Government set-up, the Medical Services must necessarily undergo

their own organisational restructuring. New arrangements for an independent and autonomous body designed to become more efficient with a more direct control of its finances. A GSLP Government would immediately pursue, in the context of this new concept, consultations with the medical and nursing professions and the administrative side, so as to ensure cooperation from all the different sectors and the quick and smooth passage of the changes envisaged by us, Mr Speaker. In Opposition we have already taken the first step in a systematic approach to the identification of needs and priorities through our enquiries by meeting those directly involved or those directly affected within the Services. Naturally, we also realise that over the years Gibraltar has experienced a dramatic change in social developments whilst, on the other hand, there has been a constant decline in standards with the AACR, Mr Speaker, unwilling to effect the necessary changes and the finance required for expansion. For example, the trend in recent years shows a greater need for a greater proportion of the population; the elderly, the mentally ill, the handicapped and those with a drug addiction problem in the community. Advances in medical science provide a new approach to combat and treat illnesses and all this coupled with increasing health awareness by people today is bound to provoke even more demands on our Social Services in the near future. Again, Mr Speaker, primary health care is today recognised as an extremely important facet to any Health Scheme. Good primary care arrangements contribute to both the quality and cost-effectiveness of a health scheme. This is the view held by experts in UK and the EEC. The better its service, the less people requiring further and more specialised treatment. In Gibraltar, we have seen yet again that the resources and the arrangements at our Health Centre are both inadequate and insufficient reaching such deterioration that even the doctors and nurses themselves have been forced to take action in order that their complaints be heard. A primary health care physician is an important key element. Almost everyone who is in need of medical treatment goes to see a GP first, even those with social problems and their ability, Mr Speaker, to refer people to specialists bespeak of the important role they play. The GSLP is therefore very conscious of the resources and conditions prevailing at our Health Centre where there is an urgent need for more doctors and a different system and our plans here would be given prominence in our manifesto, Mr Speaker, as part of our overall commitment to the Medical Services. Another important new concept for the medical system is the part played by community nurses. If primary health care is to achieve the desired goals, then there must be a greater move to considering a person's wellbeing and in this the community nurse excels. The development in many countries of community nurses for the medically ill, the disabled, the handicapped and the mentally ill, has made it possible to care for more patients without admission to hospital. There is little, if no need, for more resources but rather a switch

within the present system so as to enable people to have a choice of being cared for at home rather than in hospital or a psychiatric unit. There is a strong feeling amongst people that they recover quicker or feel happier at home in familiar surroundings and that hence their quality of life is much better. Indeed, it is an accepted fact that the act of removing people from their homes for illness reasons or because they cannot be cared for by their family, hastens physical and mental deterioration. Events in many countries show that this concept is working very well and that in Gibraltar, Mr Speaker, it can be pursued as a first choice to those who prefer this new system and can be cared for by a community nurse. There are many people who want skilled attention and help from someone they have come to know and who has a little more time to listen to their problems than, for example, a doctor. And if a doctor at any time has to be called in, then he can rely on the community nurse to give him the clinical information. Therefore, Mr Speaker, community nursing must necessarily pursue an integrated approach with GP's, working together as a team, promoting primary health care to the fullest capacity available. There is no doubt, Mr Speaker, that the potential skills of nurses as health promoters are not being fully tapped by our community. There are a whole lot of constructive and positive reasons why Gibraltar should aim at a different approach on primary health care with the introduction of community nursing. The changes, however, advocated by a GSLP Government are not so much revolutionary but evolutionary, Mr Speaker, responding to present day demands and requirements, something which has been non-existent in our community before. Finally, therefore, Mr Speaker, on the Medical and Health Services, we feel that the AACR should ensure that it provides the contributors to the Health Scheme the best value for money. The public is entitled to this simply because it is their money going into the Scheme. When improving the services the Government must ensure that it does it in a way that not only meets the patients' needs but also the medical profession's needs. We believe that the individual members of the public as the recipients of the service are often in a unique position to qualify the delivery of the services. Therefore the many complaints brought to our attention in the last few years, Mr Speaker, together with those which have been publicly highlighted, prove that in stating that the Services have reached a very critical stage, we have not been exaggerating at all, something which the Government has accused us of in the past. And definitely, Mr Speaker, when we have said that the services are working well they have been for the reason that it has been solely because of the efforts and the dedication of all those people working within the Medical Services. So in looking generally at the three different areas, Medical and Health Services, Sport and Culture, there are still many problems which have not been tackled and which the Government are not going to solve as reflected in this Budget. Yet, Mr Speaker, the Government claim that the economy is

working satisfactorily and that in last year's Budget they went as far as to say that Gibraltar and the Gibraltarians will all benefit from the increased economic benefits specifically saying that our social standards would improve. This has not happened and the AACR do not seem to be concerned with the important social services which they have an obligation to provide to the community. Thank you, Mr Speaker.

MR SPEAKER:

May I invite another contributor to the debate?

HON CHIEF MINISTER:

The difficulty, I understand, Mr Speaker, is that if the Minister answers now he will not be able to reply to the intervention of whoever is shadowing for housing.

HON J E PILCHER:

Perhaps we could have another contributor, for example, on tourism as I have already mentioned a number of points which I would like answers to.

MR SPEAKER:

Well, it is not for me to say who is to speak next.

HON H J ZAMMITT:

Mr Speaker, Sir, I am delighted to start the ball rolling on tourism. Firstly, may I take advantage of my intervention in the Appropriation Bill to reply to some of the points that were raised during the Finance Bill. Mr Pilcher, Mr Speaker, said that I had not spoken on tourism in my intervention this morning on the Finance Bill and I will tell both him and the Opposition why this was not done. It was done deliberately because in the past it has been normal practice for the GSLP Members not to speak on the Finance Bill. In fact, if one looks at the Hansard of the Budget Session you will find that the Hon Mr Bossano commences by saying: "I will be answering on behalf of the Opposition Members on the Finance Bill and subsequently individual Members will be involving themselves with the departments for which they are responsible". Therefore, Mr Speaker, until yesterday evening one was under the impression that there would be two or three interventions from the other side and two or three interventions from this side but, alas, everybody has been roped in to participate. Mr Speaker, it was not done with any motive other than following this formula established since the GSLP took over the Opposition. In fact, if Members check they will find that it has occurred, certainly since 1984, and it is only this year that Members have intervened.

HON J E PILCHER:

I always speak on the Finance Bill, Mr Speaker.

HON H J ZAMMITT:

Mr Speaker, one of the points raised which obviously affects tourism and in which the Hon Mr Feetham spoke about was the question of the Sotogrande shopping complex presentation that he was invited to at the Holiday Inn. Mr Speaker, I can inform Members that we have to be extremely careful on that front and it is not that I say that by virtue of the seminar or the Sotogrande relationship, but in my very first meeting with the then new President of the Chamber of Commerce, Mr Sol Seruya, he came to see me to try to persuade me to conduct a more aggressive campaign, particularly in Spain, with a view to making Gibraltar the shopping area of Europe and, of course, whilst listening to him very patiently and, obviously, accepting his views - although I do not agree with them - I had to remind Mr Seruya precisely of what Mr Feetham said today and that is that Gibraltar today may still be somewhat attractive from the shopping point of view but that with the advent of the EEC and no doubt the consequences of EEC and of Spain within the EEC, then there was little doubt in my mind that very many of the goods today obtainable in Gibraltar will in the next three, four, five or six years be available in Spain and probably because they can buy in greater quantities than certainly the Gibraltar market can, the chances of them being able to offer much more competitive prices is not to be dismissed lightly. Therefore I would certainly not put my eggs in that basket and I feel that Gibraltar, apart from offering a shopping incentive to the excursionists or to Southern Spain or even Central Spain, we should not limit ourselves to the shopping element of Gibraltar alone because that has a saturation point that is bound to occur in the not too distant future be it five, ten or probably less years. But what we did have to do is precisely what we have been advocating, certainly for the last two years since the frontier opened fully and that is to portray Gibraltar in the international markets and particularly in the UK market for what it is and Gibraltar has today because of an open frontier situation a different acceptance within the travel trade than what it had with a closed frontier. Today Gibraltar is already being offered and sold reasonably successfully even in these early days, as a two and three-centre holidays. That is to say, Gibraltar/Spain/Morocco or any permutation of those three offering two continents and three different locations within this geographical area. That is what we are attempting to do both in the Spanish market and Members will see that we have made provision for other markets apart from UK but, in particular, and I would like to make this point very clear, what is interesting to the tourist trade and to Gibraltar is the hotel occupier.

Although we appreciate, Mr Speaker, the value of 2.8 million excursionists having crossed the frontier, although we value their contribution, we cannot deny that the greatest spread to the Gibraltar economy is certainly afforded by the tourist that spends nights in Gibraltar whereby the spread of his spending is shared out by the community to a much larger extent. Mr Speaker, events have shown that since the opening of the frontier there is a greater demand placed on Gibraltar both as a holiday resort, as a two or three-centre holiday and as a stepping stone by using the Gibraltar airport and we find that very many of the problems that we had years ago are still with us today because despite the number of increased flights that Gibraltar has been able to acquire over these last two years, it is impossible - and I can say this, Mr Speaker, on this very day, there is not a seat out of Gibraltar until after the 1st May nor is there a seat to Gibraltar until after the 1st May and that is with the number of flights that we are receiving in Gibraltar today. At the moment, Sir, we have six Air Europe flights from Gatwick, three from Manchester and one of those Manchester flights has a hop-on at Gatwick; we have eight GB Airways; five British Airways and two Thomsons charter flights, a total of twenty-four aircraft coming in a week. Mr Speaker, I don't think we can come out with bagpipes and bugles about this but it certainly is a tremendous improvement, certainly Mr Bossano can remember and I think Mr Feetham also because of his involvement in tourism, when we were limited to five flights a week. But we still have the same problem, we still have the same problem that people will tell us and write to us and complain that they cannot obtain seats on aircraft to Gibraltar. Mr Speaker, in my trips to England on the trade promotions I am constantly and I cannot emphasise this enough - I am constantly reminded by the travel trade of the difficulties they are encountering with Gibraltar. There is a great demand for coming here whether it be on a short stay and the spread between the three areas I have mentioned, but there is a demand for Gibraltar. They say to you quite openly: "It's impossible to get there, we just cannot find a seat, we have been trying for the last five weeks and we cannot get one", especially, may I say, from Manchester, planes are totally booked months ahead from Manchester. But, Mr Speaker, not only can they not find air seats, the tour operators who to me are possibly the most important of the whole tourist industry because they are the people who control, motivate and send people to wherever they wish, they will tell you that they are unable to contract beds. I am saying that, Mr Speaker, because of the hotel occupancy figures that the Hon Mr Feetham was mentioning earlier on. All the major tour operators are unable to secure more hotel beds in Gibraltar. The major tour operators are not interested in being given twenty beds a week, they would like to have 500 beds a week or more and what is occurring - I say this, Mr Speaker, because I think it is somewhat serious - is that they are finding that they are being

ousted, if anything, from the market and when analysed one sees the reason why they are being ousted. I think, without going into figures, that we have to accept that the negotiated price between a tour operator and a hotel is certainly not the price that is charged to a Mr and Mrs Smith who happen to walk into a hotel by chance and because there has been a demand on the chance client or guest, the hotel finds it much more advantageous to be able to part occupy his hotel at almost double the rate of what the tour operator is working for. But in doing so, Mr Speaker, I would warn hoteliers to be cautious because the initial opening of the frontier has brought about a number of people coming into Gibraltar by car looking for commercial openings, banking, finance and that, again, will some day come to an end. In being somewhat greedy in that attitude they might well kill the goose that lays the golden egg and tour operators might well find it much more advantageous to go elsewhere and then they might lament very much the actions that they are taking. But, of course, Mr Speaker, I am Minister for Tourism and they are the people that have the business acumen to do as they or their Boards or management so direct. Mr Speaker, mention was also made by the Hon Mr Pilcher of the hotel occupancy. Again, Mr Speaker, I think I have explained this here before. It is difficult to understand, and I will quote some examples. Let us take, for instance, last November when we had the Bob Geldorf, Alison Moyet, the Ark Royal pop music show, Geldorf, Moyet and Paul Young. Mr Speaker, during that period there was Autumn Spring, some exercise taking place.

HON J E PILCHER:

Autumn Train.

HON H J ZAMMITT:

Autumn Train or whatever it was. There wasn't an empty bed in Gibraltar. I know that is coincidental because that lasted all of possibly a week. Mr Speaker, I have had my staff in the Tourist Office ringing up the hotels asking for accommodation and they are told: "We are full up" only to find that at the end of the month the statistics reveal that there is 42% occupancy and when I have challenged them they come up with what I have been saying here for a number of years. Well, if you have a room, for arguments sake and I will quote, not necessarily that this is the culprit but I will quote one that I think everybody will accept by virtue of the franchise, Holiday Inn. Holiday Inn's franchise requires them to have rooms with two double beds. In their case 100% occupancy would require four people in that room. But, of course, if a single person occupies that room it is 25% occupancy. It is abnormal that one person because he occupies one-quarter bed value of the room you are given a return of 25% occupancy.

What we are saying now is that we are trying to get our legislation updated on the Statistics Ordinance so that the hotel furnish us with bed occupancy as opposed to room occupancy and then we will see the realistic reappraisal that Mr Feetham was mentioning as to how many hotels Gibraltar does or does not require. I can say that from our projections, despite the fact that we are accused of not having any policy on the future of tourism, our projection is that Gibraltar will and can absorb some 4,500 to a maximum of 5,000 hotel beds. That is the aim and that is said, Mr Speaker, because already the indications are that the amount of airlines and countries expressing a desire to use Gibraltar is very encouraging. I think, Mr Speaker, we are all aware that very recently Air Europe came to Gibraltar and announced their increased flights and more important to me was not just the increased flight capacity but the destination points which, I think, I have also mentioned before, I am constantly reminded of, particularly in Britain, that Birmingham, Manchester which is already proving more than successful, I think Air Europe are considering certainly within the next year or so flights out of Newcastle and Scotland. Mr Speaker, we recently heard that GB Airways are intending to buy their own aircraft and GB Airways have also filed applications to fly in from Birmingham, Frankfurt, Zurich, Geneva and Funchal. In addition, and this is quite encouraging I think, Mr Speaker, we find that Air Europe have filed applications to other European airports from London therefore making connections with Gibraltar possible without staying overnight in UK and that means that Air Europe will be able to fly, say, to Vienna or Rome to London an hour or two before the same company flies a 757 from Gatwick to Gibraltar so there is a connection which we have never had before other than, of course, when we had the old Madrid connection with British Airways. The winter operation, Mr Speaker - Air Europe are going to have a daily schedule service to UK and that, of course, is very encouraging. Things, Mr Speaker, in the tourist world are looking encouraging. I think that I am not blinded at all by the fact that because we are getting increased tourist arrivals and increased pedestrian tourist crossings that all is well. As I have mentioned before it is a matter of regret that some 10% of the people crossing the frontier as day excursionists actually make their way to our sites and that is a matter which we are in negotiation with on the other side of the frontier because there is a feeling that the tourists are being misguided by guides and drivers telling people what to do, what not to do, what is a rip off and what isn't a rip off, negating many Gibraltarians their livelihood purely for their own monetary advantage and that is a matter that we are looking at very, very carefully. Mr Speaker, recently we have had talks and meetings with members of the Mancomunidad of the Campo Area in an endeavour to see if it was possible to have joint advertising and I am afraid that we have not been able to make any headway at all. And we have not made any headway, Mr Speaker,

not because there is lack of goodwill or intention on our side. It was found that we, as Gibraltar, are well established internationally if not as a tourist resort as a quasi tourist resort and well established because of the image of the Rock throughout the world and we cannot be compared to any village in the surrounding area in any manner or form. They themselves accept the fact that people come down this far only because of Gibraltar and most certainly not because of La Linea or because of San Roque, they come here because there is a massive lump of Rock which is known internationally and therefore what we could not allow is for our image to be absorbed by an advertising campaign that would compare us with Jimena or Los Barrios or the like. Mr Speaker, that, of course, we probably could have accepted within the context of possibly the Southern Spain area and that is to try and bring the excursionists down from the Costa del Sol who are coming anyway but in the British field I think our advertising is very well established, very well known, not that I am happy, not that I have been happy and nor do I think I will ever be happy it doesn't matter how much money we were to pour into the advertising of which I will talk more about in a second. Mr Speaker, on the British side we still find that our hotel occupancy figures and our long-stay tourists which has dwindled because of the two and three-centre holiday, 94%-odd come from the British Isles. And then again, Mr Speaker, the figures are still more or less static on our previous experience and that is that over 40% of them are repeat traffic. There is an element within that framework of loyalty to Gibraltar in these people coming once or in some cases, twice a year. It is those people, I think, that deserve a particular word of thanks because it is those people who have been coming here during thick and thin, when Gibraltar was offering very little expansion and obviously when they have been here once or twice they have more than seen Gibraltar despite the fact that very few people, including very many Gibraltarians, have not seen all of Gibraltar. Mr Speaker, what we are aiming for now is precisely to portray Gibraltar with an image different to the image of our competitors in this area. We are trying to portray more and play more on ornithology, wild life, history, heritage, specialised incentive holidays such as bridge playing, military, tours, sporting activities and, of course, conferences. On conferences, Mr Speaker, there is little we can do at this stage unless and until we have adequate conference facilities and let us not kid ourselves we have no adequate conference facilities other than for very small conferences for no more than twenty or thirty. The Rock Hotel has a small conference room on the top floor but there is very little else and if we are talking of the conference centres that really would be beneficial to Gibraltar then of course we have to programme and we are programming for the construction of, in the private sector, of course, I think the Queensway development

is being channelled towards that, to have something capable of catering for 300 persons. Why is it so important? It is so important, Mr Speaker, because they normally have the conferences during the winter period or during what we call here our shoulder months, particularly during the months of January, February or March because as from April onwards we find that our bookings begin to rise, slightly ahead of Easter onwards then, of course, people do begin to go on holiday but during the shoulder months - I should talk about Christmas which is also a holiday period - is when we can take total advantage. Mr Speaker, we have worked out that it is cheaper for a conference with 300 delegates or so to come to Gibraltar and occupy a hotel than going from London to Blackpool by train and that kind of package is today being looked at very carefully by tour operators and particularly those who own their own aircraft and I need not go further into the kind of tour operator that I am talking about. Again there are prospects there of taking total advantage of a market that is a very profitable one. Profitable not just because of the conference but because invariably spouses accompany them, they are on holiday, they are good spenders and it is something that I think we can take advantage of. Mr Speaker, Members opposite will no doubt have noted the fact that we have increased the liner passenger tax from 30p to 50p. Of course, I suppose Members do accept that it affects every person that is landing in Gibraltar on a commercial vessel from any foreign port. Other than the Mons Calpe that was exempted from this, every other passenger does pay. Mr Speaker, there is an increase in cruising today and I do not know if it has been mentioned here but the usual evolution or cycle of evolution that occurs is that the up-market tourist that used to fly, and I think Hon Member referred that they were the shovel and bucket brigade, were the ones that went by cruise, it is now the other way around. It is the cruising people that are the well off and the fliers are the cheapest hence I am told that has created a slight devaluation of the elegance and charm of air hostesses which one doesn't seem to find today. There is a great surge for cruising and Gibraltar despite the fact, and I do not like to be interpreted as exaggerating about this, we accept totally that there is a great requirement to improve our Port facilities, indeed, our whole liner set-up and I think my colleague, Mr Canepa, will no doubt explain the Government's intention on the development of North Mole for liner passenger terminals and the like. I have had dealings with shipping lines who are very friendly with Gibraltar, Mr Speaker, but they have been quite honest to say that they are quite embarrassed by what they find and therefore we have to put our money where our mouth is to upgrade it and we intend to do that. Mr Speaker, I would also like to explain to the Hon Mr Pilcher that the fact that our passenger departure tax at the airport was not understandable by him was, of course, that this was increased in October or November last year.

HON J E PILCHER:

The Financial and Development Secretary explained it.

HON H J ZAMMITT:

I am sorry, I apologise, I was out of the House, I do apologise. Mr Speaker, one other point I would like to answer and that is Mr Mor's question concerning Miss Gibraltar. Without doubt, Mr Speaker, the present Miss Gibraltar is the most lovable and the most likeable person wearing a skirt that one could ever hope to meet. She really is lovely and I don't think we can ever recompense her for the tremendous work she did and she is loved by everybody that she has met. I had the pleasure of accompanying her shortly after.....

MR SPEAKER:

Let us not be carried away.

HON H J ZAMMITT:

Anyway I would like to say, Mr Speaker, that there are problems there, certainly not of the Tourist Office making and we are looking at the situation. I would like to remind the House, Mr Speaker, that a press release has been or is in the process of being issued concerning this very unpleasant situation. The situation is that for very many years the girls that took part in the Miss World Contest automatically went to the Miss Universe Contest and the whole cost of the travel arrangements for her and a chaperone were met by the Miss World organisation that were merged with the Miss Universe. That was the situation, Mr Speaker, when this lovely Miss Dominique Martinez stood for election as Miss Gibraltar and it was one of the agreements which is signed as the franchise holder with Miss World. But Miss Universe, companies within companies, has now decided that they are not going to pay anything at all and many countries have taken the same attitude as us. It is not a matter of saving money, it is a matter of principle because two countries, one is France, are taking legal action against the organisers for breach of contract. Mr Speaker, we have been asked by other countries to do exactly the same. I am not a trade unionist but I am told that the strength behind this is that it may cause some embarrassment if only one girl turns up for Miss Universe or none at all, but, Mr Speaker, that is the idea. Let it be absolutely clear that the Tourist Office will find the money if need be and sacrifice whatever, it can't be that expensive, to make sure that Miss Gibraltar is at Miss Universe if the other countries decide to be at Miss Universe but we do not want to be a lone fish there when other countries are taking a stand against this irregularity. We don't want a blackleg, that is right, Sir, with lovely white legs.

HON R MOR:

We are in agreement for the first time.

HON H J ZAMMITT:

Mr Speaker, recently the Tourist Office was invited to attend a travel agents conference in Scandinavia and, again, there is great interest and in the not too distant future I hope to be able to come and report to this House that we might have once again a Scandinavian airline or two Scandinavian airlines with some three or four tour operators working directly with Gibraltar from Norway, Sweden and, possibly, Denmark. They are quite encouraged, they are coming out here within the next couple of weeks to evaluate the product and, again, on a two or three-centre holiday we will take advantage of that. Mr Speaker, we have taken part in a number of trade fairs, the World Travel Market, we have participated in FITUR in Madrid and on the whole we try to keep up with the demands of the trade. I would like to emphasise that I am not stubborn in the projection of tourism. I have always said that I could only be accused and I will take total responsibility for trying anything and if anybody comes up with a new idea or a new suggestion, if it is thought at least reasonably viable and intelligent let's have a bash at it. What I will not allow is to be accused of not trying. There are very many aspects to Gibraltar and no doubt I will be questioned later on, Mr Speaker, on various items at the Committee Stage but I will not allow this opportunity to go by without referring to the great number of compliments that the Gibraltar Tourist Office receives about the people of Gibraltar, about the friendliness of the people of Gibraltar, about the safety aspect of being able to walk around at any time of day or night without being mugged, robbed or raped - some say it is not worth coming, Mr Speaker. However, they find great friendship, they find a tremendous amount of things in Gibraltar that we have to exploit but the overlying criticism, Mr Speaker, is one of scruffiness and I cannot emphasise this often enough. We are accused of lacking total civic consciousness, of a couldn't care less attitude and it is a great shame that there seems to be an attitude of 'I couldn't care less, somebody else is bound to come along and sweep up, clean up or rub out'. Hon Members have only got to walk down the steps from this House of ours and look into that fountain, Mr Speaker, where you find every possible can.....

MR SPEAKER:

Let us not go into details.

HON H J ZAMMITT:

Mr Speaker, what I am trying to emphasise, Sir, with respect, is that one must get the message over to the people of Gibraltar and it is filthy and scruffy because we are careless, let us not point a finger at anybody else, Mr Speaker. I think that it is high time that people realised that with very little effort Gibraltar could be a much nicer place to live in for all of us and, particularly, if we are to attract tourists to Gibraltar. Mr Speaker, I would like to end up by saying that I am now delighted to have a new Director of Tourism, a man totally committed to Gibraltar, a man who from the moment he came and took up office extended the hand of friendship to every single person in the trade, to the press and to all the relevant tourist trade and a man who requires assistance in his very difficult task. I am very grateful for his enthusiasm, I am sure that in the not too distant future he will be able to show once again that there is no need to have to import talent to Gibraltar that, if anything, some Gibraltarians are very good to be exported because they are of a much higher calibre than very many people that we ask to come here and tell us how to run a particular department. Mr Speaker, I would like to thank the whole of my department not just the Tourist Office staff but the industrials and everyone for their unstinting support and endeavours in sorting out the problems that we have faced, particularly over the last couple of weeks with additional aircraft coming to Gibraltar at almost every time of day or night as a result of circumstances which I will not go into. They have done Gibraltar proud, they have worked very hard and I am very grateful that what many of us thought would be problems the whole stream has gone through without a hitch and I think it is commendable that some of those people worked for a number of hours and gave their heart and soul towards it. Mr Speaker, there is little more than I can contribute other than to say that we are committed to tourism, we do know the value of tourism, the Government accepts as anybody else in this House must accept that tourism is becoming more important as an industry to Gibraltar and, as I said, at the last Budget speech and the Budget speech before that and before that, Mr Speaker, it will not take too long, it will be but a matter of two or three or four years before the main pillar of our economy is tourism and the quicker that people awake to that concept the better. Already one sees the value and the contribution of tourism as a whole to the economy and I think that it requires a much more serious approach than has hitherto been given to it and total advantage must be taken of our geographical position and what we have to offer. We have a gem and if exploited properly we have something which is unique and we must take total advantage for our own benefit and the benefit of our children. Thank you, Mr Speaker.

HON J L BALDACHINO:

Mr Speaker, in looking at the Budget as Opposition spokesman for Housing, I must start off by saying that the GSLP sees no reflection in the kind of initiative that is required to make a real impact in resolving Gibraltar's housing problem which is the most serious social one and the greatest threat to Gibraltar's political integrity. In showing how this matter should be approached, Mr Speaker, I would like to express our analysis and the kind of work that the Government should have done in all the years that they have been in power and which they have failed to do. There are so many important different areas related to housing that I will need to separate them into different sections which are the following: public sector housing; maintenance; the homeless; Gibraltarians living in Spain; luxury flats; the AACR's approach to housing; Bills and the Landlord and Tenant Ordinance; and lastly, Mr Speaker, the manner in which a GSLP Government would tackle the very urgent housing problem and our policy objectives and commitments generally on housing. I will therefore start with public sector housing, Mr Speaker. The figures given to me by the Government in answer to the many questions I have asked in this House prove that the housing situation has worsened considerably since the last elections in 1984. This is due to the simple reason that the Government have lost 184 houses from their rent roll and on the other hand they have only built 84 new units. This therefore leaves them short of 100 units in the housing stock. When we look at the Housing Consultancy Report submitted by an ODA team of experts, we are told that the Government needs to build at the rate of fifty units per year only to be able to contain the situation, let alone improve it. The reality, therefore, is that the AACR have built in three years 84 units. This rate of building is totally inadequate, the experts have said it is inadequate and in any case, Mr Speaker, no one needs to be an expert to know this. This is an extremely unsatisfactory performance by a Government who claim to have an approach to housing. I also require, Mr Speaker, to highlight the sub-standard conditions prevailing in many of the Government's existing rented accommodation such places as, for example, North Gorge, Town Range, Gavino's Dwellings, and all those pre-war dwellings allocated to social cases. The Government has confirmed to us the following: there are 788 Government communal services tenements without bathrooms and requiring shared toilet facilities; in the order of 100 Government dwellings without running water; 100 pre-war flats without bathrooms; there are between 60 to 65 dwellings that in the opinion of the Chief Environmental Health Officer would be declared unfit for human habitation by a Court of Summary Jurisdiction. The conclusion anyone can draw from these sub-standard conditions is that in looking at the housing stock we must be aware that the building of fifty units a year is, in fact, the bare minimum because if there were a requirement in Gibraltar, such

as has existed in the United Kingdom Housing Acts for the last thirty years, to engage in slum clearance, then many of these houses in the Government stock would be classified as slums and the figure of fifty units minimum per year would be much higher. On maintenance, my next point, Mr Speaker, very little has been done by the Government and proof of this is the deterioration of many estates especially, for example, the Police Barracks where they are now estimating they will require to spend a total figure of over £4m. However, out of this figure the Government are intending to spend during this financial year less than half. We therefore believe that the insufficiency of the provision for maintenance by the Government in all the years they have been in power is responsible for the poor state of the housing stock which, invariably, means that urgent action needs to be taken at much greater expense when things have gone beyond the point of no return. If they spent more money in maintaining houses, keeping them in a good standard, in the long run it would turn out to be much cheaper and part of the money being spent today on major works could be used to finance the very much needed houses. I now move on to the ever-increasing problem of the homeless and I would like to draw the attention of the House, Mr Speaker, that in designating 1987 as the International Year of Shelter for the Homeless, the United Nations Organisation recognises Housing as a basic human need. Yet, in Gibraltar, the Government do not make it a legal obligation to provide accommodation for persons in this category as is the case in most of the European Community countries today. Officially, we have been told by the Government that the figure stands at thirteen, though we believe this to be a conservative estimate. The group confirmed by Government is made up as follows - four families; three married couples with no children; five single persons; one mother with one child. Already two married couples, one with two children, are living in a motorcar. The trend for the composition of the homeless, therefore, seems to be in the increase for the newly married couples whose only alternative today is to either declare themselves homeless in Gibraltar or seek accommodation in the neighbouring territory. This now brings me to my next subject - Gibraltarians living in the neighbouring territory. Sixty is now shown in the Employment Survey laid before the House by the Minister for Labour. The GSLP, Mr Speaker, does not consider this figure to be at all realistic. We know there must be many more as we are being constantly approached by persons expressing a desire to live in Gibraltar. These persons tell us that they have been forced to seek accommodation outside Gibraltar because they would need to wait at least twenty years before being able to get a Government flat and they can neither afford to pay the rents being asked by the private landlords today. We have a situation today, Mr Speaker, where on the one hand many people have no choice but to leave Gibraltar because they would alternatively be homeless

and, on the other, the Government are stripping them of certain rights in Gibraltar because they are not resident here. At this point I come to my fifth subject - Luxury Flats. The AACR's policy is to attract wealthy outsiders to buy property and retire here and it is to these people that they are actually giving all the benefits. Moreover, they will burden our already over stretched services and infrastructure and as EEC Nationals they acquire certain rights which in the long run mean a further burden on the public purse. So we actually have not only a very immoral situation but also a very serious economic and political one as Gibraltarians are being forced to move out of their homeland, spend most of their money outside, lose rights for their dependents in the case of education and medical services, together with their voting rights. Yet, on the other hand, we have incentives to attract wealthy retired persons, entitled to all of these rights and more through tax benefits the Government are intending to introduce. Mr Speaker, the GSLP cannot understand how the AACR can defend this policy and definitely in the future it is bound to present us with political and social threats in relation to our identity as a people. The AACR's approach to Housing - On this subject I will start by saying that with the information I have already outlined, the GSLP is convinced that they have practically none. If one reads the propaganda material they have circulated all over Gibraltar including it even inside a Gibraltar Chronicle issue, it is obvious that the Government is hoping to raise money by selling flats to sitting tenants in their more select housing estates starting with Rosia Dale. However, by looking at this year's Estimates, it appears that agreement has not yet been finalised with the sitting tenants for the amount the Government are estimating they will collect in rent is the same as the previous year, £3,855,000. I already obtained information from the Housing Department in February of last year on the yearly rental charge of those houses intended for sale so it is an easy exercise to deduct the expected loss in revenue. This they have not done and yet under Head 103 of the Improvement and Development Fund, Subhead 1 - Receipts - they show a revenue of £1,300,000 on the sale of Government properties. This exercise, Mr Speaker, is therefore a conflicting and misleading one. Moreover, the figure of £1.3m is questionable when they have not even started to sell what they intended to at Rosia Dale. This, in turn, puts into jeopardy the Development Project they also mention in their Approach to Housing leaflet which is Engineer House. They are expecting to build these flats with the money raised by the sale to sitting tenants. At this rate, Mr Speaker, the housing problem will never be solved even if the AACR were to be in Government for another forty years. However, in the statement made by the Hon George Mascarenhas in a television programme on housing this year, he claimed that the AACR would break the back of the housing problem in Gibraltar within

a period of four years. The fact that these two very conflicting positions can be reconciled is because what the Hon Mr Mascarenhas was claiming for the AACR was the credit for private developments, for example, Vineyard and Northview Terrace and that every housing development were homes which have been sold to local people notwithstanding the fact that in their own housing public leaflet the Housing Manager confirms that not one single Government house has been released as a result of these private sales. The Minister also stated in his recent television political broadcast that the AACR want better housing and the Hon Brian Perez - and I saw his political broadcast much to the disagreement of my son, I must say - last week on television said that we would need to wait and see what there is for housing and medical services at Budget time, he can check the tape. He is nodding his head, he can check the tape.

HON J B PEREZ:

I haven't got the speech here with me but I am sure that is correct.

HON J L BALDACHINO:

He was watching the football. Mr Speaker, this Budget does not even begin to tackle these two very critical areas. Ironically when the Government are making reference to wanting better medical services and housing, they are clearly admitting both are deficient. The shameful thing in this Budget is that the figures presented by the Government show there is no plan for expenditure on houses for rent. Is the Government telling the people of Gibraltar and this House that the stock of Government rented accommodation is too large and that their policy is not to increase it but to reduce it by not replacing the houses that are being sold? How much money they are expecting to collect, as I have said before, carries a big question mark, judging by the AACR's performance in the past. For example, if one looks at the latest Principal Auditor's Report his comments lend weight to our argument. Under paragraph 30 on Home Ownership Scheme, he says that delays in implementing this policy is due to the fact that very little of the money has yet been collected of the thirty properties they have put up for sale since 1982. In any case, Mr Speaker, that people are given the opportunity to buy their houses does not necessarily mean that we do not need more houses to rent. We need more houses to rent and more to sell, we need more of both. Even if they were prepared to increase the stock of rented houses, how many units can they expect to build when they have had so much difficulty in collecting the money due to delays on their part. The centrepiece of their policy, Mr Speaker, appears to be the so-called rotating of existing housing stock as Government tenants move out into newly built

flats which they purchase from the Government. That is the plan for Engineer House. The GSLP does not think that this will work if we are talking about building a maximum of sixty units for £1½m and assuming that they manage to achieve this, the average cost per unit is in the region of £27,000. The Minister for Economic Development has already said in this House that these units will be offered, in the first instance, to people currently occupying Government flats who will hand them back to the Government for re-renting; that the houses will be offered to these tenants at cost price, that is, £27,000; that if there are not enough tenants then it will be offered to those in the waiting list and if not enough purchases come from the waiting list, then they will be rented. Mr Speaker, we cannot see many existing Government tenants wanting to give up their accommodation and take on what could prove to be an expensive commitment of a £27,000 mortgage. And if this element fails, then the whole idea of rotating the housing stock will never get off the ground. Now, Mr Speaker, I turn to the Bills. The Government have recently brought a Bill to this House titled the Income Tax (Amendment) Ordinance, 1987. This Bill seeks to give a tax incentive for outsiders whose income is over £20,000 a year and the only requirement is that they own a property in Gibraltar and live in it for a period of thirty days in one year. This new facility in turn gives an incentive to landlords in Gibraltar to demolish old buildings rather than repair them so that they can build luxury flats and sell them to this new class of resident individuals. Additionally, under the Landlord and Tenant Ordinance, landlords are not required to rehouse their tenants if the building has to be demolished. There is no provision in the law as already proved in the recent court case on the house in Parliament Lane. This would worsen the housing situation for Gibraltarians and the Government should legislate to protect those tenants finding themselves in this predicament. The Government also has a Bill to amend the Labour from Abroad Ordinance. We have studied it very carefully, Mr Speaker, as we do with all Bills, and believe there are implications involved and if the Government intend to proceed with it we would want them to answer quite a number of points at the appropriate time. On the public health aspect of this Bill, we have already expressed our concern that 396 dwellings from the labour from abroad will not need to be approved by the Health Authorities and we are certainly not happy with the decline in our health standards this would constitute. There is another Bill, Mr Speaker, and I would also like the Government to say if they intend to proceed with it or not and that is an amendment to the Landlord and Tenant Ordinance for business tenants. Finally, Mr Speaker, the GSLP believes that alternatives must be presented to the electorate, therefore I will start by saying that housing will figure as our top priority. The GSLP will state

how much money it will spend on new housing within its first four-year term of office and how many houses would be started in year one, year two, year three and year four. This will be spelt out in our election manifesto. This kind of specific and clearcut commitment, which the AACR have never included in any election manifesto, means that we as a Party are prepared to take on the responsibility as a Government of solving the housing problem of Gibraltar and providing the Gibraltarian people with a roof over their heads. The Members on the opposite side, Mr Speaker, expect the private sector to do the job for them and hope to get away in taking the credit politically for the efforts of others. The commitment to a programme substantial enough to make a real impact on the housing waiting list is the only way that we can promise people the end to the housing crisis. This programme committing the Party to producing a specific number of houses in a given period of time will form the background of a comprehensive policy on housing which will promote home ownership as well as rented accommodation and will redress some of the imbalances in the private sector in the relationship between landlords and tenants. There must be one comprehensive policy, Mr Speaker, covering public and private houses, rented and owner-occupier, if sense is to be made out of the chaos created by the AACR in their years in Government. It is a pity for the homeless, for the people forced to live in Spain and those in the housing waiting list that even on the eve of an election, the AACR is incapable of coming up with any answers and this Budget, Mr Speaker, must rank as a major disappointment for those in need of houses in Gibraltar today.

MR SPEAKER:

I think this is an appropriate time to recess until tomorrow morning at 10.30.

The House recessed at 8.10 pm.

WEDNESDAY THE 29TH APRIL, 1987

The House resumed at 10.40 am.

MR SPEAKER:

I will remind Members that we are still on the Second Reading of the Appropriation Bill and I invite the next contributor to take the floor.

HON M K FEATHERSTONE:

Mr Speaker, the Hon Mr Baldachino last night made a number of points which I will try and resolve for him. He started off by saying there was no initiative taken

by Government to make an impact. Over the past ten years there has been an impact in housing except for the past two or three years, mainly financed by moneys from the ODA but as the House is well aware the ODA has set its face against giving us any more money for social projects and in the past three years the Gibraltar Government has not had very much money itself to spend on housing and that is the main reason why there has not been so great an impact on public housing as we would have liked. But it is the Government's approach now and an enlightened approach, I would say, to make an impact on housing by the home ownership schemes the basis being that people should be assisted to purchase their own homes. This scheme has already started to get off the ground with the housing at Calpe Hostel where some fifty houses have been built and have been purchased by Gibraltarians and they are now their own home owners. The scheme is going to be widened by the present build at Vineyard where, again, home ownership is the idea and Government contributes towards this by not exacting a heavy premium for the actual terrain on which the houses are being built. I think at Vineyards we have not charged anything for the land itself on the agreement by the developers that they will keep the price of housing down to a reasonable figure. Mr Baldachino talked about sub-standard conditions at North Gorge, Gavino's, Town Range and other pre-war houses allocated to social cases. With this, to some extent, I would agree. North Gorge is a particularly difficult area because on three occasions, to my knowledge, the Public Works Department have done considerable work up there and why I don't know but for some reason or other all the work is thrown into dust within a very short period of time. The water heaters that were fitted there were vandalised completely; the electric switches were vandalised, the showers were vandalised, the toilets were broken; who does it? Nobody seems to know but it does seem to happen and then, of course, the tenants - and many of them are responsible tenants - come to the Department and say: "Look at the poor conditions in which we are living". Once again I have had a report from the Environmental Health Department on the conditions at North Gorge, this has been passed through to Public Works and it is hoped that we will make a start on one more attempt to get the place into a decent state of repair and I would hope that the tenants will organise themselves to see that it remains in a decent state of repair. It is a pity when all the hard work that is put in in repairing the area falls to the ground very quickly. The same is applicable in Town Range. In the area of Town Range we have a number of tenants some of whom are drug addicts but they have to be housed and they have created a turmoil in the Town Range flats which is pitiful to see. There are some reasonable tenants there and they are very hard pressed to try and bear up with the difficulties that they have to undergo because of their neighbours. Many other pre-war houses are in a very poor condition and in many instances they are

given to social cases who have undertaken themselves to rehabilitate the property. They go in with the knowledge that the property is in a deteriorating condition and yet they are willing to undertake the rehabilitation themselves in order to get a roof over their heads. The Housing Department assists these people by giving materials to help them with the work and in many instances a dilapidated property has been turned into something of a reasonable standard. If everyone was to devolve on to the Public Works Department, it would mean that quite a lot of these properties would remain empty for a considerable period of time and the people who are housed would be in more serious circumstances than they are even in the rather rundown properties that they take over. Mr Baldachino said that very little has been done on maintenance, there is deterioration in many estates especially the Police Barracks. Well, last year some £1.6m was spent on maintenance of Government housing. This, I accept, is not sufficient but it is within the budget of the Government. There is a rule of thumb which says you should spend 2% to 2½% of the value of a property on its maintenance annually. This is not being spent in Gibraltar. I think the figure we are spending is somewhere between 1% and 1½% and we should, if possible, increase the maintenance and this year we are going to spend a considerable sum of money apart from the normal figure of £1.6m which is put in for the maintenance in the Housing Vote, there is in the I&D Fund some £400,000--odd to be spent on painting the estates. I think once the estates are painted then the maintenance will not look nearly so bad as it does at the moment with walls flaking, paint falling off and plaster showing through. Mr Baldachino said that 1987 was the International Year of the Homeless. Well, there is no statutory obligation of Gibraltar to fall in with the directives of that Year of the Homeless and so to do might bring in its train quite a number of difficulties. We get instances in Gibraltar where people make themselves homeless. I say this because we know of certain instances in which people are living with their in-laws and they come and tell us that they have had a bust up, they have been thrown out of the house by the father-in-law, they have nowhere to go, they are homeless. Whether this is a genuine social explosion within the home or whether it is a put-up job to try and get some type of accommodation from Government is open to question but we have had instances where we know that this is the case. I know it is difficult to live with in-laws in a confined flat for long periods of time but that is preferable to being out on the streets and homeless and one cannot always expect Government to come and meet the situation when people do have a little trouble at home and in a fit of temper walk out and say: "I won't live here anymore". Regarding the actual people who are homeless, we take as lenient a view as we can with squatters. We give them a reasonable time before we evict them, time in which they could patch up their family quarrels and

return to the parental home but we are looking into a suggestion made to us by Action for Housing that we should find some form of premises where immediate homeless cases could be housed. We haven't got a place yet but we hope to find one in the not too distant future. It may be that this will be a form of dormitory in which the men will have to sleep in one room and the women and children in another because we will not be able to give one room to each family nor will they have all the facilities that they would like. There will not be cooking facilities, there will be washing and toilet facilities, of course. But this will have to be on a temporary basis, it is not as happens so often, one of those things that one would like to see started as a temporary measure and turned into a permanent feature. Mr Baldachino queried the number of Gibraltarians living in Spain and said that he thinks that sixty is not a realistic figure. I tend to agree with him, I think it is a greater number than sixty but some people find that that is their solution and if they take it, perhaps albeit on a temporary basis, then, perhaps, they are making the best of a not too happy situation. Mr Baldachino said that the AACR policy is to build luxury flats for imported persons to come and live in and that these people contribute nothing towards the economy. They do make something towards the economy, they spend their money here, it is better perhaps they spend it in Gibraltar than on the Costa del Sol but I don't think it is fair to say that we are only interested in luxury flats being built. As I have said before, we have had the flats built at the Calpe Hostel, they weren't luxury flats, they have all been occupied by Gibraltarians; Vineyard, again they are not luxury flats, they will in the main be occupied by Gibraltarians and the planned filling-in of Montagu Basin and the building there of low cost flats is also another area in which the needs of the Gibraltarian can be met. We feel that home ownership is the way ahead and we are doing our utmost to help it. In the Montagu Basin we will be helping by giving the area free of charge and paying for the infrastructure which is the sewage, the electricity, the water and what have you. So that if a modicum of luxury flats are built this, I think, is not in any way detracting from our efforts to house the Gibraltarians themselves. We are told we have no policy on housing. There is something which I didn't quite understand in the notes that have been given to me - 'no agreement with sitting tenants'. Well, if you are living in rent restricted accommodation you have all the protection in the world. You have yourself, your wife and one of your.....

HON A J CANEPA:

That is in respect of the sales.

HON M K FEATHERSTONE:

I understand this is to do with the sales of the property. Well, then this will be dealt with by my friend the Minister for Economic Development. The GSLP say that they have alternatives, that they will present to the electorate as a top priority in their manifesto how much is to be spent on housing, how many houses are to be built in each year and how it is to be done. Well, we will see it in the manifesto when it comes but I would tell them that - to take the line from the Hon Financial Secretary, Rabbie Burns said: "The best laid plans of mice and men are apt to gang awa'". It may be very nice in a manifesto to say 'we are going to do this, we are going to do that, we are going to do the other' but circumstances can often come along and upset the schemes that you have. As for ourselves in housing this year we are going to spend some £1.7m with a carry-over of £3m to future years. I hope it is not going to be said by the Hon Mr Bossano that because we start a scheme which we intend to carry over into 1988 we are doing something wrong. The schemes this year of consequence are - a build of some sixty units at Engineer House and a complete refurbishment of 30, Castle Road which is what is known as the Police Barracks. There is also a build of some twenty units at Catalan Bay where with these twenty units the housing problem of the village should be solved at least for a considerable period of time to come. Another area where we will be spending money this year is on the reprovision of the lift at Alameda Estate. The lifts there are now well into their dotage and should be refurbished and put into a good state of order. We are not shirking our responsibilities in housing, we are saying what we are going to do, what we are going to spend. We are going to spend £1.7m with a carry-over of £3.3m into the future. This, I think, should make some impact on the housing situation. I accept that housing is one of the most difficult situations in Gibraltar. There is no easy solution, there is no easy solution to the housing situation in Britain or in any other part of the world. Housing is always something of which you can build more and more and still have a demand. As I have said, the ODA assistance for housing has dried up, we are now on our own resources. This year we have more money with which to play and we are spending a considerable amount more on housing than we have done of late and I hope it will give the lie to the GSLP claim that we have no interest in housing whatsoever. Turning to the Medical Services, Sir. Projected spending this year is up by some million pounds on the budget estimate of last year. I read the other day in a newspaper that the cost of the National Health Service in the United Kingdom is some £17,000m. If you take a population of some sixty million in the United Kingdom that works out at about £280 a head. In Gibraltar we are going to spend some £7.6m on the

Medical Services and if you take the number of people covered by the General Health Scheme in Gibraltar, that works out to roughly £290 a head so we are spending, perhaps, a little bit more than the United Kingdom but even if it was not the little bit more we are spending the same as the United Kingdom and you could say we have parity with the United Kingdom. But one interesting point I would like to bring up is that we have parity of spending with the United Kingdom but not parity of services. I attended a dinner last night at which a number of eminent surgeons were present and one of them was telling me about the situation in the town in which he lived, a town of some 150,000 persons. There they have a waiting list for a prostate operation which runs between four and five years. In Gibraltar it is approximately four weeks. There they have a waiting list for patients who want an artificial hip fitted which runs to two to three years, in Gibraltar it runs to two to three months. There they have a waiting list to see an orthopaedic surgeon just for the initial interview let alone the surgical operation that may be required afterwards, a waiting list of some two years, here you can see an orthopaedic surgeon within a matter of weeks. So that I think, with all the misgivings that seem to be evinced by the Hon Mari Montegriffo about our Medical Services, we are not doing so bad a job when you compare it with the United Kingdom. The Hon Mari Montegriffo mentioned the question of nurses being accepted by the EEC. I have now had a letter from the Nursing Authority in England which says that for those nurses currently in training or who have completed training, as long as they make up the deficiencies in the practical experience of the EEC curriculum and do three to six months consolidation in the general wards of St Bernard's Hospital and are recommended by the Senior Staff of the Hospital to the Nursing Association in Britain, they will be accepted as State Registered Nurses under the British system. As far as nurses who start or who have just started their courses in January, 1987, as long as the curriculum complies with the EEC curriculum and they do a three month period of consolidation in the wards and obtain a recommendation of their Senior Head of Department, then it will be looked on favourably by the Nursing Association in Great Britain to be accepted. So this is a step forward. The hope that we have is that we will receive from the United Kingdom shortly, and I have been saying this for some little time but it doesn't rest in my hands, the report of the whole nursing situation in our Hospitals and there may be a way round the need to have recommendations from Gibraltar to the United Kingdom and it may be done automatically but at the moment it cannot be done automatically, recommendations are required.

HON J BOSSANO:

If the Hon Member will give way, I would like him to clarify. Is he saying that provided the people in charge of the education here are satisfied that the standard has been achieved there will be no need to do a further period in UK after passing the Gibraltar Registered Nurse exams? Is he saying that?

HON M K FEATHERSTONE:

That further period which was before necessary to be done in the UK will be done in St Bernard's Hospital here. It will be a period for those who have just qualified of three to six months, but for those who in the future will follow the EEC curriculum it will be a period of consolidation of three months in the St Bernard's Hospital here, there will be no need to go to the UK. One of the new features in this year's Budget is that we are aiming to have a Dietician and we are hoping to give syringes free to diabetics as part of the policy of protecting people against the possibility of AIDS. The question of AIDS at the moment is that the leaflets that we are going to send to all the houses are, at the moment, at the printers. We have seen the first proof, there were a number of proofing errors, these are being corrected and the final printing should be in our hands within a fortnight. They will then be distributed to all the homes in Gibraltar and at the same time there is going to be a measure of propaganda, we hope, over the television telling people all about it. Regarding diabetics, I have had a number of discussions with the Diabetic Association and they have suggested that the Gibraltar Government should give diabetics free prescriptions for insulin. We are quantifying this at the moment and if it is at all possible we will accede to their request but I cannot give the promise yet that this can be done, it will depend on what it is going to cost us. The Hon Mari Montegriffo in her contribution once again referred to the alleged shortages at St Bernard's Hospital of various items. I thought we had laid that bogey to rest in the last House. There are no basic shortages.....

HON MISS M I MONTEGRIFFO:

I wasn't referring that we were alleging the shortages, I was just making reference to the fact that we actually highlighted the alleged shortages by somebody who wasn't from the Party, somebody from outside. It wasn't an allegation from the GSLP, Mr Speaker.

HON M K FEATHERSTONE:

Well, the alleged shortages by some other person, I thought we had laid that bogey to rest. There are no specific shortages at the Hospital other than those which would occur naturally, from time to time. I think one of the things that was said was there was no dettol in the Hospital. I am not sure whether dettol is of general use in the Hospital, I know it is not of general use in a number of Hospitals in England so perhaps you could always say there is a shortage of dettol in the Westminster Hospital or Charing Cross Hospital, etc. Sir, this may be the last Budget Estimates to be presented in the House in the way it has been presented hitherto because we have had, as the House is well aware, a review of our Medical Services by a three man team from London. They looked into the situation very carefully, their report has been received, has been the study of a special committee of members of the civil service to present to Government and Government is still actually studying the situation. Basically the Government has accepted the broad principles of the review's recommendations. These include the following: there should be the establishment of a Gibraltar Health Authority which would be responsible for overall policy making and planning; the Authority would be autonomous and thus the Health Services would be divorced from the present civil service set-up and would run as a separate unit receiving a subvention from Government at Budget time each year and, of course, presenting its accounts to the Government. There are a number of factors.... Did you want me to give way?

HON J L BALDACHINO:

I don't want to stop his flow but will he give way because I want to make reference to something he said?

HON M K FEATHERSTONE:

Yes, I will give way. As I was saying, there are a number of factors in the setting up of a Health Authority, what is going to happen to the actual personnel employed in the Hospital? As far as the nurses and doctors are concerned, they can quite easily be absorbed into a Health Authority as such but as far as the clerical staff is concerned, will they remain civil servants? Will they become servants of the Health Authority as such or will they come into the Health Authority on secondment for a specific period from the civil service? This is something which has yet to be ironed out and we are actually discussing the situation with the different service organisations to get their views on the matter. There will be a Committee of eight persons chaired by the Minister of Health and that Committee would include three lay persons, one being a trade unionist and this

committee would lay down the policy of the Medical Services in Gibraltar and the Medical Services in Gibraltar would be specifically services of medicine and would not include environmental health, that would become divorced from the Medical Services in Gibraltar whereas at the moment it is under the same umbrella. There would be a General Manager to be appointed to run the Medical Services and he would chair a Management Board. The Management Board would consist of the Finance Officer, the General Manager of the Hospital, the General Manager of the Primary Health Care Services, the Director of Nursing Services and one or two other senior officials. There would also be a Medical Staff Committee consisting of all the medical staff and chaired alternately by a consultant and by a general practitioner. Private practice could be undertaken by the part-time consultant staff subject to terms to be agreed with the General Manager. A specialist in geriatrics should be appointed as soon as possible. The team that came out here felt that we were doing too much for geriatrics in the Hospital and that there was a greater need for geriatric patients to remain in the home but to be seen by a geriatrician on occasions and by more district nurses and health workers. They feel that the number of geriatrics we have in Hospital is considerably higher than the same number in the United Kingdom and they would look to more treatment of geriatric patients in the home than in the Hospital. They suggest, Sir, that a new Hospital to be built opposite the Royal Naval Hospital should be planned and this should incorporate all the present Hospitals in Gibraltar under one roof. The King George V Hospital would move into one wing of the new Hospital and St Bernard's would take the rest of it. The Hospital would be planned for some 190 beds which is a little bit lower than the present number that we have but they feel, as they say, that the number of beds which we devote at the moment to geriatric patients is too high. More general practitioners should be recruited for the Group Practice Medical Scheme and the cost of these should be defrayed by a restricted drugs list for prescriptions. The idea behind that is that if you give a prescription for valium which costs approximately £1.30 for 100 tablets, you can get a prescription for a chemical called Diazepam which is about 30p for 100 tablets and it is exactly the same chemical, only one has the trade name and the other is the generic name. The idea is to put into effect a restricted drug list, if possible, by July this year. It will mean that patients will get tablets given to them which are just as effective, just as efficient but will not carry the trade name or the trade mark on the tablet but this is something that has been tried in England and has been successful in bringing down the cost of drugs. We hope to recruit two more general practitioners in the fairly near future by reducing the cost of drugs and the idea of increasing the total number to thirteen as suggested by the medical team will have to be looked into. The medical team also made the suggestion that there should be, perhaps, another

Health Centre in the south district. This is something we shall have to look at, we would have to find premises but it is something which is for consideration. The primary care of patients should be developed with more district nurses and more health visitors. All these measures that the team have suggested are going to cost a modicum of extra expenditure in the health budget. We have given a preliminary costing of some £270,000. This, I feel, would not be badly spent if we can get our medical services geared up to the higher standard that the review team would like to see. I presume to have a Gibraltar Health Authority. We would have to bring a Bill to this House establishing the Authority as such and this will be looked into in the fairly near future. I will now give way to the Hon Mr Baldachino.

HON J L BALDACHINO:

Earlier on, Mr Speaker, on the contribution of the Hon Member on housing, he referred to the Calpe Hostel and Vineyard projects. Yesterday in my contribution what I said was that we needed more houses for home ownership and more houses for rental. Taking into consideration what the Hon Member said when he referred to the United Kingdom housing situation at the moment, I would like to make some reference and make the Hon Member aware of the situation there in case he doesn't know because I have read and I take an interest in what happens in housing in other countries and there is a parallel even though the reasons might not be the same for doing what the Government in Gibraltar is doing now and why the Government in the United Kingdom is doing it. After 1945, and I think I have got the year right, there was an investment by the different Government that were in power, on housing for rent by the local authorities. In 1979 when the Conservatives got into power they introduced a policy which stopped the local authorities from building houses for rent and also told them that they had to sell off the houses they had to sitting tenants. The situation from 1979 onwards has deteriorated tremendously in the United Kingdom. For example, in the UK at the moment there are of the order - if I remember the figure correctly - 538,000 people overcrowded and of the order of 109,000 severely overcrowded. Yet if we look at the homeless rate, and in the UK there is a legal obligation for the Government to find accommodation and they normally put them in boarding houses or guest houses, we see that prior to 1979 the Government was spending in the region of £52m. After the policy of the Conservatives was introduced in 1979, in four years the figure went up nearly twofold. In other words, now they are spending in the region of £500m on homeless cases. What I am saying to the Hon Member is that the Government even though their reasons might not be the same, what we are seeing reflected in the Estimates today and the housing needs that Gibraltar requires cannot be solved,

even though it is difficult and I understand it is difficult, we might not be able to solve it completely but at least we can break the back of it and that is what I was saying that our policy will be. Our policy would be a comprehensive one which will take into account everything: the rented, the private sector, the home ownership, because that is the only way you can break the back but we must not forget that if the Government carries on and they think they can break the back solely and exclusively by home ownership schemes by private development, I am afraid I cannot agree with that because you must have a policy on Government rented flats or dwellings that must be built otherwise you will never break the back. I want to make the Hon Member aware of the situation in the United Kingdom because it is parallel to the position they have taken here.

HON M K FEATHERSTONE:

I thank the Hon Mr Baldachino for that intervention. We do appreciate there is a need for rented houses to be built also and we are looking at schemes in the smaller areas that are available where rented accommodation can be built, we know that not everybody in Gibraltar is going to be able to afford to purchase a house, there are persons whose income levels will never allow to pay a mortgage and they must have rented accommodation. But we do hope, with the advent of the major housing schemes for home ownership, a number of houses will become available from the present rented sector which will be available for some of these persons. Just to finish up on the Medical Department, we have a departure this year by putting certain expenses in the Improvement and Development Fund and I would just like to mention two or three of these items. We are going to actually change over the cooking system in St Bernard's Hospital from the present butane which I think is no longer available and we will have to go to propane but the cookers are in a very poor state of repair, we cannot get the spares for them, we are going to go all electric. This year we are going to spend some £32,000 on re-equipping one or two of the wards with furniture. The beds that we have got are getting old, the actual furniture in the wards is becoming dilapidated and this we hope is the beginning of a scheme of refurbishment of all the wards in due course. We are spending £100,000 on general equipment for the Hospital which is an increase of some £40,000 over last year. Sir, I would give the lie to the allegations that the Hospital services are in a poor state. They can, of course, be improved. I think the report of the three man team will go a long way to creating improvements but even at the moment we have a Hospital service which I would say is at least on a par with the United Kingdom, if not somewhat superior. Thank you, Sir.

HON MISS M I MONTEGRIFFO:

If the Hon Member will give way. Has he not been making reference and has he not read the recommendations of the experts when, in fact, he has given me a copy telling me they are in confidence. Would he not have done better then if he would have actually published the report here in this Budget?

HON M K FEATHERSTONE:

We shall be making it public in the near future. We have ordered a number of copies from the United Kingdom. When I have enough copies I will be making it public.

HON MISS M I MONTEGRIFFO:

But can we quote from it now then, Mr Speaker, like he has done?

HON M K FEATHERSTONE:

I beg your pardon?

HON MISS M I MONTEGRIFFO:

Can we quote from the report ourselves?

HON M K FEATHERSTONE:

I wouldn't like you to give it to the press yet, I would like to wait until we can give the press an actual copy.

MR SPEAKER:

But it is customary for Ministers who quote from reports to lay the report on the table so that it is available to Members for purposes of contributions to the debate. That is under Standing Orders.

HON M K FEATHERSTONE:

It has been given to the other side already, Sir.

HON J BOSSANO:

Yes, but, Mr Speaker, the point is that when we asked the Minister to make the report available to the House and he didn't accept this, he only accepted letting us have a copy in confidence and we have had it in confidence on the assumption that that meant we couldn't quote from it. We want to clear up that there are other speakers here who may want to quote from that report now that he has done it.

MR SPEAKER:

With respect, if you have got physical possession of the report then once the Minister has quoted the report to the House, I feel sure that it means that the confidentiality has been done away with and that you are entitled to quote from it.

HON R MOR:

Mr Speaker, if the Hon Member will give way otherwise I may not have opportunity to answer later on. If I may refer to the expenditure on housing, on subhead 9 which refers to rent relief. The Hon Member has not added any amount over the estimates of last year and I would therefore remind him that he committed himself to look at rent relief as applied to private tenants and, in fact, I asked him a question last December and the question was: "Have Government now amended the regulations to allow rent relief for private tenants in furnished accommodation?" The reply was: "No, Sir, not yet. The necessary amendments to the Landlord and Tenant (Rent Relief) (Terms and Conditions Regulations) are currently being drafted and it is anticipated that it will be implemented at the beginning of the financial year 1987/88". We are now already in the financial year 1987/88 and according to the Estimates there is no provision being made. Mr Speaker, I would think that the Hon Member is trying to mislead the House.

HON M K FEATHERSTONE:

Sir, we can deal with this actually in the Committee Stage but I have the information that the increased costs are negligible and they are covered in the amounts we have put in.

HON J C PEREZ:

Mr Speaker, before I go into detail on the Departments which I shadow, I would like to make several general comments on a contribution that was made yesterday by the Hon Mr Brian Perez which seemed to me to be cheap, and propagandistic and even contained certain vulgar comments. Let me refer, Mr Speaker, to what the Hon and Learned the Chief Minister later said about Goebbels, something attributed to Goebbels that if you say something so many times people tend to believe it. I believe that is true of Mr Brian Perez and it is true of the Government and certainly not true of the Opposition. Perhaps he should have compared, something which I would never have dreamt to do, but perhaps he should have compared his Minister for Municipal Services with Goebbels and certainly none of the Members sitting on this side of the House. Mr Perez said that basically all these economic

plans of the GSLP were pie in the sky and they had the answer and we had no answer. Let me remind the Hon Mr Brian Perez that already the economic thinking that has been made public has had more to say than any budgetary programme or election manifesto produced by the AACR for the last fifteen years. In fact, proof of this is and proof of the way we plan ahead and proof of the foresight we have in economic management, Mr Speaker, is that in our last manifesto of 1984 we had a huge paragraph about the financial centre and the AACR had none. Then it was Mr Brian Perez himself who two years later appeared on television and since he had witnessed the growth of the financial centre which we had foreseen and included in our manifesto, he said: "Now we have got another new pillar of the economy" and he declared that the finance centre was a pillar of the economy. Mr Speaker, that is reacting to events and not planning. That is where we differ.

HON A J CANEPA:

If the Hon Member will give way. There is something he is not taking into account. There was a Diversification of the Economy Study made on behalf of the Gibraltar Government at the time of the Dockyard closure and the Government has a report dated 1981 or 1982 and that is the report on which we have based our policy on the development of the financial centre. It is all in that report. It is not in the possession of Hon Members opposite but we have it.

HON J C PEREZ:

Fine. Mr Speaker, that vindicates my position even more.

HON A J CANEPA:

No, 1981/82, you are talking of the election of 1984.

HON J C PEREZ:

Right, but you didn't include it in your manifesto. Mr Speaker, having had that report in 1981/82, having known about it they did not mention it as part of their economic programme or a pillar of the economy in the last elections. They mentioned tourism and Gibrepare as the two pillars of the economy, they didn't make any mention at all of the finance centre and we did, or in the 1984 Budget. All of a sudden they got the report of the consultants vindicated by the fact that the growth actually took place and when it started taking place they announced that the third pillar of the economy is the finance centre and they react to events like

they always do. Mr Speaker, the other point which was made by Mr Perez was over Gibraltar Shiprepair Limited. He said that we had no alternative at the last elections and they had. Mr Speaker, our alternative was.....

HON J B PEREZ:

On a point of order, Mr Speaker. When I spoke yesterday I spoke on the Finance Bill. I take it we are now speaking on the Appropriation Bill. I take it that I will be allowed to reply.

MR SPEAKER:

Most certainly. Anything to which reference is made you will have an opportunity to reply.

HON A J CANEPA:

Mr Speaker, on a point of order. I think we need to know what the position is having regard to how the debate on the Appropriation Bill is to be conducted. It would seem to me, Mr Speaker, as a layman in respect of how the procedure of the House should be, that it is quite valid to make some passing references, to make remarks about something that may have been said in the debate on the Finance Bill, but to go into detail during the Appropriation Bill in answering in a speech on the Appropriation Bill matters that were taken care of in detail in the Finance Bill would not appear to me to be within Standing Orders. I don't know, I think we would be grateful for a ruling on your part. One thing is to make a passing remark here or there, another thing is to go laboriously in detail in answering point by point what a Member may have said during the debate on the Finance Bill.

MR SPEAKER:

Perhaps I might explain, I think I did, and in fairness to everyone, I did give the Hon the Minister for Tourism yesterday a tremendous amount of latitude when he was speaking on the Appropriation Bill and he went on to matters related to the Finance Bill. It is only proper that that should be done because it is difficult to divorce the Estimates of Revenue and Expenditure now, of course, more so when the two Bills have been taken at different stages. Before, you will remember, both the Appropriation and the Finance Bill were under one and I used to say to Members that they could have a full say either on one or the other. It is difficult, I think, to limit Members because there is a tremendous grey area. My view is that unless they are being repetitive I will allow both in the Appropriation and in the Finance Bill for them to have a fair amount of latitude and

to refer to matters both of revenue and expenditure. I have always said you can have one bite at the cherry and not two and when it gets to a stage when I feel that one particular Member is abusing the privileges of the House then I will most certainly stop him.

HON J C PEREZ:

If I may address myself to you, Mr Speaker, on this issue. Mr Speaker, I have only mentioned two points. One is economic planning which is completely relevant to expenditure since economic planning and expenditure go together and the planning of expenditure and the other is the Gibraltar Shiprepair Limited where there is a £1m subvention to be voted under Treasury which is also expenditure. In fact, Mr Speaker, I have a point.....

MR SPEAKER:

Let us leave it at that because I think the Hon Mr Zammit wishes to say something. I entirely agree with what you have said in that respect.

HON H J ZAMMITT:

Mr Speaker, I bow to your ruling as I always do. I was only answering, in my contribution on the Appropriation Bill, the questions that had been posed after my intervention in the Finance Bill, by Mr Feetham and Mr Pilcher. That is all I was answering. I hope I was not repetitive between one contribution and the other.

MR SPEAKER:

If you had been I would have stopped you.

HON CHIEF MINISTER:

Mr Speaker, generally speaking, one should aim at attempting to separate them. Generally there are, of course, grey areas where they are both affected but otherwise it can become a little difficult and repetitive. Not that one wants to interfere with the way it is done but I think we ought to have an understanding that unless it is relevant to one and I am not in any way interfering now with the matters that have brought the matter out, I am just attempting to outline my concept as Leader of the House to what the thing should be in order that there should be no unnecessary repetition. There is repetition all the time, that is what we are here for, otherwise we wouldn't be here half the time we are here but, generally speaking, Members of both sides should try and direct their attention on expenditure at one stage and the Finance Bill on the other and it has so far happened.

HON J C PEREZ:

Mr Speaker, as I said before, I am talking about expenditure and I am not repeating myself because no one actually replied to the Hon Mr Perez and I am taking the opportunity to do so in the context of expenditure. Later on, Mr Speaker, I have an issue which is not related to expenditure which I will ask you whether I can tackle because it has to do with comments made by Mr Canepa over the shop assistants where he said - if I am wrong I am open to be told that I am wrong - and I am going to try and explain to him that there has been a misconception on the part of the Government. But be that as it may, let us go into what happened over the Gibraltar Shiprepair Limited which Mr Perez seems to have forgotten all of a sudden when putting forward, as I said before, a cheap and propagandistic address to the House which did not actually refer to the Budget at all but was just a vicious attack on the Opposition and an unwarranted one. He said that they had plans for the Dockyard and that we had no plans at all. Mr Speaker, that is totally wrong and, again, we have been vindicated. They are voting £1m in the subvention of the Treasury today and we have already voted another £1m before because what we said should be done was not done. We said at the election and we said in our manifesto that we had to have a much smaller dockyard, Mr Speaker, that we shouldn't use all the £28m on that dockyard and we have been again vindicated because they have had to wait for three years and they have had to employ further consultants to find out what we found out before Gibraltar Shiprepair Limited was set up. Let there be no mistake that we didn't know what to do and they did. It has been proved that what they thought was right has been proved wrong and that what we thought was right has been vindicated and now they are going down that path after three years and after having employed consultants for that purpose. In fact, in speaking on this subject I have remembered one thing which is not relevant to this particular subject but to what we were discussing before and I do not know how it is that Hon Members complain about what I am speaking to in relation to expenditure and they didn't seem to complain that the Hon Major Frank Dellipiani spoke about international defence in the Finance Bill. Mr Speaker, I now beg leave to enter into the area where it is not totally related to expenditure which is about the wages of shop assistants and the comments made by the Minister for Economic Development yesterday. Mr Speaker, he said that the Government had deprived shop assistants of the wage recommended by the Conditions of Employment Board because the Government thought that this would be breaching parity and that by doing so it would be giving an opportunity to elements in the public sector to breach parity there, as I understood his comments which I have read in the press this morning. Mr Speaker, this is not the case, this is a total misconception on what happened when parity was introduced

in 1978. When parity was introduced in the public sector, Mr Speaker, the private sector employees were compared to the public sector employees, they were analogued to the public sector employees. The private sector attained parity with the public sector and in 1978 shop assistants finished off with the rate of the Band 'O' which is the lowest point in the structure of the Gibraltar Government. Since then, to date there has been a great disparity between what they attained then only because the employers were insisting all the time that the economic situation did not warrant an increase and the independents in the Conditions of Employment Board supported the employers. Since the economic situation changed, Mr Speaker, for the first time ever the independents have supported the trade union representatives and, in fact, have come up with a rate which is still lower to what the Government is paying its Band 'O' employees but which sort of makes up in part for the loss that the shop assistants have been suffering throughout these years when the employers thought they could not increase their wages. There is not one single group in the private sector, Mr Speaker, which is compared to a group in the United Kingdom for pay rates. In fact, the construction industry is this year higher and there is great disparity in bands and everything else. The comparison has always been done with the pay structure in the public sector once parity was attained.

HON A J CANEPA:

If the Hon Member will give way. Mr Speaker, I was Minister for Labour in 1978 and I continued to be Minister for Labour until 1981. I remember on a number of occasions taking recommendations of the Conditions of Employment Board to Ministers in Council of Ministers Papers that I sponsored and in which with the Director of Labour and Social Security as Chairman the recommendations that were being made and were the subject of notice in the Gazette were for the implementation of the wages arrived at by the Joint Wages Council in the United Kingdom. That is how we were legislating over the years. The wages of a shop assistant were not linked to Band 'O' Labourer. We used to get the information from the UK, the Orders that were published in the UK used to come to the Department of Labour and Social Security, the Regulation of Wages and Conditions of Employment, would consider that and what we in Council of Ministers were legislating for year after year after year - I may be wrong because my memory can also fail me, I am not yet infallible - but I have a feeling that even beyond 1978, and that can be checked, we were continuing to enact legislation based on the Orders of those Joint Wages Council. But, as I say, I may be wrong. Perhaps when I said, Mr Speaker, yesterday that the matter could be pursued I wasn't thinking so much that the matter had to be pursued here in debate in the House, what

I was thinking was that outside the House those concerned with the matter, the Labour Department, the Conditions of Employment Board and the Union should get together and clarify the matter.

HON J C PEREZ:

Mr Speaker, I think that the Hon Member should check back because, in fact, I think that his recollection is incorrect. Whether the Labour Department actually made comparisons before approving the proposals of the Conditions of Employment Board or not is neither here nor there because the Conditions of Employment Board did not arrive at any particular rate because of what the rate was in the United Kingdom. That is the truth. In any case, the point has been made and as the Hon Mr Canepa has said, it could be pursued outside the House but I thought it proper to put on record that the situation, as we know it, is certainly not the situation as the Hon Member explained yesterday. Mr Speaker, going into the details of my particular Departments I like to give credit where credit is due. Mr Speaker, last year I said that the presentation of accounts for the Post Office Savings Bank would be better if they would be presented in the same way as the other Funded Services. This has been done, Mr Speaker, I am glad to say. I also said that on the Funded Services we felt that an additional column should be included to show the final result for the previous year and this again has also been done and since I like to give credit where credit is due, I take full credit for the matter, Mr Speaker. However, Mr Speaker, I haven't been as fortunate to convince the Hon the Financial and Development Secretary to go down that path in other areas. Mr Speaker, it is unfortunate, to say the least, that for the fourth year running, I should have to dwell on the subject of the presentation of accounts in relation to each Department accurately reflecting its true cost. However, having been unable to convince the Government over the last three years to move in that direction, it would be a grave omission on my part if I were not to return to the subject on the Budget which precedes a general election. I am, of course, referring to the vote for the Maintenance of Buildings shown in the Estimates under Public Works where \$644,200 have been allocated for that purpose in this financial year. The argument in favour of breaking down the vote and allocating it at Budget time is twofold. Mr Speaker, in the first instance, by charging each department the cost of maintenance of their own buildings the House would be able to have a more accurate estimate of the real cost of each department. Secondly, the House would also have an opportunity of judging whether or not the planned programme of maintenance was being allocated fairly in respect of which departments were being given priority. One argument put by the Government against this, Mr Speaker, is that it would not allow the Public Works Department sufficient flexibility to

use this money differently depending on how priorities change during the course of the year. When I first raised this issue at the Budget Session in 1984, I was told by the then Minister for Public Works, the Hon Mr Maurice Featherstone, that the Government might be able to meet my request halfway. This, by allocating part of the vote to each department with the other part kept under Public Works, thus allowing the department to continue to exercise a certain amount of flexibility. This, however, has not happened to a very great extent. In fact, the present Minister for Public Works has since then stated that any further move in this direction is impossible. Nonetheless, shortly after I first raised the subject, I was invited by the Hon Major Dellipiani to meet civil servants in the department and put my views directly to them. I came out of that meeting with the impression that the fundamental objection to allocating maintenance costs to each department and breaking down this vote was the added paperwork involved. However, since this year there is a reserved vote of £20,000 for the purchase of a computer for the Public Works Department, something I suggested at the time, perhaps this problem could now also be overcome. I might have been too rash in my judgement when I said that I had failed to convince the Government in presenting accounts that would reflect more accurately the costs of each department. In 1985 I used the same argument in relation to the rates payable in respect of public buildings and was told by the Hon Financial and Development Secretary that it was impossible to do this. Nonetheless, in 1986 he did it without giving any kind of explanation on how he had overcome the administrative hurdles he at first foresaw. The same case was again put by me in respect of the Post Office charging each department for postage. This again is said to involve insurmountable administrative complications which have yet to be explained. However, I am happy to see in this year's Estimates that the general philosophy of my argument has not been totally lost on the Hon Member opposite. Minor Heads such as stationery and travelling expenses, previously charged to one sole department, are now being charged separately with the cost spread out as it affects each particular department. Mr Speaker, Hon Members opposite might perhaps think that this matter is trivial when dealing with the overall Budget but I can assure them it is not. They talk about economic planning as if they really knew what it was all about. Well, if they are serious in their attempt to plan ahead which I doubt very much after having heard some of the contributions, then the accuracy of the costs of each department should be one of their priorities since it is a key factor in being able to forecast expenditure and in actually knowing how the annual bill of providing Government services to the general public is being spent. Another important element in this respect is, of course, up-to-date statistics which are not always available. When they are, Mr Speaker, it sometimes happens that the statistics produced by one particular department are in conflict with those produced by another. Not,

I would say, a very sound basis from which to plan the economy of Gibraltar. Planning is also central, Mr Speaker, in any maintenance programme. It is with genuinely felt regret that I must say that the absence of a planned maintenance programme over the years has resulted in many of our buildings being totally neglected. Because of this we now find ourselves in a position in which the deterioration of some buildings is such that they are in need of major overhauls that cannot all be financed in one particular financial year. Had there been a regular painting and plastering programme which ensured that all Government buildings would receive basic maintenance, say, every five to eight years, many of the problems being encountered recently could have been avoided. This brings me to the question of the Police Barracks which is earmarked for repairs in the Estimates under the Improvement and Development Fund on two counts. Under Head 101, Subhead 1, there is £42,100 allocated to the reinstatement of defective walkways. Then further down, under Subhead 5, £290,000 have been allocated for a project at 30, Castle Road with the estimated completion cost of the project being £850,000. Anyone that would care to check will find out that 30, Castle Road and the Police Barracks are one and the same. Admittedly, the first vote also covers repairs to the defective walkways of the Police Barracks at Scud Hill but this was estimated last year to cost some £7,000 only with another £14,000 allocated for the repairs at Castle Road. I said last year that I felt the money allocated was insufficient for the minor works planned. In fact, having gone to the Barracks on several occasions and seen the state in which the building is in for myself, I argued that a more comprehensive works programme was necessary. Nonetheless, I took the word of the Hon Major Dellipiani that he knew better thinking that he had expert advice available which I hadn't. Well, I shouldn't have, Mr Speaker, because we all now know that the Police Barracks at Castle Road are in the process of being vacated with the Government now recognising that major works to the tune of £850,000 are necessary, unless, of course, this is the cost of demolishing the whole building in which case my position is even more vindicated. The vote of £42,100 I now presume is solely for the works on the Scud Hill walkways which had been erroneously estimated at £7,000 only last year. If this is not the case then perhaps the Minister can explain what it is all about. The Minister might be able to explain it if he is actually in the House. Then, Mr Speaker, we come to another important aspect of this situation which relates to whether or not the works are to be carried out at all. Since they have been included as part of the Development Programme, it is to be assumed that the Government now recognise that the problem exists. However, Mr Speaker, the qualification of reserved which appears beside some of these votes in the Estimates, seems to indicate that a final decision has yet to be taken at some level before the works start to be tackled. Even if this qualification were not to appear in the

Estimates, there are so many subheads or parts of them re-voted that the fact that they appear in the Improvement and Development Fund does not by any means represent a commitment on the part of the Government that the works are to be carried out in this financial year. It could be, Mr Speaker, that most of the projects listed fall under the same category as the proposed demolition of the surrounding walls of the Piazza. This has been approved by the Forward Planning Committee but is the subject of further discussion in the Development and Planning Committee, which will then invite the public to put forward ideas and study these, after which the Council of Ministers will take a final decision within the financial constraints of the time and in competition with other projects with respect to priority. This, in real terms, means that it will never see the light of day. Why, if not, would the Government be replacing the tiles at the Piazza now if they envisaged that the project would have a chance of getting off the ground? A lot of plans, yes, Mr Speaker, planning very little. The qualification of reserved also appears in the Estimates in respect of the remedial works to the balconies of post-war buildings. This, notwithstanding that the Minister for Public Works only last February told this House that work was envisaged to commence in April. It is obvious that having said 'it was envisaged' covers his back pretty well but says very little about taking on board genuine problems and dealing with them effectively. Certainly, the commitment to carry out remedial works on the balconies of Stanley Buildings, which were deemed to be in a dangerous state, was not qualified and the works have not even started, Mr Speaker. On maintenance generally, Mr Speaker, the AACR administration has failed miserably to deliver and it is through their neglect over the years that the problem has now grown into one which will cost dearly to put right. This neglect was admitted by the Minister for Public Works himself when answering a question from me on road resurfacing recently. He said that part of the problem of not having completed the programme announced at the beginning of the year, was the lack of experience of the workers involved because, quote: "We haven't done much road works in the past". Certainly nothing to boast about. Had there been an annual programme of works with funds allocated for this purpose as recurrent expenditure, it would not now be necessary to consider road resurfacing in the context of the Development Programme. Another important aspect of neglect in this respect is the absence of any regular general surveys of buildings as is done in the United Kingdom every five years. Had this been done then perhaps when a tile from a building falls off there wouldn't be a need to panic and cordon off the streets since information on the general state of the building would be available. Then again, if surveys would have shown buildings to be in a bad state of repair, landlords would have been obliged by law to carry these out at the time of the survey thus avoiding the situation we face today which is that any amount of vibration, whether it be through new develop-

ments taking off or something else, old buildings start to crack and drastic measures immediately need to be enforced. Before I leave the Public Works side of it, Mr Speaker, I must necessarily query the re-vote of £30,000 in the Improvement and Development Fund which is explained as "Refuse Incinerator - Consultancy". The Minister told the House last year that although the incinerator had reached the end of its lifetime, money had been put aside over four years to keep it operational for another four years. This was done, according to the Minister, because a replacement for the incinerator cost £4m and funds were not available for this purpose. In fact, he said that if after four years there were still no funds available, we would have to do by scattering refuse all over the Bay of Gibraltar. That is already happening in respect of the breakdowns of the incinerator. I would like the Hon Member, first, to explain where this amount of money is being allocated on an annual basis and whether it is still envisaged that the incinerator will last us another three years. In passing, perhaps the Hon Member could explain why the Government feel that a consultancy is needed in this respect and what aspect of the refuse incinerator is it intended to look into. Surely, if it was already recognised last year that it had reached the end of its lifetime, there is very little about it that needs to be investigated that would warrant employing consultants. Mr Speaker, I would now like to turn to the Quarry Company which was the subject of a £200,000 subvention last year from the Government. The Hon Mr Maurice Featherstone told the House at the time that a viability study of the company had been carried out with the result being that the auditors were satisfied that the Company's viability was reasonable within the following eighteen months if the Government were to make a subvention to remove past losses and put the Company on a firmer footing without the burden of heavy overdraft. Well, the Minister certainly chose the wrong phraseology when he said 'a firmer footing'. This was in April last year. Then in September a public announcement is made to the effect that the Company has to shut down in the interest of public safety. The firmer the foot, the bigger the fall. What is completely unacceptable about this situation is that in February reports about safety and the possibility of closedown had already been commissioned. It was these reports which led the Government to take the decision of closing down the Company. Yet, in the full knowledge that this was happening, the Minister came to this House and asked us all to vote a £200,000 subvention based on the economic viability forecasts of the Company. This I know from the reports which he himself gave me. Even more serious is the fact that as early as July, 1983, and August, 1984, the possibility of closing down the Company on safety grounds had already been contemplated. Is it that the Minister didn't know what was happening in respect of safety or is it that he deliberately misled this House to approve the subvention in the full knowledge that the Government will, at the

end of the day, have to cover for the losses and debts of the Company? As it happens, to date, the commitment to provide alternative employment to those being made redundant has not yet been met and the workforce are still on the payroll of a company which sells nothing because it ceased to operate at the time of the announcement. The workers are being employed on other tasks but even the process of winding up seems to be taking as long as it took the first grain of sand to slide down the chute when it was first installed. Had the company been allowed by the Government to trade in construction materials other than sand when it attempted to do so then, perhaps, it would still be viable today even if sand quarrying is no longer a part of their operations. Now it seems we will be presented shortly with another subvention to write off all the debts and losses incurred since it stopped operations. Perhaps the Government might attempt to justify this state of affairs to the House but it seems to me as if they have very, very little room for manoeuvre. Mr Speaker, I will go into the Estimates of Expenditure of the Telephone Service which we are going to vote against, at least as far as personal emoluments are concerned. This is because the number of Telephone Trunk Operators has been reduced from ten to seven and as the House is aware, a dispute exists between the Union and the Government with the result that no service to the public has been available for the last eight months. I would not like to be drawn into the argument of how many telephone operators are necessary for the International Exchange, since that is a matter for negotiation between both parties. Whether it be two, eight or ten is neither here nor there as far as I am concerned. What is intolerable and an open challenge to all civil service unions is that the Government should have unilaterally breached an agreement they entered into. This is a challenge not only to those people who are locked out today but to any other group of civil servants with similar agreements who could tomorrow have their complement altered unilaterally without agreement by their association. I understand that Government last Friday approached the union with a view to involving ACAS in resolving this longstanding dispute. Again, this is a matter for the union and those affected to decide but it seems incomprehensible that at the same time as, by implication, the appropriate manning level is still an open question, a unilateral reduction of three of the existing posts should take place. I would therefore urge the Government to reconsider the decision and restore the complement in the Estimates so as not to prejudice the possibility of moving forward of their latest proposal as well as for the reasons I have already mentioned. Since we are still on communications, perhaps it is right that I should raise the terminating of the franchise of Cable and Wireless and what it is intended to replace it with. In February, 1986, I wrote to the Minister for Municipal Services seeking an assurance that since the renewal or transfer of the franchise was to take place in December, 1987, and therefore very

near to a General Election, that the Opposition should be consulted on any plans for the future and that there should be a debate in the House prior to the franchise being renewed or replaced by something else. Although the Minister did not answer my letter, I did get such a commitment from him in the House in answer to a question from me and discussions have taken place. We are both agreed that the franchise should not be renewed but instead replaced by a company in which there would be direct public participation, that already is public knowledge. The final decision as to who the Government's partner in this venture will be has not yet been taken as far as we are aware and the Minister has already given the Leader of the Opposition and myself an undertaking that we will be consulted before that happens. We think communications is central to the economic development of Gibraltar and that therefore the decision taken should be on the basis of what is best for the future. Mr Speaker, traffic and, particularly, parking is another area for which I am responsible on this side of the House. Although we were recently told by the Minister for Economic Development that there are plans to move the coach park to Waterport and make its present site available for parking, I think it is generally recognised that this is insufficient to be able to really make an impact on the extent of the problem. Not so long ago, it was also disclosed by the Minister that the Naval Ground No.1 was not being released to the Government on the grounds that it was still needed by the Ministry of Defence so that crews of visiting navy ships would be able to continue to play football. When I suggested that they might use the pitches at Europa Point, the Minister said that this alternative had been put to the MOD but rejected on the grounds that they had insufficient transport to move the football teams. Ridiculous as it sounds, this was the explanation given by the Minister of what had transpired between the Government and the MOD. I don't know whether any other reasons were put forward which the Minister has not disclosed but if that was the only argument used, I cannot understand why the Government have not pursued the matter further. Certainly, it would seem to me that for a Government that boasts of maintaining cordial relations with the MOD, that argument sounds as hollow as it is cynical. If asking for the release of Naval Ground No.1 produces that type of response, I dread to think how negotiations on other more important aspects of that relationship are dealt with. There are sound reasons for asking for Naval Ground No.1 to be released. The arguments against this, as far as the Minister has disclosed, are absurd to say the least. It is something which we on this side of the House would not expect to get from the MOD.

HON A J CANEPA:

Which does he regard as being Naval Ground No.1?

HON J C PEREZ:

The one next to where the Regal Cinema used to be.

HON A J CANEPA:

The one next to the Regal Cinema? That is No.2. Naval Ground No.1 is the one in line with the House and with the City Hall.

HON J C PEREZ:

Then I was referring to Naval Ground No. 2 all along.

HON A J CANEPA:

It is very important because Naval Ground No. 1 is being put to wider uses.

HON J C PEREZ:

Mr Speaker, as I said, there are sound arguments for asking for Naval Ground No.1 to be released and nothing that has been said convinces us that this shouldn't take place. In rounding up, Mr Speaker, let me just say that there is a new Subhead of expenditure under House of Assembly which is of particular interest to most, if not, all of us. I am referring to the £30,000 allotted to a Subhead called "General Election". Perhaps, in rounding up his contribution, the Hon and Learned the Chief Minister might give this House an indication of when he intends to spend that money. As far as we on this side of the House are concerned, the sooner the better. We are confident it will be money well spent. Thank you, Mr Speaker.

HON CHIEF MINISTER:

It is always money well spent.

HON J B PEREZ:

Mr Speaker, the previous speaker, the Hon Mr Juan Carlos Perez, has began his contribution by describing my contribution in the debate yesterday as cheap political propaganda.

MR SPEAKER:

Is there such a thing as expensive political propaganda?

HON J B PEREZ:

I think there were two major thrusts in my contribution yesterday to which I am sure he is referring to. The first one was where I pointed out that the Government's economic policies which are well known have, in fact, succeeded in producing or setting the pace for a more prosperous Gibraltar, that the economy is working. In fact, what has happened in the last two years is that the economy has grown more by more than 15% in real terms and is still expanding; the Government has been able to make tax cuts worth more than £7m; the Government has reduced the amount of public debt, in fact, we have reduced debt charges; we have borrowed less money than before and when we have borrowed it has been from Gibraltarians rather than from the banks; we have kept Government spending under control not only that but we have increased the amount of Government's liquid reserves from £7m at the end of 1984 to £14m at the end of the last financial year. These are the facts which have been given to the House by the Hon Financial and Development Secretary. That is the truth. If to tell the truth it means is making cheap political propaganda, that is a matter for the Hon Mr Perez and I am sure it will be better for the electorate come the next elections but that is telling the truth. The other point I made.....

HON J BOSSANO:

Can I ask the Hon Member one question?

HON J B PEREZ:

In a minute. The other point I made, Mr Speaker, is if the GSLP are saying, and they are saying, that they have this wonderful economic plan which will cure all Gibraltar's ills, what I said yesterday was, well, if that is the case why not tell us or tell Gibraltar or at least you owe it to your GSLP members, you owe it to the people who voted for all of you in block, you owe it at least to them.

HON J C PEREZ:

The Hon Member doesn't understand.

HON J B PEREZ:

You owe it at least to them to tell them what your ideas are. It may well be that the Government could well say: "Yes, you can get the credit for this". You know what our economic policies are, you know the Government's economic plan, the plan is working, if we can import other ideas we will do so for the benefit of Gibraltar as a whole. Again, Mr Speaker, that is telling the truth and, again, if telling the truth is cheap political propaganda that is a matter for the Hon Member and, of course, for the electorate at the end of the day. I will give way now.

HON J BOSSANO:

I would like to ask the Hon Member whether he is telling the House that he knew when he spoke what the Financial Secretary was going to say in his closing speech to the Finance Bill because the figures that he has just quoted from the Financial Secretary have not been answered by the Opposition or challenged by the Opposition or questioned by the Opposition because the Opposition has not had an opportunity. The Financial Secretary should have said what the Hon Member has just said in his opening speech in the Finance Bill and then he would have had it answered. Whether liquidity has gone from £7m to £11m and whether the economy has grown 15% is something that the Hon Member might have known when he was speaking but was not said in the House until after he sat down by the Financial Secretary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, Mr Speaker, I must challenge that. We have had questions in this House earlier to which I gave an answer referring to the growth rate of the economy, I gave 10% as the figure for 1985/86 I recall in answer to a question, and in my speech I referred to the underlying growth rate as being 6% to 8% so I think I have discharged that particular responsibility.

HON J BOSSANO:

The question that I asked the Hon Member was, whether the figures he is quoting which is the ones quoted by the Financial and Development Secretary at the end of his speech, were something that he knew when he was speaking yesterday because certainly, as far as we are concerned, the Hon Member will be able to follow me in the Appropriation Bill and in my contribution in the Appropriation Bill I will demonstrate that the Hon Member was saying one thing yesterday which contradicts everything he has said before and he will have an opportunity to answer.

HON J B PEREZ:

Mr Speaker, the position has been clarified. The point I am trying to make is if to tell the truth can be described as cheap political propaganda that is a matter for the Hon Member. What I attempted to do yesterday was to put the facts before the House as I see them and the facts which speak for themselves. Mr Speaker, I now come to deal with the Departments for which I am responsible, namely, the Prison, the City Fire Brigade, the Telephone Department and the Electricity Department. Mr Speaker, as far as the Prison and the City Fire Brigade are concerned, these departments have worked well throughout the year and I am sure they will continue to do so in the forthcoming year. The point to make of these departments is that

they are departments that really work behind the scenes, they are departments which provide an essential service to the community and really it is only in the case where there is a major disaster or a catastrophe that you can actually see them at work. But I think they are departments which we should all recognise have worked well, the staff are very able persons and I am sure, as I say, the performance of these two departments will continue in the same way as they have in this last year in the forthcoming financial year. I now come to the Telephone Department, Mr Speaker. Again, the financial year 1986/87 was an eventful year for this department in that progress was made in new areas of activity for the department. Amongst the more important issues dealt with were the question of Gibraltar's International Communications franchise and also the initiation of a study into the digitalisation of the Exchange and Cable Network for the improvement of telephones and new data services. Intensive negotiations were held both with Cable and Wireless PLC and with British Telecom. Although the issue has not yet been settled, due to the competitive spirit of these two Telecommunication giants, and I would say both equally determined to win the franchise, it is expected that the final decision will be taken in the very near future. I would again reiterate the commitment which was mentioned by my Hon Shadow and that is that before a final decision is taken there will be consultation with the Opposition, something which I think they will accept that I have done all along since I gave the commitment in the House and, in fact, I would say that I am quite grateful for the different discussions that we have had and the contributions that they have, in fact, made and I am sure will continue to do so. Mr Speaker, the exhaustion of the Telephone Exchange is now expected, unfortunately, by the end of 1988. This is an indication of the heavy demand on the department particularly from the business community. The extension to the Exchange will be digital, this Exchange offering faster and more reliable communications for the future. The department has been actively engaged in discussions and evaluation of the opportunities offered and recommendations are expected to be presented to Council of Ministers before the end of this forthcoming financial year. On the Cable Network side, preliminary studies into different transmissions systems including fibre optics, were undertaken with a view to presenting again formal recommendations to Council of Ministers for subsequent implementation. Mr Speaker, the year also saw the unfortunate industrial action by the Telephone Trunk Operators which left the public with no directory enquiry or manual call facilities. The action was partly compensated by the publication of the new 1987 Telephone Directory which, in fact, I announced during my contribution in the Budget last year, which was issued at the beginning of the new year. As is well known the Directory for the first time was put out to tender and was produced in record time by Medsun Publishing Company. I would now like to deal briefly with the points that my Hon Shadow raised in connection

with the Telephone Trunk Operators. Mr Speaker, it is true that a proposal has been put to see whether we could have some form of arbitration by ACAS to find a solution to this matter. I think I ought to say that in the initial discussions when the problem arose, attempts were made, in fact, in fairness, by both sides, both by Mr Bossano who was acting on behalf of the union at the time and by management and the IRO. Unfortunately, certain things happened which did not produce a satisfactory solution for both the Management Side and the Staff Side. The point I wish to make is that as far as the Government is concerned, and this will be apparent from the letter of the Industrial Relations Officer, is that no doors have been closed. We want to see a solution to the problem. What I think I have to say in fairness and in defence of management of the Telephone Department is that although there has been a reduction of the Telephone Trunk Operators, I think it must be said that there have been no redundancies as such. The question that really arises is what is the proper manning level for the Telephone Trunk Operators?

HON J C PEREZ:

Will the Hon Member give way? Mr Speaker, I haven't wanted to go into the nitty gritty of who is right and who is wrong, what I have told the Hon Member is that since there has been a move to get ACAS coming into it and this is being discussed by the union at the moment, why reduce the complement now at this Budget and prejudge the result of a possible intervention from ACAS or spoil the chance of that being able to materialise at all? If we had the complement at ten last year and we were employing less, what harm is there of keeping the complement at ten and allowing the situation to develop in normal negotiating forums?

HON J B PEREZ:

I am grateful for that comment, Mr Speaker, because again without going into the merits of the situation, this in fact has been the basic problem. One side saying 'employ an extra body and at the same time have a staff inspection or bring ACAS to look at it whilst the other side, management, were saying 'why employ somebody if the deliberations of the decision of the arbitration were to be that we need one person less or two less then you would have, redundancies'. I am sorry, but it is so simple, that appears to be the problem but I take the point made by the Hon Member, I am not going to go into the merits of the matter, all I can reiterate is that as far as the Government is concerned no doors have been closed and we really look forward to finding a solution which will be acceptable to both sides quickly. The other point, the Hon Member will correct me if I am wrong, did the Hon Member refer to them being locked out, Mr Speaker, can I ask that question?

HON J C PEREZ:

Yes.

HON J B PEREZ:

What in fact happened, Mr Speaker, was that the industrial action which was, in fact, taken by the Telephone Trunk Operators meant in effect, in reality, that subscribers were not being charged for calls that they were making via the operator. That was something which obviously couldn't be tolerated because it is affecting all taxpayers.

HON J C PEREZ:

Is the Hon Member saying they weren't locked out?

HON J B PEREZ:

I don't think management had an alternative because of the industrial action.

HON J C PEREZ:

I have said that they are locked out.

HON J B PEREZ:

I am sorry but I thought I would mention that because they have said that they would be voting against the personal emoluments.....

HON J C PEREZ:

Unless the Hon Member.....

HON J B PEREZ:

The point I am trying to make is that as far as the Government is concerned.....

MR SPEAKER:

You will have plenty opportunity at the Committee Stage.

HON J C PEREZ:

Mr Speaker, just one last point of clarification before the Hon Member goes on. I am only saying that we are going to vote against because of the reduction in the complement. If the Hon Member can say it will remain like that so as not to prejudice their latest move of getting ACAS involved in the dispute, we shall vote

in favour of the personal emoluments, the whole of the Telephone Department and, regrettably, not for the Minister at the next elections because we will be standing against him.

HON J B PEREZ:

I can confirm that this is, in fact, the intention, Mr Speaker, as said by the Hon Member, that is the whole idea. We don't want to prejudge anything.

HON J C PEREZ:

Then you are going to restore the complement?

MR SPEAKER:

Let us leave it at that.

HON J B PEREZ:

No.

MR SPEAKER:

With respect, continue your contribution without any interruption.

HON J B PEREZ:

Anyway, I can confirm the point that the Hon Member has said. Coming back to other matters which, in fact, have been done by the Telephone Department during the year and that is that we have now increased direct dialling facilities to Morocco, Egypt, Guyana, Iran, Faroe Islands, Greenland, Mauritius, Oman and the United Arab Emirates. This has all been done during the last financial year, Mr Speaker, and again I would like to publicly thank Cable and Wireless PLC for having made this possible. In fact, I am pleased to announce that the total number of countries on the direct dialling system is now 83 and I think this augurs well and speaks well for the hard work that many members of the department and Cable and Wireless have actually put in on direct dialling. Mr Speaker, the year also saw a massive increase in demand, especially from finance centre activities such as new banks which have set up in Gibraltar. The existing businesses expanding and applying for bigger and more sophisticated PABX's and connections to Reuters and Data Services also put a tremendous strain on the department's resources. In response to this upsurge in demand, the department is working towards a scheme whereby connection and waiting lists will begin to decrease and hence improve the present situation. Again, I look forward to full cooperation

by the Staff Side and the union responsible for trying to achieve this during this coming year. Mr Speaker, studies into the charges for rentals and telephone sets have also been initiated and a new scheme whereby subscribers will pay according to the set they have, will shortly be considered by Government. The new scheme will overcome the present problem whereby new subscribers do not pay extra for push-button modern telephones, whereas existing subscribers need to apply and pay for a change of instrument. The department's three Technical Sections were fully stretched during the course of the financial year. The External Plant Network which consists of the installation and cable section was responsible for the connection of approximately 600 new telephones. They performed 421 new works, completed 600 wirings and connected approximately 50 telex and facsimile machines. The waiting list, I regret to say, at the end of the year stood at 574 representing an increase of nearly 99% over the previous year's high. The 740 applications received during the previous year also increased to 900. This section also completed several large installations for the Special Services Section and also completely re-wired two blocks at Humphries Estate as part of the Distribution Cable Upgrade programme. These, in fact, numbered 564. The Special Services Section was similarly kept very busy. A total of 18 medium to large PABX's were installed and 34 small ones. Over 50 microprocessor controlled payphones were installed, as well as answering and recording machines, additional PABX extensions and upgrading of PABX facilities. The Head of Section also attended a course on data transmission in the United Kingdom. The Main Exchange Section continued with its programme of introducing more countries into the IDD list, the most important of which were the introduction of new exclusive routes to the United States and Canada and the introduction of the service to Morocco. Plans to expand the Morocco route were also drawn up with a view to early implementation in the 1987/88 financial year. Again, the Head of Section was also involved in the Exchange digitalisation project which is at present under consideration. The Exchange battery system was replaced with a brand new set of higher capacity calls. The old sets had been in service for exactly twenty years and was beginning to falter under increasing load conditions. The departmental year was thus a year of achievement and a challenge which has been and is being met with vigour and determination. The future looks bright and equally challenging and of great economic interest to the Government and to the business community at large. The digitalisation programme promises to bring with it new opportunities and better, faster and more reliable telecommunication services for the future. Mr Speaker, I now come to deal with the Electricity Department. Members will see that in this year's Estimates there is a provision of £60,000 which is really for the initial consultancy and preparation of tender documents for the installation of a fourth set, another possibly 5 megawatt, it could well be that one would opt for one of around 10 or 15 megawatts, which will also include an extension to Waterport.

This I announce in line with the Government's policy as previously enunciated by me, particularly in the last Budget debate, the intention being to move all the generating capacity from King's Bastion ultimately to Waterport Power Station. I should also say that the fourth set is, of course, something that one has to plan ahead, one is seeing the demand increasing due to all the developments and due to the way the economy is working in Gibraltar the demand is increasing all the time and the purchase of this fourth set is absolutely essential if Gibraltar is to prosper. However, Mr Speaker, I regret to inform the House that there is a very strong possibility that we will not be able to maintain a continuous electricity supply during the winter of 1987/88, that is, this winter. There are three main reasons for this, the first one being that the warranty period for set No.1 at Waterport has now elapsed and service and maintenance to this engine will now no longer be carried out by the manufacturers. This means that for the first time in the last four years our personnel will have to carry out a 6,000 hour overhaul at Waterport. The outage will undoubtedly be longer than previous ones and will stretch our resources between the two Stations. The second reason is the unfortunate lack of cooperation from the Staff Side on productivity. This means that little improvement of output can be expected. It may be generally remembered, Mr Speaker, that 1985 was a particularly difficult year for industrial relations in the Electricity Department and that as a result there were restrictions in power supplies on several occasions during intermittent periods. The dispute with the Transport and General Workers Union which led to this industrial action arose over delays by Management in the introduction of productivity payment schemes as agreed during the Steering Committee negotiations, and the Staff Side's insistence that a firm date had to be given by Management for the introduction of such schemes. To break the impasse over the dispute TGWU proposed and Management accepted that in accordance with UK practice Lead-in Payments should be paid to members who were not in receipt of productivity or other incentive payments. The 1982 Committee of Enquiry highlighted, inter alia, disgruntlement by members of the staff of the different rates of remunerations and allowances across departmental sections. It recommended that productivity schemes based on synthetic data should replace the old schemes and that it be extended to cover other members of the staff. These productivity schemes have been based on the data bank which was set up for the Electricity Supply Industry in Britain. It was an expensive exercise and funding assistance was sought under Technical Aid Grant from Her Majesty's Government. The draft schemes were ready and tabled to the Staff Side in September, 1986, and unfortunately have been rejected in April, 1987. I say regrettably because there appears to be no reasons given for this rejection. Again, I wish to emphasise, Mr Speaker, that no doors have been closed and the Staff Side will now be requested to state their reasons for the rejection and to see if together

we can work out or we can iron out some of the problems that may be worrying the Staff Side and we look forward to being able to introduce these productivity schemes which is really for the benefit of the department as a whole. The third reason, Mr Speaker, why I fear that we may be unable to provide the continuous supply in this coming winter particularly during peak periods is that I am sure Hon Members will recall during the last Budget debate when I informed the House that we had purchased a third generating set, another 5 megawatt engine, for Waterport Power Station at a cost of £3m, I further announced at the time in the House that the engine had successfully undergone its trial run at the manufacturers' works and was presently awaiting shipment. I further announced that it was expected that the engine would be operational during the winter months. However, Mr Speaker, again, regrettably, initial problems in connection with the foundation and the base of this block together with blacking by the Transport and General Workers Union, has really meant that this engine cannot now come on stream as previously planned. Let me say that as far as the foundation problem is concerned, this has now been solved, this has now been sorted out with Hawker Siddeley and all that is now delaying the installation of the third engine at Waterport is the dispute that exists with the Transport and General Workers Union. Let me also further add that although it is fair to say that the problem surrounding the foundation has been one of the causes of the delays because I don't want to blame anything on the industrial action, the fact nevertheless remains that during the period in which one was trying to sort out the problem of the foundation with Hawker Siddeley and the sub-contractors, a number of ancillary works could have, in fact, taken place at Waterport by the contractor and now once the foundation problem has been solved and, hopefully, the blacking is removed by the Transport and General Workers Union then it would only be a question of one month's work or two month's work to have this third engine working. Unfortunately, because of the dispute, because of the blacking this is not the case now. Even if after this meeting of this House, after the Budget Session, there would be a solution found with the Transport and General Workers Union, I regret to say that the contractor would require a period of at least six months to have this third engine fully operational. Again, Mr Speaker, I would urge those concerned to consider the matter very carefully and try honestly to reach a solution in order to avoid the inevitable and the inevitable is, as I have already announced, that I think we are going to be due for power cuts during this winter unless we really get together and find a solution quickly. Thank you, Mr Speaker.

HON A J CANEPA:

Mr Speaker, before the debate continues I would ask leave to make a statement on a point of clarification regarding exchanges which I had earlier this morning with the Hon Mr Juan Carlos Perez when he stated that in 1984 general

election the AACR did not include any reference in its manifesto to the activities of the financial centre and the development of the financial centre whereas that had been included in the manifesto of the GSLP. I have documentary evidence.....

HON J C PEREZ:

He has got the right of reply.

HON A J CANEPA:

I have documentary evidence with me which would indicate that he made a misleading statement to the House. The documentary evidence is a copy of the manifesto of the GSLP. I have read through it, I have asked one of his colleagues in the Ante Chamber to try to point out to me where there is a paragraph, I would also invite him to discover what I cannot find, whether there is any reference in the manifesto because I cannot find any reference in this manifesto to the activities and the development of the finance centre. And if on reading through the manifesto again he cannot find that then I would invite him to make a statement to the House withdrawing those remarks.

HON J C PEREZ:

Mr Speaker, I will certainly have a look at the manifesto, I am sure that it is mentioned somewhere but he hasn't come back saying that the AACR actually had it included in the manifesto.

HON A J CANEPA:

That is not the point, Mr Speaker.

HON J C PEREZ:

He hasn't denied the fact that they waited for two years, but in any case.....

HON A J CANEPA:

Mr Speaker, I am accusing him.....

MR SPEAKER:

Order. It has been clearly stated by the Hon Mr Canepa that you have made a statement to the effect that in your manifesto the question of the finance centre was mentioned. On a matter of clarification Mr Adolfo Canepa has said that he has had a look at your manifesto and no reference is made there to that statement of yours.

He has given you an opportunity to investigate and to come back with the information. Let us not get involved as to whether they in their manifesto mentioned the finance centre, that is not the point at issue insofar as the clarification point is concerned.

HON J BOSSANO:

Mr Speaker, I find the reaction of the Hon Member quite extraordinary. In the course of this debate lots of totally irrelevant things have been said that have nothing to do with appropriation or with finance and the Hon Member is asking my colleague to withdraw a reference to something that we said in the 1984 election in support of the commitment.....

HON A J CANEPA:

No.

HON J BOSSANO:

I haven't finished, Mr Speaker. In support of a commitment, which I have repeated in this Budget, to the finance centre. He has said it is in the manifesto, the Hon Member will check his information and come back but to try and make out that this is a misleading statement as if we were misleading the Hon Members opposite who certainly didn't vote for the GSLP or had no reason to read the GSLP manifesto, when we have had situations here, for example, in the 1985 Budget the Minister for Labour said 700 jobs had been created in three months and it took a motion six months later to get that corrected and the Hon Mr Canepa was very upset that we had brought a motion here asking the Hon Minister for Labour to withdraw what was clearly a misleading statement about a factual number of jobs created in the first three months of 1985 made as part of the contribution in the Budget speech. It is extraordinary.

MR SPEAKER:

I feel sure that Mr Perez if he has made a statement which he considers to be incorrect will have no hesitation in saying 'I was under the impression that it was said'. Whether the attitude is correct or wrong is another matter.

HON J C PEREZ:

Mr Speaker, I can clarify to the Hon Member specifically what has happened here. We have argued during the whole of the campaign about the re-negotiation of our terms of reference within the EEC and how that would protect the financial centre which might not have been specifically included as such in the manifesto but it has a chunk

about the need to re-negotiate our terms of membership in the EEC and derogations. At the same time during that election campaign the Finance Centre Committee came out with a statement saying exactly what we had included in the manifesto and it has been mentioned in political broadcasts. The minor point that the Hon Member has said that the word finance centre has not been included in the manifesto is insignificant especially in terms of expenditure because I was just giving an example of economic planning, Mr Speaker. I don't think that he should make such an issue about what he has described as misleading this House, Mr Speaker. I have accused the Hon Mr Featherstone of misleading this House about a £200,000 subvention and that has not been answered yet. That is misleading the House, Mr Speaker.

HON CHIEF MINISTER:

May I as Leader of the House make a comment. It is, of course, a matter of argument what one says or what one does not say and that is, I suppose, the essence of democracy and debate. But statements of fact made by Members has a long history of cases in Erskine May, statements of facts, undisputable statements of fact which are incorrect, it is right and proper for other Members to give people an opportunity either to verify or to correct themselves. It is purely a matter of procedure, one must not get excited about all other things, this is a statement of fact which in the hearing of everybody was made an hour ago 'It is in our manifesto'. The Member has taken care to look at the manifesto and he doesn't find anything. I am sure that if he finds it we shall be the first to say 'It was stuck away and we didn't see it'. But if it is not found he will find a way to correct it because that, I think, is the essence of the way in which facts are stated before the House.

HON J C PEREZ:

Mr Speaker, I have already, the Hon and Learned Member may not have heard me but I have already.

MR SPEAKER:

The Hon Member has already explained that perhaps it is not specifically mentioned in the manifesto.

HON CHIEF MINISTER:

But he said it had been.

MR SPEAKER:

Well, he has now accepted the fact that it may not be but that it most certainly formed part of their campaign. I think the matter has been clarified.

HON J C PEREZ:

I think so, Mr Speaker.

MR SPEAKER:

I would invite another contributor to the debate.

HON R MOR:

Mr Speaker, there can be no doubt that around this time every year there is one particular person who becomes the central figure in Gibraltar - I am, of course, referring to the Hon Financial and Development Secretary, the Chancellor of the Exchequer. Mr Speaker, one of the things I personally admire most about the Hon Member is his incredible resistance. His incredible resistance to the tremendous onslaught which he has been subjected to from this side of the House, Traynor-bashing is what he calls it. The bashing he has had to endure from the Leader of the Opposition on economic and financial matters, the punishment he has had to endure from my Hon Colleague, Joe Pilcher, on the question of GSL and, of course, the punishment he has been subjected to from my Hon Colleague, Pepe Baldachino, on the question of amortisation has been really incredible. In fact, Mr Speaker, he reminds me very much of what is known in boxing circles as a 'punch--drunk' boxer who, as you know, you can hit and hit and he will just keep coming back for more. I would have thought that in his case three years would have been enough but, no, he keeps coming back for more and obviously he is getting it. Mr Speaker, I would say that the Hon Member is tough, is really tough. In fact, I am sure that given the number of times he has had to defend that side of the House single-handed there are some who would even feel that he may well be Britain's answer to America's Rambo.

MR SPEAKER:

Britain's answer to America's Rambo. Sylvester Stallone.

HON R MOR:

He is not with it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I take it he is not a Member of this House.

HON R MOR:

Obviously, Mr Speaker, the Hon Member is not with it on that one but I am sure he will be more acquainted with what follows and as we all know he is very fond of quotations and I have a quotation here which is attributed to an Asquith but not the Asquith of 'Wait and See' fame who he is familiar with but Lady Margot Asquith and what she would say about the Hon Member is: "He's as tough as an ox - he'll be turned into Bovril when he dies". Mr Speaker, if I may refer to the education budget. Following questions which I have brought to the House on the question of B/TEC courses for the College of Further Education, the Hon Minister for Education promised that at Budget time he would bring figures to this House. I have been looking at the figures, Mr Speaker, and so far I can only find that £50,000 are being made available for these B/TEC courses. But I remember during the course of supplementaries that the figure that was brought up was £100,000 or possibly more than that so I am giving the Hon Member an opportunity to clarify this either in his contribution or at the Committee Stage. What I think has attracted my attention, Mr Speaker, on the Estimates for this year is the education of children outside Government schools. I have noticed there is an increase on the estimate from last year of around £15,000 and what I would be interested to know is whether there has been an increase in children going to Service schools or whether prices have increased or whether it is that people are losing faith in our education system. Mr Speaker, you will no doubt recall that following a rain storm earlier this year, considerable problems were experienced at Bayside Comprehensive School. There were several electrical explosions; fittings found to be dangerous and disconnected; a teacher received an electric shock from a radiator; several people received minor electrical shocks; broken window panes; floor tiles missing and, in fact, Mr Speaker, most of the school was found to be in a sad state of disrepair. As you know this led to the teachers having to call a parents' meeting to advise parents of the dangerous state of the school and ask them to bring pressure to bear on this Government to have the school repaired and properly maintained. In his last year's Budget speech, Mr Speaker, the Hon Financial and Development Secretary when referring to the economic situation in the United Kingdom, he used the phrase 'fortunately, history has the habit of not repeating itself'. Well, obviously, Mr Speaker, the Hon Financial and Development Secretary has not been in Gibraltar long enough because here in Gibraltar history has the habit of repeating itself. In 1981 we had a situation in Bayside which is practically exactly the same as in 1987 and as happened on that occasion, it was only after a public outcry that this Government took any action. Mr Speaker, you will no doubt recall that in view of the reports on Bayside, I asked in this House whether the school had reached alarming sub-standard levels as the teachers at Bayside claimed. As you know the Hon

Minister for Education categorically denied this. Yet, Mr Speaker, we now find that we are being asked to vote £400,000, nearly £4m to be spent on this school. Surely, Mr Speaker, if the Hon Member opposite has categorically denied that the school is sub-standard why then are we being asked to spend so much money on Bayside? On a school which, according to the Hon Member, is not sub-standard. But not only this, Mr Speaker, although the Hon Minister for Education categorically denies the sad state of Bayside and considers the school is safe, he is reluctant to state publicly that this school is safe as he has been asked to by this side of the House. Clearly, Mr Speaker, there is a contradiction in what the Minister is saying in this House. We on this side of the House believe that the people need to be told, they have every right to hear from the Hon Member whether the school is absolutely safe or not, the parents of pupils at Bayside must be left in no doubt as to whether their children can be expected to study in a safe environment. Otherwise, Mr Speaker, we will have to accuse the Minister of purposely misleading this House because we cannot accept that £400,000 are needed for improvement works at Bayside to make it safe when the Minister had previously denied that conditions there were alarming. Mr Speaker, during a Party Political Broadcast on behalf of the AACR, the Hon Minister for Education said that his Government had done something unthinkable. Well, I must admit that they do tend to do many unthinkable things but what the Hon Member referred to, Mr Speaker, was that his Government had lowered the points required for the awards of scholarships from twelve to nine. This was unthinkable according to him, Mr Speaker. I am not sure of whether the Hon Member has been living here all this time or he has been Cannon travelling about elsewhere because, really, Mr Speaker, the Hon Member must be aware that the GSLP policy on scholarships is to abolish the pointage system completely and there is nothing unthinkable about that. In fact, we are already committed to this and we would do it as soon as we got into Government. In any case, Mr Speaker, the Minister should have been more honest with the viewers and told them the truth because to lower the pointage system was not a Government initiative at all but only came about as a result of savings made due to EEC students not being charged tuition fees. Mr Speaker, on the 16th December, 1986, the Hon Minister for Labour and Social Security moved a motion to amend the Social Insurance (Amendment of Contributions and Benefits) Order, 1986. During his contribution the Hon Member made the following statement: "The value of the Social Insurance Fund stood at £13.67m in April, 1986. Taking account of the £4.5m committed towards the cost of Spanish pensions, the balance of £9.17m represents well under two years expenditure on local pensions at the proposed 1987 rates of benefit. It is therefore proposed to continue increasing contributions by an amount which will provide a surplus of income over expenditure on local pensions". That is the statement he made, Mr Speaker. But according to the audited accounts,

the Social Insurance Fund stood at £14.14m and this was after having taken account of over £1.5m paid by way of Spanish pensions. The difference between the figure supplied by the Hon Member then and the audited figure, Mr Speaker, is £2m. During supplementary questions to Question No.85 of 1987, this matter was raised and both the Hon Minister for Labour and Social Security and the Hon Financial and Development Secretary attempted to justify what the Government said in December. There are two issues involved here, the first one is that the Minister had attempted to justify increases in contributions on the basis that the Social Insurance Fund stood lower than two years' worth of expenditure on local pensions. If at the time he had had his figures correct and found that he had £2m more in the Fund, he would not have been able to argue this point, Mr Speaker, and he has therefore given misleading information in this House and has increased social insurance contributions based on false information without justification. The other issue involved here is that having been made aware of the situation by the Opposition, neither the Hon Minister for Labour and Social Security nor the Financial and Development Secretary have offered any apology to this House for giving and attempting to justify misleading information. If allowed to go unchallenged, Mr Speaker, it would be a sad reflection of a conduct improper of this House and, indeed, any other parliamentary organisation. Mr Speaker, despite the fact that during the 1984 election campaign the AACR said that it was their policy to lower pensionable age from 65 to 60, there hasn't been one single word or any other indication given during their term in office that it still remains their policy. This would seem to be very much like the GASA swimming pool where all the Government could deliver was rubbish. We do not believe that promises should be made in vain, Mr Speaker, and we do not believe in paying lip service to the people. The GSLP is already committed to lowering pensionable age to 60 and we have already said that we would start the process during our first term in office. Given the healthy economic state of Gibraltar which the Members of the Government are so concerned in projecting in their political broadcasts and in general, I am quite sure that people must be wondering why nothing is being said in this Budget on the lowering of pensionable age. Mr Speaker, during the last two years I have been raising the question of contributions by persons employed on ships registered in Gibraltar. As you know this matter is still unresolved and has been the cause of considerable embarrassment to Gibraltar following the sinking of the Syneta. Mr Speaker, there are something like 100 ships registered in Gibraltar and if we consider that the average crew could be about ten per ship this would mean that the Social Insurance Fund could be earning somewhere in the region of £15,000 per week and, obviously, this money is not being collected. Following supplementaries to Question No.107 of 1987, Mr Speaker, on the 24th March, 1987, we now have a situation where these seamen are

apparently entitled, according to the Minister responsible, to all benefits under the Social Insurance Scheme without having made any contributions at all. This quite obviously means that these seamen can now obtain benefits at the expense of all other contributors in Gibraltar and it is incredible, I believe, that when it is suggested that legal action should be taken against the employers of these seamen, we then get a situation where the Attorney-General says the Government should report the matter to him and the Government, on the other hand, say it is up to the Attorney-General, so that in the end no one is held responsible for not complying with the law. Mr Speaker, the question of Spanish pensions has been consistently raised by this side of the House because of its tremendous effect on the present and future planning of our economy. It is interesting to note that whenever a new country decides to join the EEC it is quite normal for all previous members of the Community to take protective measures in order to avoid any adverse effects which the new member could have on their own national economic stability. It is sad to note, Mr Speaker, that although this Government was aware well in advance of Spain's entry into the EEC, they did not take protective measures against the claims for pensions at current rates. Once again on this issue the Government has shown their sheer incompetence and, as usual, are now attempting to react to the situation in their usual manner as they always do in moments of crisis and all they do in those cases is just set up a committee, a committee which has to date not produced any results despite the fact that the Hon and Learned the Chief Minister promised in this House that the matter would be resolved well before 1988. I don't want to rush him, Mr Speaker, but I would remind him that it is already nearly May, 1987. Quite recently, Mr Speaker, the Government reacted to a speech the Leader of the Opposition made at the Chamber of Commerce dinner and objected to the remarks made by the Hon Joe Bossano that the Government had committed Gibraltar to pay for these pensions. The Government said that the agreement with the British Government was without prejudice to either side beyond 1988. This is precisely it, Mr Speaker, this is precisely the point. Since the Government is blowing its own trumpet about success of their policies and the newly-found wealth, then it is quite reasonable to assume that the British Government will reach the conclusion that Gibraltar can well afford to pay for these pensions without any help from them. The reality is that on a budget such as ours a bill of £7m a year is a totally unrealistic burden which we just cannot afford and it is the responsibility of the Government to resolve this issue since they, and only they, have to bear the political responsibility for their negligence in this matter and we would therefore expect that the matter is resolved not only before 1988, Mr Speaker, but also well before the next elections. Mr Speaker, as you know, some time ago the Government in their wisdom decided to treat elderly persons pensions as part and

parcel of supplementary benefits. At the time we failed to see the logic of this move and we argued at the time that both were incompatible given that supplementary benefits are only approved after the claimant has been means tested whereas the elderly persons pensions were not. The Government did not appear to see the sense of our logic and consequently proceeded to show both benefits under supplementary benefits. What we now find, Mr Speaker, is that there is no way of telling from the Estimates how much is being paid in EPP or how much is purely supplementary benefits in the true meaning of the term. We would therefore ask that in future a breakdown is made available by the DLSS so that such payments can be monitored individually. In conclusion, Mr Speaker, I remember that during the Budget Session in 1984 I put in question the direction of the Government as regards their economic policy. Not surprisingly I still find that they are still floating aimlessly about, perhaps they may be nervous and they are not sure whether to rush around holding their pillars of the economy upright or whether they may be rushing around trying to hold the buildings of Gibraltar upright. What is clear, Mr Speaker, is that the Government is simply attempting to adapt to situations as is normal with everything that they do. Thank you.

MR SPEAKER:

I think this is a good time to recess until this afternoon at quarter past three.

The House recessed at 1.10 pm.

The House resumed at 3.30 pm.

MR SPEAKER:

I will remind the House that we are still on the Second Reading of the Appropriation Bill.

HON G MASCARENHAS:

Mr Speaker, first of all, I would like to dwell on the main department for which I have responsibility, education. I would like to refer Members opposite to what I consider to be the highlights of the education policies for the coming financial year and that is on the Improvement and Development Fund where the sum total of projects to be undertaken totals nearly £2m. These projects will include St Anne's Middle School, the re-siting of St Bernadette's Occupational Therapy Centre, the re-siting of St Joseph's First School, refurbishment of specialist workshops at the College of Further Education, the improvement works at Bayside School and temporary classrooms at St Joseph's First. At St Anne's Middle School we have made

provision for a gymnasium, a drama area, computer rooms, general classrooms and it will serve as a major quality improvement to the School and that should serve that catchment area for a few years to come. Not only that but it will help the department in at present, for example, the children from Varyl Begg, Varyl Begg is included as a catchment area for Bishop Fitzgerald and Bishop Fitzgerald I can say is severely stretched in the number of pupils. Obviously as a larger school it can take more and, hopefully, the refurbishment of St Anne's will be able to cater for children from Varyl Begg Estate which will be far more convenient for them. The improvements to the school will mean that the size of the school will be increased substantially. The St Bernadette's Occupational Therapy Centre will offer space and capacity for fifty students. At present the population is twenty-three. We have studied proposals to restructure the staffing and we consider that St Bernadette's has become an essential.....

HON R MOR:

Mr Speaker, will the Hon Member give way? If we look at the Estimates you find that most of the amounts shown in the Estimates for this year are reserved. Can he explain what that means?

HON G MASCARENHAS:

If the Hon Member wants a technical explanation I think the Financial and Development Secretary might help.

HON J BOSSANO:

If he has got a reserve vote, the Hon Member is talking as if these projects are certain to go ahead. Does the reserve mean that we could find that there is a change and that they don't go ahead or does it mean something else?

HON G MASCARENHAS:

Yes, Mr Speaker, I take the point. St Bernadette's we have still to identify the site but we are expecting that we shall do that in the very near future.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It normally means that there is some doubt just as the Minister has suggested and therefore the project has not been approved in the sense that approval has been given to the expenditure. There might be an area of doubt about expenditure and I think what 'R' means is that Council of Ministers would want to have another look at the proposal before it goes ahead.

HON G MASCARENHAS:

The other, of course, is St Joseph's First School, the new building. Again, we are in the process of identifying a new site for that school. St Anne's, of course, has been fully costed and we expect that work will start on that this financial year. As I was saying earlier, St Bernadette's Occupational Therapy Centre has become essential. The present facilities available at Montagu Bastion are not adequate certainly and in our forward planning we are estimating that it would be far wiser to build a larger space catering for up to fifty students and, as I said, the present population stands at twenty-three. St Joseph's First School is the subject of a distinct shift of population to the south of Gibraltar and it has become very inadequate. The temporary resolving of this problem by the construction of two extra classrooms is, as I say, temporary. The refurbishment of the specialist workshops at the College of Further Education have become necessary. These were left in a very bad state by the MOD and this year we are in a position to be able to make an effort to try and correct the major deficiencies in the College left, if I may say so, by the Ministry of Defence. The improvement works at Bayside School will provide long-term solutions to the water seepage problems as well as improving the general environment of the school. Bayside School, if I can take Hon Members back in time, has been the subject of three extensions. The original school itself was built for a population of 150, if my memory serves me right, and since then even before comprehensive was introduced it has been the subject of three major extensions to the school and I think that has been the cause of many of the problems that have been experienced in the past few months. Certainly the amount of money that the Government is earmarking for major improvements at Bayside, I think the Hon Member, Mr Mor, in his contribution this morning suggested that because the figure was £400,000 that that would qualify for sub-standard levels. I don't agree. If he will look at, for example, the money being provided for St Anne's Middle School which will provide what I listed before at £546,000, I believe, he will see that the cost of building is quite considerable and the cost of roofing, I am told is probably the highest element in any construction and since Bayside is suffering mainly from water seepage it is the roofs that will take the brunt of the costs.

HON R MOR:

Mr Speaker, if the Hon Member will give way.

MR SPEAKER:

With respect, we are doing it too often. These are matters which I think you can raise at the Committee Stage when the amount is going to be voted otherwise we will never finish.

HON G MASCARENHAS:

Thank you, Mr Speaker. Of course, the moment that St Mary's First School was resolved with the move to Town Range and the new school was taken over by the Education Department, it has meant that St Mary's First building at Hospital Ramp is now free for some other usage as is St George's Annex down in Line Wall Road and at Johnstone's Passage. Not only have we resolved the problems of the worst school building situation at St Mary's but we have released three buildings for further usage.

HON J BOSSANO:

Mr Speaker, could I ask the Hon Member, are any of those buildings reflected in the I&D Fund as being programmed for any other use?

HON G MASCARENHAS:

No, Mr Speaker, I don't believe so, that is the subject of study by the Government, I don't know at what stage. Certainly, the Education Department has released the buildings, I can confirm that. Under books and equipment, Subhead 5, we have allowed for a 10% increase in the capitation allowance for First Schools and a 7% increase in the capitation allowance for the Middle Schools. That subhead also includes further contributions to the introduction of GCSE in the Secondary Schools and we have also made allowances for extra capital grants for the College of Further Education. On Scholarships the Government has kept its commitment to reimburse the Scholarship Fund with income derived from the tuition fees being refunded income from the UK Government under EEC law. The Hon Member made an aside on the Government policy and that I had made special mention of lowering to nine points. I know what the Opposition views are on this matter, I think that our views are quite clear. It should not be taken for granted and I have said so on many occasions that the money that we are receiving as a refund on this should have been ploughed back into the Scholarship Fund. Give us credit where credit is due, when the news was heard in Gibraltar I gave a virtual commitment in this House in June last year that I would do everything in my power that the money would be retained in the Scholarship Fund but there is nothing to say that that money could be redirected to any other service within the Education Department or even to some other department for some other use. We have maintained that and the proof of the pudding is that today sixty young Gibraltarians, approximately, will attend higher education in the United Kingdom every year. With the increase in the income tax allowances parental contributions will be the subject also of some reduction since we base all parental contributions on the tax assessment therefore there will be a reflection, again, on people's pockets certainly on the

parents of those who have children or young adults going to higher education in the United Kingdom. Under the College of Further Education, Subhead 8, we have, as I say, increased capitation and we have approximately a 26½ increase in funding for the Adult and Continuation classes. This, of course, is offset by revenue in full. Mr Mor this morning in his contribution also mentioned the question of B/TEC and our infusion of funds towards this. I remember, I haven't seen the Hansard, I don't think that particular Hansard is out, but I quoted figures in answer to his question that I did not know what the level of funding required would be for equipment in the College of Further Education and I quoted figures out of my head of, I think it was £100,000 and £150,000, I just didn't know. We have made provision this year for an infusion of £50,000 for specialist equipment, materials and furniture. This will not necessarily mean that it will not be on a recurrent basis. I cannot promise what it will be next year it depends, of course, on the finances of the Government but certainly an infusion of £50,000 this year for special equipment, additional special equipment, there is a lot there, will go a long way to resolving their needs.

HON R MOR:

Mr Speaker, may I remind him of what he said. What he said, according to the Hansard, is: "I think to have it in mint condition will require more than £100,000".

HON G MASCARENHAS:

It was an idea given to me very much en passant and not quantified mathematically. We have also, as we have already announced, removed parental contribution for exam fees. These are continuously rising and certainly GCSE will be more expensive than the ordinary levels were in the past. We have made provision also for substantial increases in school furniture at primary level. It is probably at the level where it is required most and made provision also for resurfacing of desks at Bayside School. The question of field trips. The opening of the frontier has meant that Secondary Schools have less expensive but better structured options for the biology and geography field trips. We have acquired a lot of our own field trip equipment which again has reduced the cost. Before we used to have to send our youngsters in biology and geography to the United Kingdom, now we take advantage of the open frontier situation. Mr Mor also raised the question of the funding for children outside Government schools this morning. The number remains the same as it has been in other years, in other words, ninety, we make financial provision for ninety children. There has been an increase in the MOD costs to us over the last year but we should bear in mind that we make the same charge or, should I say, a charge which is not the same because we provide education for them at our Secondary

Schools which, of course, by the nature of secondary education is more expensive than First School or Primary education but at the end of the day we are in a plus situation rather than a minus one. Included in this subhead we have three students who are attending schools in institutions in the United Kingdom for special needs. I am also very pleased that we have reduced not substantially but we are estimating for contract teachers for this year starting in September, the new school year, will be reduced to about seven. There is no way that I can guarantee that figure, we are prone to a lot of things - women teachers becoming pregnant, people falling ill, a lot of things, and therefore we cannot plan accordingly. The average over the last four years has been between ten and eleven contract teachers. This year we are in a better position and this figure today is a requirement for seven. My own feeling is that we shall never achieve a fully Gibraltarian teaching profession in that people, obviously, are motivated by their own personal needs and some teachers, of course, might decide to apply for better posts in the United Kingdom and, as I say, lady teachers who become pregnant and all sorts of things. Subhead 17 - In-service education and development. We have included the second and the last phase of the Advanced Diploma course in the use of microprocessors under the University of Hull. Fifty teachers in the course signed on, today we are left with forty-five teachers, I expect that the number would be further reduced because this is being done by the teachers without being paid for it after school hours but I am very proud to say that forty-five are still doing the course. We have also made provision for funding to send six senior teachers for GCSE moderation related courses in the United Kingdom. Also the training and qualifying course in the United Kingdom for the Educational Welfare Officer and one year full-time attachment of up to three local teachers to advanced courses in the United Kingdom. We have one now for remedial education committed for that. The Intensive Language Courses for foreign students have been highly successful last year and I think that Gibraltar no doubt is becoming an English teaching centre. This year we have made provision for twenty summer classes as distinct from eight last year. We have fifteen winter classes as distinct from six in the past year and we are making provision, as I say, for twenty summer classes and fifteen winter classes. This year we show for the first time Ince's Hall which is now part of the Department of Education and we have made a provision for the Drama Festival to be held in November. That has been very successful and without casting any aspersions on the MOD when they used to run it, I don't think that the new Drama Festival Committee did any worse certainly, in my opinion, they excelled themselves at the Drama Festival which was a great success. Perhaps I should mention that my Hon Friend, the Hon Major Frank Dellipiani, won the best actor award. Mr Speaker, I shall now turn to another of my responsibilities, the Post Office. The Post Office continues

to provide an excellent service to the community. The sales for 1986/87 reached the highest ever figure of £700,000 in sales of stamps. With the opening of the frontier it has made it possible now to exchange mail direct with the Spanish Post Office and surface mail letter post to and from all destinations has continued to improve. I think any user of the Post Office will be in a position to be thankful that mail to and from many European destinations, certainly surface mail has improved tremendously. We also last year as a consequence of the development of the Waterport area for the Water Gardens Project, the Parcel Post Stores were moved to new premises. This has provided improved work conditions for the staff and certainly a better service for the public generally which includes the trade who use the parcel post very, very often. Counters at the Main Post Office have continued to remain open throughout the lunch hour Mondays to Fridays and on Saturday mornings from 10 am to 1 pm thereby providing a continued improved service to the many tourists who visit us. The full opening of the border has brought in its train the creation of new companies and the opening up locally of offices of recognised banking, financial, accounting and management consultancy firms. The proposal this year is for a further provision of 210 PO Boxes. The ones that were provided, I think in the Estimates for 1985/86, have very nearly been expended and issued to firms and individuals. We are proposing this year to increase it by a further 210 PO Boxes. On philatelic sales we have been plagued by a world recession in sales and this has affected us quite dramatically. The sales by our agents have continued to drop although the direct sales by the Philatelic Bureau have increased quite dramatically on the reverse side. This year in June we issue a new definitive set and we hope that this will stop the recession on sales and improve the figures for the Philatelic Bureau. Mr Speaker, the Post Office is one of those departments, as I have said so very often, which provides substantial revenue for the Government, handles many millions of items, it provides a very efficient and effective service to the Government not only in the sale of postal items but also in the payment of pensions and social security to the older generation. The North and South district Post Office will continue to provide a service overall. They are two outlets of the Post Office which provide perhaps the best service to the older members of our community in that it makes it very convenient for people who live in the south and the north to collect their money from these two outlets. I have to take the opportunity, Mr Speaker, to congratulate all members of the Post Office for running an efficient department which, as I have said in the Party Political Broadcast and which I say so publicly very, very often, we don't hear of the Post Office unless something goes wrong, when a letter gets lost or when a philatelic subscriber doesn't get his items on the first day but considering all the millions of items that are transacted I think that the Post Office

service is second to none. Mr Speaker, the Hon Miss Mari Montegriffo, the Shadow Member for Sport, yesterday raised some queries which I will endeavour to reply. Miss Montegriffo mentioned the astro turf. Mr Speaker, I am not in a position today to be able to answer her. The astro turf or the artificial turf at the Victoria Stadium is the subject of on-going discussions between my department and the Gibraltar Hockey Association. As I say, these are on-going, we are examining all sorts of ideas on how best to proceed on this and I am afraid that at this stage I am unable to give her a categorical answer on what the solution will be. What I can say and I can say with total conviction is that the Gibraltar Hockey Association know that they have my full support, I have told them that verbally in our meetings and certainly in writing and I think it is an opportunity too good to be missed if everything being equal the astro turf purchased by the Hockey Association proves to be in a good condition, as I am told that it is and certainly they have my full support and the Government is conscious of this and we are going to help them as much as possible but at this stage I would rather reserve what the outcome will be. As regards the query on squash, perhaps I could give the Hon Member the history of what has occurred. I am surprised, knowing that she is a very avid squash player, that she has not been aware of what has taken place and what the position is. The Director of Education and the Sports Manager held a meeting with Mr Clinton and Mrs Benson on the 21st October, 1986, to discuss the joint building of an additional squash court. We agreed in principle that the details and conditions set by the Gibraltar Squash Racquets Club were to be supplied to the Government. There was then a further meeting in December, 1986, and the GSRC agreed to produce details of construction costs which they claimed were far cheaper than what the Government was telling them. As I say, we have reached agreement in principle and we are still waiting for a reply from the GSRC to see when we can formalise an agreement. The Sports Manager at the instigation of the Director of Education wrote to the Secretary of the GSRC on the 12th January this year and we are still awaiting a reply. On the 3rd February this year, again, the Sports Manager met the President of the Club and there were problems on the part of the Squash Club and they said they would be replying to us. The matter rests there and I don't think the Government can be accused of dragging its feet on this. Certainly our proposals were accepted in principle, as I say, and it is now up to the Squash Racquets Club to come back with an agreement. Miss Montegriffo also asked me who the members of the Sports Committee were for the year 1986/87. This was published in the Gazette on the 30th April, 1986, as indeed it will be published this month, I haven't seen it yet. The members for her information are: Mr C Flower, Mr J Goncalves, Mr A Ramagge, Mr J Reyes, Mr M Hedges, Mr J J Alcantara and Mr J Hernandez acting as Secretary and myself as Chairman. That is public knowledge, Mr Speaker, and I must say that the Hon Member

could have obtained this information from the Gazette or asked me to provide that information and I would have gladly given it to her. The Hon Member also asked for the breakdown of the figures of the contributions to Sporting Societies. The total amount was £15,000 and the listing was as follows: The Gibraltar Hockey Association, Grammarians, is the League champions - £3,500; the Gibraltar Hockey Association proper - £1,500; the Gibraltar Cricket Association - £1,000; the Gibraltar Volleyball Association on two occasions - £1,500 in one - this is all for the financial year 1986/87 - Gibraltar Volleyball Association - £1,500 on one occasion in the year and £1,300 on another occasion; also for the Volleyball Association but this for the City Fire Brigade, for the tournament they hosted in Gibraltar - £350, that makes a total contribution to volleyball of £3,150; the Commonwealth Games Association - £2,400; the Gibraltar Target Shooting Association - £200; the Federation of Sea Anglers - £350; the Gibraltar Amateur Athletics Association - £500; the Gibraltar Amateur Basketball Association - £1,100; and the Gibraltar Football Association - £1,300, that makes a total of £15,000. Finally, Mr Speaker, the Hon Member also made the annual point of the swimming pool. Mr Speaker, as I started to say in my contribution, what we have earmarked for education totals nearly £2m. I think that anything else has to be looked at in the context of that funding for this year. The question of the swimming pool is, certainly since last year the position has not changed, I have had one meeting with GASA since the Hon Member in the last House, I think it was nine weeks ago, and the position remains the same. There is a commitment from the proposed developer of the Montagu Basin to provide a swimming pool. GASA are aware of that. It is not for me to say whether they will wait for that development to take place and for that swimming pool to be provided or whether they will proceed with their own plans. Certainly my feeling is that the Secretary is convinced that they will not be able to proceed under their own steam since the costs involved are too substantial. There are priorities and there are realities. The Hon Member doesn't live with them, I do and so does the Government. The swimming pool is highly desirable but it is not essential faced with the situation at Bayside which requires substantial improvements, a bill of £400,000 at the end of the day which will be the cost of the swimming pool, given the choice of St Bernadette's Occupational Therapy Centre at £400,000, given the choice of St Anne's, Mr Speaker, the priorities are obvious to me. One would like to know what the Hon Member would do if she were in my position and in the Government's position at a future time. As I say, a swimming pool is highly desirable but I would not sacrifice any of the three projects mentioned for a swimming pool. This is the first financial year which the Government has been able to make very important contributions to school buildings. St Anne's has been waiting patiently for St Mary's to be resolved, for the third Bayside extension to be resolved, these are priorities. We cannot forever

be telling our Headteachers 'Your turn will come' and then when we are in a better position financially as we are this year, we can make substantial inroad into these problem areas and resolve them. I am not going to promise that the swimming pool will be built next year but certainly if the financial situation of the Government remains liquid, I see no reason why an attempt should not be made on this, Mr Speaker.

HON J E PILCHER:

Mr. Speaker, in speaking on the general principles of the Appropriation Bill I need, I think, to continue on the theme which I started yesterday in my contribution to the Finance Bill. I said yesterday, Mr Speaker, as indeed I have said in subsequent years that as far as I am concerned the Budget is, whether it is in revenue raising measures or whether it is in expenditure or whether it is in development in the I&D Fund, is all linked together. This I said yesterday and, in fact, in speaking to the Finance Bill really I was only referring to one part of the overall Budget which is, obviously, in the revenue side of Government. However, the theme of the Budget, as I said before, is what the Government intend to do in the next financial year and in looking at that one has to look at both revenue and expenditure. Yesterday in my contribution when I said that as far as I was concerned there was a great disappointment amongst the people of Gibraltar, certainly in the realities as regards what the Government have to use their own phrase 'given back' to the people of Gibraltar, I also made a mention of the fact of the Appropriation Bill at which stage, I think the Hon and Learned Chief Minister commented to say: 'Well, you'll have to see', as if saying 'Wait till the Appropriation Bill comes and then you'll see what else the Government of Gibraltar is doing for the people of Gibraltar'. I have sat through most of the Appropriation Bill because we have to keep to this norm of a speaker on either side, I am not able to wait until everybody else speaks, but there is very little that I have heard so far as regards what the Government of Gibraltar are intending to do in the next financial year for the people of Gibraltar in their last year of this term of office. As a layman and I think I can say that I can speak as a layman because the Hon Mr Canepa who has been fifteen years in the House said that as a layman he was going to speak on a matter this morning, so as a layman and looking at it from outside, looking at it from the ordinary man in the street, what does this Budget do for the ordinary man in the street? What does the Government after its four year term of office, after the opening of the frontier in 1985, after what they have termed - and I won't use the word 'boom' because although they have said it various times during this Budget they have retracted and said that they have not said there is a boom - but under the new favourable conditions that are being referred to on the other side of the House, what has the Government

been able to do to improve - and I am quoting - to improve the lot of the Gibraltarians? In the revenue raising measures or in what is termed the Finance Bill, the only thing that has an immediate effect on the ordinary man in the street because there have been various measures taken by the Government, the Hon Mr Mascarenhas yesterday was disappointed that we hadn't spoken on the estate duty. Well, the estate duty is, obviously, something that affects people once in their life like, for example, the fact that they have lowered the duty on cars. This is something that affects somebody on four or five occasions during their lifetime, sometimes not even as many as that, but taking into account that perhaps you buy a car every four or five years, you can say that on four or five occasions during the lifetime of a person what the Government did in the Finance Bill does affect the person on that occasion. The only thing, as I was saying, that is going to affect the ordinary Gibraltarian is the lowering of income tax which the Government themselves have put as something in the region between £3.50 and £5 depending on the status of the Gibraltarian, whether he is single, married, with children, etc. In doing so there is one thing that they did not mention. It is only a minor point but I think it is a point that needs to be mentioned and it is the point that because of our tax structure and because if there is more than one child, only one child gets the allowance and because family allowance is not keeping in step with the rest of the improvements in the tax, therefore any family which has more than one child the improvements that were created two years ago or three years ago when the system was changed, are being slowly gnawed away and if you have a family with four or five children then obviously the benefits are not the same as they would be if a family had just the one child. That is a point that has to be made. But if we look at both together, the Finance Bill and the Appropriation Bill and after having heard the contributions certainly on this side of the House and the answers that have been given by the Ministers responsible on the other side of the House, as far as I am concerned, Mr Speaker, this year's Budget is as abysmal as the last four years have been because the only thing that the Government of Gibraltar has done that will affect the day-to-day living of the ordinary Gibraltarian is the lowering of income tax. The rest, Mr Speaker, is maintained the same. There have been many comments made on the other side of the House but in talking to the Finance and the Appropriation Bill I can only comment on what the Government intend to do for the following financial year which will bring them to the end of their term of office. We heard this morning the Minister for Medical Services saying that they are intending to move to a National Health Board, I think he called it, and obviously in replying to the speech by my Hon Colleague Miss Mari Montegriffo, because that is what the report says but they have been sitting on the report for the past three months. What the Hon Miss Montegriffo said that the GSLP would do is that it would give urgency to the requirement. What is needed is an urgent move towards fixing up the medical

services which we all know, the average Gibraltarian knows that there is something drastically wrong with the health services in Gibraltar, whether it be in the Health Centre or whether it be in the Hospital, if any Gibraltarian has gone through that Health Centre or through the Hospital they would be aware that there is something drastically wrong with that service. So what have the Government done for the past three years or intend to do this year for the medical services? The answer is nothing. What they have is ideas of what they are going to do in the future. Well, those ideas will have to be first transferred on to paper and then brought to this House and then we can criticise or not criticise the Government in the way that we are doing but as far as I am concerned although we have raised the point of medical services over the past three years, on this last year of the Government nothing at all has been done on that side. As far as housing is concerned, we all heard the eloquent intervention by my Hon Colleague Mr Pepe Baldachino, again it hasn't been answered. The reality is that over the past three years the Government housing stock has dwindled away, there is no project for Government housing, no major project except Engineer House because at least last year we had the Laguna Estate project, this year because of technical difficulties the project was dropped so this year we end up being in a worse state than we were last year and anybody who is today in the Housing Waiting List and anybody who is today living in a situation where he urgently requires a house, there is nothing, there is no hope at all from this Budget for those people in the waiting list. This is another area which the Government have been unable to tackle over the past three years and which this financial year they are not tackling either. If you look at any spectrum of our society you will find the same theme throughout, whether it is sport, we all heard again the Hon Miss Mari Montegriffo saying that this year only £15,000 have been provided for sporting activities and £5,000 were given to Hockey, rightly so, because of their involvement in the European Cup. Therefore, this year there have been no advances to try to uplift the situation of sport in Gibraltar. The only thing that the Government have done is to collect more revenue by charging for the use of sporting facilities. On culture, the same; social insurances, pensions. Mr Speaker, it is not a question of giving people back £4. It is not that the GSLP and, in fact, we have said so quite clearly, I think the tax structure of Gibraltar is wrong and there is an urgent need to change that tax structure to take into account the new situation Gibraltar is living with an open frontier and that is across the board, whether direct or indirect taxation. The reality is, apart from the fact that people do not like paying income tax, I think in human nature nobody likes to pay, that is a point which whether it is £4, £10, £20 nobody likes to pay. But I think there is another factor, well, there are two factors. One is the person's ability to pay and this is why the Opposition are claiming that we should lift the allowances to a point where there will be a

level at which people will not pay any tax whatsoever. That level will be the level which we consider that people should not be paying tax, that is one point. The second point is people mind paying tax but what I think people mind more than paying tax is the return that the Government give them on their tax, that is the point which I think the Government are completely avoiding, completely not looking at. I always use these examples of mine in order to try and bring home the point. If I am looking for accommodation and if I am told: "Here you have a bedsitter, you have to pay £50 a week for that bedsitter", as far as I was concerned I would not be willing to pay £50 for that bedsitter. If I was offered a semi-palace for £50 a week I would be more than glad to pay £50. The analogy, Mr Speaker, is that it is not 'I don't mind paying the £50, what I mind is what I get back for £50' and this is the message that I think the Government have still not got from the Gibraltarians. Of course the Gibraltarians mind paying tax, of course we are heavily taxed but I think what gets to every single Gibraltarian is the fact that after we are heavily taxed, after we are paying through our nose for everything, what we get back is scandalous. In whatever area of Gibraltar you look at, what we are getting back is scandalous - bad housing, bad maintenance, bad medical services, lack of cleanliness, whatever aspect we look at we find that we are paying through our nose and not getting anything in return. That is the point which the Government are not addressing themselves to. They come here and they say 'It is not an election Budget'. To the ordinary Gibraltarian all they have done is given him another £3.50/£4 in their pay packet which we think is right and which, I suppose, every single Gibraltarian will welcome. But the reality is that what certainly is wrong is that they are not taking one single step to cater for all the problems, all the problems that society is facing in Gibraltar today and we have taken great pains today, each and everyone of us and we have done over the past four years, to bring those problems to the attention of the Government. Mr Speaker, we have heard each individual speaker on this side or at least most of us and we have heard the answers. I was surprised to hear the Hon Mr Featherstone when his defence of our medical services was the fact that it is worse in UK. Well, I couldn't care whether it is worse in UK or not, we all know what the Conservative Government is doing with social services in general in UK but what gets me even more is that they use the comparisons when it suits them, when it doesn't suit them they say: "Well, no, we cannot compare ourselves with UK because social services are different, because the payment is different, because the tax structure is different", that is when it suits them. Today they come back and they say: "Well, our medical services are not that bad, in UK you have to wait six weeks for an operation, here you only have to wait five". It doesn't matter, you shouldn't have to wait at all for an operation, that is the reality. That should be our aim. That would be in a perfect world but the reality is that that should

be the Government's aim, the Government's aim should be to aim for that. At no stage have any of the Ministers given us any advance notice that this is what is going to happen except for the fact that they seem to be looking at everything and, in fact, I think the Hon Financial and Development Secretary destroyed the argument of the Hon Mr Mascarenhas when he got up after Mr Mascarenhas had said all the things that they were going to do, they are all a reserve vote which means it has still got to go back to Council of Ministers for approval. If you look at Head 111, the same applies to all the expenditure on tourism which is a point I will get to when I speak on tourism which is one of the departments which I shadow. That is the reality, Mr Speaker, and that is the reality which escapes the Hon Mr Perez, that is the reality that I was speaking about yesterday when he utilised, I think, perhaps dishonest is not the word, but when he utilised the fact that we had all, all our main speakers on this side, that we had given advance notice that I would be the last speaker on the Finance Bill, after I had spoken and after Mr Feetham and the Hon Mr Perez and the Hon Leader of the Opposition, he got up and made what I consider a guerrilla attack because he wasn't referring to the Finance Bill, he wasn't referring to the Appropriation Bill.....

MR SPEAKER:

With respect, he was referring to both otherwise I would have called his attention.

HON J E PILCHER:

Not necessarily, Mr Speaker, because he was referring to comments that we had made on the economic plan and as such he was answering those comments. The reality is that it was that thrust of economic policies, that thrust that we have given on objectives and on policy direction, that is what prompted the Hon Member to get up. Not because I had said that he hadn't spoken but because he had to destroy what was getting across to the people of Gibraltar which is that the Government have nothing at all to offer the people of Gibraltar. They have had nothing to offer them over the past four years and have nothing to offer them in the future. That is the reality, that is the truth. The truth is look at the Budget overall and then let's see what the Government after four years in office, after nearly three years of an open frontier are offering the people of Gibraltar and then as somebody I think said this morning, then let's look at the track record and let's go to an election. I have to say again what has been said on various occasions from this side of the House, the sooner the better. Let's stop toying with the idea and let's put it to the test, let's go to the election and find out once and for all. These comments about the Hon Mr Canepa, 'well, we could stay here till next April', let's decide once and for

all, we are all ready, we have made our points very clear on both sides of the House, let's go for it and if they win, fine, that is what the people of Gibraltar will want and if they don't win, well, that is what the people of Gibraltar will want as well.

HON CHIEF MINISTER:

If the Hon Member will give way.

HON J E PILCHER:

Of course I will give way, I always do.

HON CHIEF MINISTER:

The question of when an election is held is always a matter which is the responsibility of the Government in office and this election fever that the Members opposite have created, I am glad to see that ours was not described as an election Budget but certainly this has been an election Budget debate as far as the Opposition is concerned, everyone goes through the whole thing probably because for the first time it is being broadcast and the GSLP is mentioned as often as possible to try and see whether they can substitute the AACR and so on. It is a concerted effort and it has nothing whatever to do with when the election is held, nothing whatever to do with that. We are here by virtue of an election which was held in February, 1984. In fact, in 1972 and 1976 and 1980 so don't run too much because the Hon Leader of the Opposition said shortly after the elections in one of those prophetic sayings: 'It won't last a year'. Now they are complaining that we are lasting too much. So why refer so much about let's have the election. You can say that until the cows come home but you will have it when it suits me.

HON J E PILCHER:

Mr Speaker, first of all I would like to say that the election fever was not created by the GSLP, it was created by the AACR and the Chief Minister in his New Year Message.

MR SPEAKER:

With respect, I think you are falling into the trap that you are accusing the Government of and that is not speaking about either the Appropriation Bill and the Finance Bill.

HON J BOSSANO:

But it is after the interruption.

MR SPEAKER:

I haven't called your attention but I think we should go back to the debate.

HON J E PILCHER:

Fine, but, Mr Speaker, the Hon and Learned Chief Minister has got up and has made a comment.

HON CHIEF MINISTER:

In reply to yours.

HON J E PILCHER:

I have a right to comment on his comments.

MR SPEAKER:

You have both had a bite at the cherry. Let us come back to the Appropriation Bill.

HON J BOSSANO:

You have given way to him so you tell him what he said on the 1st January, 1987, that there would be an election before January, 1988.

MR SPEAKER:

Order, order.

HON J E PILCHER:

The reality is twofold, one is as I have said before that the election fever was created by the Chief Minister himself and the fact that I think he is wrong and if he checks Hansard he will have to come back and apologise because he is misleading the House, if you look back at Hansard he will find that the Opposition have since 1985 because I am not very sure of 1984 because it was our apprenticeship, since 1985 we have conducted the Finance Bill and the Appropriation Bill in exactly the same way as we have done this year. The difference is that this year every single Member of the Government spoke on the Finance Bill which has never happened before. That is the reality because the Hon Mr Brian Perez has been quiet in the House of Assembly for the past two years. All of sudden he got up and spoke on the.....

HON A J CANEPA:

Nearly every Member spoke.

MR SPEAKER:

Order.

HON J E PILCHER:

No, nearly no, every Member spoke.

HON A J CANEPA:

Except one.

HON J E PILCHER:

Mr Speaker, I will not dwell on that, I will get back to the Appropriation Bill. That is the theme, Mr Speaker, that I was trying to create yesterday but, of course, I could only do it to the point where the Finance Bill was involved and this is why I was talking about people's disappointment, disappointment on the Budget as a whole. The way that I see it and the way that I think is the real way to look at it, not only what the Government are giving back but what the Government are doing for what they already get and what kind of service the Government is giving the society and what kind of situation we have in the areas where we are lacking and the answer is this Budget like the Budget last year and like the Budget for the other two years, I can only speak for the four years that I have been in the House but I can go back and I can only refer to this term of office, is the same. There has been not one situation, not one improvement on the main areas, on the contrary, there has been a decadence over the past four years and there has been a gradual deterioration of the services that the AACR Government give to the people of Gibraltar. I will now speak on the tourist side of the Appropriation Bill and I did give the Hon Minister for Tourism advance notice yesterday of various things that I spoke about yesterday and I am glad that he intervened before me because this is the way that I think we have conducted it over the past two years. In checking yesterday through his speeches over the last four years I have to say, Mr Speaker, that certainly the Hon Mr Zammitt is consistent and he has been consistent throughout his four years except for two minor inconsistencies, if I can call it that. It is not important because it doesn't really matter as far as policy, but I think we have to remind the Government of the things which they do which we disagree with and then they come back two years later and say, in fact I will explain. Two years ago in 1985 during the Budget speech and I think before the Budget speech because we had questioned it, the Government announced that they were bringing from UK a new Director of Tourism. We had said and we had objected in the House, we thought that we had enough people of calibre in Gibraltar, Gibraltarians who would be suitable for that job. The Government thought it better to bring an expatriate, an expert from UK to do the job of Director of Tourism. Today in the House of Assembly the Hon Mr Zammitt gets up and says how well the new Director of Tourism, Mr Pepe Rosado, is performing.

We have no doubt that he is performing well, we have no doubt that he would have performed well three years ago and this point, I think, has to be raised because it is again another nail in the coffin of these expatriates and of these experts that we bring to Gibraltar. The other point, as I say, since I have seen that Mr Zammitt is back in the House, I have said that he has been consistent throughout in his four years with one minor inconsistency and that is in 1984 he came to the House and said that his department did not have enough money to spend on the new tourist era but that was a minor point and, in fact, the following year there was an improvement on the vote for printing matter and advertisement. But, apart from that, his vote has changed slightly over the last four years. I think his main theme every year, Mr Speaker, since I have been here since 1984 and I have taken the trouble to look at it, to look at Hansard and to look at the past four years. The Minister for Tourism always complains in his Budget speeches of three things, Mr Speaker. One is flights. In 1984 he said the same thing that he said in 1985, 1986 and 1987, that people are trying to come to Gibraltar and there is no way they can get in, there is no way they can get out. Well, there has been an improvement in the flights as he himself said. I think what the Hon Minister for Tourism cannot do is continue for four years to complain about the flights and not try to do something about it. I know that there has been a lot done as regards the flights coming in and out of Gibraltar but I think in all fairness to the trade the fact that there are more planes coming to Gibraltar is, I think, praise due to the trade and praise due to the fine work that is being done by various companies - which I will not mention - as regards bringing in more planes. But the problem appears to be that irrespective of how many planes they bring in the Minister continues to say that there are not enough planes coming to Gibraltar so I suppose to a point the Minister should also say what he intends to do in order to improve that situation. The second point that the Minister always brings up is the point of the hotels. I am going to read to the Minister because it is a point I made on the Finance Bill which I found illogical that we could have given licences for three more hotels to have been built although I will go into the hotel occupancy and to the beds in a moment, but it was illogical to me that the Financial and Development Secretary had announced that there would be a study made and announced that there would be a change in the kind of statistics we expect the hotels to give us after we had already taken a decision on the licences and on giving these people a right to build the hotels. If we look at the speech of the Hon Mr Zammitt last year he made exactly the same point as he has made this year. The fact, and I won't read it because it is a long extract but if he cares to look at it, page 144 of Volume II of Hansard of the 24th March, 1986, the fact that the hotels were giving the Government incorrect statistics on bed occupancy. If that was the case last year as, indeed, was the case since the frontier opened, the Government should have taken steps to have corrected that so that

they could come to the House of Assembly to announce that they have an objective now as far as hotel beds are concerned but backed with certain information which they have been unable to produce in the House except to say to us that at a given stage last year during Autumn Train, for example, and during the Rock Show, there wasn't a single bed in Gibraltar. Well, we cannot build three more hotels on the strength that because there is one Autumn Train and one Rock show every three years the hotels are full. That is the kind of comment that I was making yesterday. The other point that the Minister has raised year after year and also this year but with a very slight intonation, this year he raised it but he did not give it much importance or, at least, the importance he has given it on previous years and that was the internal side of the tourist development, the improvement of the product which I think is what Mr Pitaluga called it in 1984. The fact that Gibraltar is dirty, the fact that we need to beautify Gibraltar, well, this aspect which the Hon Minister has brought here every year and made long and extensive comments on, he only mentioned in passing this year. Why, is it that the situation is better? Is it that some of the Pitaluga recommendations have been implemented? No, Mr Speaker. We at the time and I think it is only honest to say that, we at the time did not agree 100% with the Pitaluga proposals but there is a great chunk of it that we agreed with but what happened was they went into Committees and into more Committees and into more Committees until we arrived at the Forward Planning Committee and yet the internal tourist product continues to be the same. That is something which I honestly think since so much has been said about it and not only in the House, I remember in famous debates on television with the Hon Mr Zammitt that he had arguments with the Housewives' Association because he talked about the state of Gibraltar and how dirty it was. That hasn't improved. There is one point which I think that I need to - and this is what I was saying before, I think, give the devil his due not obviously that I am saying that the Hon Mr Zammitt compares with the devil after he himself said yesterday how pure and white he is, but the reality is that we give praise where praise is due and it is the only area and, perhaps, only in a minor area where we have got an insight into what is the Government's objective - economic policy no, because economic policy is the whole - but the Government's objective, the Government's intention in the future, it is in the only area, of course, we still have to hear the Hon Minister for Economic Development, there might well be planning for the future in economic development but we will have to wait and see for that and obviously the Leader of the Opposition will tackle that. But it is the only area of the whole of the Governmental Departments where at least the Minister has been honest enough to give us an insight into what his ideas are for the future. Obviously, now we know what the Government intends to do and we will monitor that, that is if they have time because I don't think

that in the couple of months left before a GSLP Government they will have time to implement that. Mr Zammitt said yesterday that the Government did not support the shopping centre idea, he was quite clear. I am talking about tourism, obviously in its link with the Tourist Office. He said that as far as he was concerned excursionists were something which were good for Gibraltar and that certainly the Government would be trying to improve the product as far as being able to attract excursionists to go to visit different areas and I take it and I obviously will want to hear what the Minister for Economic Development has to say on the projects and I would also like to hear the time-scale of those projects and, in fact, what they mean. I referred to one yesterday which was the nature reserve, there is also the air terminal expansion - £23m, and really I think if the Minister would be kind enough to explain in his contribution what he means by these projects and why they are reserve votes and when the Government intend to have these projects in line but that was as far as the excursionists were concerned. I think the main thrust of the Government and it was clear and if I am mistaken then I will give way to the Hon Member, was of the tourism side of making Gibraltar a two or three-centre holiday where people would come here and would, in fact, stay here as tourists. That is the plan of the Government for tourism. There is no change as far as I can see in looking at the Hansard of previous years but at least this time the Government has quite clearly said what it intends to do as far as tourism is concerned with the added point that they have now quite clearly stated what their objectives are for the creation of more hotels and the creation of beds in the economy of Gibraltar in order to cater for the new situation which the Government want to create with these new two-centre or three-centre holidays. It is an increase from the present 1,850 beds to something in the region of between 4,500 and 5,000 beds, an increase of somewhere in the region of 2,000/3,000 more beds which the Government are confident that they can fill. Well, that is an objective and, of course, it is now up to the Opposition to look at what the Government are going to do to make that dream, if I can call it that but perhaps dream is not right, that objective into a reality and I think that is the purpose of coming to the House and discussing in the Budget what the Government intend to do. It is not only where you spend your pounds and your pennies, where you pay 50p for stationery and £2 more in wages, it is the Government giving an insight into their objectives. I think this is the only area where I have seen and we will monitor that to see whether the Government now intends to take steps to make this a reality. But over the past four years although in 1984 it was clearly announced that tourism was the second pillar of the economy, at no stage during these four years has anything concrete or clear like this ever come out in the House of Assembly and this is why we kept saying to the Government that there was no policy. This is quite

clear - shopping centre, excursionists and tourist two or three-centre holiday. That is clear and we can now come here next year, God willing, from that side of the House, and criticise or not criticise the Government in having taken policy decisions which will create this. But this is the kind of forward planning that the GSLP are referring to but, of course, we cannot do it in isolation for the Tourist Department, it is as part of an economic plan where every department is working in conjunction and this is why I said yesterday that one hand cannot be doing one thing and the other hand doing something different. I will not labour on the other of the departments which I shadow because I think we have got to a stage now where it is clearly understood by everybody in this House and outside this House what the positions are so I think to bring it all up again - I am referring to the Gibraltar Shiprepair Limited obviously - to bring up again; I mentioned yesterday what I would have liked to have heard from the Government. The Government in their intervention, the Hon and Learned Chief Minister rounded off, he did not mention any of the areas, on employment, in fact, he said that that was up to the company. So we have now two distinct positions which are very, very clear. One is the position of the Government which do not and continue not to exercise any major controls on GSL but who prefer for the Board to take on those decisions, obviously in the hope that if the company continues to deteriorate they can still put some distance between them and the company. I don't think that is possible but I think that is the manoeuvre of the Government. And the position of the GSLP which will take full political responsibility for GSL if we are elected into Government. As a consequence of that, Mr Speaker, we are unable to vote in favour of the £1m under the Treasury Head for GSL and we will abstain, obviously, for the same reasons we gave a month ago when we discussed the other £1m, we will not vote against because we think we cannot vote against £1m because it will keep employment in the company but we cannot vote in favour of the £1m until there is political and Governmental control of that company. One other thing that I have to mention and I mentioned it in the debate we had on GSL is that in any case I think that the House should have a copy of the business plan of the company for the future. If the business plan is so good as to warrant that we give the company not £2m as was said by my colleague Mr Perez this morning, but £2½m plus £100,000 for the Price Waterhouse Consultancy, nearly £2½m, £2.35m in fact. That is the reality. If the new business plan, what the company intends to do is so good as to merit that then I think the Opposition deserve a copy of that business plan so that we can also monitor the company so that if in the future as, undoubtedly, will happen, Mr Speaker, if the Government continue to have this kind of situation with the company, the Government will have to come back again to the House of Assembly to ask for more money for GSL. We will only support or not support that money if we have a copy of the business plan so that we can monitor ourselves whether the company

is getting to their desired end or not, as far as profitability, but we just cannot vote money here in a blind way, not knowing what the new business plan is and not knowing what the company want or don't want to do. That, I think, Mr Speaker, we cannot do. Mr Speaker, I think I have said enough already and I think I have to round off by saying I am disappointed. I think the people of Gibraltar are disappointed, the AACR Government have had four years, two and a half of which, three by the end of their term of office, has been in a new situation with an open frontier when they supported the Brussels Agreement and they said all that it would bring about for Gibraltar and all that they have been able to give Gibraltar in these four years has been something in the region of £8 back in income tax and not one single improvement in any other area of Gibraltar. On the contrary, a complete deterioration of our social services and not because of lack of the people who work there but because of lack of the Government to back what they say with putting their hands in their pocket, Mr Speaker. Thank you.

HON DR R G VALARINO:

Mr Speaker, as I did last year, let me dwell briefly on the Employment Survey Report for October, 1986. It is very encouraging to see that for the first time, the overall level of employment has passed the 12,000 mark. In fact, the total number of persons in employment rose from 11,626 in October, 1985, to 12,507 in October, 1986. This is a clear indication of the trend of increased economic activity in Gibraltar. Increased employment levels were more significant in the building and construction industry which is now the leading industry in terms of employment. And here I would like to mention that the points raised by the Hon Mr Feetham will be considered in this context in the levels of employment in the construction industry as far as local workers are concerned. Similarly, the wholesale and retail sector has experienced an increase of 92, over the same period. As expected, the level of employment in the financial sector is expanding very rapidly, from 653 in April, 1986, it increased to 701 in October, 1986. Also worth noting is the fact that the employment levels in the transport sector has nearly doubled. The point has now been reached where the level of employment in the private sector is virtually the same as in the official sector. Insofar as earnings are concerned, it is estimated that the average take home pay for a married couple with two children rose in real terms by 6.3% between October, 1985, and October, 1986. For adult persons in full-time employment the average weekly earnings increased from £134.05 in April, 1986, to £143.49 in October, 1986. I am very optimistic that the rising employment trends will continue to create employment for Gibraltarians and generate economic wealth in all sectors of the community. According to the 1986 Social Insurance statistics, the insured population has increased from 12,533 in 1985 to 13,633 in 1986, ie an

overall increase of 1,100. It is certainly worth noting that the number of self-employed persons has nearly doubled, the figures has increased from 488 in 1985 to 885 in 1986. This is no doubt a positive indication that more people are setting up businesses in Gibraltar. The continuing increases in the retail and wholesale sector, 117 and the financial sector, 161 are very promising indeed as these are areas where jobs are normally filled by Gibraltarians. I am glad to say that the overall level of unemployment in Gibraltar remains negligible in stark contrast to the position in virtually every other Western European country. I would like to deal with some of the points raised by the Hon Mr Mor in his contribution this morning. The first one concerned a difference of opinion regarding a certain figure. Let me say that when I told the House in December, 1986, that the value of the Fund stood at £13.67m in April, 1986, without taking account of the £4.5m committed to Spanish pensions, I did not mention the fact at that stage that £1.5m had already been paid to Spanish pensioners. The reason for this was that UK contributions to Spanish pensioners for 1986 was £6m or £1.5m per quarter and the payments made have therefore no real effect on the Fund itself at that stage.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. That is precisely what is contradicted by the audited accounts. The audited accounts show that the £1.5m, and I would refer him to statement 10, page 88, of the Annual Accounts for 1985/86 which have been tabled in this House and there he will find that from the local funds without the contribution from UK there is £1.5m for Spanish pensions for the first quarter. And he will then see that the balance in March, 1986, was £14m after paying £1.5m which was the point that I made when the matter was raised in Question Time and which the Hon Financial and Development Secretary told me I was incorrect and since we want to establish the facts for the record then whoever is incorrect will have to admit that he was incorrect. I am assuming that the Auditor is right, that I am able to read the Auditor's Report and that therefore I am correct.

HON DR R G VALARINO:

Mr Speaker, Sir, we are again going back to arithmetic and I can see from the Fund's account the Spanish pensions paid is £1.5m and the final figure is £14,136,514. This is at the end of March. What I said and if I go back to the previous Hansard.....

HON J BOSSANO:

At the end of March.

HON DR R G VALARINO:

No, I said in April.

HON J BOSSANO:

The 1st April is the day after the end of March.

HON DR R G VALARINO:

No, I did not say the 1st April. In fact, if you look at what I said because the meeting was after that, I said: "The value of the Social Insurance Fund stood at £13.67m in April, 1986". The difference between that and that which is not such a large difference. Remember you have got one month to take away, money could well have been brought over for certain specific purposes, what I would like to say is that.....

HON J BOSSANO:

Mr Speaker, he gave a lower figure for April than the figure for March so it couldn't have been that more money entered in April.

HON DR R G VALARINO:

No, what I am saying is that more money could have been brought over from the Fund to pay so that the Fund itself was lower in April, 1986. But what I would like to offer the Hon Gentleman and the Hon Mr Mor is that rather than talk about arithmetical progressions and quotations here, I would be delighted if the Hon Leader of the Opposition and Mr Mor could both come to the department, together with the Financial and Development Secretary.....

HON J BOSSANO:

A summit meeting.

HON DR R G VALARINO:

And then let us go over these figures because I don't think that the House of Assembly is exactly the place where we are going to fight over a discrepancy in figures. Let us work it out and then if you are not happy bring it here but let us first go over it because your interpretation could well not be the interpretation on this side of the House.

HON J BOSSANO:

Mr Speaker, it is not a matter of interpretation. The Hon Member made a statement here in December in moving a Bill. We consider that statement to be factually incorrect and that therefore the statement was misleading because it was incorrect. We asked him in a subsequent question how it could be out by £2m over a figure which referred to the past. If I ask him how much money is there going to be in six months' time, he can give me an estimate and it can be mistaken but if I ask him how much money there was six months' ago and there is a difference of £2m then we ask for an explanation. When we asked for an explanation we were told by the Hon Member that the difference was not £2m that the difference was £1m and he was supported by the Financial and Development Secretary and the point that we have been trying to make ever since and we either want him to tell us where we are mistaken or to admit that he was mistaken and retract what he said because that is what the Hon Minister for Economic Development advises we should do whenever we say something that we find subsequently to be incorrect. The £1m between the two figures, Mr Speaker, is with one figure not having deducted £1½m and with the other figure having deducted £1½m. So the Hon Member told us: "I have got £13½m of which I have to pay £4½m to Spanish pensioners and that leaves me £9m". But, in fact, that is not the case. The fact is that having paid already £1½m he had £11m so the difference between the two figures is between £9m and £11m because he has got £14m left, he has already paid £1½m, he has to deduct £3m. If you take £3m from £14m it leaves you £11m. The difference between £11m and £9m is £2m. We do not need a summit meeting in the Labour Department to establish whether the difference between £9m and £11m is £2m. Let the Hon Member think about it and if he finds we are right he can come back and do what will win him the praise of the Hon and Learned the Chief Minister and of the Hon Minister for Economic Development by coming back and retracting an incorrect statement which misled us at the time. Thank you very much, Mr Speaker.

HON DR R G VALARINO:

I am sorry, I still think otherwise. In fact, I carried on with my speech on the 16th December saying: "Taking account of the £4.5m committed towards". I think the word there is 'committed' because these £4.5m were committed. Therefore I think that both the Hon the Financial Secretary and myself explained this at the last meeting. This is what I am giving you now. If you want any further information I am quite happy, come to the department, we shall go over it and let us sort it out and if you are still not happy, right, bring it up here but I think that should be the end of that.

HON J BOSSANO:

Yes, we give up.

HON DR R G VALARINO:

If you have given up that easily you won't even stand a chance at the next elections.

HON J BOSSANO:

More than you have.

HON CHIEF MINISTER:

There is propaganda for you.

HON DR R G VALARINO:

Apart from that Mr Mor raised two other things of interest. He mentioned the EPA and how we had transferred it from one scheme to the other and made it tax free and he asked how could we have done that since all supplementary benefits are means tested. All supplementary benefits schemes are not means tested because within the supplementary benefits schemes we have got retirement allowances which are not means tested and elderly persons allowances which are not means tested. Therefore there are two out of three which are not means tested. Then he said that there is no way of telling from the Estimates the breakdown between the three of them. Well, I have got the breakdown, if he wants the breakdown I can give him the breakdown now or I will give it to him at the Committee Stage which is the simplest thing. Last year I gave it to him at the Committee Stage but otherwise there was nothing in the Hon Gentleman's speech regarding the Labour and Social Security Department. Although one of our main priorities is to control illegal employment, it is intended that during 1987 special emphasis will be given to the collection of contributions and the day-to-day compliance of Social Insurance Regulations. The intention is to keep a regular check on employers to ensure that workers are being insured and that insurance cards are stamped regularly as required by law. The late payment and, at times, the non-payment of social insurance contributions, which on many occasions end up with an arrears agreement, result in a substantial loss to the Fund in investments, etc. This neglectful and irresponsible attitude of many employers cannot be tolerated. I am fully aware that there is room for improvement in our Social Security Scheme and as I have already made public, the Department is at present undertaking an in-depth study of the Supplementary benefits scheme. One of our main objectives is to take into account the needs of specific groups of people rather than attempting to cater for individuals needs. Mr Speaker, I feel there is not

a great deal more I can say about the department. The department is working efficiently, it certainly worked extremely efficiently last year, I have every confidence that the trend will continue. In fact, I can only be grateful to all the members of my department for the tremendous burden that has been put upon them in many ways and I am glad that in this difficult situation that we find ourselves they are doing the job as best as they can.

HON J BOSSANO:

Can I ask the Hon Member two questions? On the question of ensuring that people meet with the requirements to stamp insurance cards, is the Minister providing any greater resources in the department to ensure that he has the manpower to do this in the inspectorate? Secondly, does he include ships registered in Gibraltar who are legally required to pay insurance stamp in his stride or is he limiting himself to firms operating in Gibraltar who are covered by the same law?

HON DR R G VALARINO:

Mr Speaker, as regards the first question let me say to the Hon Member that there will be a staff inspection on that section of the department which could well give extra bodies to the inspectorate section to help them in their job. They are certainly doing a very good job. As regards the second question, we are working on present legislation and I will probably be able to make a statement to the House at the next meeting explaining exactly how the situation is and I have no doubt that by then a much clearer picture will emerge. I would not like to go into the specifics of that one at this moment.

HON J BOSSANO:

Is anybody currently paying stamps on any ship or nobody at all?

HON DR R G VALARINO:

No, Sir, because, in fact, we did send two representatives to the Board of Trade and to Newcastle to find out exactly what the UK is doing about this and in which way we could set up the insurability of mariners and this is the paper that is being prepared. I certainly would not like to at this moment go any further than that in saying what they have brought back. As far as I know, the Hon Member as well is also writing to the UK and to various other countries trying to elicit some information.

HON J BOSSANO:

I understand what the Hon Member is doing because he has told us on many occasions about these visits to UK and information and so forth. I am talking about the law of Gibraltar. The law of Gibraltar presently says that somebody that has a ship registered in Gibraltar has to pay insurance. I want to know if there is any ship paying insurance or if there is any attempt being made to apply the present law because as far as I understand the Government doesn't have the right to ignore the law. As far as I understand, tomorrow anybody could get an injunction and require the Government to implement the law, that is my understanding of the law, isn't it so? I would like to be enlightened.

HON DR R G VALARINO:

Mr Speaker, at the moment nobody is paying social insurance contributions. The position is to be remedied by getting crews from the various vessels concerned but at this moment the answer that you require is no, Sir. There are various other minor matters in my Estimates which I am sure that at Committee Stage either the Hon Mr Mor or even Mr Michael Feetham would like to ask and I am prepared to give them a breakdown or give them the answer to whatever is necessary. Thank you, Sir.

HON M A FEETHAM:

Mr Speaker, having dealt with most of what I wanted to say at the stage of the Finance Bill, what I am going to be doing, in fact, is asking some questions on the Appropriation Bill which presumably will be answered by the Minister for Economic Development but at the same time taking the opportunity of responding to two or three comments which have been made by Ministers opposite which require a response from the Opposition. Can I just deal, first of all, briefly with the contribution of the Hon Minister for Labour. I think one of the things that we have to do is do away with the misconception that is being created about employment. My colleague, the Hon Mr Pilcher, in fact, said in response to the Minister for Tourism that the Government had made an objective in terms of establishing the number of beds for Gibraltar at 4,500 to 5,000 beds and I think that, as he said, that was a declaration of policy in that respect. Equally, Mr Speaker, when we talk about employment which is an area which has to be very cautiously monitored because of the repercussions at the end of the road, when we talk about employment and at the same time Government says because of our policy we have got 800 jobs in the economy, 1,000 jobs in the economy, in fact, 1,000 new work permits in the economy, we have to distinguish whether it is because of their policy or not, this is what we have to establish. Government have not created any of

those jobs. It has happened irrespective of what Government has been doing, let us be clear about that. If Government were to come to this House and say: "We as a Government are going through investment to create 500 new jobs and our projection levels are going to be that there will be in the economy not 12,000 jobs but 13,000 jobs or 14,000 jobs as a combination of public sector expenditure and of widening up our services to public and private sector development", then one can monitor Government's record in this respect as we go along because that is what we are talking about. In fact, there hasn't been as far as I am aware, one new job created in the industrial area by Government last year. When we talk about new jobs, Mr Speaker, what has been happening is regardless of what Government has been doing in terms of their own policies, in terms of their own expenditure and I wanted to clear that one up because it is important. In fact, as a pointer, Mr Speaker, when we look at what has been happening in the Department of Labour and Social Security you will see from their own statistics that they produce figures about the number of jobs - and we are talking about jobs, people sent to a specific job, a vacancy which has been created and you will see that it may not necessarily be a new job, it may be a vacancy left by somebody who has moved along somewhere else, you find that, in fact, during the whole of last year the department sends along something like 800 people to jobs from people registered as unemployed at one stage or another of their working career. In fact, from jobs taken from people not on the unemployment register it was 1,098. You can see that the trend is that as developments are getting off the ground, private sector developments and other areas of expansion, jobs are being created. Is Government saying that they are going to take the credit for that because I didn't see the Government wanting to take the credit in 1983/84 when 800 people lost their jobs. And certainly they didn't want to take the credit for it when we had the hump in development aid and we lost 1,500 jobs in fourteen months in economy or in sixteen months in the economy. When we talk about employment, when we talk about jobs, we need to be careful what we say but regardless of that what I would like to know from the Government as a general matter of policy as I am not referring just to the construction industry as I did yesterday, I have not heard the Minister say what is their policy on employment and how many jobs they expect the economy to sustain in Gibraltar. It is important that we know which way we are going in that respect. Having dealt with that aspect, Mr Speaker, the other thing I want to respond to is two or three things that were said during the course of the debate yesterday and this morning. One of the things that was said by the Hon Minister for Housing in response to my colleague, Mr Baldachino, was the policy that they are pursuing on low cost housing at Montagu Basin. He seemed to indicate since we really don't know anything officially, all we have heard is what has been said in the press, that there

are interested parties in the private sector who are thinking about a project in the Montagu Basin, no doubt in recent months something may have evolved since that statement came out in the Chronicle and Government may have heard something from the interested parties. He seemed to indicate that there was a commitment there that that area was going to go to a particular developer or even if it wasn't to a particular developer but they were thinking already that that was going to be developed and he said, which is the point I am coming to, that the area was going to be given free of charge and that Government were going to be paying for the infrastructure. When the Minister for Economic Development has his chance to reply perhaps he could confirm whether this is going to be the case because here we seem to be once again going in the path of commitments when it may well be that they may not be the next Government. I want to make it quite clear now that, as I have already said and I wish to repeat in case that there should be any shadow of doubt about it afterwards, that we will be coming in with our own investment programme, we will be coming in with our own housing programme and we shall not be committed to anything which is done at Montagu Basin if it doesn't fit in with our party and our policy. I say this because if there was intention to pursue the line that the Hon Minister for Housing has said of providing the infrastructure free of charge and so on, I would have expected if that commitment was there, I would have expected it to be reflected in the Improvement and Development Fund at least as a nominal contribution as they have done for Brympton and Catalan Bay of £100 because that would have shown his commitment but there is nothing there so it would seem to me that they are thinking about some possible date after the next general election. I think they are taking things a bit too far in that respect. As there is nothing there, not even in reserve in the Estimates I thought I should make that point quite clear. The other thing is, Mr Speaker, that when my colleague Miss Montegriffo made her contribution yesterday she did not refer at all to the Review Team, to the study on the medical services, because the Report had been provided to her and Members of the Opposition on a confidential basis but the Hon Minister did make use of it and it was clear in the House that consequently one could make some observations on the matter and respond. My colleague has already spoken so I wish to respond to this particular aspect and that is that having accepted the Report and having had the Report since January this year, one would have expected that since it is an urgent matter, we thought that there would be some reflection of Government's intention on the Report in the Estimates for this year. Consequently, Mr Speaker, perhaps some Member opposite may say when do they intend to have another five practitioners in the Health Centre, GP's. The recommendation is that there should be an increase from eight to thirteen and since there isn't anything in the Estimates for five extra doctors, we would like to know when they

intend to do something about this. The other thing is that the Report also recommends that another Health Centre be built at the other end of town to allow for five or six general practitioners who would practice there. If Government have accepted the Report and if they have intention of acting upon it with some urgency which is the real need, I would have thought that there would be something in these Estimates, in the Improvement and Development Fund for the construction of a new Health Centre at the other end of town, Mr Speaker. And, of course, it refers to their most important recommendation which is on page 28 when they recommend that it should include development of the primary care team. Again, Mr Speaker, there is nothing reflected in these Estimates that would indicate to us that the Government is acting with urgency in this respect and since my colleague has had no opportunity to be able to respond to the Minister yesterday, I would expect, hopefully, that some other Minister on that side would answer these questions on the medical services. Mr Speaker, during my contribution on the Finance Bill, I said that I would be referring to some aspects of the Improvement and Development Fund insofar as expenditure was concerned. I said that during the debate last year on the Finance Bill the Hon the Chief Minister had said that the level of the Improvement Fund was what they considered to be the minimum requirement and that the matter was being considered in the light of a reply which had been given the previous day by the British Government on aid generally, on the aid submission. I went on to say that whilst Government considered that to be the minimum, £6½m was the minimum, they went on to spend only £4.1m, they have underspent what they considered to be the minimum level in the Improvement and Development Fund and I said that I would be dealing with some areas of this under expenditure. Of course, I am referring to the fact that they underspent by £2.5m of which £2m was from local funds. I would like to know, Mr Speaker, why do we have expenditure earmarked and at the end of the day we come back the following year and the money has not been spent and that is why I was questioning whether it was wise again to have this year a projection of £8.5m in the Improvement and Development Fund and I questioned whether that money was going to be spent again this year because we have got a repetition of last year. I am not going to question them all, Mr Speaker, I am just going to make a point. Last year, for example, Government said that they were going to spend in 1986/87, £100,000 on problem buildings and, in fact, Mr Speaker, they spent £1,500 out of £100,000. In the external painting of pre-war buildings, Mr Speaker, they intended to spend £150,000 but in fact they have spent £4,500. In the painting of Estates, Mr Speaker, they projected to spend £¼m but they spent £44,000. Of course, as my colleagues have already said, there was the additional storeys at Laguna Estate which they projected to spend in building new storeys there of £150,000 and they didn't spend anything at all. And the other important area as part of our infrastructure, they also intended to spend to the tune of

£105,000 in certain improvements in the Upper Rock and they never spent a penny in that area. I would like to know, Mr Speaker, what explanation there is by Government this year in response to that under expenditure.

HON A J CANEPA:

May I make a point, Mr Speaker? I hope the Hon Member would be satisfied if there are answers forthcoming to get them at Committee Stage because I understand what he is doing is giving notice.

HON M A FEETHAM:

I think that since we are tackling the Appropriation Bill and we are talking about new expenditure this year, I think that it is appropriate at this stage to say why they didn't spend that money last year because we are just bringing it forward again to this year, Mr Speaker.

HON A J CANEPA:

I hope he doesn't expect answers during this debate.

HON M A FEETHAM:

Mr Speaker, I am as usual as reasonable as possible and I understand what the problem is and I will expect a reply in due course. Mr Speaker, when we look at the Improvement and Development Fund for this year in terms of new expenditure, we find that out of the £8.5m, £2m is brought forward from last year because of the under expenditure, £2.6m is of projects which have been there and which are in the process of being spent from previous years and, of course, we find that we have got £3.6m of new expenditure in the Improvement and Development Fund this year. The point that has to be made, Mr Speaker, is that in that £3.6m there is nothing new on housing at all. Apart from the fact that the storeys at Laguna, the additional storeys were not done and the money was not spent anywhere else, the only thing that I can find there is that they are going to build, and I think the Minister said twenty units at Catalan Bay and it is a development, in fact, which has never been mentioned before, it has just been mentioned now, the year before the election or six months before the election, it had not been mentioned at all. In fact, in the last meeting of the House when I asked the Minister to give a breakdown of the main development projects he listed them, as he usually does, he gave me all the information I asked but there was no mention of Catalan Bay in that list at the time, it is something which has been mentioned now at this point in time, fine, well and good for Catalan Bay but as we know those units are not for the Housing Waiting List and, as my colleagues have already said,

there is no hope of new Government housing from the Improvement and Development Fund because we cannot, quite frankly, classify Engineer House as new housing because Engineer House is not for rental, Engineer House is for sale. Mr Speaker, that is what my colleagues and myself are trying to emphasise that in fact out of all the new expenditure there is nothing there for housing, certainly nothing there for houses to rent. The other thing I think I should make an observation on is that in the old development programme, Mr Speaker, we had projects for re-siting of the Prison and I don't see anything in the development programme, I certainly don't see anything in the Estimates here about the Prison and perhaps a statement should be made in this respect because clearly the indications are that in recent times there has been, should I say, an overload factor in Prison and I would expect perhaps the Government should by this time be making a definite decision as to where they intend to have the new Prison, Mr Speaker. I don't think there is anything more that I have to say, Mr Speaker, because in my contribution in the Finance Bill I did raise certain observations with regard to, for example, the revenue of sales of land and houses from the Government housing stock which I would expect that the Hon Minister for Economic Development will respond to and we await with great interest his reply, Mr Speaker.

HON A J CANEPA:

Mr Speaker, though I am going to be dealing here and there perhaps with some of the specific questions that have been raised, I do not propose to do so across the whole board or in an exhaustive manner because it is, I think, in my view, more proper that specific questions should be asked in Committee when answers can be given and the Opposition can keep on coming back and the matter can be clarified fully and therefore I am really dealing in my contribution to this debate, much more in general terms. The very first point that I want to deal with is a totally political one and that is the question of a general election. I want to ask, why does a Government have to seriously consider shortening the period of office to which it is entitled. It is only three years and two months, Mr Speaker, since the present House was inaugurated and what is happening and to an even greater extent in the United Kingdom perhaps than in Gibraltar, is that the media creates and fosters election hysteria because a general election is always a very easy subject to write about and hardly a week goes by when two or three mornings in the news we don't hear in the UK press, the speculation on the front pages of public opinion polls about the state of the parties and when a general election is going to take place in the United Kingdom. I have no doubt in my mind that in 1983 and this year in 1987 the Conservative Government is being forced to an early election by the election hysteria from the media. The media have become

terribly powerful and they bring about a situation of lack of confidence to such an extent that the Government feels that they might as well go to the polls and get it over and done with. But what it means is that in the 1980's Governments in the United Kingdom seem to be sacrificing a year from their term of office, something that wasn't so much the case in the 1950's or in the 1960's. And here we have tended in Gibraltar over the years to have a full term pretty well. It was only the demise of the grand coalition that brought about an early election in 1972. We then went through our full term of office to the extent that the House was dissolved because it had exhausted its period of office in 1976, in July, and the election was at the end of September. We had a slightly earlier election than what we have intended to in early 1980 because the then Leader of the Opposition, Maurice Xiberras, resigned. It would have brought about a bye election, it was a very awkward situation for the Government so close to a general election, it need not have fought that bye election, it could have allowed the seat to be filled without a general election being contested and that was the immediate cause of our bringing the date forward. The next general election was four years after the previous one so I think a Government has a right to serve its full term of office. It is entitled to four Budgets, the Budgets are the instrument of policy, it is entitled to legislate during the last year if it so wants to. That the Opposition should challenge us to an early election, the earlier the better, the earlier the better for them in the hope that they win, if they don't then let them consider another four years in Opposition, let them seriously think about that. The Government has the advantage of timing, we can time the date of a general election. If it suits us to have a general election in June we can have it in June, if it suits us to have a general election after the summer, we have had it in September after everyone has returned from their holidays or we can have it in October. And if it suits us to sweat it out and make them sweat it out we can have the general election next winter or even early April next year. Those are the options that the Government has that they haven't got and I can understand their frustration but it is the prerogative of the Government and, in particular, the Chief Minister to decide on the date of the election and no amount of challenges from the Opposition are going to compel us to go to the people earlier or at a date that we don't judge to be the date that best suits us. I hope that I have put the lid on that one, at least for this meeting of the House. I also want to dispose of another matter. I wouldn't normally have spoken about it but it has been raised twice in the course of the debate and that is the shop assistants. After the exchanges this morning I asked the Department of Labour to let me have information going back from their records, going back to 1978. I have got it all here in time table form, I am not going to quote every single figure because that would be very time consuming. But what it does show is

this. I have got all the years for local sales assistants rate from 1978 to the present except for 1979 and 1980, there is a question mark, there is a lacuna in the files of the Labour Department. Perhaps the Hon Mr Bossano may remember what happened in 1979/80, it could have been that agreements were being reached out of the board by direct negotiations, that is what I think happened. I then have the corresponding figures every year for the United Kingdom, UK General Assistants in the Food and Allied Traders Wages Council Orders and the Labourer Band 'O' and the result of all is this, that the adult wage, 20 or 21, for shop assistants in Gibraltar has lagged every year and sometimes been lagging one year behind the corresponding figure for adult shop assistants in the United Kingdom except for April, 1987. We have put them on a par at the same time. But in the case of the labourer band 'O', the rate which is now £97.06 compared to shop assistants £85.41, the rate year by year is of the order of 20% higher for the band 'O' labourer.

HON J BOSSANO:

Not at the beginning.

HON A J CANEPA:

No, not at the beginning because the efficiency bonus was consolidated in 1984, that is the reason why. The disparity becomes somewhat more stark in 1984 because of the consolidation of the efficiency bonus. But that is, on average, the result that emerges from this examination of the rates.

HON J BOSSANO:

Will the Hon Member give way? I think the reason, Mr Speaker, why we raised it was because he mentioned the fact that the Government had been motivated in limiting the increase to below the recommendation of the Board because they didn't want to breach parity for the shop assistants. The point is that the Minister said that if his information was not correct and we understood that to mean that if we had information which contradicted his view we should bring it to his notice. The point about not breaching parity is that he ought to know, I would have thought, that when parity was introduced in 1978, for example, it was introduced on the basis of using the Ministry of Defence banding structure for everybody in the public sector including all the Government employees who in UK are employed by local authorities and paid less. The Minister must know that a band 'O' labourer in the Government would not get the pay that he is getting now except in some rare cases. The philosophy was that you couldn't have a labourer in the hospital on national health service rates, a labourer in the Education Department on local education authority rates because

it would be a complete conflict which would create disparities and anomalies and since the Government and the rest of the official employers gave as one of their primary reasons the stability in wage negotiations that would be introduced by having the system linked to UK, one wage linked to UK, obviously to have twenty different labourers rates would do the opposite. In that context the shop assistants and the other private sector workers who had been ahead of the official employers between 1974 and 1978 because they have been getting annual wage increases, were in fact able to come into line in 1978 with the labourers rate of 1978 of the public sector because for them the increase was not that big, they were already ahead. When bigger wage increases started coming through in 1979, 1980 and 1981 which is what we have seen reflected in huge surpluses in the Government, the big increases of 1978 to 1981 when, in some cases we are talking about 25% increases in UK being translated here, the private sector argued that they could not afford to keep up with that and they fell behind what they had established when parity was introduced and they fell behind what was the minimum wage in UK. This year, in fact, the Government Board that recommends the wages accepted that kind of argument from the shop assistants' representative who said: "For the last seven years we have fallen behind everybody else. This year we have got a chance, we should go ahead and try and catch up" and therefore the union was asking for 5p an hour less than the cleaners rate, the Board did not accept 5p an hour less, the Board recommended 15p an hour less and the Government has given them 26p an hour less. It is very difficult to explain why the Government feels that somebody that is clearly making an important contribution to our economy at this stage should be getting 26p an hour less than somebody cleaning a Government office. You explain that to the person slogging their guts out in a shop, Mr Speaker. We thought that a failure on the Government's part to take fully into account these arguments, if they gave us an opportunity to put them across now then, fine, then they might see there was more to it than simply saying they are going to breach parity because it isn't as straightforward and as simple as that. Also it is the first time that the Regulation of Wages Board has had its recommendation overruled and, in fact, in the past when they were recommending less than the UK the Government never came and said: "You are breaching parity because you are below UK so we are overruling you and paying more than you recommend". That has never happened although, in fact, there have been many instances when they have been below. And thirdly, I think the Government ought to know that, in fact, the £2.19 that they have adopted here is not the recommendation of the Wages Council in UK but it is by fiat by Mrs Thatcher. That is to say, Mrs Thatcher has done away with the Wages Council in UK and imposed £2.19 there which you in turn have adopted and imposed here, Mr Speaker, that is the fact of the case.

HON A J CANEPA:

Then, I think, if the Hon Member is factually correct, we can be accused by the union of having acted in a Thatcherite fashion. I just want to go back to 1978, Mr Speaker, the date that he has mentioned as a starting point and then perhaps the point doesn't have to be belaboured at this stage any further. In 1978 a labourer was getting on the 1st July, 1978, £32.50; a shop assistant in the United Kingdom in December, 1978, £42.10; and by agreement between the Chamber of Commerce and the union and notice of which was given in the Gibraltar Chronicle and I saw an extract of that on the 27th September, an adult shop assistant was being paid £36.30 here. Sir, there are two points of Mr Feetham that I am going to deal with at this stage. He said that jobs have not been created by the Government, that the Government is trying to take credit without having created jobs. He may be correct if what he means is, perhaps, that the jobs have not been directly created by the Government. But, surely, if the Government puts out a site to tender for development for whatever it might be, that is a contribution that the Government is making to employment in the short-term in the construction industry and in the longer term because of the use that is going to be made of that site. If the Government creates conditions by its policies, by its legislation for growth in the economy, for more people to be employed, then that is a contribution that the Government is making to growth and to more employment. And, incidentally, Mr Speaker, a significant number of jobs have been directly created by the Government as a result of the new economic conditions, as a result of new policies which have required that we create sections within Government departments to meet those conditions and also as a result of the requirements of an open frontier situation, Customs Officers, the Police, this is a direct contribution the Government has had to make. He asked a very pertinent question and an important question in my mind about Montagu Basin, who is going to pay for the infrastructure. I cannot answer that one fully at this stage because the Director of Crown Lands is at the moment drafting a paper for me as a result of the studies that the Crown Lands Department has made of the proposals that it has received from the consortium and these I have to take to my colleagues for a policy decision on the matter. But what I can say is this, if the Government doesn't pay for the infrastructure no doubt the prices to the prospective home buyers will be higher. The developers say that the magic figure in Gibraltar from their experience in marketing sales of homes, that the magic figure is around £35,000, that is is difficult to sell to local young Gibraltarians, young families, above that figure of £35,000 and this is a factor that we would have to take into account. I think the Government will have to view the matter from the point of view that here you have a site which the Government originally had thought that it might reclaim, before ODA cut off assistance,

we were thinking of reclaiming that site and of having public housing there. We are not able to do that and therefore the Government has got to consider, to my mind, one of the factors to take into account is what contribution should the Government be making to the success of that project. It can make a number of contributions, it can give incentives in the way that we have been giving in successive Budgets, it can arrange for long leases which makes it easier for people to raise mortgages and then there is the question of the infrastructure as well. I personally am very sympathetic to that point of view but it could be seen as a contribution that the Government makes and, as I say, we haven't yet been able to take a decision. I expect a decision to be taken shortly, within the next few weeks, within the next month or so. But in any case, even if we have taken a decision, supposing the Government had decided, yes, it is going to pay for the infrastructure, nevertheless it would probably have been early days yet to have been able to put into the Estimates anything more than a token because there is so much reclamation work that has to be done there and by the time a start is made it could well be that most of the financial year would be over before the question of actual laying of the infrastructure were to become a requirement. It might have been early days yet but that is the reason why no figure appears, there is no item in respect of Montagu Basin in the Estimates. Perhaps at a future meeting of the House or in any case even before, if the Government takes a decision about the future of Montagu Basin I think it has got to make it public naturally.

HON M A FEETHAM:

Can I just make an observation? Will that decision on Montagu Basin be made before or after Government have considered the other project which has been the cause of questions in this House of 325 units which have been presented by Gibraltar Consultants Limited?

HON A J CANEPA:

This is the project of Viaduct reclamation?

HON M A FEETHAM:

On the other side, yes.

HON A J CANEPA:

The Viaduct reclamation, well, I am going to have something to say about Viaduct reclamation in the course of my normal intervention. The two are not linked. The Montagu Basin, the proposals came in much before that but the view that I have formed is and I have so communicated

it to interested parties who have come to see me, the view that I have formed is that Viaduct reclamation because we have received proposals from various parties in the last couple of years, that that site should go out to tender. It is only in the case of Montagu Basin that we have been dealing with one single group, a consortium, no one had ever approached the Government about Montagu Basin with any proposals that is why I draw a distinction but that is the view that I take and I can only speak for myself because I haven't formally communicated anything to Government and therefore we have taken no decision.

HON J BOSSANO:

Could I just ask the Hon Member something about Montagu Basin before he moves on to something else? Is there any truth, in fact, I have heard commented that the project involves a subsidy from Government of £x per house is, in fact, the only Government assistance under consideration the provision of the infrastructure?

HON A J CANEPA:

That is the position. If there were to be Government assistance it would be the provision of infrastructure. The proposals do not envisage any direct Government subsidy. Sir, dealing generally with the Appropriation Bill, I think that the improved financial position of the Government itself over the past year confirms that the changes of the structure of the economy which have followed the lifting of frontier restrictions and the extent to which the distortions in the economy are beginning to be ironed out, have been of benefit not only to trade and the private sector but also to Government directly in terms of increased revenue. Initially there was an increased demand on Government services, this created a need to recruit additional staff, as I have already made reference, in particular in the Police and in the Customs Department. I think the need has, by and large, been satisfied and the smooth and efficient running of these Government departments should therefore no longer be impaired by lack of the necessary requirements. What it has meant though is that the Government has had to make some efforts in controlling the overall level of recurrent expenditure. It is astonishing what a very high proportion of Government expenditure is going on wages and salaries, the total bill is really a colossal one and in percentage terms I dare say that it must be certainly well over half Government expenditure, more of the order of 60%, I would imagine, is going in wages and salaries. In trying to control increases in real terms, I think we have met with some success. The estimate for total expenditure for 1986/87 was £66.7m. The forecast outturn stands at £68m, in other words, an increase in notional terms of some 2% but this does take account of the £1m contribution to GSL that was only recently approved. For 1987/88 the estimated expenditure is £69.9m.

That constitutes a rise of 3% over the forecast outturn for last year. Government revenue has been increasing by some 5% to 6% and with inflation running at under 5% over the period, effectively and in real terms expenditure has declined. What we have been able to do has been to reverse the position that we were in during the two years of the pedestrian opening of the frontier when the Hon Mr Bossano will recall the point that I used to make here and in debates over television that recurrent expenditure was not keeping pace with recurrent revenue, the position has now been completely reversed. But the rosier picture which is now emerging cannot, in my view, signal complacency for the future. I mentioned this last year and I repeat it now, services have not only got to be provided but they must be provided efficiently and if that is what Mr Pilcher, if that is part of what he has meant when he has said that the taxpayer questions what he is getting in return, then I certainly agree with him. With increased efficiency would come increased savings and hence more value for money for the taxpayer generally. This sense of efficiency has got to be sought and found by all sectors of the economy since it is of paramount importance if we are to sustain our economic recovery. If we haven't got efficiency though, I think that it is because people seem to be to a very considerable extent imbued by the syndrome of trying to get away with the least in return for what you receive. I think that that attitude is fairly rampant throughout Gibraltar and that is why productivity is low in many areas. Management has a very difficult task in managing and I will just comment and say that I think the Hon Mr Joe Pilcher himself knows a little bit about that, certainly more than I do have in regard to the difficulties that he himself has been having. Sometimes people are to blame even when they themselves are not paying for something as taxpayers. I was shocked when I arrived in the House on Monday morning to walk through the Piazza and to see the state of a fountain that was not paid for by the taxpayer. It is shocking and we have Public Works people this afternoon when I arrived early this afternoon cleaning the fountain. I think it is shameful that people should deal with a public fountain in that fashion, to have no regard for the litter, the cans and bottles that are put into it. I am afraid that it goes just beyond the Government, I think, a general programme of education and awareness and civic pride has to be instilled in people and if as a community, not just as a Government or as an Opposition, as a community we don't succeed in that then it is no use preaching and it is no use apportioning blame because the fundamental flaw lies with the community as a whole. That doesn't mean we have to be complacent, we still have to try but I am just pointing out that there are difficulties which would appear to be in some instances insuperable. I cannot accept, Mr Speaker, that everything that the taxpayer is getting is below the standard that he is entitled to expect, I cannot accept that as a general statement. I cannot accept that the social services are generally

deficient. I cannot accept that the services provided by the Department of Labour and Social Security are not up to standard. I cannot accept that our medical services are not up to standard. They may not be up to the best Western European standards but the best Western European standards are not prevalent throughout Western European communities and they certainly cannot be afforded by cities far in excess of the population that Gibraltar has. Our education services may today be going through the difficulties of very old school buildings that have not had over the years the maintenance that they required for a variety of reasons but that is the position elsewhere in Europe and yet we are lucky to have a Girls' Comprehensive School that, no British Government, not even a Labour Government would be able to afford, that is a matter for pride. That we were able to get that out of a Labour Government and generally the educational services, we are blessed with a profession to which I have great pride in belonging and I have many relatives that belong to that profession not just my wife, that we have a profession that sets standards and goes about its business in spite of the difficulties that we have had in the Boys' Comprehensive School, that is only one school, that is only fifty or sixty teachers out of 300 altogether which is far ahead of what you can expect in the United Kingdom. The Government here doesn't have to intervene in telling teachers what they teach in the curriculum as they are having to do in the United Kingdom because of the shameful matters that are being introduced into the school curriculum by the loony left that controls some Councils. We know what is happening, the attitude to many spheres of activity in life that are fundamental to any community, the attitude that we see prevalent in many schools there. I think that we shouldn't in election year and when we are debating a Budget and obviously the Opposition are not going to agree with that, we shouldn't decry too much what we have. I think there is a great deal to be grateful for and a great deal to be proud for and it is the work of successive Governments over the years. Obviously the Opposition have to pick loopholes and if material is given to them by some member of the TGWU who makes front page news on the Chronicle, the Opposition use it, perhaps we might have been tempted to do the same though we haven't done the same with the misfortunes of Mr Pilcher, we haven't made political capital out of that. Mr Speaker, I want to turn now to the development programme. Mr Feetham spoke about a figure of £50m. A figure of £50m certainly was never envisaged for any development programme for the four-year period between 1986 and 1990 and I think that I had occasion to explain that to him in the House previously. I think there was a bit of rounding up by the press in some articles where we were dealing with a much longer period than just four years. The development aid submission was more of the order of £30m and because the lapse of time in getting a reply from the ODA we have had to effectively, there has been slippage and because we only got £6m what we are now talking of, as

I think he knows, in terms of the next three years is more of the order of £20m. But that doesn't mean that there is nothing in the pipeline beyond that. What we are dealing with is what is considered to be essential over the next three years and after 1990 there are projects in the pipeline to the extent that there would be no difficulty in putting together, in identifying today the fundamentals of another development programme going beyond 1990. But one thing that has happened that has reduced the overall size of the programme is, of course, that two projects that we have been discussing in this meeting of the House have been taken out of the Government's programme. Montagu Basin - if the Government had included in its development programme a build of 600 units you can start working out how many millions that is and Vineyard - we produced five different schemes I think for Vineyard and in the end we had to abandon them when the ODA said there was no money for housing and rather than leave the site which was badly required for some housing to get off the ground we took the decision of launching it as part of the home ownership programme. But those two projects would add many millions to the overall size of the programme as it was being envisaged back in - when were we putting together a development programme, I think we were putting it together in 1985, I would imagine, 1984/85 may well include it. The other thing, of course, is that we can afford to be a little bit more relaxed these days about the need for a large Government programme having regard to the amount of activity that there is in the private sector. During the years of the closed frontier, Mr Bossano will remember the importance that was attached, the development programme was perhaps the most heated apart from the Finance Bill, the most heated part of the debate here in the House and the Government was questioned and chastised very closely about slippages and one of the most commonly heard words in the House was slippage. In those days, particularly, I remember that when I became Minister for Economic Development the next two or three years we were spending at the rate of over £10m per year which was a very sizeable contribution into the economy at that time in relative terms. But today a contribution of £10m per year by the Government to its own development programme no longer would have the impact compared to what is happening in the private sector than what it would have on its own if nothing was happening in the private sector. We can afford just to concentrate on what is completely essential and adopt a more relaxed attitude about many of the projects which are very desirable but which are not so essential in the short term. Last year at Budget time I gave the House a detailed account of the latest position of the projects included in the I&D Fund. I now want to comment on some of the more salient aspects of this next development programme. The request by Government for assistance from ODA was only received in April, 1986, so we then had to carry out a reappraisal of our development needs and a reconsideration of all our priorities to fully maximise

the use to which the UK £6m allocation could be put because not only was it a much lower figure than what we have hoped for but it had strings attached in the sense of the criteria so we had to re-examine the whole position. That is why really work has been delayed and delayed considerably. We are now of the view because of the ODA criteria that we should gear the bulk of the contribution from the United Kingdom, the bulk of the £6m to finance infrastructural projects by way of improvements to our electrical and water systems. We think that there is a far greater likelihood that these will receive a more positive response by ODA. But also, of course, it is important that if there is going to be as much development as is now taking place and which is in the pipeline to meet the demands of an expanding tourist sector and a growing economy that the infrastructure should be up to scratch. It was only in January this year that we had follow-up discussions with ODA officials that have meant that plans are now at a fairly finalised stage and, in fact, at the last meeting of the Forward Planning Committee last week we were able to learn from the officials present that two or three project applications have already been submitted, mainly projects of an infrastructural nature but we aren't just devoting our financial resources to infrastructural projects. Tourism, as a leading industry in the economy, features very prominently and funds have been provided for development, inter alia, of the Upper Galleries, Wellington Front, the Piazza and the Air Terminal. I want at this juncture, on the Air Terminal, Mr Speaker, to explain our thinking and to explain the alternatives which are under consideration. I have asked my colleague, Mr Zammitt, to Chair a Committee that will have a series of meetings with users of the airport with a view to making sure that we arrive at the correct option. The alternatives that we are considering are an extension to the present air terminal in a northerly direction that will include the air cargo shed. That is one alternative and that would meet our more immediate requirements except that if all the flights that appear and I am not for one moment thinking of flights from Spain, if all the projections of the airlines materialise by the time that extension to the air terminal is completed we will require another one because we will not be able to cope. The next alternative is you go across the road into the car park area, provide some car parking there and perhaps on the ground an additional floor and also a floor where you could have departures there and then there can be a bridge across Winston Churchill Avenue. And then we come to costs, you then have to consider to what extent that is cost effective. I think the first alternative is - and I am trying to quote from memory and perhaps Major Dellipiani or Mr Featherstone who are members of the Forward Planning Committee will correct me if I am wrong, I think the first alternative was in the order of £2½m. The second alternative would provide a bigger air terminal, I think it is of the order of £5m. But then when you start talking about £5m you begin to think

what about a third alternative? Might it not be better to have a new air terminal elsewhere, and no political overtones, I am not thinking of a new air terminal on British Lines Road though that would appear to be from a logistical and a practical point of view very logical, more so if 40% of arrivals are going up the coast so that would appear to be very logical but I am not thinking of that. We are thinking of the south dispersal area where the RAF have the hangar. I don't think the Ministry of Defence, we haven't approached them formally but we mentioned it in consideration of the draft City Plan and the indications are that they require that area. But the whole thing then has an additional dimension which I will put across just to provoke a little bit more thought from Hon Members opposite, the crossing of the runway by traffic. Do we then go for a tunnel under the existing road or do we go for an alternative crossing of the runway at Eastern Beach? That is what the planners are being asked to look at. I think that it is sensible forward planning, it is the proper way to go about alternatives and I hope that we will be able to arrive at the optimum solution. But that is the state of play on the air terminal taking it out of the ambit completely of talks about joint use of the airport, nothing to do with that.

HON J BOSSANO:

Will the Hon Member give way? Doesn't the fact that we have got £2½m in the Improvement and Development Fund indicate then that the option is the first one that he has mentioned, the £2½m one?

HON A J CANEPA:

At the time when the Estimates were drafted the preferred option was that but then the planners said: 'Hang on' or Mr Zammitt was saying: "I am having talks with the airlines and here we have information that GB Airways are going to Frankfurt and are going here and there, hang on. If we proceed with this by the time it is finished it may be so". That was the position then and therefore I have given much more information. That is the position, I don't think my colleagues here knew - who are not members of the Forward Planning Committee - the Chief Minister didn't know all that so they are now completely up-to-date with the state of play on that one as is the general public. Public sector investment in tourism is of the order of £3.5m exclusive of any Government financial assistance in respect of Rosia Bay and Queensway where you arrive at the formula regarding the payment for the infrastructure. If part of the infrastructure can be used by the Government for some other project, you arrive at the formula as to how you go about financing it. In addition we are fully aware, Mr Speaker, of the need to meet social needs. I have given an indication of that

already. Obviously in the field of housing, and in the field of education, to the tune of £5m and £1.8m respectively. We are, in addition, pressing on with our home ownership policy on the sale of flats, I think that that has been made abundantly clear and doesn't need any more repetition otherwise it would be repeating ad nauseum. I want to deal now, Mr Speaker, with the private sector development and I hope that I am able to wrap up my intervention in time for the commitment that I think Hon Members have. In last year's Budget speech when describing the sites that were earmarked for private development, I concluded that whilst Gibraltar was not experiencing a boom, it was certainly experiencing the prospect of a continuing growth in the economy and in economic development. Perhaps in the twelve months that have gone by and having regard to the number of sites which are currently under construction, I was perhaps overcautious in my projection though I still wouldn't say that we are experiencing a boom but certainly there is more activity than what I had thought would develop in a period of twelve months. The interest in development has spread elsewhere in the private sector where a number of schemes have begun and they are in a fairly advanced stage of construction, in many cases without any prompting from Government. Without any prompting but with a lot of propping-up up until this afternoon. Bland's Foundry has been a project of £3m; the Shell Petrol Station at Line Wall, £0.4m; the Old Line Wall School, £1.7m; these are typical examples. In the field of tourism and in the finance centre, activity has also led to substantial investments which, in total, approximate £6.5m mainly in refurbishment works in upgrading the hotels and in providing suitable premises for office use. Insofar as the major developments are concerned, the one at Water Gardens is of the order of £6.6m and that is, as can be seen, at a fairly advanced stage of construction. In fact, the third block, I am informed, is expected to be completed by the mid-summer of next year. Across the basin we have Phase II of the Marina Bay complex, £2.5m. That is now almost complete and all that remains is the fitting out of the commercial units on the lower floors. The company is currently developing proposals for a third phase. That would, hopefully, link that development with Sheppards Marina and result in the culmination of Waterport Basin that would be an important Yacht Marina in this part of the Mediterranean. The multi storey car park now appears to have shrugged off persistent teething problems, I think it is now getting literally off the ground. Foundation work is complete and works are now in progress on the structure of the lower floors. It is estimated at £6m and not only will it provide much needed parking on the fringes of the City Centre but the proposed commercial element fronting Main Street should also substantially improve the quality of architecture and the environment at the entrance to this important shopping/commercial street. Similarly, foundation work is soon to begin on the £4.5m project at the Old Command Education Centre which, as we all know, suffered some

delay because of the conservation lobby. That, I think, will generate a great deal of economic activity in a much needed area just off the hub of the commercial area in the City Centre. We hear traders even before the current difficulties of lack of access that they have been experiencing, we have been hearing traders in streets off Main Street complaining that they were not doing as well in the new situation as Main Street traders and I think that this prestigious development and attractive development just off Main Street may be a great help in diverting business away from Main Street. The proposals consist of a ground floor shopping area with a central piazza with restaurants and shops that will front Bell Lane with 23,000 sq ft of office accommodation and there will also be some twenty high quality apartments on the upper floors. The redevelopment of the City Bank, this is a £2m project; the old Line Wall School that I have already mentioned, will provide between them approximately 50,000 sq ft of office space and that should help to meet the increasing demand for this type of accommodation and, hopefully, stave off some of the pressure that the Development and Planning Commission is getting for conversions from pre-war dwellings into office accommodation. And unless we are able to stave off the pressure by having this type of office block development, I am very much afraid, Mr Speaker, that Main Street is going to cease to be a residential area before very long. In the field of tourism, there are substantial investments currently being injected by hoteliers. The standards of accommodation that I have seen are the sort that we expect nowadays and the construction of new hotels which has always seemed to be problematic even now, to some extent, there are indications that, for instance at Queensway it may be problematic because of the difficulty of getting finance for developments of this nature is at least becoming a possibility elsewhere. I am referring to a feasibility study by the developers into the construction of a hotel at Engineer Battery, we have now given planning approval for a 150 bed hotel and there will also be a Marina development in Rosia Bay and, as Hon Members know, two blocks of what - I have to be careful with the words I use - perhaps I should describe them as moderately sized blocks of apartments and commercial area on the ground floor in Rosia Parade. This development is costed at £8m. We have received tenders for the construction of a 100 bed hotel at the ex-caravan site at Catalan Bay. The proposals are encouraging, they have been considered by the Development and Planning Commission on planning grounds and will then go to the Land Board for adjudication. There is also a smaller hotel development which is the subject of a direct allocation I think of about 30 rooms at the area adjoining St Martin's School. That has also got now agreement in principle. Related to tourism the Northern Defences appear to require substantial investment in the order of £2m to £3m and the intention is that these with the World War II Tunnels, perhaps the World War II Tunnels as well will be invested in the Heritage Trust

with a view to restoring and developing these Defences, to open them up to the public and to provide an expansion to our tourist amenities. We are talking, Mr Speaker, of substantial in-roads having been made in respect of large scale commercial developments in the order of a staggering figure of £90m over the next two or three year period. It almost sounds like propaganda on another channel, doesn't it?

HON J E PILCHER:

Expensive propaganda.

HON A J CANEPA:

But they are beginning to contribute materially to our economy and are providing plenty of job opportunities. I think that in the future, I hope, that with what is in the pipeline we should be able to pause, look around and take in a deep breath and concentrate on areas of social development such as housing and also in satisfying the increasing demand for additional warehousing space and premises which are required for light industrial use. I think we have said enough about Montagu Basin already and I don't propose to be repetitive about that but I think that the success of Montagu Basin could really begin to break the backbone of our housing problem. I think that the concept of building low cost units for sale is a realistic way of tackling the housing problem. Perhaps, Mr Speaker, at this juncture I can deal with two points that were raised yesterday regarding Rosia Dale and the sale of other Government properties. Rosia Dale, there have been a series of queries on behalf of the Purchasers' Association by their solicitors. This has necessitated a number of amendments to the terms and conditions of the lease and the toing and froing that is a normal feature between legal chambers takes time to resolve. That is the main reason for the delay. The department immediately after Easter wrote to the solicitors, I think we have given replies to all their queries. What now remains is the request for a 150 year lease instead of the present offer of 99 and also to deal with the sale of bedsitters to other than sitting tenants. There are people who are interested in purchasing bedsitters, they are not sitting tenants but they are interested in doing that in order to solve housing problems that they anticipate for their children living with them and so on. They are complex issues, they have to be resolved and this has led to delays. But once these difficulties have been ironed out for Rosia Dale then the lease documents would become the prototype for other Estates and we can anticipate much quicker progress for the sale of these because we are not going to allow fundamental differences between the lease conditions for Rosia Dale and for Rose Shrine, St Joseph's or what have you. They will have to tow the line and that is why we are able once we break

the back of the problem with Rosia Dale, we are able to anticipate that we will be able to sell other Estates rather more quickly. I think it was the Hon Mr Baldachino who mentioned delays in respect of collecting premiums in respect of Crown Properties. There were two reasons for this - staffing problems in the Crown Lands Department which have now been solved and similar difficulties arose with documentation and in the purchasers being able without documentation, if they didn't have the documentation they were not able to get funds from the financial institutions but the situation is also now well under control and I am informed that the Crown Lands Department should have collected all the outstanding moneys within the next two months. In conclusion, Mr Speaker, to conclude therefore, I think the efforts which the Government is making in the control of recurrent expenditure, in its fiscal strategy, in its capital expenditure plans and in its approach to development in and by the private sector, are geared to the maximisation of the benefits to the economy which are accruing from an open frontier situation. That there has been economic growth no one can doubt and it is for us, the Government, to ensure that not only is momentum not lost but that the community as a whole will benefit from a fairer share of this new wealth.

MR SPEAKER:

I think perhaps we should now recess until tomorrow morning at 10.30.

The House recessed at 6.25 pm.

THURSDAY THE 30TH APRIL, 1987

The House resumed at 10.40 am.

MR SPEAKER:

I will remind the House that we are still at the Second Reading of the Appropriation Bill and I think I am right in inviting the Hon the Leader of the Opposition to make his contribution to the debate.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I may before the Hon Leader of the Opposition rises, Mr Speaker, I tender my apologies to the House that we have not, in fact, circulated what we call a new page 5 before this moment. Normally this is circulated after the Chief Minister's speech, I am afraid that through some misunderstanding in our team we rather got it wrong this year and I apologise to Members for that oversight. It will now be circulated.

MR SPEAKER:

There are several new pages as a matter of fact and not just page 5, as consequential amendments.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I think one of them is the mainstay of the Funded Services, instead of a deficit, it is a contribution.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I normally only contribute once in the Budget either on the Finance Bill or in the Appropriation Bill. I am breaking my own rules this year, possibly because it is my last Budget. I want to clear a few points, first of all, I don't want Hon Members to think I live in cuckoo-land, I live in Gibraltar but I refer to this because of the remarks I made on defence and Nicaragua and Libya and all the rest. May I say that unfortunately one of the newspapers has completely reported the statements that I made yesterday in a completely wrong way. First of all, I made the point comparing my attitude on Libya last year and the Americans and the Americans this year over Iran and the hostages question because I sympathised last year with the Libyan offensive by the Americans. I do not want anybody to think that I am a mouthpiece of the Americans or the stooge and I am quite prepared to criticise them over the hostages question this year. I want to make that clear. It is not a question that I live in cuckoo-land. I commented on it because of defence. Because last year the Libyan crisis put us at risk and this is why I raised the question of defence last year. Defence is still a matter that I am concerned with and I have the support of the Foreign Secretary. Trade and defence cannot be disentangled and I am quoting from a remark he made last Monday in New Zealand in the context of the non-nuclear defence of New Zealand. Because I see defence in Gibraltar not only because we are concerned for the defence of Gibraltar but because it is also connected with trade. The more defence spent in Gibraltar the better the economic situation is in Gibraltar. If the British Government spends more money on defence in Gibraltar they might be more reasonable in their attitude towards land. It might justify the huge piece of land that they still hold with a diminishing presence in Gibraltar. This is an important message I am giving to the House. I am not living in cuckoo-land, I am concerned about world affairs, I am more concerned with the affairs of Gibraltar. May I, Sir, now turn to some of the practical matters that have been raised by Hon Members opposite. I would like to refer, first of all, to the question of maintenance and surveys which I think was brought up by the Hon Juan Carlos Perez and to some extent by the Hon Mr Baldachino. I have in front of me a news bulletin on a seminar held by the Organisation for Economic Cooperation and Development

at a meeting attended by thirteen of the leading western countries. It refers specifically with the problem of maintenance in schools. I know it is no consolation to think that other people have the same problems and that we should be better, but I think when we talk of the leading thirteen western countries sharing the same problem as ours it goes to illustrate that the problems that we have are not as big as the problems that other countries have. Broad agreement was reached among the delegates who attended the seminar and the endemic problems were identified as follows: insufficient funds for adequate maintenance; inability to present sufficient justification for increasing funds; a noticeable deterioration in the conditions of educational buildings with knock-on effects of morale of the users; disruption and possible breakdown of the ability to deliver an educational service. All these problems have been identified as endemic in all thirteen of the western countries of the Organisation for Economic Cooperation and Development. The seminar advocated the following plan: establish a conditions survey; establish realistic budget levels; convince politicians - key people; arrange dedicated flexible budgets; examine the maintenance organisation; establish standards; review performance. As you can see, Mr Speaker, the problems faced by other countries are the problems we are facing in Gibraltar. I have no doubt in my mind that part of the problems with the general infrastructure of Gibraltar had a lot to do with the siege conditions that we went through over the past sixteen years. The Government concentrated on basic services and left a lot of the other problems untackled and I think rightly so. I was Minister for Education from 1978, I think, to 1983, certainly for about five years. I do remember on first contacts with Bayside School, I asked the teachers what was their greatest concern, what was the first thing that they wanted to be done to that school. The answer was that their main concern in 1978 was that they wanted a bigger staff room. I put that in my Budget and the bigger staff room was built. Subsequently we had problems with the voids underneath Archbishop Amigo House which were being used as classrooms. They were totally inadequate. The Gibraltar Teachers Association and the school staff approached me again and we managed to spend something like £5m, extended the school and converted the voids into flats. I am just trying to illustrate, Mr Speaker, that the Government has reacted on many occasions to suggestions from the teachers at Bayside. I also introduced a system whereby early in the term in September all schools should have to test their heaters because it is no use switching on the heaters on the first day that the weather changed and it became cold because we didn't know what had happened since the last winter and we used to have the chaotic situation year in year out where all the schools switched on their heaters on the first day that it was cold and, of course, after not being used for seven or eight months there were problems with them. So I introduced the system where all the heaters should

be checked before the winter. I must report, Mr Speaker, that all the heaters in Bayside School were checked and repaired before the outset of the first cold days. Within months after all the problems of the heaters were highlighted by the teachers, with electrical shocks, etc, the Public Works Department Electrical Section who incidentally even the teachers admit react very quickly to their requests, carried an examination of all the heaters in the school. 50% of those heaters were discovered to be damaged or vandalised. That is no one's fault but the poor supervision of the school itself. I have great sympathy for the Bayside school teachers. I have no doubt in my mind that at the back of their minds and the problems really started and I was there, when Westside School was built. That Westside School is a far better school than Bayside and at the back of their minds, unintentionally, they are trying to build up a school as good as Westside. So everything that goes wrong is highlighted even further. I remember in my time as Minister for Education the great admiration I had for the Girls' School and their staff for the way they catered year in year out split into about three or four different schools, all except for the Mackintosh Hall wing and they carried on without causing me any problems whatsoever. It just shows you that however good the teachers, and I have great respect for the teachers, all it takes is a few hotheads and most people fall in line. I know there are problems in Bayside School, it is a problem to do with design, it is a problem of three or four buildings being joined together with different materials which react to weather in different ways and causes filtration of water, most of the windows are louver windows which are not ideal for the conditions in Gibraltar when we have a wind rain effect. A survey has been conducted of this school, a very comprehensive survey, in fact, and now it is just a question of priorities. Because if we went and dealt with the survey and the requests of the teachers in the school to upgrade the standards of Bayside, the figures would run into well over £1m not because there is £1m worth of things that are wrong but because there is an attitude of increasing the standard to Westside School. The Government together with the teachers - by teachers I mean the headmaster and his staff - we had to get together and they are already getting together to programme works of maintenance and improvements according to priorities and not to desirabilities. The Public Works Department are also increasing the manning levels of the Cleansing Section of Gibraltar. But there is a limit to what the Government can do. We are going to reach a stage where for every visitor and every resident of Gibraltar we are going to have a sweeper behind the chap when he walks around Gibraltar. This is ridiculous. I think the Cleansing Department on the whole gives a good service but it is the attitude of the residents of Gibraltar and, indeed, to the visitors of Gibraltar because we have had to increase the Vote to look after the tourist sites areas because of the mess that the

visitors make to the car park area, in the Cable Car area and in St Michael's Cave area to quote only three. This is not done by the residents of Gibraltar, this is done by the visitors to Gibraltar who complain how dirty Gibraltar is and in one of my votes the Hon Member who shadows me will note that we have increased the question of cleansing in the tourist sites areas. I am pleased to hear that the Hon Mr Pilcher wants value for money for taxpayers. I am completely in agreement with him but value for money for the taxpayers is not solely the responsibility of the Government, it is also the responsibility of the people who work for Government. I will quote two instances. We have a very bad organisation system of burning bulk waste, totally unsafe and not particularly effective. The Government after a lot of thought from the Public Works Department, order two specially made bulk waste disposals. The bulk waste disposal unit which were pretty expensive have not been used because two of the workmen there who earn at this moment or were earning £200-plus a week and whose banding before this disposal units were brought to Gibraltar were on Band 4, whose lives were at risk at that time, where the conditions of employment were bad, we upgraded them from Band 4 to Band 6 which meant a further substantial increase because of the overtime involved and yet they are blacking the bulk waste disposal units because they want Band 8. In actual fact they were worse off because they had a lower banding in Band 4 and they were worse off in conditions when they are on Band 4. This, Mr Speaker, in my opinion, is sheer greed. I now turn to another department which could be more cost effective and I mentioned in my intervention on the Finance Bill, the Electricity Department. There is a £3m engine lying idle at Waterport, not being used by the Gibraltar Government because it is blacked by the Transport and General Workers Union. But what annoys me most, Mr Speaker, is that as a whole and barring a few exceptions, the electrical sector as they have been identified in our statistics, that they are the highest paid sector in Gibraltar, the Electricity Department and yet, again sheer greed, a £3m engine is lying idle and if this is not put into stream soon the cost to the Gibraltar taxpayer this winter will be enormous. The Hon Juan Carlos Perez expressed disappointment at the redundancies in the Sand Quarry and the manning levels of the Telephone Department. We have talked a lot in this House of Traynor-bashing, I think we can now talk about Gibraltar Government-bashing because if the Transport and General Workers Union had adopted the same attitude on redundancies to Bland's over the Mons Calpe on the foundry and to the PSA and the MOD, perhaps there wouldn't have been so many redundancies in this area. On the Telephones, because of a technical point brought about by the Transport and General Workers Union in that they say that they were not consulted on manning levels.....

HON J C PEREZ:

Will the Hon Member give way? I think perhaps he should find out that the Hon Mr Perez has already committed himself to leave the complement as it is because he has accepted my arguments on the Telephone.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am just trying to point out that there is a different approach by the Transport and General Workers Union when it deals with the Government and when it deals with other departments or the private sector. There were no redundancies in the Telephone Department, it just happened that somebody was retiring or had resigned and the Government felt that there was no need to replace him. On the question of the Sand Quarry, I have tried very hard, in fact, to be able to slot these people into Government and they are not lying idle at the moment, they are working on a sub-contract for the Public Works Department.

HON J C PEREZ:

I never said they were lying idle.

HON MAJOR F J DELLIPIANI:

If we look at Hansard you said they were being paid for doing nothing.

HON J C PEREZ:

I have got my speech written.

MR SPEAKER:

No, let's not speak across the House.

HON MAJOR F J DELLIPIANI:

We will wait for Hansard. Mr Speaker, the redundancies at the Sand Quarry is something that concerns me too but it is not just a question of slotting them in with their own grades because other members within the Government Departments will complain that they are senior to them within the Department. The Government is looking into the matter with much more concern than what Hon Members think. May I, Mr Speaker, take this opportunity as my last Budget speech where you are always so lenient in what I say, take this opportunity of thanking you, Mr Speaker, and your staff for the excellent service and care and attention you have always given me in this House.

MR SPEAKER:

Thank you very much.

HON J C PEREZ:

Mr Speaker, if I may, I think that it is in order in the same way as I clarified my statement yesterday at the request of Mr Canepa, that Major Dellipiani should do likewise to me because what I said, and I am quoting the part of what I said yesterday about the men at the Quarry Company: "The workers are being employed on other tasks but even the process of winding up seems to be taking as long as it took the first grain of sand to slide down the chute when it was first installed". I never said they were lying idle and I would like the Hon Major Dellipiani to retract that please.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I will retract it when we read Hansard.

HON J BOSSANO:

Mr Speaker, we have now heard all the Members of the Government speaking to both the Appropriation and the Finance Bill except for the Chief Minister who has the right of reply and, of course, the Financial and Development Secretary. The points that have been raised by us in the vast majority have not been answered and therefore I shall mention some of those that have not been answered again as well as any new ones at this stage, in case it has been an oversight to give the Hon and Learned the Chief Minister an opportunity to reply if he wants to reply. I think, however, before I list the areas that I feel have not been adequately covered by the Government, I need to make some reference, in passing, to the comments made by a number of Ministers who followed me in the Finance Bill. The situation is that traditionally, since we took over the Opposition in 1984, I have been the speaker immediately replying after the recess to the Finance Bill in the knowledge that the Chief Minister and the Financial and Development Secretary are in a position both to speak after me. I don't think it has been the practice that as well as that every single Minister should feel they have to answer me as well. Be that as it may, it doesn't bother me in the least that my contributions in this House should disappoint the AACR because, in fact, I have not been elected by the people of Gibraltar here to please the AACR. I have been elected to carry out a role as the Leader of the Opposition and my party as the Opposition party has to have a responsibility to provide effective opposition by exposing the areas of the Government that we feel are not functioning properly and holding the Government to account, that is what we

have been elected to do and that is what we are trying to do. Therefore, if instead of explaining and defending and convincing us of the wisdom of their fiscal policies the Hon Mr Canepa wishes to act the clown and say I am doing a strip tease and that he wants to know what I have beneath my G-string, then we might be amused in this House as a result or Mr Mascarenhas tells me that I have left the Government in limbo. I think the Government were in limbo before I came across them or Mr Brian Perez says I know nothing about the finance centre and how it works and makes some rather unparliamentary remarks about the Opposition dropping their underwear including the Hon Lady Member of the Opposition. All I can say is that that performance, Mr Speaker, I think was highly regrettable and I am sorry Mr Perez is not here in the Chamber to listen to what I have to say but I think it is important particularly in a Budget which for the first time is being broadcast to the people of Gibraltar that we give the people of Gibraltar an impression that we take the business of being in the House more seriously than one would assume from those contributions. It is all very well for the Hon Major Dellipiani to start questioning the productivity of the highest paid members of the Government, the workforce. Clearly we are being paid, both of us in Government and in Opposition, to do a job and although there is no reason why there shouldn't be a certain amount of levity in our contributions occasionally and that is perfectly normal in parliamentary systems, I think there is a situation where primarily it is the Government that has to explain its policies and the Government cannot expect to get away with spending all its time complaining about the fact that the Opposition doesn't explain its policies. The Opposition has to explain what it is doing when it becomes the Government. At the moment it doesn't have to explain anything because it hasn't got the responsibility of governing. We may be able to do it better or worse but that is a matter for the people of Gibraltar to judge when the time comes. But, certainly, performances like that of Mr Brian Perez, in particular, I am afraid leave me to have to say that in 1984 during the election campaign I made a speech outside the front of the House of Assembly which I know upset him very much, Mr Speaker, when I said he was a tuppenny ha'penny lawyer and I regret to say that he has halved his standing in my estimation and I now consider him to be a penny-farthing one.

MR SPEAKER:

A what?

HON J BOSSANO:

A penny-farthing. For those of us who can still remember what a farthing was like. Having said that, I want to get on to the business before the House but I would apologise to our listening public for the performance of Government Ministers and tell them that they are not usually as bad as that.

HON CHIEF MINISTER:

If the Hon Member will give way.

HON J BOSSANO:

The Hon Member is going to be able to answer me and I will give way if he is going to make some point about some question that I am asking but the fact that he doesn't want me to apologise....

HON CHIEF MINISTER:

Not for us, you apologise for yourself.

HON J BOSSANO:

We have done nothing, Mr Speaker, which we need to apologise for. I would like to apologise to our listeners for the behaviour and assure them that they are not normally that bad, this is an exceptionally bad hearing that they have been through on the Budget. Of course, the GSLP will continue, however much it gets baited from the other side, to stick to what it promised the people of Gibraltar it would do in the Official Opening of the House after the 1984 election. That is to say, that we would try and produce a critical approach to Government policy and not allow the level of debate to deteriorate to petty sort of squabbling which really does no good for the standing of the House, does no good for standing of politicians and can only, in fact, detract us from the real issues which is how are we spending the money of the people of Gibraltar and what direction is Gibraltar being led into by the AACR Government. The analysis, Mr Speaker, that I made during the Finance Bill which disappointed Members opposite, was based on the statements made by the Government, that is, primarily the statements made by the Chief Minister and the Financial and Development Secretary and the study of those statements and of the accounts. Of course, the question of liquidity did not appear in that statement. The Hon Mr Perez said that the liquidity of the Government had gone from £7m to £14m, that those were facts of which we have only just become aware, not in the Finance Bill when we should have been made aware of it and certainly not in the closing sentence of the closing speech on the Finance Bill when we can no longer take the matter back to the original debate. I am not sure that the Hon Member has got the foggiest idea of what he was talking about and if he were sitting here in the Chamber I would give way to him and invite him to explain to the House what is this increase in liquidity that he was quoting as the factual statement of the success of the economic policies of the AACR, how it has been arrived at and which policies have produced it. Of course, I think he just latched

on to that sentence primarily because it was delivered in such a triumphant tone by the Hon Financial and Development Secretary in his closing speech that Mr Perez must have considered that to have been the clinching argument of the economic programme of the party in which he now militates. I have no doubt that the Hon Financial and Development Secretary when he replies will be able to set some light on the matter even if Mr Perez would not have been able to, Mr Speaker. But the situation as far as we are concerned is that this is a totally new concept and I think it exposes, in fact, the Financial Secretary and substantiates the accusations that we have made that he misleads the House. The Financial Secretary behaves as if he were a politician and he is not. The policies that he has to implement are those of the AACR. They have the political responsibility and they have to answer to the electorate, Mr Speaker. The Hon Member finished his contribution in his last sentences, as I have said, with a flourish saying that of course I was constantly badgering him about deficits and about reserves and about the Consolidated Fund and none of these things really mattered, what mattered was the total liquidity of the Government. Well, Mr Speaker, that may well be so. I think if that is so the conversion of the Financial and Development Secretary in this Budget is, perhaps, something that has not yet been explained and needs to be explained by the Government because I am not sure whether it is the Hon Financial and Development Secretary that has been converted to this new theory or the entire Government that has been converted to this new theory. Certainly in this year in his statement he makes no mention of the Consolidated Fund. However, in 1984, his first Budget, he told the House: "The balance of £7.1m in the Consolidated Fund compares with one of £12m at the 31st March, 1983. However, I must again repeat what was said during the debate on the 1982/83 Accounts" - which was the audited accounts for that year, where I had brought a motion noting the Accounts - "and what my predecessor said on this occasion last year - and he, incidentally, was repeating what he said the year before that". The Hon Member brought Mr Wallace out of retirement before I did actually, Mr Speaker - "and that this amount is eroded by the value of unpaid bills for municipal services and rents. Action has already been taken to strengthen the Arrears Section" and so forth. It seems to me perfectly legitimate, Mr Speaker, if this is the first speech of the Financial Secretary in 1984 and we are the Opposition in 1984, that we follow this up and we keep on the pressure on him because he tells us in 1984 and he presents a statement to this House saying: "The situation is very bad because the reserves are going down and because we have got deficits". So the going down of the reserves is a serious and an important thing which justifies budget increases of £1.2m in 1984. We move to the Hon Member's view in 1985 and there, Mr Speaker, in the 1985 Budget speech the Hon Member says: "The position revealed in the Estimates show a current deficit for the year of just under £3½m. The erosion

of the reserves in the Consolidated Fund would therefore pose a serious threat to Government liquidity". The word 'liquidity' appears in 1985 in relation to the reserves and to the dangerous situation of deficits and reductions in reserves in the Consolidated Fund. He was then using it to justify borrowing for the current account. He was wrong, of course, his predictions were totally wrong. He has got an abysmal record, Mr Speaker, since he arrived in this House at projecting results.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I said the frontier was going to open.

HON J BOSSANO:

Well, Mr Speaker, his worst record is in 1984 actually, thirteen months before the frontier opened. He was more out in 1984 than he was in 1985, actually, Mr Speaker. And, of course, in 1986, Mr Speaker, again he mentions the reserves and again he mentions the deficits. The Hon Member therefore makes a Budget speech this year which for the first time does not draw attention to the level of reserves and for the first time does not draw attention to the amount standing in the Consolidated Fund and this has followed his innovations in borrowing and his innovation in showing borrowing as recurrent revenue. If he wants to take the credit for certain things then at least he ought to be consistent. He cannot as he has done chastise me publicly in correspondence last July because I was trying to persuade him not to borrow more which he was defending as a perfectly sensible policy and then say how good a Financial Secretary he is because he has not borrowed more which according to him was not what he ought to be doing but what I was telling him to do. When we look, Mr Speaker, at the question of borrowing in which we had a highly controversial set of letters last July, we can ask ourselves if we were participating in a quiz, has Traynor reduced the national debt, true or false? True according to the Financial Secretary and Mr Perez, false according to the GSLP. Mr Perez urged us to insist on facts and to stick to facts and I agree entirely with that, Mr Speaker. Presumably the facts must be that we must look at the national debt before Traynor arrived at the scene, that is to say, if Traynor increases the debt in 1985 and 1986 and reduces it in 1987 but is still higher than it was when he came to Gibraltar in 1984 he has not reduced it, he may be reducing it this year. And when he talks about reducing it what he is really telling us, Mr Speaker, is that the debt was programmed to come down before he came. It isn't that he has decided, he has reduced the debt, no, the debt had a life and was declining and that decline is reflected in letters from him to me of 1984 in which he told me what was the projected debt servicing costs which were to reach a peak and then start declining.

In fact, to show, Mr Speaker, how it is possible to mislead the House, the Hon Member in last year's Budget and, again, in correspondence has said that the cost of servicing the debt by his borrowing from Indosuez was going to be reduced by £1.7m in 1986/87 and £1.7m in 1987/88. Had he not borrowed from Indosuez he would have had to pay back Midland Bank £1.6m this year and £1.6m last year. What does the Hon Member do? He goes to Indosuez and he borrows £4m and he pays the £4m to Midland Bank. He says: "We cannot count the fact that I am paying £4m instead of £1.6m in 1986/87 as an increase in the servicing of the debt. However, we can count the fact that I am not paying it in 1987/88 as a decrease". That is to say, he has paid the debt earlier, the fact that it has gone up the year before is not an increase, the fact that it has come down the year after because he has already paid it is a decline. That is the kind of arithmetic of the Hon Member. In fact, the national debt of Gibraltar today is higher than it was at the end of 1984, it went up in 1985 and it went up in 1986 and it was scheduled to come down more than it has because, in fact, it was scheduled to be repaid and had we repaid the £1.6m to Midland Bank last year and the £1.6m to Midland Bank this year out of the normal recurrent expenditure out of the Consolidated Fund and not from having borrowed then we would not owe that £4m today to Indosuez so our debt would be that £4m less, we would have now paid £3.4m to Midland Bank and we would have to pay the final instalment because the loan had to be repaid in five instalments, we would have to pay the final instalment in 1988/89. Those are facts that can be checked, the loan agreements are there, the dates when they were supposed to be paid, it is all on record, Mr Speaker. However, if we have a situation where the amount in the reserves do not matter and the repayment of loans can be financed by raising other loans because the Hon Member every time that I question him on something, Mr Speaker, he comes up with a theoretical argument that changes the rules of the game. The last time I challenged him on the question of how to fund public debt his argument was that Governments don't repay debt, they refinance them. In Gibraltar the situation that we have had until now - and this is why I am not sure really about whose policy I am talking from the Opposition, Mr Speaker, because we have a situation where the Hon Member wrote to me, for example, on the 21st July and said in relation to the argument that I had been putting that it would be wrong to borrow money for recurrent expenditure and it would be wrong to borrow for reducing taxation revenue. The Hon Member said that that argument, the argument that he said I was arguing, that the money will not benefit Gibraltar unless it is invested was an argument reminiscent of the Stalin era. What he considered to be reminiscent of the Stalin era was an argument fully accepted by the Hon and Learned the Chief Minister who said in this House that it would be immoral to borrow money to reduce taxation and who told the House of Assembly in 1985 that it was bridging

finance that he was getting in the Loans Empowering Ordinance of 1985 and that the Foreign Office had had the condescension to agree to it because of the anticipated negative effects of the frontier opening. That is to say, at that time the Hon and Learned Member was a prophet of doom for his colleague Mr Perez and a Stalinist for his Financial Secretary. The difficulty, of course, is that I could understand that argument like I can understand the argument the Hon and Learned the Chief Minister has put in this House where he has said since his City Council days he has always argued that capital spending should be financed by loans. That is reminiscent of the Stalin era, Mr Speaker, in the worst days of Stalin and even the Politburo, the Soviet Union no longer think like that but the Hon and Learned Chief Minister and I still do. I imagine the Hon Financial and Development Secretary is also beginning to think like that because he has told us in this House that if he takes out new borrowing powers it will be for capital spending. I mentioned earlier, Mr Speaker, the Budget speech of 1986 of the Hon Member where he was still talking about the need to maintain reserves and, of course, as well as talking about the need to maintain reserves he told us then that the national income growth in 1985 probably had gone no more than 2% or 3% up. Not the kind of percentages the Hon Member thinks opposite. The Hon Member wants us to stick to facts. Mr Perez stands here and says: "The economy has gone up by 15%". We must have the facts, are those the facts? Well, first of all, I would say the facts are that we get an abstract of statistics the day we start in the House with import figures of 1985 because the machinery of the Government has still not produced accurate data of 1986, those are the facts. Therefore I have to stick to the information provided to me by the Government because I have no other source, Mr Speaker, but what is wrong is that if the Government is going to defend their policy here they seek to defend it using information that is not available to this side of the House, that is wrong, so if the Hon Member has got information that I haven't got which makes him quote 15%, let him give me the information and then I will tell him whether they are facts or not facts when I know on what he is basing. But certainly I can tell him that twelve months ago the Financial and Development Secretary thought that the growth was no more than 2% or 3% and was not estimating for greater growth than that in the financial year 1986/87. In fact, he said: "It would be unrealistic to expect further expansion on the scale of 1985", that is what he told us twelve months ago. Does that make us prophets of doom? We come here, we sit in a Budget, we hear the Financial Secretary standing up and saying, there may be two million people coming in but when we think of the contribution that they make to the economy we must deduct the import content. Fine, I take the argument, nobody else seems to take it on the Government side. Is he saying that is the Government view or is he saying that that is his view? Because if it is a Government view then how can the Minister for

Tourism say: "Tourist spending in the economy of Gibraltar has gone up by £4m". What, £4m with no import content or £4m after the import content or doesn't it matter this year about the import content because it is an election year? It may not be an election Budget because it is clearly not going to influence the voting behaviour of the people but it is the last opportunity that the Government has got before an election of defending its economic policies. It is the last opportunity. The next time they do it it will be when the election is called because we are not likely to have a major debate on the economy between now and the election whenever the election is called. If, in fact, the result of the opening of the frontier with all this magic programme of investments, Mr Speaker, according to the eloquent Financial and Development Secretary, to quote the Hon and Learned the Chief Minister, produced no more than 2% or 3% increase in 1985 and he asked us to be cautious about 1986 and not to expect as much as 2% or 3% and we have been able to get further information from him during the course of the year as a result of questions, he hasn't come back and volunteered. He hasn't come back and said: "I am sorry I misled the House, it is not 2% or 3%, it is 10% in 1984/85 and another 10% in 1986/87". He is now telling us he thinks it could be 6% or 12% in 1987/88. Surely, if it is a principle in this House that once you make a statement when you find that the statement that you make does not, in fact, accord to the facts you come back and you correct it, I shall certainly be making a point from now on, Mr Speaker, to make sure that every time a statement is made which I find subsequently to be incorrect whoever makes a statement comes back and puts it right now that we have been told.....

HON CHIEF MINISTER:

You should do that.

HON J BOSSANO:

Yes, I think we should all do it.

HON CHIEF MINISTER:

We agree with that.

HON J BOSSANO:

He cannot deny this, Mr Speaker. He cannot deny that he said twelve months ago that the growth was probably no more than 2% or 3% and he explained why. He explained why, because of the import content and because the import content does not contribute to the national income and the gross domestic product because, in fact, the real

contribution to the economy is the margin of profit between what we pay and what we get paid. Then that figure is further eroded because he expects that during the last twelve months which have just finished it won't be as high as that, so we are talking instead of being 2% or 3%, we are talking about 1% or 2%. This year the figure is revised for 10% for the year we have just finished, 10% for the year before that and we are told that 6% to 8% may look high but, in fact, it is not high for somebody like the Isle of Man. Well, if 6% or 8% is not high for an economy of our size then 2% or 3% must be abysmal for an economy of our size because 2% or 3% is what is managed by economies like the United Kingdom and Germany and so forth, the average in Europe is in the region of 3% annual growth net of inflation. It may be pure coincidence, Mr Speaker, that these things happen at particular times when it suits a particular political situation but it does prompt us to ask to whose policies are we supposed to be responding from on this side of the House? Whose policy is it, Mr Speaker, to not have placed in the Improvement and Development Fund the £1½m appropriated twelve months ago in the Appropriation Bill of that date? And, in fact, since the Hon and Learned the Attorney-General may also speak on this debate, would he tell me whether under Section 26 of the Public Finance (Control and Audit) Ordinance, is it not implicit that when we vote the money to the Improvement and Development Fund it goes into the Improvement and Development Fund otherwise it is a totally meaningless exercise. Section 26 says, Mr Speaker: "There shall be paid into the Fund and the Fund shall consist of all such moneys as may from time to time be appropriated by written law out of the Consolidated Fund for the purposes of the Fund". We by written law, ie the Appropriation Ordinance, 1986, appropriated £1.5m and that has not been paid into the I&D Fund and we are now appropriating £2½m this year which is the £1½m we appropriated last year plus £1m in this year's Budget. My understanding of what that is intended to do is that once that the House votes that the money goes in it goes in because, quite frankly, we will not vote in favour and I think it is totally wrong. I am not saying the Government cannot do it, they can do what they like because they have got their in-built majority and they can pass anything but the Government, generally speaking, tries to persuade us to vote in favour. This is what bringing things to Parliament means. In every Parliament every Government has got a majority, why do they bother? Because they come and they explain what they are doing and they try to persuade the Opposition that what they are doing is a good thing and the right thing. They come last year here and they tell us: "We are going to borrow £1½m for the Improvement and Development Fund". Because of this law which we disagree with because under the 1982 Loans Empowering Ordinance the loans went straight into the I&D Fund without the need for an Appropriation Bill, that is included, I checked the legislation and it is included in the Ordinance, Mr Speaker.

I don't think I need to quote it but I can assure the House that I have looked it up. In fact, if I read the provision of the 1984 Ordinance which is in Section 12, it says: "All sums borrowed by the Government under this Ordinance shall be applied and appropriated without further authority other than this section to the Consolidated Fund". The Ordinance before that and all Ordinances before this one said exactly the same thing in relation to the Improvement and Development fund and therefore when the House voted a contribution what it voted was not the money that the Government borrowed, the Government had the power under the Public Finance (Control and Audit) Ordinance and under the Loans Empowering Ordinance to borrow money and put it in the Fund and it needed the authority of the House to spend the money from the Fund. When we have made contributions in this House we have made contributions from the general revenue reserve, the Consolidated Fund Balance or from the surplus of a particular year's outturn. If that policy is changed then we need to be given an explanation. Last year we supported the appropriation of the £1.1m and we told the Government: "We are supporting out of the £2m you want to borrow this year, we are supporting £1.1m because it is going into the I&D Fund. We are not supporting the other £0.9m because we voted against the 1984 Ordinance which allowed you to put that into the Consolidated Fund". Therefore I think it is wrong for the House to take a decision like that, for the Opposition to take that decision and nobody tells us that anything different has happened throughout the twelve months. We discover it when we come to the following Budget. We need to be told this time whether, in fact, when we vote the money the money is going into the I&D Fund or not because this is related to the total liquidity that the Hon Member has now invented, of course your liquidity goes up. If you borrow money and you don't spend it you have got more money. So the Hon Member says: "I borrowed £2m in 1985" - he came to the House and said: "The reserves are very low. We have only got in reserve £1.7m and therefore I am going to borrow £2m to bring the figure up to £3.7m". We didn't agree with what they were doing but we understood the explanation that they gave us and that explanation was that one couldn't be sure only two months after the frontier opening just how big an impact negative or positive it was going to have but all the experts had been pointing to a short-term negative effect and the Government was taking precautionary measures. In fact, Mr Speaker, in 1984 what he had told us was that the reserves were £7.1m and that they were going down to £2.5m because we were going to have a deficit in 1984/85 of £4.6m. He then introduced budgetary measures to raise £1.2m and bring the reserves back to £3.7m. In his second year, in fact, he revised the figures upwards all the way, it wasn't £7.1m it was £7.8m, the reserves were then £5.2m but he was expecting a deficit of £3.5m leaving him with £1.7m and then he had the £2m borrowing to which I was

making reference to raise the reserves to £3.7m. Given that until then he and every previous Financial Secretary had laid stress on the importance of the reserves, we were still laying stress on the importance of the reserves. We were asking, well, what is the correct figure? We were told, it is a matter of judgement but, of course, the judgement indicated by this is £3.7m because if the Hon Member says: "I have got £2.5m and I am going to bring it up to £3.7m" one year and the following year he says: "I have got £1.7m and I am going to bring it up to £3.7m", then it shows that the figure that he thinks is necessary is £3.7m implicitly. Of course, as I mentioned before, he was out by more in 1984 because in 1984/85 he finished up with £1.5m deficit and not £4.6m so he was out by £3.1m. In 1985 he predicted a £3.5m deficit and he finished up with £1m surplus. In 1986 we have a situation where - and these things are all cumulative obviously because if the first figure is upped like the first one was from £7.1m to £7.8m, then that is in-built into the £5.2m and then the next upward revision is on top of that. So we find that in the next year the reserves are projected, Mr Speaker, to reach £9.3m and we are going to have a £1.3m deficit part of which is going to be covered by £1m loan. It wasn't presented like that on page 5 but that is because the rules were changed in the third year for the presentation of page 5. But the reality of it is and we are trying to compare one year with the other and therefore what we have to do is recalculate the figures so that we are comparing one year with the next year with the same format and the same information and then we can tell whether the performance is going up or down or sideways, those are facts which we are being told are important in this House. In fact, during the course of my previous intervention I have been trying to get the Hon Member to tell us whether he agrees that we have a deficit this year and the word deficit has not been mentioned at all by the other side, Mr Speaker, it has been mentioned every previous year. I don't know why this year we don't want to especially if they now cease to be important. Is it that there is an inconsistency for the average person outside to hear that we are having deficits when the economy is supposed to be doing so well? We are told that we are really on a growth path like we have never had before. The Hon Member tells us that there is ample room for increasing borrowing, the public debt is going down, the servicing charges are going down, all these highly questionable allegations, Mr Speaker, statements which need to be looked at very closely and dissected to establish to what degree they correlate with the truth. We have just been given, of course, the revised page 5. And the revised page 5 is projecting reserves of £8m at the end of March, 1988. Now that the reserves don't matter I am not sure what importance one should attach to this figure anymore because that doesn't tell me what the liquidity is at the end of March, 1988. If the Financial and Development Secretary says that what is important now is liquidity

and he has convinced the Hon Mr Perez that we are all going liquid, then cannot we be enlightened on how liquid we are becoming, Mr Speaker, because that is the important statistic that we have to look at. I will look at whatever statistics the Government wants me to look at. They can point in whatever direction they want to point but what they cannot expect is that they say: "This is the important indicator of economic performance", I analyse that indicator and they say: "No, that one doesn't matter, it is a different one". If it is liquidity let me tell the Hon Financial and Development Secretary something. For the last fifteen years the people of Gibraltar have been taxed unnecessarily by the AACR because no attention has previously been paid to liquidity in taxation policy. It has never been mentioned once in announcing tax changes in this House. The liquidity position in 1972 when the AACR came into Government shows that the erosion since then is even worse than if we limit ourselves to reserves because in reserves we are looking, as the Hon Member knows because I quoted his speech of last year and the year before and the year before that and he was quoting of his predecessors with whom he now disagreed because he says they all conned the Government except him who is trying to con the Opposition obviously, they all made reference to the fact that the reserves because of the change that took place in 1976, Mr Speaker, when the Funded Accounts were created and therefore the receipts from the Funded Accounts were included as revenue and put into the reserves on paper even though the bills were not paid. Until 1976 the liquidity was higher than post-1976 because the amount in the Consolidated Fund was made up of cash and if electricity bills were not paid then they didn't appear as revenue and they didn't appear as an asset, they didn't appear anywhere. Therefore one of the things that has eroded the liquidity post-1976 was that the general revenue reserve became the Consolidated Fund Balance and the Consolidated Fund Balance included the unpaid bills in the four Funded Accounts. Whenever I made reference to that here in the past, Mr Speaker, I was constantly having the Government arguing against me because I was correct in the figure for unpaid bills. Now that we are talking about liquidity we shouldn't be thinking then in terms of has the Government done enough to redress the balance of high taxation because, again, is taxation in Gibraltar high, yes or no? It depends who you ask. If you ask the Hon and Learned the Chief Minister who is a politician and has to respond to what people want, he will say: "Yes, it is very high". If you ask the Hon Financial and Development Secretary he says: "Nonsense, it is not very high. It's as a proportion of national income". Why hasn't he brought in all the Budgets including this one statistics showing the proportion of national income that we pay in taxation in Gibraltar? How long has it been lower than UK as a proportion of national income? In this Budget for the first time ever, since last year? I think, Mr Speaker, the reality of the situation is

that on this question in particular of the concept of liquidity overriding everything else, we certainly need a much more detailed and full explanation than the passing reference in the final sentence of the closing speech on the Finance Bill, much more than that. One assumes because the concept has not been explained, that in looking at the idea of liquidity the Hon Member is looking at the degree to which the Consolidated Fund Balance is in debt to the Special Funds, as it were, or is owed money by the Special Funds. If we look at the audited accounts for 1984/85 and 1985/86 and obviously I have not had a great deal of time, Mr Speaker, to do any major research on this subject because it was raised yesterday and, as you know, we have been busy since we finished the House yesterday with the visiting MP's and this morning, in fact, I have been with them since 9 o'clock and I have had very little time to look at this except the last half hour. I am raising that in case I am not accurate in what I am saying. I will, of course, be doing more work on this subject and the Hon Member can expect liquid questions for the next twelve months, Mr Speaker. If I am not re-elected I'll never raise the subject. I can write after that can I or not even that?

HON A J CANEPA:

If you are no longer a Member of the House.

HON J BOSSANO:

Looking at the 1984/85, 1985/86 audited accounts we don't have more recent information than that, on page 87 of the 1985/86 accounts and the equivalent information for the preceding year which is on page 84, what we have is a situation showing the balances in the Special Funds and the degree to which negative and positive balances cancel each other out leaving a residue which is due to the Special Funds but standing to the credit of the Consolidated Fund. That is something that increases the liquidity of the Consolidated Fund. Is that one of the factors that the Hon Member is looking at? In that case, yes, there was an increase from the preceding year where the balance is shown as £182,000 to a balance of £740,000. Of course, those balances of those Special Funds include a lot of things including the Social Insurance and the Employment Injuries and the Note Security and the Savings Bank. Is he taking account of all those in assessing total liquidity? Because if he is and he is arriving at the £14m by that procedure I would ask the Hon and Learned the Attorney-General whose comments I have invited, whether he would agree with me and I am asking for all this assistance because of the limited time I have had, Mr Speaker, whether he would agree with me that under the Public Finance (Control and Audit) Ordinance where it says, under Section 22 that a Special Fund has to have a separate account and shall not form part of the

Consolidated Fund neither the receipts nor accruals of Special Funds nor any balance of moneys standing to the credit of the Special Funds at the close of the financial year shall be paid into the Consolidated Fund but shall be retained in that Fund for the purposes of such a Fund. How can the Hon Member if he is doing what he appears to be doing in explaining the position of total liquidity and counting the £14m say: "I have now got £14m because there is money in the Savings Bank which is not my money, it is money of the savers but is currently in surplus and I am putting to the credit of the Consolidated Fund as reflected in the statements of the Special Funds shown in the audited accounts". Because if he is not referring to those balances then certainly I would be very interested to find out where I can look for the £14m, Mr Speaker. I also think that the subject raised by my Hon Colleague Mr Mor in relation to the social insurance contributions for seafarers where the Minister for Labour admitted that nothing is being paid, I would certainly invite also a comment from the Hon and Learned the Attorney-General on that subject, whether there is in fact a responsibility on Government's part to try to collect those contributions. Because if the Government is not collecting them and is not trying to collect them and there is a liability to the Fund then is it right that that liability to the Social Insurance Fund should be a liability on the contributors to the Fund or a liability on the Government which as a matter of policy has not collected and I think it is an important thing because we are talking about the Appropriation Bill and we are talking about potential liabilities to Government which have to be funded and paid out and if we are being told about a hospital in 1992 then it is not unreasonable to talk, for example, about Spanish pensions in 1988 if we are looking that far into the future. I would certainly welcome a comment from the Hon and Learned the Attorney-General on that subject and point out that that liability presumably could be quite a substantial one. Certainly I can tell the House that NUMAS, the officers' union in UK and the National Union of Seamen are pursuing the matter on behalf of their members who are working on Gibraltar registered ships and are raising the matter both with Her Majesty's Government and with British companies that have Gibraltar registered ships such as BP. The Government might argue that they are not able to track down the owner of the Syneta but they can hardly expect us to believe that they cannot track down the owners of BP. I would welcome as well, Mr Speaker, an indication from the Government although it isn't something that is going to be or have to be paid in the current financial year but it is something that we are not going to have another opportunity to discuss because there isn't going to be another Budget in relation to the liability to pay Spanish pensions. That is to say, the liability which, as we all know, has been quantified at something of the order of £100m over the next fifteen or twenty years and where the situation

is that there are on-going discussions with the British Government about who foots the bill and our understanding of the Gibraltar Government's position is that they have indicated so far that they consider that Gibraltar's contribution to funding this bill should be limited to the payment of those pensioners who had already reached retirement age at the time of the closure and that such a contribution has been estimated to be of the order of £1½m. If that is the policy of the Government in that respect then we want to know whether what we are talking about is, because they must have thought it through presumably, if they are willing to put £1½m in are they talking of the £1½m being a contribution from that pool of liquidity that the Hon Financial and Development Secretary has? That is to say, from the Government's money as Government or is it that the Social Insurance Fund from the social insurance contributions made by employers and employees is going to meet that because again I would have thought that if there was an argument of Government policy, if we were the Government and we decided as a Government to do it we would feel that it ought to be done as a contribution to the fund from the Government the same as the British Government's contribution and not to be paid by the insured working population. But we would like to know what the Government's policy is on this matter because it is a matter which obviously will affect the financial year after this one and we have been told in the Appropriation Bill about things that are not going even to commence in the financial year after this one. We have been told about longer term projects than what I am talking about and longer term viabilities than what I am talking about in terms of spending. I also must say, Mr Speaker, that having reacted to the proposals of the Government contained in the Finance Bill and I am sorry to have to go back, Mr Speaker, on the subject. Having reacted to the proposals of the Government contained in the Finance Bill, on the question of the treatment of occupational pensions for tax purposes and the commutation, nobody has yet given me a reply. That is to say, nobody on the Appropriation Bill and nobody on the Finance Bill has come up refuting the arguments that we have put against this measure. We consider that the proposal, having read over it again, as we understand it, Mr Speaker, the situation is - because it was in the Financial and Development Secretary's contribution and I have now got too many of his speeches here and I cannot remember which year I am looking for, here it is, it always turns up, not the Financial Secretary I mean the papers, Mr Speaker. The Hon Member said it was customary to allow up to 25% of the capitalised value of a retirement pension to be taken as a lump sum free of tax and that this was referred as 25% commutation. I asked him: "Customary, not in Gibraltar", no answer. He said that there was no intention on the Government to interfere with the operation of any existing scheme and suggested that, in fact, no further approval would be given and that none had been given

for the last two years. Does he mean then that the present schemes where the Government has informed the employers, for example, the three stevedoring schemes are not going to be given approval?

HON CHIEF MINISTER:

That is supposed to be under consideration and covered by the new policy.

HON J BOSSANO:

Well, it is not very clear from this because the Hon Member says: "No further approval will be given to any other one and no approval has been given for some two years". The implication of that is that the only schemes that will continue to retain the facility for 100% commutation and be approved are those that were approved two years ago.

HON CHIEF MINISTER:

If the Hon Member will give way. The stevedoring application has been in since 1981.

HON J BOSSANO:

Yes, I know that, Mr Speaker, I negotiated it.

HON CHIEF MINISTER:

Well, if you know you should know the answer.

HON J BOSSANO:

I can tell the Hon Member that until now the answer has been that it was not an approved scheme because when they submitted a request for approval it was within the last two years, although the scheme had been ready and agreed before and although there had been correspondence because of problems and so forth and that was the answer that has been given in the correspondence that I have seen, Mr Speaker, with the people who managed the scheme.

HON CHIEF MINISTER:

I would compare that with the fact that when you are in a pub and closing time comes those who are inside can continue drinking.

HON J BOSSANO:

I am not sure that I should ask the Attorney-General to comment on that actually, drinking after closing hours but still that might be a new rule, Mr Speaker, something to do with liquidities.

HON CHIEF MINISTER:

They can carry on drinking though they are not allowed to be served newly. They can consume what they have.

HON J BOSSANO:

The Government then goes on to say and that is what they are legislating for and on that again we have not had an attempt to rebut any of our arguments and I think there are more arguments which I want to adduce at this stage because it will give them presumably the opportunity of thinking further about this before we get to the Committee Stage. The Government is going to introduce, Mr Speaker, a tax which establishes a new principle. That is to say, it appears that the approval will include the stevedores, presumably because having taken them to Court and failed really there is not much the Government can do except approve it, but what we are told is that any new employee who joins the company with the same conditions and I don't see how the Government can tell an employer to have discriminatory conditions between new employees and old employees, any new employee will on retirement be taxed. We are legislating to tax people who take up employment after a certain date. That is a totally new concept in taxation, Mr Speaker.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No.

MR SPEAKER:

Paragraph 87 of the speech is that what you are referring to?

HON J BOSSANO:

That is right, Mr Speaker. We are saying that anybody that takes up employment, for example, as I have mentioned before, Gibraltar Shiprepair Limited, Mr Speaker, has got an agreement which provides for 100% commutation. Whether that has been approved or not approved is irrelevant. I can assure the Hon Member that there is correspondence on the subject, I know that they have such an agreement. Let us assume that that scheme is found to be an approved scheme and that it was submitted in time and all the

rest of it. We are then told that any new employee of GSL after the 30th June will on retirement pay more tax than somebody that was working on the 29th June on receiving the same amount of money for his retirement. However, the tax is related to the fact that he has got more than 25% of the sum that he would have got as a pension, that is what the Finance Bill says. At the same time, Mr Speaker, we have introduced legislation in this House which I opposed incidentally when it was introduced by Mr Mackay in 1975/76 which says that an expatriate who does not get a pension gets a lump sum which is tax free notwithstanding the fact that the lump sum he gets is not 25% of his pension, it is 25% of his salary for every year of service. So somebody comes here, works for three years for the Government and gets paid out of the taxes that the pensioner has to pay a lump sum payment of three-quarters of his salary tax free as a gratuity in lieu of a pension. Isn't that commuting a pension into a lump sum? I am not sure whether the present Financial and Development Secretary would be entitled to that payment but certainly his predecessors have been.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, only Alistair Mackay.

HON J BOSSANO:

Alistair Mackay was the one who legislated it, I think I have mentioned before, Mr Speaker, that I was very upset because he brought two Bills to the House of Assembly, one increasing the tax for all of us and another one taking it away from himself and I thought really that was going too far. In looking at the section it says that it is in excess of 25% of the capital value of the pension to be paid to an individual on retirement. What happens in places where there are no pensions and people get paid capital sums on retirement and they don't get a pension? Is that deemed to be a capital value of the pension even though there is no agreement to provide for a pension? I can tell Hon Members opposite that there are firms in the private sector who have got retirement gratuities that are so generous and tax free under the Income Tax Ordinance because any retirement gratuity without limit is tax free, are so generous that the employer has tried to replace it with a pension and I have advised the people concerned not to take the pension because a gratuity is better because they get five or six weeks of their final salary for every year of service as a lump sum and they can then go and buy themselves an annuity. But it is not a pension scheme and therefore nobody could argue that they are converting although they are doing exactly the same as other people are doing, exactly the same but it isn't formulated as a pension being converted into a capital sum which is the point that I made before in relation to the difference between private sector

schemes and public sector schemes which the Government has simply ignored totally and failed to answer. It is not true that people are commuting pensions into lump sums. People are guaranteed a lump sum which they then use to buy an annuity and therefore what is guaranteed is £x at the end of your working life. Furthermore, Mr Speaker, we have a situation where I believe in the Estimates there is a sum of £8,000 provided under the Appropriation Ordinance for advice to the Chief Minister on external affairs. Am I identifying the right vote for.....

HON CHIEF MINISTER:

Yes, I will deal with that in the Committee Stage and give full particulars.

HON J BOSSANO:

Here we have, Mr Speaker, we have somebody that retires at 55, that probably collects something in the region of £60,000 tax free, that is then given £8,000 in this Budget at the same time as we tax at 20% somebody who may collect £4,000 or £5,000 because it has nothing to do with the amount of money. The 25% for one person can be £50,000 or £60,000 and 100% for somebody else can be £5,000 or £6,000 and the people that we are talking about in these schemes which have only been going on for two or three years in most cases, they are very, very recent pension schemes in the private sector, all the people used to get was a gratuity. It has been made into a pension fund primarily because in many, many cases people were not very wise with their money and if they got their lump sum they tended to spend it and in order to give them greater protection the position has been that employers have actually constituted pension funds to do this and obviously at the same time the value of the fund is enhanced because it is non-taxable. That to me seems to be in the same Budget to be voting the two things, quite frankly, seems to me to be totally immoral and if I was one of those people I would raise hell that I should be paying for both out of my taxes. Why? Because the Government must protect its revenues. What does the Government mean that the Government must protect its revenues? Whose revenues? The revenues of the people of Gibraltar. The Government has got the stewardship of that money. When the Government comes here and tells us in this same House 'I am going to take away development aid because it has done nothing really to change the attraction of Gibraltar for investment purposes because there is now a wealth of economic opinion that it doesn't really make any difference'.

HON CHIEF MINISTER:

It is not my part but that is not what was said. What was said is that in a different climate it is not necessary to have that attraction which was necessary when there was no attraction.

HON J BOSSANO:

I shall read what was said, Mr Speaker, and then we can decide what the facts are.....

MR SPEAKER:

You are being very analytical about what other people say. I think there can be different versions.

HON J BOSSANO:

No, Mr Speaker, the facts are written down. It says: "It is arguable whether investment decisions rest critically on the availability of tax concessions. Twenty years ago it was thought that they did. There is now an impressive body of economic opinion which takes the contrary view, that they merely encourage inefficient use of resources". There is nothing there about the present climate, it has nothing to do with the present climate. It says the view of twenty years ago is incorrect, that is what the statement says.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Read on.

HON J BOSSANO:

Yes, I will read on, why not? It then goes on to say: "Be that as it may, the loss of tax revenue is impressive. The tax concessions granted under the present Development Aid Ordinance amount to £20m", so we have lost £20m in tax doing something that is arguable whether it has brought us any benefit and we are going to give one project £30m, more than we have lost ever before and that is not looking after Government revenues. That the Government can afford to do, but there is no problem. Why? Taylor Woodrow can come along and spend £30m and we give them £30m of tax concessions on top of the £20m we are giving them already having established that it is arguable whether it makes any difference, according to the impressive body of economic opinion, but what we cannot do is risk a stevedore at 65 getting £5,000 a year and not paying £500 pension, that will bring the whole edifice tumbling down and all our liquidity goes down the hole. And then the Hon and Learned Member wonders if I get excited, it is enough

to blow your top, Mr Speaker. I hope, Mr Speaker, that I have come closer to convincing the Government of the unwisdom of what they are proposing to do which we are going to vote against and which I now commit the GSLP if the Government goes ahead with this legislation, I commit the GSLP to repeal if we are elected and if any person is caught by this legislation between now and the next elections, then not only will we repeal it, we will repeal it retrospectively and we will refund any tax that has been taken of them by the AACR. That should convince them if noting else, not to do it.

HON CHIEF MINISTER:

Good propaganda.

HON J BOSSANO:

Precisely, that is why we can convince the Hon Member. All the arguments that appeal to morality would not. The one that is good propaganda for an election will, I knew it would work, it never fails. Mr Speaker, since I am on the subject of pensions, the Hon Mr Mascarenhas referring to the changes in the estate duty said that we should give credit where credit is due. I have already mentioned that - I think it was in the 1984 Budget - the Government came along with a proposal to reduce the indexation of pensions by 50% because the situation was so bad economically. They had just won an election on the basis that they had a package that was not only generous but good in itself and they came here a month after saying the economic scenario was so bad that they could not afford to increase civil service pensions in line with inflation and they were going to be reduced by a half as an economy measure, that is how bad the situation had got. We persuaded the Hon Member to change his mind as I hope to persuade him again on this occasion. I think again because he realised just what a politically dangerous thing that 50% cut in inflation indexing of pension was given the number of pensioners who are clearly supporters of his party because they were with him in the civil service when he started off in politics forty years ago. The people whose pensions we saved from the cuts of the Government were primarily his supporters, he knew that. Therefore, he never gave us credit for it then or since and I don't think it would have made any difference, I don't think those people will vote for us even though we are taking the credit for it now, Mr Speaker. But since the Hon Member, Mr Mascarenhas, told us that we should give credit where credit was due and since my Hon Colleague Mr Perez showed the example that one should follow by taking credit for the things he was doing, I have decided to do the same thing myself, Mr Speaker. I think also worth mentioning is that, of course, in 1986/87 in the revised estimates, the Consolidated Fund, Mr Speaker, shows the cost of pensions to which as I

referred the Government wanted to introduce a cut in 1984. The pensions, Mr Speaker, in 1986/87 came to £3,294,000 and that is £90,000 more than estimated. It may interest the House to know that in October, 1983, before the last elections, I brought a motion to the House asking for the entitlement of industrial workers to a pension to be reduced from twenty years to ten and this was taken away for study by the Government and the Minister for Economic Development came back in December and told me the Government accepted the principle of reducing the entitlement to a pension for industrial workers but such was the cost to the Government of reducing this entitlement that, in fact, it could only be as a total package with a unified pension scheme which effectively reduced the eligibility to a pension for new entrants into the civil service below what it exists now. So they were partly financing or totally financing or even making a profit on the cost of the pensions for industrial workers by cutting the conditions of service and the value of the pension for civil servants. Of course, after many questions, motions in this House, eventually the Government relented and has given in 1986/87 the backdated pensions and I am very happy that that happened, Mr Speaker, because it meant that a lot of people who were in fact going through a very bad period, they were forcibly retired by Government because they were over 65, they got a letter telling them: "You are going to get a pension as soon as this is agreed with the unions", the unions would not agree. I think the Government was trying to twist their arm by putting the moral responsibility for the predicament of those pensioners on the unions and the unions still resisted and eventually the Government accepted to pay the pensioners and brought an amendment to this House which we were very happy to support and here we have the bill for that. It's ridiculous, Mr Speaker, to say that this amount of money, and I am sure not all of that £90,000 by a long chalk, is due to the pensioners that went, the fifty or sixty industrial workers. But we must remember, first of all, that what they got paid in 1986 was backdated to January, 1984, so in fact that will not be the annually recurrent cost, there was an element of more pensions this year and in that as well we have had the unanticipated retirements from the service of people who have chosen to go at 55 and who might have stayed on and who therefore have increased the pension bill. I am pointing this out because again it just shows, Mr Speaker, how we can have heated debate in trying to persuade the Government of something in this House and at the end of the day they finish up doing what we are suggesting that they should do at enormous and unnecessary expense to themselves and everybody else in the time wasted. The unified pension scheme on which the Government spent money in bringing a consultant is now a dead letter and the Government has now accepted it is a dead letter. Without this unified pension scheme it was impossible to do anything for the industrial workers. It has been

done and it was not impossible and it has been done with retrospective effect so it could have been done all along. If they had listened to the arguments then a lot of unnecessary time would have been saved, those people would have had their money when they most needed it, we could have saved a lot of money, that is, the people of Gibraltar could have saved money because we didn't need any expert. The Government kept on bringing an expert to tell us how to replace the existing pension scheme and all the expert ever did was to look at the MOD one which had been negotiated in 1980 and which was readily available to all of us. I think the Hon Mr Canepa who has given me school mastery advice the other day of how to govern and I can assure him that I might have been fifteen years on this side of the House, Mr Speaker, and he has been there fifteen years but I have no intention or desire of emulating his performance in Government or that of the AACR. I would much rather stay another fifteen years here than govern one year as they are governing Gibraltar today.

HON CHIEF MINISTER:

What has that got to do with the Budget?

HON J BOSSANO:

The same as the G-strings and the bras and the underwear, Mr Speaker, or much less. Does he want me to answer the Government policy on Libya and Nicaragua and all the rest or did that have something to do with the Budget?

HON CHIEF MINISTER:

But not for an hour and a half.

HON J BOSSANO:

I am sure, Mr Speaker, that when you feel that I am repeating myself or deviating from the subject you will draw my attention.

MR SPEAKER:

Most certainly.

HON J BOSSANO:

Thank you, Mr Speaker. Perhaps if the Hon Member is going to retire after all and since you have made up your mind to retire and since he is obviously so keen to call me to order we will consider inviting him to take the Speakership when we take over in Government. Of course the Hon Mr Canepa was concerned as well about my inability to convince the Finance Centre. The contacts that I have had and the meetings that I have had with a number of people in the Finance Centre have been to.....

HON A J CANEPA:

If the Hon Member will give way because even with the Finance Centre we are dealing with a matter which is not entirely a defined domestic matter, only company law is. But certainly in the case of the pensions that he was referring to that is not a defined domestic matter and for all that he says the inability of the Government to bring legislation to the House to give effect to what we had committed to do in 1983, he must admit is in stark contrast to the speed with which on matters of a defined domestic nature, namely, social insurance pensions for which I was directly responsible as Minister for Labour for a number of years, the rapidity with which I was able to bring legislation to the House and bring about many improvements for the benefit of pensioners who had been neglected for many years. I hope at least he would have given me credit for that.

HON J BOSSANO:

I will give him 50% credit for that, Mr Speaker. I brought the motion in 1976 prior to the election proposing that the pensions should be linked to average earnings or inflation, whichever was higher and the Hon Member legislated that after the 1976 election and I am sure that he supported the concept then, supports it now and believes in a good social insurance scheme and I give him credit for thinking the same way as I do on that subject, I wish he did on everything else.

HON A J CANEPA:

If he will give way again, I won't interrupt him again. Prior to that legislation in 1976 I carried out three reviews of the Social Insurance Ordinance which increased the pensions by leaps and bounds during a three year period prior to 1976.

HON J BOSSANO:

Yes, I think it is perfectly true, Mr Speaker, that after 1972 and between 1972 and 1976 the Hon Member did much more to improve pensions than has ever been done before, there is no question about that, in fact, I think he argued that the policy that had been accepted before, I think by Mr Xiberras, was that you couldn't do anything except quinquennially when the Actuarial Reviews took place and he never accepted that. He said: "Fine, we are going to anticipate the thing and if the Actuarial Review shows something different then we will adjust" and I think it was certainly a move in the right direction and one that was supported when he brought it to the House in 1972 and 1976 and one that he did on his own initiative so on that one he gets full marks. The only

thing is he is making me look like a school teacher and not the other way round, Mr Speaker. I was about to enter the Finance Centre when the Hon Member asked me to give way. The situation is, of course, that the commitment to the Finance Centre is not reflected in the estimates other than in the sense that we have been told that part of the reason for the building boom is derived demand for office space and that the office space is demanded by the growth of the Finance Centre. So to the extent that the Government supports development of offices they are supporting the Finance Centre. However, if one carries out through logically, if they are retaining development aid for housing projects and removing it from office projects then the logic would be that if I was a developer and I am going to have to decide whether I build offices or I build houses, I will decide to build houses if on taking into account development aid I make a bigger profit. To the extent that development aid makes any difference or not to the decision and the Financial and Development Secretary argues that it doesn't and if it doesn't then you don't need to retain it for anything because if you are retaining it for housing you are assuming that it will divert some resources into housing that would otherwise have gone into something else. I think it must be logically so, Mr Speaker. But that seems to be to me the only thing that is included in this Budget that can be considered remotely to bear on the subject of the Finance Centre which is now fast becoming the only pillar of the economy. We have heard from the Hon Mr Zammitt the kind of scenario of tourism which they would like to see and I must say the Hon Mr Zammitt in our judgement has been practically the only one that has spelt out clear policy objectives and what we feel is important is and what we will do, Mr Speaker, as a Government, is to announce what we are trying to achieve before it happens not after it has happened and then people will be able to judge us by our performance against targets on growth, on employment, on earnings. We will say: "This is what we project and predict is going to happen in the next twelve months and we are going to achieve that target introducing certain measures". Then we come back and we say: "We have either achieved it or we haven't achieved it". Most Governments in most places do that. The Government of Gibraltar has never done that because it doesn't have a clue, Mr Speaker. The Hon Member opposite, the Minister for Economic Development, said on the 18th September, 1984, in a speech on an International Management Conference in the Rock Hotel talking about the Finance Centre: "If we are to develop our areas", that is, he had already clearly stated that really the only two pillars of the economy were the Dockyard and tourism - "However, if we are to develop our areas, for example, finance centre activities, Gibraltar will need to secure a sensible arrangement with regard to EEC Directives on the lines of, say, the Isle of Man or Jersey. There is resistance to this but we cannot acquiesce easily". In September, 1984, not only was it

not a pillar of the economy, the Hon Member didn't think it could become a pillar of the economy unless we changed our EEC conditions which is, in fact, what my colleague was referring to in his intervention as the commitment in the GSLP manifesto to do precisely this because, in fact, this is what the Finance Centre people have been saying to us. The people that constitute the kind of Finance Centre that we have in Gibraltar if that can be called a Finance Centre. Because, obviously, the Hon Mr Perez thinks I know nothing about what a Finance Centre is. It is quite obvious in the kind of distinction that I have drawn, Mr Speaker, that I do know a little bit about it, I am learning all the time and making it my business to talk to people and read about it and get the picture, what I accept is that I don't know as much as he does about registering tax exempt companies because I don't earn my living doing that and he has got all the walls in his office plastered with them. But I don't think that that, which has been going on for a very long time, it has been going on more than in the past, that is really what the Financial and Development Secretary was referring to when he is talking about 'the international banking community recognised in Gibraltar now as a serious Finance Centre'. We certainly agree with that kind of philosophy, that kind of statement, that kind of policy and I believe honestly, Mr Speaker, that the AACR cannot say that they are responsible for that happening because they thought it couldn't happen because a lot of people thought it couldn't happen with EEC Directives and so forth. To show how the Government's view to the situation changes, having said what he said in September, 1984, in April, 1985, six months later, in another speech the Minister for Economic Development is telling people in the Heritage Conference that 'the problem today in Gibraltar is not so much to encourage development but to control development and that the frontier opening has brought exciting potential for economic growth'. A six months difference between one and a radically different scenario of the economy. A scenario by the way, Mr Speaker, which in 1985 was not being preached by the Government at Budget time in this House. Having said this on the 19th April, 1985, they brought a Budget in April, 1985, which projected reserves of £1.7m, which projected huge deficits and which projected breaking with the past and borrowing money to cover the deficits. In 1985, when this exciting potential had already materialised and the problem was controlling development and not encouraging it. That is where we feel there is a fundamental policy difference and I suppose to some extent we are bound to be disappointed, Mr Speaker, with the Government's Budget because really what we are looking for is not there because they do not share to the degree that we believe is necessary the kind of framework that we consider makes for good Government. They have never done it, they don't feel the need to do it and, in fact, they change and chop according to the wind and we are looking for a kind of direction being given as a matter of Government economic

policy in the Appropriation Bill and in the Finance Bill and we don't find it because it is not there and it is not there because they are incapable of doing it. What they are capable of doing, of course, Mr Speaker, is creating scenarios which they seem to have the good fortune to have reflected in the press however poor the contributions may be here and so if we have a situation, for example, where we have got election fever it is not an election fever that has been created by us, it is an election fever that has been created by the Hon and Learned Member's New Year Message where he said 'by January, 1988, there will have been an election'. I accept what Mr Canepa said in his contribution that it is their prerogative to choose the timing, that is true and I accept entirely that but for that remark in the New Year Message I would have said the probability is that the AACR would do its full term because I have never known the Chief Minister to want to do anything different and that really, apart from the fact that we are saying as most Oppositions do that we want an election, there is really no reason why they should be required to go to the people before if they don't want to because the people have given them a mandate to govern for four years and they are perfectly entitled whether we like what they do or we don't like what they do, to do their full term. The only reason why we have come to the conclusion that this was not going to happen on this case quite frankly, was because it was mentioned in that statement and I think that is what set it off.

HON CHIEF MINISTER:

And you caught it very badly, the fever, lots of people in high fever.

HON J BOSSANO:

That is the impression that has been created and that is what we are reacting to, Mr Speaker. I think it is important, of course, to give correct impressions and I made a reference earlier on, I think it was during the Finance Bill or after the Finance Bill, to the fact that the headline in the Chronicle at the end of the Finance Bill was "£4m giveaway", "Tax cuts of £4m" or words to that effect and the Hon and Learned Member said he was not responsible for what the Chronicle puts. In fact, I approached the Chronicle and the Chronicle told me that what they had put was what there was in his written statement which they had got which is that it will be up to £4m. We have now had the revised estimates of revenue given to us belatedly because there was a hiccup in the system, we have been waiting for this to happen and it hasn't happened until now and what we get now is that, in fact, the income tax yield is predicted to come down in 1987/88 by £2.7m. In fact, what the Government is

saying to the people of Gibraltar is: "In 1987/88 you will pay £2.7m less", not £4m, £2.7m less, "than you would have paid had we not changed the allowances". That is what the Financial Secretary says in his statement. Therefore what do we have, Mr Speaker? We have a situation where the Government brings us this statement along and we look at it and we find that in the year that has just finished they have collected from the people of Gibraltar £24m which is what they thought they were going to collect last year before the changes. Last year they said: "We are going to tax you £24m. However, because.....

MR SPEAKER:

You are talking about direct taxation, I imagine?

HON J BOSSANO:

I am talking about income tax, Mr Speaker. "We are going to tax you £24m" because that really is what tax is, this one, Mr Speaker, that is the one you cannot escape. The others, well, if you pay import duty you are paying for a product and if you want to buy it you buy it and if you don't you don't and you don't pay the tax. But on that one you are caught. They came here twelve months ago after saying the growth was only 2%, we had to be cautious, we must not be over optimistic and so on and so forth. I think my Hon Colleague called it the slackening of the belt before they drop their pants altogether but I daren't say anything like that this year, not when the others have gone so revolutionary on the other side, I don't want to go further than dropping pants, Mr Speaker. We have a situation where the Government comes and tells us twelve months ago: "The people of Gibraltar will be taxed £24m in the next twelve months. However, because of the improving climate, we are going to carry out some changes and it means that instead of taxing them £24m we are going to tax them £21.6m". During the course of the year, as late as November, I asked the Hon Financial and Development Secretary - I asked the Government but he answers all my questions, Mr Speaker, as you well know, that is why I have to bash Traynor, if Traynor didn't answer somebody else would get the bashing - but he tells me that the figure has been revised marginally upwards and that he is still expecting the year to finish up with £800 deficit originally projected and I think the figure on income tax was up by something like £1m. By January or February this year it had been revised upwards by £1.9m and we now find that the latest forecast result for the year is that the £24m they said they were going to collect without the changes is what they have actually collected. People have actually paid in 1986/87 the highest amount of income tax in Gibraltar's history.

HON CHIEF MINISTER:

If the Hon Member will give way. You can fiddle about with all the arguments you like but it is not the same people that are paying that tax, it is more people that are paying that tax, it is more money that there is in the economy and therefore it isn't the individual that is paying less. It does not mean that the individual is not going to pay this tax, it is that there are more people paying this tax. The whole question of the dramatic change in the economy of Gibraltar brought about by the opening of the frontier is something that the Hon Member entirely forgets, has nothing to do with everything that is happening in Gibraltar.

HON J BOSSANO:

No, Mr Speaker, I think the one who entirely forgets it is the Hon and Learned the Chief Minister because he is the one presenting the estimates to the House and then I want him to explain to me if there are more people working why is he estimating £25.5m as the revenue for 1987/88 because that doesn't show more people working, that shows the same people working. A £1½m increase in yield is nonsense. If you are putting that your wages in the Government alone is £1½m, that alone will produce for you £600,000 out of £1½m and you have got £900,000 for the wage increases of the rest of Gibraltar without one single person working. The reality of it, Mr Speaker, as we all know, is that the Government has great difficulty in getting PAYE collected. They are introducing measures in this House to increase the collection of PAYE and I doubt very much how much of the increased employment is at this stage showing through in these figures. However, if they have got factual information let the Hon Member tell me, since he seems to know, how much of the increase the £21.6m to £24m is due to increases in wages and salaries and so forth which is what the Financial and Development Secretary attributed to in a previous debate when I asked him a question about yield, he didn't put it to more numbers he put it to the level of wages and there is no doubt, the surveys show it. We have had a survey presented by the Government here showing earnings in October and I can tell the Hon Member's opposite that that earnings understates the situation because don't they correlate anything? Don't they know that the whole construction industry was on strike in October? They didn't know that. And that therefore the level of earnings reflected in the survey will be shown when the April survey comes out, not the last October survey. Don't they know, don't they keep an eye on the settlements in the private sector to see what the trend in wages is when they do these projections? Of course they don't. The situation is that in 1986/87 the Government has collected from the people of Gibraltar £24m, Mr Speaker, £2m a month. There used

to be a time when £2m a year was considered astronomical. If their projections on the economy are to be believed which is what I accused them of last year, Mr Speaker. Last year we were being told on the one hand 'We are going to collect £21.6m', and on the other hand 'There are more jobs, there is a Finance Centre, tourism is increasing, this is happening, the other is happening' but it doesn't show through in income tax. Both things cannot be true so let us get our facts right and if the Government is, in fact, projecting that this year the so-called give-away, that is to say, that we are going to pay £2.7m less in tax, let the papers carry the headline "£2.7m" and if the people think it is a good thing, fine, but don't tell people that they are going to get 50% more than they are going to get when it is not true, if we want to stick to facts and we want to make sure that things are put out correctly. The next day we get told that a new hospital has been announced, the Government is going to build a new hospital. It is news to me that the Government is going to build a new hospital. I cannot find it in the Appropriation Bill or in the Improvement and Development Fund. All that I know is that there is a report which we managed to get late last week which we were told was available to us in confidence which then gets quoted in this House which we are not prepared for, unfortunately, because we didn't think it was going to be quoted, and when the Hon Member says the thing is being studied and they are, in principle, in favour of it and we are talking about the possibility of a new hospital in the Naval Hospital site after 1992 by whoever is there after 1992. There is no commitment here now to build a new hospital. This Budget is not about giving away £4m or about building a new hospital, this Budget is about winning the next election in circumstances where they are trying to paint as rosy a picture as they think they can get away with and getting upset because I am taking some of the tint away, Mr Speaker, that is what this Budget is really about. Where in the expenditure is the commitment to housing that the Hon and Learned the Chief Minister in his last year's Budget speech clearly stated was important and a priority for the Government? What money is being spent on housing? Well, we are very happy for the people of Catalan Bay, Mr Speaker, who are going to have twenty units built for them which will solve the housing problem. That is what the Minister has told us. We are very happy for the twenty people in Catalan Bay who will not have the housing problem any longer. I don't think the 2,000 outside Catalan Bay are going to be very happy that the twenty in Catalan Bay have their housing problem solved because they have nothing at all for the other 2,000 in this Budget, nothing at all in the Appropriation Bill. What they have is a project at Engineer House of houses for sale to people who give up Government accommodation, that project is intended to start, I believe, early in 1988, those houses will not be ready in the current financial year and nothing

in this financial year is being done for the housing waiting list, nothing at all. Of course, if I was living in a community where there are going to be twenty houses built and there are going to be twenty people living in those houses I would be quite happy to wait one year or two years or whatever for the twenty houses, but if I belong to a community where there are 2,000 people and there is nothing at all except the prospect in three or four years time that somebody might want to give up their Government house and move into a new house which they buy from the Government at cost price. We have been told in answer to previous questions that the houses at Engineer House are going to be at cost price, I am not sure what that means, probably my colleague could tell me, £27,000 is going to be the estimated cost price, I believe. If they are selling houses at £27,000 as the cost price and I am surprised that they feel they can do that having told us there will be no charge for the Montagu and no cost for the infrastructure for the Montagu provided free of charge by Government, there they can only be built for £35,000 and that is the price they are going to build, but at Engineer House the Government is going to build for £27,000 a unit and sell. It is odd, Mr Speaker, to build in Catalan Bay if we have understood the figures correctly, that is dividing the provision in the estimates of almost £1m by the twenty units the Hon Member mentioned, it is odd to build houses to rent for £48,000 and houses for sale for £27,000. Perhaps the Hon Member can think of an explanation between now and the Committee Stage of the Improvement and Development Fund and what is going to be the renting policy for £48,000 houses because those will be the most expensive public houses we have ever built. At the last Budget we were told that the Hon Member was building houses for rent in the Laguna at £17,000 because the Government had decided that it was worth doing it, they thought it was probably going to be full of serious problems of congestion and building with tenants in the flats and so forth but nevertheless if the Government came to us and said: "I have got limited resources and I want to spread them as much as I can and the way that I can get most units is by putting houses there", probably on balance, even though we have reservations, we would say: "Yes, we have to support that", and we voted in favour. We voted in favour because we thought even if they inconvenience the other tenants let us have our priorities right, the people who are homeless come first. We are now spending money in building houses at £48,000 a unit, twenty houses for nearly £1m, and therefore in a situation where there has been no change since last year of largesse in this Budget, we require an explanation as to why it is that the Government feels it is a reasonable policy to do for Catalan Bay and, as I say, we are happy for the people there, and it isn't a reasonable policy to do for the rest of Gibraltar? I also think, Mr Speaker, that in terms of the money allocated last year by this House for houses for rent at the Laguna Estate, it is wrong that if the money was

not spent on that it should not have been used on another project for houses for rent because if they came last year here, in last year's Budget and they asked the House to vote that money for that purpose and we agreed and then they find that they cannot do it because of the fire escape, well that doesn't mean that it doesn't matter anymore, that we don't need the houses anymore. Do we need the houses or do we not need the houses? If we needed the houses to rent in April, 1986, and we voted the money because it was necessary to do that and we then find we cannot do it because of a fire escape, that doesn't mean it has stopped being necessary so they should have brought a new project here to substitute for the Laguna because they were already talking about Engineer House independent of the Laguna. They then tell us: "Well, no, I am going to channel the money from Engineer House to Laguna but Laguna is part of the home ownership scheme and part of the sales". Well, the Laguna was not in substitution of Engineer House, it was in addition to Engineer House. Surely, they are not going to tell us that what they are doing is building one house in Catalan Bay for every three-odd houses that they were going to build in Laguna before, surely they are not telling us that. I think also, Mr Speaker, in relation to the private development that is going on, we have had different figures quoted. The Hon Mr Perez talked last Thursday when he read the Employment Survey on television in respect of which I am expecting before the House finishes, clarification from the Hon and Learned the Chief Minister as to whether Employment Surveys circulated to Members of the House before they are tabled can be used in public and quoted in public so that we know that we can do it because we have never done it because we always thought it was a breach of the understanding that it was privileged information.

HON CHIEF MINISTER:

I said that I would look whether there was such understanding, I have asked for enquiries to be made and I think it will not be possible to give him an answer in the course of this session.

HON J BOSSANO:

I don't know who he has got to enquire from, Mr Speaker, the Members of the House are all here. I am asking whether, in fact, is it not the case that when you come to the House and you suspend Standing Orders, we have got the Auditor's Report circulated to us, Mr Speaker, and I am told and I have always been told that you cannot go to the press and say to them: "Quote the Auditor's Report" before the House has met, it is on the Agenda to be tabled. That is what I have always been told since I arrived here in 1972. If you cannot give it to the press it must

follow logically you cannot read it out in a Party Political Broadcast on television. If it can be given to the press, fine, when I get the Auditor's Report I then go and come out with a public press release saying: "This is what we think of the Auditor's Report" although we haven't discussed it in the House of Assembly, fine. I have never done it because I understood that one was not supposed to do it. I would have thought the Hon and Learned the Chief Minister with his forty years of experience would not need to ask anybody, who does he need to ask? I will give way now.

HON CHIEF MINISTER:

I don't want to know, I just made my own views expressed here and that is that I think that the requirement to suspend Standing Orders is in order to comply with the notice required to lay papers but that doesn't make it that that paper is sacrosanct until it is laid on the table. This is my impression but if you want an authoritative answer I must look it up. But you have raised it, you took ten minutes in your first speech, you have taken another few minutes now and perhaps we will have it this afternoon and tomorrow for breakfast and tomorrow for dinner.

HON J BOSSANO:

Mr Speaker, I have waited a year. I raised it in my opening paragraph once last year in response to the Finance Bill. I cannot help it if the Hon Member never reads anything, never remembers anything and doesn't do his homework, that is his problem and the problem of his perpetual deputy.

MR SPEAKER:

Order.

HON CHIEF MINISTER:

I certainly do one kind of homework and that is I don't stand up for two hours repeating myself ad nauseam.

MR SPEAKER:

May I say, insofar as the House is concerned, any Member is entitled to quote from any report or any paper they wish to do so. Whether he is entitled to do so on a matter of confidentiality because it has been given to him on a confidential basis, that is a matter between the Members themselves but he is not prohibited from mentioning it or using it or quoting from it in the House because it has not been laid.

HON J BOSSANO:

The point that I raised last year, Mr Speaker, and I am afraid I have to raise it again because the Hon Member hasn't answered me. I cannot help having to say the same things if he doesn't understand or if he doesn't want to understand. I am not talking about suspension of Standing Orders at all. What I am saying is when we get the Agenda of the House of Assembly it says 'Papers to be Laid'. What I was told in 1972 when I arrived in this House....

HON CHIEF MINISTER:

By whom?

HON J BOSSANO:

By the people who were already here including the Hon and Learned the Chief Minister and what I have known to be the practice since until last year was that the press could not quote from papers to be laid until the House met and they were laid. The press could not quote before that and that wasn't permitted. Therefore, if I got a report with the Agenda I couldn't make a comment to the press about that report until we had arrived at the House and officially the paper had been laid, that is what I was told. That is what I have known to happen from 1972 until 1986. In 1986 I find the Minister, Mr Perez, goes to television two days before we meet and two days before the paper is laid and quotes it. I then bring the matter to the attention of the Government and say to them: "I don't think this is proper". I wait a year and I don't get any response of any kind and I find that a year later he does exactly the same thing and I bring it up and the Hon Member says he cannot remember my having raised it last year but that he will look into it and since I am now making my last contribution and there has been no sign of life from the other side on this subject, I have to raise it again.

MR SPEAKER:

Fair enough, it has been done and you have been answered.

HON J BOSSANO:

If the Hon Member is quite happy that we all quote, I am quite happy. I am quite happy with that provided we all know that we can do it and we don't stop ourselves from doing it like we did, for example, with the Medical Review thing which we respected that we had got it and we didn't make any use of it. Then we find that when we get here you tell us: "Well, if the Hon Member is quoting from it that means he has now broken the confidentiality so we can all break confidentiality".

MR SPEAKER:

No, with respect, I did not say that. I have said that if any Member of the Government quotes from a document or a paper then he has the responsibility and the obligation to lay it on the table, that is what I have said. I have also said that any Member can quote from any paper, as I have said just now, from any report and he is free to do so, if he breaches confidentiality it is not the confidentiality of the House but the confidentiality over which he has been given the paper.

HON J BOSSANO:

Mr Speaker, I am grateful for your views on that subject. I think, to round up, there are a number of points that I need to say.

MR SPEAKER:

May I ask the Hon Member if he is going to be long?

HON J BOSSANO:

I have got a number of points that I need to develop.

MR SPEAKER:

We will then recess until this afternoon at quarter past three.

The House recessed at 1.10 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

I will remind the House that we are still on the Second Reading of the Appropriation Bill and I will invite the Leader of the Opposition to wind up his contribution.

HON J BOSSANO:

Mr Speaker, thank you. As I said before lunch there are a number of other points that I need to cover on the Appropriation Bill. Also I will make some reference to the new page 5 which has been circulated just before the lunch break showing the estimated effect of the changes introduced in the Finance Bill to seek clarification of a number of points when the Financial and Development Secretary answers me. The Hon Mr Canepa, I think, was the one who made a reference to the fact that revenue was growing faster than expenditure and also to the fact

that the anticipated infrastructural costs had been made already and that they didn't anticipate any further in this direction. I am still not satisfied, Mr Speaker, with the explanations that we have been given in answer to a question in the House recently where we were told by the Financial and Development Secretary that in the 1986/87 estimates we had provision for £11.8m for the wages of industrial workers and that, in fact, he was now expecting the final figure to turn out to be £11.3m. I am assuming that in the revised estimates of expenditure for 1986/87 we have a reduction in that revised figure of £½m on the cost of industrial workers. I think it is difficult to understand how this could have occurred and we need an explanation because the explanation given to me by the Hon Member which is that in estimating at the beginning of the year the figure required, certain things cannot be anticipated, for example, the length of time in which vacancies may remain unfilled and therefore posts can be vacant and at the end of the year there can be a saving. But, in fact, in the letter that he sent me where he gave me figures for preceding years, the situation is that this has not happened. There hasn't been in 1985/86 and 1984/85 a situation where the final figure for the wages of industrials has been lower than the estimated figure at the beginning of the year and there is no reason to suppose, unless he tells me that that is what has been happening recently, that vacancies have been more difficult to fill in the Government and that therefore have remained unfilled longer. In fact, whenever the Government have spoken on the subject what they have said is in defence of their attraction as a good employer that they have lots of applicants for all the vacancies that come out. Of course, if we are talking about a situation where for some reason or another £½m less has been spent on the wages of the industrials than was actually provided for by the House in last year's Budget, it is important to know that particularly for two reasons. One of the reasons is its relevance to the question of liquidity and its relevance to the question of whether income is growing faster than expenditure. Because in looking at whether income is growing faster than expenditure, as the Hon Minister for Economic Development asked us to, what we need to know is whether it is going faster because Government is not spending what it is voting in the House at Budget time and consequently there is a shortfall in expenditure at the end of the year and that is where the differential lies. I must say that the new page 5 circulated by the Hon Financial and Development Secretary, of course, misleads in showing an improvement in the results for 1986/87 because as I pointed out with reference to the original page 5 - and I find that this has not been corrected - we have a surplus for 1986/87 of £1,192,000 but that is after having borrowed £1½m which should have been spent and was not spent. We need to know whether, in fact, what we are being told is the forecast outturn for the financial year that has just ended is in Government's submission reflecting a healthier

picture than estimated because they have borrowed £1½m which the House voted last year should be put in the Improvement and Development Fund and spent and they have not spent it and therefore the revenue is higher than the expenditure only because they are counting that £1½m as revenue and not as expenditure. Because, as I said earlier, Mr Speaker, in reference to the original page 5, in our view that is a total distortion of reality. It is a nonsense to keep on calling loans recurrent revenue unless we are being told that it is a permanent feature and we are being told otherwise. It happened for the first time in 1985/86, it was justified on the first occasion as a departure because of anticipated deficits that didn't materialise and it is still taking place. Therefore if the figures were presented as they have always been, we would be showing a deficit at the end of 1986/87. We have just learned, of course, that deficits no longer worry the Government like they used to in the past but nonetheless it should be there and it should be shown and if it doesn't worry them then they have no reason to hide it. I also think, Mr Speaker, that the other side of the coin of the failure to spend that money, the £½m I am talking about now on the wages front, is in relation to the ability of the Government to supply the levels of services in terms of cleansing and in other areas where there is a constant stream of complaints. The argument that we have heard in the past of financial constraints and doing what you can within the budget will not hold water if you have got a situation where you underspend on wages by £½m a year nor will the argument hold water when the Hon Major Dellipiani talks about the greedy workers wanting more and so forth and actually they have been paid £½m less than the House voted at Budget time last year. I am surprised that the Hon Major Dellipiani, in fact, should wish to draw attention to the non-operation or rather, the fact that the work of installing the third generating set is not proceeding and cannot proceed because there is a dispute with the Transport and General Workers Union which goes back to 1985 when he has got a problem closer at home himself in his own Department of which he has told the House nothing. If he wants to talk about the problems of industrial relations and how to tackle them, I would have thought that is a matter for the Minister responsible for that particular Department, it would have been up to Mr Perez to tell us whether he thinks, as the Minister responsible, that the workers in the Generating Station are greedy or not greedy or otherwise. But what Major Dellipiani could have told us was whether he thought it made sense to have spent out of the Improvement and Development Fund the year before last £135,000, if I am not mistaken, on an open hearth furnace which arrived in February, 1986, and to have that piece of equipment lying idle in the incinerator because of a dispute involving two men and one pay Band which is £2.50 each before tax, which is £250 a year before tax, which is about £170 a year after tax, Mr Speaker, and that is preventing

a piece of equipment worth £135,000 from being used and the equipment was used for one year because the men accepted the Government's offer of a basic wage of £87.50 for operating that equipment provisionally whilst negotiations took place and after one year of not getting anywhere they decided to revert to their old banding and the Government, his Department, and he is fully aware of it because I have made sure that he is fully aware of it, it isn't something that he doesn't know, his Department decided that the men could not go back to their old banding and put them off pay. The unions claim for reimbursement of the pay of those two men is part of the claim for the use of that third engine so he is contributing to the situation which is preventing a resolution of the issues with the union over the third engine and if the Minister for Economic Development is worried about the implications for parity of the shop assistants wages, then surely the Minister must know that next month there is a meeting of the Joint Industrial Council where the Transport and General Workers Union is saying that precisely over these two men and the issue of their banding in the incinerator and the fact that the Government having contracted them as Band 4 has refused to restore them to the banding upon which they were employed, in the union's view this is an infringement of the Government's agreement on parity with the union and the Gibraltar Government section of the union is taking the Government to the JIC and telling the JIC that they wish to break with the Joint Industrial Council negotiations and with the involvement of the Government with the official employers. These are important matters which, quite frankly, we don't normally discuss at Budget time because I don't think that this is necessarily the ideal forum in which to discuss how best to solve these kind of problems. Problems like these there will always be but what we cannot have is one Minister coming and making a bland statement about the problems in the Generating Station and ignoring the problems in his Department which for the average person it must appear a very small problem if it involves two persons out of 1,600 but these things if ignored and allowed to fester can grow into mountainous problems. And if the Minister for Economic Development is concerned and was influenced in his decision over shop assistants' wages as he said he was because of the implications they might have for parity, I am astonished because by implication it means he is not aware of the fact that this Joint Industrial Council meeting is taking place and the reason why it is taking place although this has been formally and officially put to the Government as the official employer. I am saying that, Mr Speaker, and I am saying it against the background of having underspent £1m on the Appropriation Bill. We are talking about having appropriated £11.8m this year and having spent £11.3m. Are we this year in this Appropriation Bill because it is impossible unlike personal emoluments, Mr Speaker, where we can actually add up all the personal emoluments under all the Heads as we have mentioned before, I think

we have had to some extent some explanation which is comprehensible as to why the same thing cannot be done with wages but, of course, the wages side of it, Mr Speaker, is shown in some areas and not in others and, of course, it is shown where the wages can be clearly identified. For example, if we go to page 35 on Electricity Undertaking, we find the wages and the cost of wages of the Generating Station and, in fact, what we do find there is that although in 1986/87 the Government provided for Waterport £327,000, this year they are providing £315,000 which is £9,000 or £8,000 less than last year. That doesn't indicate to me huge escalation of wages which appear to be worrying the Minister for Public Works, Major Dellipiani, the Hon and Gallant Member, Mr Speaker. In general, I think it can be clearly demonstrated and I would invite the Members opposite to correct me if I am wrong, perhaps the Financial Secretary can correct me if I am wrong when he answers, it can be clearly demonstrated that, in fact, industrial wages in general have not been in the Government of Gibraltar because of recent parity increases in UK being in the region of 5%, have not been going faster than estimated. If there has been a growth and the Hon Minister for Economic Development was referring to how much the wages and salaries bill of the Government was, if there has been a growth which is faster than average it has been on the salaries side because there have been a number of restructuring exercises in UK which, I think, have probably proved to be fairly expensive at the end of the day because they tend to help the people most who are long-serving and tend to reduce lower entry scales. Most of the restructurings that have taken place and are taking place now concerned managerial grades, supervisory and managerial grades and the effect of that is to protect the position of the people in post on personal to holder rates, given much higher maxima and produce lower entry rates and since most of those officers in the Government tend to be officers with a long service behind them because quite a lot of them start off as industrials and then move into the non-industrial field and carry all their service with them, in the particular case of the Government of Gibraltar I think that if there is an extra cost this year over what one would consider to be the average, that is probably where the reason is going to be found but not on the industrial front. I think it needs to be put on record because it is all too easy to make sweeping phrases about the greediness of the workers and therefore everybody goes away with an impression which if we are going to be factual about things, well, then let's put the facts on record, Mr Speaker. I also think it is important from the point of view of the statements that have been made, Mr Speaker, by the Members opposite in relation to this concept of liquidity whether I am correct in thinking that the position shown on page 5 in the revised statement provided to the House today is one that shows a decline in liquidity over the next twelve months. Is that correct or is that not correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, my attention was distracted. If the Hon Member would repeat it, I didn't quite get that.

HON J BOSSANO:

I would like to know whether the new page 5 that the Hon Member has circulated to us shows a decline in liquidity in the financial year ahead because that seems to me to be what it is doing if I have understood correctly the concept with the limited explanation that we have had because I am assuming, for example, Mr Speaker, that in assessing liquidity against the background and in the context of the arguments used by the Hon Member opposite, for example, when the Loans Empowering Ordinance came to the House in December, 1984, and in subsequent debates where we clearly hold strong and opposing views on the distinction between current expenditure and capital expenditure, that he is, in fact, looking at the balances in the Consolidated Fund and in the Improvement and Development Fund simultaneously and that consequently he is saying that if there is, for example, a balance of £2,413,000 on the 1st April, 1986, in the Improvement and Development Fund and a balance of £9,710,000 in the Consolidated Fund, then he has taken those two together to arrive at total liquidity whatever else he may be taking. I don't know what else he may be taking but in taking those two together we come to a figure of £12,123,000. If he has taken them together in 1986 and taken them together in 1987 then I assume he has taken them together in 1988 and that would then show a decline in liquidity. I am also assuming, Mr Speaker, that a factor for which he is seeking to take the credit is the reduction in the value of outstanding bills which clearly form part of the Consolidated Fund.....

MR SPEAKER:

You did mention that, didn't you, this morning?

HON J BOSSANO:

Not a reduction in the value, Mr Speaker.

MR SPEAKER:

In tax on the amounts collected.

HON J BOSSANO:

No, what I mentioned earlier was that in previous statements the reference to liquidity was that the liquidity of the Consolidated Fund Balance had to bear in mind the fact that included unpaid bills, that is what I said

before. I am now talking about the actual increase in liquidity being linked to a reduction in the unpaid bills and in the value of the unpaid bills. Of course, one of the factors in reducing the value of unpaid bills, as I am sure the Hon Member will have to recognise, is the reduction in the FCA. If we look, Mr Speaker, at the Funded Services in the Appendices and in particular if we look at page 125, we find an introduction this year of a new element in the information available for which we are grateful because it gives us extra and additional information which we have lacked in previous years and that is a footnote telling us the values of the bills issued and the FCA. We see that the income of the Electricity Fund in the financial year just ended declined because the FCA dropped by half. Obviously that was counterbalanced by a decline in the cost of fuel on the expenditure side so that decline makes no difference to the actual results of the Electricity Undertaking Fund but it does make a difference to the value of the outstanding bills so even if you have got six months of outstanding bills, if the fuel cost adjustment has been reduced by half then the value of the bills are lower because the bills are lower and therefore if you are looking at the outstanding value of bills in your Consolidated Fund and attaching importance to that in terms of improved liquidity, then your liquidity has improved. If that is the case, in looking at 1986/87 approved estimate and revised estimate, it must follow that what we are projecting is the converse because what we are projecting is that in the forthcoming year the FCA will double again back to what it was in the approved estimates last year. That is reflected in the body of the estimates in the Electricity Head and there we see, Mr Speaker, that the vote for fuel for Waterport last year was £1.3m, that it was £½m down obviously because of the cost of the fuel coming down because that is reflected in the fuel cost adjustment formula, and that we are voting in this House the £½m back again so we are clearly assuming in these estimates and in this Appropriation Bill that the cost of fuel is going to increase over the next twelve months. That is what we are voting for. If the Government is not making that assumption then they shouldn't be coming here asking for this money.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps the Hon Member will give way because I want to make quite sure I have understood him and as I certainly won't be giving him the opportunity to interrupt me when I am making my winding up speech, I thought I had better give him the opportunity of correcting himself now if I have misunderstood him. In the page to which he is referring the estimate for 1986/87 was bills issued £3.785m, the outturn is £3.943m, that is to say, an increase in the value of bills issued although, as he quite rightly points out, the fuel cost adjustment has been halved. I wonder if he would like to explain that in the context of his observation that the reduction in the outstandings is only because of the reduction in the price of fuel.

HON J BOSSANO:

Mr Speaker, I am assuming from the figures here that, in fact, the bills issued which differs from the figure in the top line of that page, that is to say, if we look at the approved estimate, the estimate assumed we would issue something like £5m in bills and of that £5m, £3¼m would be the basic cost of electricity, if you like, and £1¼m would be the FCA. If the FCA is reduced it means that for the same consumption and the same length of arrears there is less owed because the bill is lower, that is the point I am making. In fact, you can have two situations, for example, in 1985/86 there isn't a breakdown but in 1985/86 we have got actual revenue £5.3m for one year. Let us assume, Mr Speaker, that as a matter of course we were saying that on average people owe six months of electricity then we would say: 'If they owe six months of electricity in 1985/86 this would have meant that the Government had £2.6m in unpaid bills in its Consolidated Fund negatively affecting its liquidity', according to the statement made by the Hon Member in 1985 and in 1986 when he referred to unpaid bills affecting the liquidity of the Fund. If in 1986/87 the bills instead of being £5.3m are £4.5m and if people still owe six months then this year they only owe £2.2m. Simply because the cost of fuel has come down, the fuel adjustment formula has worked through to the bills; simply because of that, liquidity improves £¾m. That has nothing to do with the Hon Member opposite, that has to do with OPEC. And, of course, if he wants to take the credit for what OPEC does as well as for the reduction in inflation, changes in world trade, lower interest rates. When he talks about the servicing cost, Mr Speaker, when the Hon Member, for example, wrote to me on the 18th July, 1984, he gave me the estimated servicing of debts which he has told us in this House have been brought down and, again I am talking to the Appropriation Bill because we are appropriating expenditure out of the Consolidated Fund to service the national debt. The Hon Member told me that the estimates made by the Treasury was that in 1987/88 the national debt would be requiring £6.6m to service. Assuming a pessimistic 13% charge on all the rates from the banks, that is, Barclays, Lloyds, Midland, Hambros and now Indosuez. In fact, that was pessimistic and the situation is that it is much lower than that, probably in the region of 10½%. The Hon Member in that £6.6m included £1.6m repayment of the Midland International loan which he repaid early last year. If we take that £1.6m away that leaves us with £5m. If we look at the debt servicing charges and we take cognizance of the fact that the estimate he gave me in July, 1984, assumed a pessimistic 13% charge and that has not materialised then the reason why the total public debt charges are not higher is because the interest rate is lower but even so we are talking about an estimate for 1987/88 of total public debt charges of £6m, Mr Speaker, and we were talking then about £6.6m

inclusive of £1.6m payment to the Midland Bank which was repaid early a year ago. I would also like, Mr Speaker, to have an explanation from the Government on whether when they are talking about infrastructural costs being completed in relation to the opening of the frontier and the pressure that that was supposed to be, what they are really saying is that barring new developments they are satisfied that the level of expenditure that we are appropriating in this Bill is sufficient to maintain the services in a satisfactory condition because certainly that is not the impression that we have and having been told how in the past there have been limitations on what we could do, we still see that now there are no limitations apparently to the degree that they existed in the past, the constraints are not the same and yet there isn't a reflection in the estimates in the Appropriation Bill that the maintenance of these municipal services, for want of a better word, the essential care and maintenance of our City on a daily basis which was once a City Council function and is now a central Government function, if there is no push here to improve this. Clearly that is something that in the Appropriation Bill the Government should be reflecting as well and if they are not, in a situation where they are saying we can afford now to reduce the burden of taxation, it must be because they are saying 'enough money is being spent and a sufficiently good service is being provided'. Of course, the fundamental element missing in this particular Budget, Mr Speaker, which will be there in the next Budget when we present it, of course will be the investment plans which are so essential if a real attack is going to be made on our tax structure. We don't really believe that the Government can honestly tell us and tell the people of Gibraltar that they can look forward to a situation of reducing the very high burden of taxation consistently year after year by a wider tax base, as the Hon and Learned the Chief Minister seems to have suggested, that is to say, that we can give people another £200 or £300 allowance this year because we have employed 1,000 more people and then next year we give them another £300 because we employ another 1,000 people which would put us in the £14,500 bracket and then, of course, by the time we get to the £2,200 minimum that we think is required this year to give somebody a threshold income of £44 before they start paying tax, before you can get to that minimum you have to be employing about 20,000 people in Gibraltar and what with the millions who come to see us and the thousands who would be working to service those millions, the total place would come to a complete and grinding halt. What we need really is from the Government and what we will get from a GSLP Government is the kind of initiative that will generate new income, that will generate new wealth that will put Gibraltar on the map. That is what this Budget should be doing and that is what this Budget fails miserably to do. Thank you, Mr Speaker.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, as Hon Members know, I spend very little time outside the House and I listen to everything that is said and it is only the calls of officials or the calls of nature that make me be absent from the House and to be quite frank the different speeches of the different Members other than the Leader of the Opposition to which I will come later, that have been made have been answered by Ministers responsible for the particular Departments and in any case they are very similar to the speeches of the Estimates of last year, everything is very bad, nothing is alright, everything in the Budget is wrongly put down and 'you wait until we come in, we will put everything right'. That is further highlighted by the chimera that the Leader of the Opposition has finished with where he is going to put everything right, they have already got one target and if you follow his argument for anybody who likes to talk as he does and he talks quite well and likes figures as he does, he could be here, in fact, we are grateful that he has only taken two and a half or two and three-quarter hours because I know that he doesn't look at the clock, other people, even his colleagues look at the clock from time to time but he doesn't, he is enthusiastic, he is so fond of his own voice that he doesn't mind whether calculations about timing made by other people are within bounds. Fortunately, in a way because we have developed this Chamber in absolute freedom of speech, fortunately, neither in this nor in Questions is there a time limit. But it seems to me that if Members are going to take two and half or two and three-quarter hours on speeches, if that became the norm, perhaps we could make the exception for the Leader of the Opposition, but if that became the norm perhaps there might have to be a meeting of the Rules Committee to consider the extent to which one can hear the same thing said in different ways so many times. The last remarks of the Leader of the Opposition show the extent to which he can delude himself to get himself arguments in which to pursue his speech. For example, he said that a wider base at a thousand so much and so on, so he fills that up with 20,000 people before we can get the revenue that will require the reduction that we have made this year. Well, he knows, as he is so often fond of saying, he knows very well that it doesn't work that way, that it isn't only numbers but quality, it isn't only wage earners but salary earners and companies who may be coming on stream after eighteen months or two years of an open frontier with good business results that will bring in taxpayers, will widen the taxpayers. He seems to have in his mind only the average worker

and not the fact that there are many people who pay considerably more tax than the average worker and rightly so because they have more revenue. So really the broadening of the tax base is not in proportion to the number of people but to the amount of the income. He reacted to that in the same way as he was reacting prior to the Brussels Agreement where he felt that the streets of Gibraltar were going to be full of unemployed Spaniards offering their services for a few pence and events have proved that he was wrong in that and events will prove that is wrong in all the predictions that he has made in the course of this Budget. Reference was made this morning about something on which I feel rather strongly, nothing to do with the Budget, but something to do with the House and there was an attempt by the Leader of the Opposition to hurt, perhaps, though not wanting to admit it, by the analogy that my colleague had made yesterday about strip teasing and saying that the House should not be reduced to this levity to that extent and that now that the House is being broadcast which may well be why the length of speeches this year on the other side have increased, that we should be careful because we might give the wrong impression. Well, first of all, irrespective of what I am going to say, I do not think that by any similar standards this House can give a wrong impression of how it conducts its business, irrespective. Irrespective of the fact that the Leader of the Opposition told the Speaker at a recent meeting that he questioned his infallibility and he questioned his ruling, irrespective of that, irrespective that he was sat down by the Speaker because in a fit of temper he wouldn't take his ruling, I still say that this House behaves itself quite well. I have some concern for that having been here a little while and I think that nothing that has happened in this meeting has made the proceedings of the House less worthy of what they have always been. Perhaps the fact that some people are stuck to their radio sets to see exactly what is happening, that is why the streets are so empty almost as if there was a football final, everybody is stuck to the radio listening to the millions of pounds. Somebody told me this morning: "It sounds very much like Spain with so many millions being mentioned by the Leader of the Opposition up and down in the course of his Budget speech". But be that as it may, what has happened is that the Leader of the Opposition is getting towards the end of his period of frustration of fifteen years in the House, preaching that wonderful gospel that will bring happiness to everybody, thinking perhaps that the time is getting nearer for the great day, still worrying that he may have another four or eight years of preaching from the same place and that is, I think, his great concern and that is why there have been so many promises but somebody will have to start to quantify one day the cost of all the things that the Opposition are offering the people and where the money is going to come from particularly if we do away with the Ministry of Defence for which there is very little need here, and if we do away with other things that Members opposite do not attach much importance to.....

HON J BOSSANO:

Can the Hon Member say on what part of my contribution of the two and a half hours or anybody else on this side he bases the statement that the GSLP says that we want to do away with the Ministry of Defence?

HON CHIEF MINISTER:

I am not referring to what the Hon Member has said in the course of his speech, I am referring to their policies. I was referring to the cost, generally, of the things they are promising, I wasn't referring to this. There has been a very wide range of attacks against the Government, I am perfectly entitled to refer, in passing, to certain areas of the Opposition that require criticism or is it that we are just going to be here listening hour after hour to whatever Mr Bossano wants to say and we are not going to be allowed to have our say? That would be contrary to the traditions of this House and contrary to the way we have always run it.

HON J BOSSANO:

The Hon Member has now accepted that it is not our policy to do away with the MOD?

HON CHIEF MINISTER:

Well, I do not know, I don't see any enthusiasm on the part of the Members opposite about the Ministry of Defence and I have heard.....

HON J BOSSANO:

Mr Speaker, half the people here are employed by the MOD and we were totally committed to opposing the Dockyard closure, isn't that enough for the Hon Member?

HON CHIEF MINISTER:

Well, perhaps time will tell whether one says one thing in public and one says other things in private. Anyhow, coming back to one of the two specific points which I consider it my duty to answer because they are matters of important policy which we have to clear and I would like to refer to one or two of the matters which are directly my concern in terms of policy and that was the particular reference to the question of Spanish pensioners. That is something which I am more in a position because that is a political matter to answer though not on the financial repercussions, we know what the bill is, but what I have to explain is the state of play on that. It is not correct to say that we have made a decision

that we are responsible for those who had attained a full pension before the closure of the frontier. We do say and we have said that that is a matter for consideration, that that is an aspect of the matter which affects the whole position which has to be considered. But because there are on-going discussions and are likely to be difficult, I do not want to give that away that easily in respect of the negotiations. I have said that there is a moral and, perhaps, it can be argued there is a moral duty in that respect because if there had been no increases that have made the matter so big, it would have been a normal charge because they had contributed everything by the time they finished and therefore they were not deprived. But I do not want it to be said that that is a Government stand on the matter now, it may well be that that is one of the arguments that may be bargained for something else but I am not prepared to allow the statement to go unchallenged as being the view of the Government in that respect. It is very important because it can be used against us at a future date.

HON J BOSSANO:

Perhaps I can simply clarify for the Hon and Learned Member that the only reason why we assumed that was because at some stage last year the Minister for Economic Development invited us to take that position jointly with the Government which we then said we did not accept. We assumed that if we were being invited to join that position it was the Government position.

HON A J CANEPA:

If I may explain, Mr Speaker, the personal view that I take on the matter is that the group of Spanish pensioners who made full contributions before 1969 and who became entitled to pensions before 1969 should not be treated differently to any other group of Spanish pensioners similar in number twenty-something or thirty-something years after the event. In the same way as the contributors of today or of the future will meet the cost of the pensions, let us say, to 500 Gibraltarians who became pensioners before 1969 through increased contributions, if necessary, I think that those contributors have a similar moral obligation in respect of those Spaniards. They should not be treated differently, in other words, because they are Spaniards, that is discriminatory. But in respect of the ones that were removed for political reasons, that is another matter, that is the point. Perhaps I have never developed it to the extent of drawing a link with another group of Gibraltarians but because of statements that I have seen in the press since then, I am now making it clear that Gibraltarian pensioners who drew their pensions before 1969 who are still alive and who will be alive for many years to come, they have by now more

than derived benefit over the years in respect of the contributions that they made. It is today's contributors that are paying for them and the same thing should happen with the Spaniards. I hope the position is clear, it is a personal view.

HON J BOSSANO:

I think that is what wasn't clear before, Mr Speaker. I think we understood clearly what the Hon Member said the last time he said it, we just assumed that he was telling us that is how the Government thought.

HON CHIEF MINISTER:

Ministers are entitled in matters of this nature to express a view and if it is necessary, of course, they get full support but as we have on-going discussions which are not going to be easy, I feel I have to put the position clear because I don't want to be bound by any particular attitude in what is going to be anyhow a difficult process and that is why I felt that one of those things that one has got to make quite clear in order not to be tied up whatever the moral requirement which no doubt will have a deciding effect but we cannot make statements unnecessarily at this stage on that question. With regard to the onslaught on the finance centre and the changes proposed to what contribution the Government is making on the finance centre, well, the Government of Gibraltar is making a lot of contribution and sometimes one tends to identify it most but, in fact, the climate - and I don't only mean the sun which is also a very important factor for which no Member can take credit himself - but the political climate is one aspect, I think, one contribution. In fact, often I am asked by visitors hoping to establish themselves here and for this I make no excuses, what about political stability? I say: "I think we have political stability, some people think there is too much stability". I think for some people's liking there is too much stability so that is one aspect that this Government certainly provides for the encouragement of the finance centre. Insofar as the question of development aid is concerned and the blow that could be given to it by the proposed provisions in the Development Aid Ordinance, we feel that for the moment, anyhow, and for a long time to come, enough office accommodation is being provided, some people think too much of it, enough office accommodation is being provided in the pipeline. With development aid of a limited nature because development aid has not been recently, the new output has been that people should not have the right to assume that they are going to get 100% development aid, it is that part of the project that enhances the criteria with regard to the support for the economy that the criteria of the development aid has. Enough of those, I think, are in the pipeline to provide the requirements of, I should imagine, the

next ten years easily, that is my guess on what is going on now. Therefore in that respect I do not think that it can be said, whatever else may be thought about the possible changes and the date and so on, it cannot be said that that is going to be a disincentive. Again on this question about the EEC Directives, we have always said, first of all, so far we have not had any difficulties with regard to the finance centre. There are in the horizon possible difficulties but we have always felt and, in fact, a study is being made now, we have always felt that we can live with compliance with the essentials of the Directives without in any way detracting from the attractions of the finance centre and I think other people more directly interested, more directly concerned share that view, we hope that that can become a reality. In fact, so far there has been no impediment. I just don't want to make empty statements without examples, the test will come, I think, when we have a final review of the Companies Ordinance which requires to be amended not only because of the Directives but because we are working on the 1929 Act of the United Kingdom which is completely out of fashion in many ways, in some respects too cumbersome in some respects too light but one of the things that we have said and we have said this to all people who come here and are interested in the centre and that is that we must have a finance centre with the right infrastructure of, policing is not a nice word but of controlling or supervising that provides high standards and not low standards and then losing credit and lose the standards and the credibility and the standing of the standard, the standing that the centre has reached today and I cannot see anything in the future that is likely to affect that. I will not enter into a discussion about the industrial problems of two particular people. Even though there is a letter here from the Minister to the Leader of the Opposition in his other capacity as a trade union official setting out the case, I don't think I need bother about that, but certainly one thing sticks in my mind from the little I know of the problem is that precisely the JIC at the time of the study of the parity stages, one of the ideas that was, I think, in fact, it went further than an idea, it was decided that there should be a sub-committee for banding, upbanding and so on and that the claims for upbanding which have been made, perhaps I will only refer in this respect in order not to complicate the matter because I don't know enough about it, are just demanded and is not complied with action is taken without going through the procedure, I am not saying that that is the case but that is my understanding of the matter. I don't know that I would like to say that I wish the Leader of the Opposition luck in his attempts at disbanding JIC but I don't think that there can be a joint council which has no union and that if there is no union and I wish there was no union on the other side but what I mean is no union in calling it joint because there is only one. So I don't

think I wish him luck on that, in fact, I wish him the worst of Gibraltar luck on that because I don't think he will succeed. Attempting to divide us in one matter because it suits him is too high a price to pay for the possible benefits that that Joint Industrial Council could play in other areas where there might be conflict in the future which, fortunately, we don't have now. I am not shirking the question of liquidity but the bulk of the attack on that has been made against my colleague, the Hon Financial and Development Secretary who is responsible or who may have provoked the statement made by the Leader of the Opposition and I know that the matter is in very good hands for him to answer. Let me say that we come to this Budget with a clear conscience of having done, I don't know occasionally I think whether if, in fact, everything that Mr Bossano says is true, the bulk of the people of Gibraltar have been mugged for the last twenty years because they keep on electing the same Government. You say yes, so let it be said for the record that the Leader of the Opposition thinks the people of Gibraltar are mugs for electing AACR Governments and let us hope that he continues to be right and that we continue to be so elected.

MR SPEAKER:

I will then call on the Hon the Financial and Development Secretary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Mr Speaker. It is with a heavy heart that the maiden lifts up her skirts once again, to continue the vulgarity which seems to be fashionable, and climbs on her penny-farthing. Perhaps I should say that I don't want to spend too long, Mr Speaker, I obviously would have to spend a great deal of time and keep the House here for perhaps two or three hours answering in detail all the Hon Leader of the Opposition's points. I hardly think it necessary for me to do that and I think he will probably be the first to admit, perhaps in his more private moments, that some of them were intended politically rather than otherwise but I think there are one or two points I ought to put right because they either raised questions of law or simply accuracy, for the record. It is difficult for me to answer the points that the Hon Member raises when he says that in 1984/85 I gave a certain forecast and now that has changed because obviously circumstances have changed. I may have said in 1984/85 that I assumed that debt charges would be whatever the forecast I gave then was, well, clearly there have been other changes in the Government's programme since then and the position will have changed both as to volume and, indeed, interest rates. All I can say on the subject of debt and I don't think that this can be disputed,

is that debt charges which were at a figure of £28.9m in 1984/85, at the end of 1986/87 reduced to a figure of £26.8m and that is what I mean when I say that public debt has come down. Public debt was at a figure of £29m in 1984/85 and at the end of 1986/87 £26.8m, that is really the only point I want to make. I will even allow the Hon Member to think that the fact that public debt peaked in 1984/85 when Traynor was here and not Wallace was actually the results of activities taken by Traynor. He knows perfectly well that it wasn't and that there was a substantial increase, indeed, as I have said before in the House, that there was a substantial increase in borrowing which he certainly approved because it was for social purposes and that public debt was, I think, £8m or £9m in 1980/81. Clearly, the reason for the increase had nothing to do with Traynor. Again, what I said about growth in last year's Budget was on the basis of information which was available to me then and I am bound to say that there was something of a debate amongst my Learned Colleagues in the Economic Planning and Statistics Office as to exactly what the rate of growth was. Subsequently we compiled national income statistics and as soon as we were in a position to give the House the figures for national income we did. I am the first to admit that my figure of 2% or 3% was conservative, I accept full responsibility for that but it doesn't mean to say that I am trying to mislead the House, Mr Speaker. The Hon Member has mentioned arrears, this is always a subject which is dear to my heart as he will know. Again, I accept that there is something in what he said that the improvement is clearly affected by the total value of the bills issued and if the value goes down you would expect that to be reflected but I think he must also accept that there is another ingredient, another constituent in the calculation and that would be the increase in demand and, secondly, that it isn't in every year of Traynor that the fuel cost adjustment has had that effect on the figures. I do happen to have in front of me because we now take this particular question very seriously in the Treasury, I do have the figures for the amounts outstanding for the last four years - 31st March, 1984, electricity, water, telephone, the figure was £4.7m; 31st March, 1985, it was £3.6m; 31st March, 1986, it was £3m; and the latest figure I have is £2.8m, so it has been coming down. We must remember that when we talk about amounts outstanding we are, in fact, including the bills that have just been issued. I think that we are getting to a state where the problem of arrears and I would like to pay tribute to the Arrears Section of the Treasury who work very hard at this particular problem and it is not a thankful task, obviously. I think we are getting to a position where the arrears is under control except for this tail of aged debts, the inactive accounts which I am afraid has been inherited from some considerable time ago but those are the facts on arrears and I would just like to present them to the House. The next point that the

Hon Member raised and, as I said, I don't think I can possibly answer all his points, Mr Speaker, but simply the major ones, he raised the question of the £1.5m and I think he attached particular importance to this so I think I owe him an answer, the £1.5m contribution from the Consolidated Fund to the Improvement and Development Fund, and he quoted the Public Finance (Control and Audit) Ordinance. I see that Section 10(1)(e) which he and I have a particular fondness for has now become Section 12(1)(e) in the revised edition but he quoted from Section 26, I think I am correct in saying, which says: "There shall be paid into the Fund, the Fund shall consist of all such moneys as may from time to time be appropriated by written law out of the Consolidated Fund for the purposes of the Fund" and the Hon Member's point was that at the beginning of last year we had the Appropriation Act and therefore we appropriated that money out of the Consolidated Fund into the Improvement and Development fund. Well, yes, but I think he has to read Section 26 with the earlier Sections which give the Financial Secretary responsibility for managing the finances of the Government and, in fact, Section 4 of the Public Finance (Control and Audit) Ordinance refers specifically to the point raised by the Hon Member on the coming into force of an appropriation law, it begins, and I am therefore obliged or I have to authorise the Accountant-General to pay out of the Improvement and Development Fund such sums as may be required or out of the Consolidated Fund such sums that have been prescribed by law. However, 'provided that' - it goes on to say - 'it shall be within the discretion of the Financial and Development Secretary to limit or suspend at any time any expenditure so chargeable under an appropriation law if in his opinion the public interest so requires'. I have responsibility for managing the finances of the Government sensibly, I hope, I am quite prepared to listen to criticism by Hon Members, that is indeed their absolute right but, in my opinion, it is not sensible and not in the public interest to appropriate sums of money when they are not needed. If I may give another example to Hon Members, each year we vote a contribution to the Funded Services or at least to some of the Funded Services and we may say that the contribution from the Consolidated Fund to the Electricity Fund shall be £1.5m. If as a result of the transactions in that year the Fund does not require a contribution of £1.5m, that is to say, it doesn't make a loss of those proportions, of that magnitude, then, clearly, it would not be commonsense to vote £1.5m although there is an appropriation law which empowers us to do that and that is really the only point I wish to make on that particular issue that it is in my opinion, I think, and also in the view of my colleagues in the Government that the contribution should not be made. And my reason as I did explain earlier is that from the point of view of managing the finances of the Government it is easier to manage the Fund as a whole, in that way one can place them to best advantage. Really, I think the last point I do want to reply to, Mr Speaker, is the question of liquidity and I listened

very carefully to what the Hon Leader of the Opposition had to say about this and he did feature it in his speech, I think, to quite an extent so I think I owe it to him to reply and I hope that he will feel that on reflection, perhaps, he owes it to me to withdraw some of the things he said, namely, that it is a totally new concept and, again, that I am misleading the House. Well, so far from being a totally new concept, Mr Speaker, I do now come armed with Hansard and, indeed, I am beginning to resemble the Hon Leader of the Opposition both in terms of the armoury I bring with me and sometimes my difficulty in finding the right place because I am acquiring almost, I wouldn't say as great a familiarity with the Government's accounts and financial affairs that he clearly has, I mean that would be naive of me to pretend that I have but I am beginning to understand the way his mind works a little better than perhaps I did originally. We have what the Hon Leader of the Opposition has called a totally new concept. If it is a totally new concept one would not expect to find that there had been any reference to it at an earlier stage. I am looking now at my Budget speech March, 1985, where I said that I had explained in the past.....

HON J BOSSANO:

I have already quoted that part to him.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

March, 1985.

HON J BOSSANO:

Yes, I have already quoted that to you, that reference.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I think the Hon Member did after lunch, I certainly accept that, before he may, in fact, have done his homework over the lunch hour, I know he does work during lunch hours but in actual fact what I would like to say is simply say what I said in 1985: "I have explained in the past that the calculation of the reserves in the Consolidated Fund and the amount owing to the Government in unpaid bills at any one point are not the only two calculations which should be taken into account in determining what the Government's liquid position is". The Hon Member interrupted me at that stage and said: "If the Hon Member will give way. We understand perfectly what the Financial and Development Secretary is saying and we understand perfectly the change in approach by him". In fact, obviously the concept was sufficiently familiar to Hon Members opposite for the Leader of the Opposition to go on and give the Chief Minister credit for understanding it which

is something he rarely does because he went on to say: "the Hon and Learned the Chief Minister made a reference either this year or last year, in his Budget contribution to the fact that the Financial Secretary now was looking at the situation from the point of view of maintaining liquidity". So I do not think that this is a totally new concept and, in fact, I was looking through earlier references in Hansard, Mr Speaker, we have had this particular question before but I would like to explain briefly and using - I wouldn't say explain, I would like to repeat once again what it is I mean by liquidity. It is quite simply the Government's cash resources and the investments in the Consolidated Fund and if he will turn to the Estimates he will see that in the balance sheet there is always a figure for cash at hand or at bank and then there is a figure of investments in the Consolidated Fund. If he will look at the figure, it is on page 3, I think you will find it in the Draft Estimates, I am simply adding the figure of £9.370m in cash and the figure of £1.6m in the Consolidated Fund and that is the figure which I have said as of now, at the end of March, is of the order of £14m. I think I would be the first to accept the Hon Member's point but a lot of this money is not necessarily going to stay in the Consolidated Fund. If we are going to make contributions to the Improvement and Development Fund, clearly, some of that money will go into the Improvement and Development Fund next year but it is there, that is all I am saying, this is the Government's cash position and clearly it is a very healthy one and I am really not trying to make any other point, Mr Speaker. What it does mean, I think I would say this, this is really my final point, what it does mean is that whereas shall we say three or four years ago when the Hon Member, I think I used the phrase snatched to Baroness Young and said that half the money in the Consolidated Fund or most of it was actually in unpaid bills, that is no longer true to anything like the same extent and for two reasons. First of all, because of the improvement in the collection of revenue which I have mentioned and, secondly, because two of the Funds are now in surplus and so one doesn't have the situation where money is simply due to the Consolidated Fund from the various Funded Services, one has a situation where that money which represents outstanding bills is balanced by surpluses in the Fund itself hence the improvement in the Government's position, hence the improvement in the Government's liquidity position. That is all I want to say.

HON J BOSSANO:

Mr Speaker, could I ask the Hon Member, did he say that page 4 - £14m, and page 3 - £9.3m, is what he added together to get the £14m?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker, he won't find a figure of £14m in the balance sheet because I am giving him an estimate which obviously couldn't be, I am giving him an estimate, he won't actually see that figure I think in black and white for another few months because it relates to the 1986/87 accounts but that is the figure my staff have given to me representing our cash resources at the end of this year. For the previous year, page 3, we have the £9.3m and the £1.6m, that gives you £11m and I think I mentioned £11m in my speech. That is really all, Mr Speaker. Do I now commend the Bill to the House, if so I do so with a full heart.

MR SPEAKER:

No, that was done long ago.

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

COMMITTEE STAGE

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I now move that the House should resolve itself into Committee to consider the Finance Bill, 1987, and the Appropriation (1987/88) Bill, 1987, clause by clause.

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

THE FINANCE BILL, 1987

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

Clauses 2 and 3

HON J BOSSANO:

Mr Chairman, is this related to the question of people working for exempt companies?

HON CHIEF MINISTER:

No. It is the transfer of shares that has not been covered previously, exempting from stamp duty the transfer of shares of exempt companies.

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

Clauses 4 and 5

HON A J CANEPA:

Mr Chairman, during the course of my intervention in the general debate, I omitted a sheet of paper in my notes where I would have dealt with the point raised by the Hon Mr Bossano which I think is relevant at this stage and that is the policy that we are going to apply in regard to home ownership in the new situation. With your leave I would like to explain to the House what is intended. Broadly speaking, Mr Chairman, the approach is threefold. We will give a 100% relief in respect of a development meant for home ownership for the local market and where it is of a low cost nature. In other words, something like Vineyards where the Government itself in the tender conditions has laid down certain price levels and conditions which it will apply to get the developer to stick to those. Broadly speaking, that sort of development for the local market would carry 100%. Luxury houses and may I give an example, let us say that somebody constructs three housing units which are going to be sold for £150,000 each, would get nothing. Then what I would call a sort of development aimed at a mix of purchasers where some of the units are going to be taken up locally and some may not, for instance, the existing Woodford Cottage development, Woodford Cottage north, the policy has been in the past to give them a small percentage of 15% or 20%, that I think would be the approach in the new situation. Where a reasonable number of them could be sold locally but not necessarily of a low cost nature, of a moderately price nature, then they would probably get a development aid licence because that has got some benefit in particular for local buyers in respect of relief from rates over a ten-year period which is an important incentive but it would only carry a low percentage, 15% or 20% of that order. That, I think, would be the approach, Mr Chairman. Since the Clerk has called out Clause 5, may I move a very small and simple amendment, Mr Chairman, to clause 5 and that is in new section 21 to delete the date "1st April, 1988" and substitute in its place "15th February, 1988". That, I think, should meet the point about not overrunning the life of the present House. I beg to move formally, Mr Chairman, the deletion of the figures and word "1st April" from Section 21 and the substitution therefor of the figures and word "15 February".

HON J BOSSANO:

Mr Chairman, we are going to vote in favour of the amendment because it meets our criticism of something coming into effect beyond the life of the House. In the light of that instead of voting against the proposal to eliminate it we are abstaining because, quite frankly, independent

of the date when it comes in, we feel ourselves that this is a major policy on which we ourselves are not entirely clear whether we should do it away or not do it away. But since the date meets one of the major arguments we will not vote against it.

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

On a vote being taken on Clause 4 and Clause 5, as amended, the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Clauses 4 and 5, as amended, stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

I think we ought to remind Members that this does not introduce the proposals that were enunciated apart from making it a minimum of £20,000 the progressive thing is not done because it will require a little longer to work out in the Schedule how it is going to work out but for the moment all that is happening is that you are just taking away the original £10,000 and starting at £20,000. Whenever it is enacted it will be retrospective, I presume, to the date that we are doing now because anybody, hopefully, dying shortly after this, hopefully not dying before, the estate will get the benefit.

MR SPEAKER:

You are extending the bands.

HON CHIEF MINISTER:

That will be altered later.

MR SPEAKER:

It is there, up to £200,000.

HON A J CANEPA:

Yes, but not progressive.

MR SPEAKER:

You are not scaling but you are extending the bands.

HON J BOSSANO:

We are, in fact, voting in favour of this because this is simply an improvement on the existing system. I think it needs to be said that we are not necessarily supporting the other idea until we see it.

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

Clauses 7 and 8 were agreed to and stood part of the Bill.

New Clause 8A

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On page 11, Mr Chairman, immediately under 'Income Tax Ordinance' I beg to move the following amendment: to insert the following new Clause which will be 8A, that is, before Clause 9 and this is as follows: "The definition of the word 'pension' contained in Section 2 of the Income Tax Ordinance is amended by omitting the semicolon at the end thereof and adding 'or any pension or other periodical benefits paid on the grounds of age or widowhood under the social security legislation of a Member State of the European Communities'".

HON J BOSSANO:

I would just like to place on record, Mr Chairman, that we appreciate the fact that the Government has reacted so quickly to the thing and put it in.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 8A was agreed to and stood part of the Bill.

MR SPEAKER:

We are still under the Income Tax section of the Bill. There are, as you can all see, a fair amount of clauses amending the Income Tax Ordinance. Do you wish each Clause to be called separately or are you happy to have a package deal?

HON J BOSSANO:

Mr Chairman, I think Clause 9 which deals with the capital sums. I have made lengthy, according to the Hon and Learned the Chief Minister, too lengthy contributions on this subject on two occasions but I am not getting any answers.

MR SPEAKER:

Let us call Clause 9.

HON J BOSSANO:

Is the Government not going to try and answer any of the arguments that I have put? They are just voting it and that's it. I find it rather odd that a law should be brought to the House, that one should spend a lot of time trying to persuade the Government that they are making a mistake which the Government doesn't attempt to refute and they are just expecting to vote.

MR SPEAKER:

No, one is not expecting anything. I am just asking the way you want to proceed. Mr Clerk will you please call Clause 9 and see what happens.

Clause 9

HON J BOSSANO:

Nothing happens.

MR SPEAKER:

Does anyone wish to speak on Clause 9?

HON CHIEF MINISTER:

I think it would be fair to say that having regard to the consideration that was given to this, at this stage we are not minded to give way to the suggestion but I don't think that that need be the end of it to some extent and I will see that it is considered and I will make, in order not to have promises that are alleged never

complied with, sometimes they are not possible, I will make a considered statement at the next meeting of the House. If we were to give way to some extent, if not all, then we would bring an amending Ordinance. I don't think that in the marathon of a Budget meeting one can easily change the matter but, of course, Members can vote against it the same that we can make progress in others.

On a vote being taken on Clause 9 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 9 stood part of the Bill.

MR SPEAKER:

Are there any controversial matters on the next Clauses?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There is a point, Mr Chairman, arising on Clause 11.

MR SPEAKER:

Can we then call the next Clause.

Clauses 10 and 11

MR SPEAKER:

You wish to raise something on Clause 11.

HON J BOSSANO:

Clause 11 seems to talk again about capital sums not exceeding 25% of the pension. I don't know what Clause 10 was about, is Clause 11 about that as well?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think we had to find a way of amending the legislation, Mr Chairman, and in a sense it does seem to the layman to go about it in a rather odd way. First of all, you exempt and then you withdraw the exemption. Section 5 taxes and Section 7 exempts, this is the substantive Ordinance and you have to do it really in two ways, you tax and you exempt. The point I did want to draw the Hon Leader of the Opposition's attention to, I could have mentioned it actually in my reply at the end of the debate on the Appropriation Bill but I thought it would be better to leave it to the Committee Stage. In the proposed Clause 11, it says: "Section 7(1) of the Income Tax Ordinance is amended - in paragraph (j) thereof by inserting immediately after the word 'retiring' the following:- '(other than sums received in pursuance of a retirement benefit scheme)'". I think that is the answer to the point which he raised during the debate that he thought that paragraph (j) already exempted people from capital funds so I think he saw an inconsistency. We saw the inconsistency ourselves and so we are saying that any sums received in pursuance of a retirement benefit scheme is excluded from that particular section.

HON J BOSSANO:

So, in fact, what the Hon Member is saying is that with the amendment that they are bringing if employers who at the moment do not have pension funds decide to introduce retirement benefit schemes instead of pension funds they will not have to pay tax.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, it says: "Capital sums received by way of retirement, injury or death or gratuities".

HON J BOSSANO:

What does it say at the moment and what is it that this is doing?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are two things, there is the benefit which one may receive as a lump sum from an approved scheme. We are here talking about what in common parlance is called a pension scheme or a provident fund. It has been approved by the Commissioner because he is satisfied that it meets all the rules which he lays down. Any retirement gratuity, that is, we are really talking about a lump sum paid under an approved scheme, in this particular clause is excluded. What wouldn't continue to be exempt from tax is the sort of injury or death gratuity and a retirement gratuity which is not funded and obviously if it is not funded and it is not approved and is not part of a scheme which is approved by the Commissioner, he doesn't get all the tax advantages.

HON J BOSSANO:

So that if, in fact, the lump sum payment on retirement if not funded it is not taxable and if it is funded it is taxable. That is what the Hon Member is saying.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If you get a retirement gratuity it is a retirement gratuity, that is to say, it is a lump sum, it is exempt from tax in the hands of the recipient, he doesn't have to pay tax on that.

HON J BOSSANO:

I know that that is the case, that is the point that I was making, Mr Chairman, before. Are we taxing those or are we not taxing those if you are saying, the statement made before where he talked about it being in lieu of a pension or something like that, I cannot remember the exact wording, it is not an easy thing to decipher with the different provisions in the different sections. I know the bit we are doing now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The point of this particular exemption under (j) is for an employer who doesn't have an approved scheme, he will then give a retirement gratuity. But, of course, the tax treatment of that should be different. It hasn't been accumulated by contributions allowable for tax over a period of years. There is certainly a difference and I imagine that there would be quite a difference between the amount which an employer would be prepared to give by way of a gratuity in the circumstances I have just described and the amount which a properly funded scheme will give on the contributions which have been made for a number of years. That is the distinction.

HON J BOSSANO:

That is precisely what I explained before, Mr Chairman, when I was talking to the general principles that that is not the case, that is what I am saying. I gave an example in one specific instance where the benefits under the gratuity payable which is not funded, which is something like five weeks per year of service was higher than anything in any funded pension scheme even if you commute to 100%. The Government has defended this thing in terms of breach of fundamental principle to avoid tax and so forth, am I correct in saying that in the year in which the gratuity is paid that is a business expense which is tax deductible?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I had better take advice on that. Yes, the year in which it is paid it will be a tax deductible expense.

HON J BOSSANO:

So the position of the Government is that if, in fact, the employer has ten employees and gives them a gratuity as they retire then that is a tax deductible thing, they lose the tax revenue of the cost of that and the money in the hands of the recipient is not taxed and that is not avoiding any tax. However, if the employer puts a bit every year aside to achieve precisely that then it is a blatant breach of principle and it is taxed either in the hands of the employer or in the hands of the recipient. Have I understood the position correctly now?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the Hon Member hasn't really understood the position correctly because I think you have got to make allowances for considerations of the extent. I would agree with him that if one had a situation where the lump sum retirement gratuity which is free of tax is and going to be the substantial feature of a pension scheme rather than the reverse then I think, obviously, one would have to think again about the tax rate. But what we are providing for is for the development which is bound to and, indeed, has taken place because the Commissioner has approved a substantial number of funded schemes and that is likely to continue and what we are looking at is the majority of the cases and it is really against that background that I made my comments in the Budget speech that this is really a breach of normal tax principles.

HON J BOSSANO:

Clause 10(i) deals with the business of the chartering of ships which we have not discussed. I think there is a point that I wanted to ask there, Mr Chairman, if I may. I forgot to raise it before as in trying to rush through my speech to please the Hon and Learned the Chief Minister I forgot to mention that bit, Mr Chairman. Have I understood correctly that we are now exempting from the payment of tax the income of people who are not resident in Gibraltar and who own ships registered in Gibraltar and that previously they were taxable? I understood that correctly? Can the Hon Member then tell me from what date are we doing this?

HON ATTORNEY-GENERAL:

1st May, 1987.

HON J BOSSANO:

1st May, 1987. Does that mean that the Government will be collecting tax from these people until May, 1987?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I understand that if there were any such individuals they would be taxed in this year. But I think the point of the Member is that there aren't because they are not registered here, they wouldn't register here, they might have a tax exempt company but they would not register here because that would automatically disqualify them so they are registered elsewhere. They can have a tax exempt company but they cannot have a tax exempt company and register the ship here at the moment so there aren't any.

HON J BOSSANO:

You are saying that the tax exempt companies registered in Gibraltar cannot own ships registered in Gibraltar?

HON CHIEF MINISTER:

Yes, but it does not normally.

HON J BOSSANO:

That is what the Hon Member has just said. Is that what he is really saying? I just want to know what the facts are, Mr Chairman, they will find out the implications when they have told me the facts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I may possibly have misled the House, Mr Chairman, by my reference to tax exempt companies. A non-resident owner whether he has formed a tax exempt company is really immaterial, is discouraged and that is the purpose of the amendment. A non-resident owner of ships.....

MR SPEAKER:

Not an exempt company.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is to encourage him to register here.

MR SPEAKER:

To be able, I think I might explain, to be able not to have to pay tax on a ship which is registered in Gibraltar it has got to be owned by an exempt company. A ship registered in Gibraltar by the fact that it is registered in Gibraltar would attract income tax unless the owner is not resident.

HON J BOSSANO:

That is exactly the opposite of what we have been told.

HON CHIEF MINISTER:

Unless the owner is not resident.

HON J BOSSANO:

If it is unless the owner is not resident that is now exactly the opposite of what the Hon Financial and Development Secretary has just said. He has just said that the non-resident owner pays tax at the moment and that they are changing the law so that he won't have to pay tax.

HON CHIEF MINISTER:

He is liable to tax, he doesn't pay because you cannot get hold of them.

HON J BOSSANO:

He is liable to tax. In fact, all the non-resident owners of all the ships registered in Gibraltar currently are liable to tax except exempt companies?

HON CHIEF MINISTER:

I think the sum total of it is that it is of no use having a tax on people you cannot impose it on.

On a vote being taken on Clause 10 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 10 stood part of the Bill.

MR SPEAKER:

We did discuss ad nauseam, I think, Clause 11 so we will take a vote.

On a vote being taken on Clause 11 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 11 stood part of the Bill.

HON M K FEATHERSTONE:

Do the Opposition realise that they are voting against the increase in tax free allowance for money invested in building societies?

HON J BOSSANO:

We are in favour of that, Mr Chairman.

MR SPEAKER:

I am afraid that you cannot do that unless you can bring an amendment which is going to be carried, you cannot vote for half of a Clause.

HON J BOSSANO:

When we are in Government next year we will provide separate provision for that and that will correct the situation.

Clause 12

HON J BOSSANO:

What is Clause 12 doing?

HON ATTORNEY-GENERAL:

If you follow the explanatory memorandum at the end of the Bill you will see that this is connected with the pension scheme changes so you should vote, strictly speaking, against Clauses 9, 11(i) and (ii), 12 and 22 (in part).

HON J BOSSANO:

I am grateful for that advice. Then we are voting as recommended by the Hon and Learned the Attorney-General.

On a vote being taken on Clause 12 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 12 stood part of the Bill.

Clause 13

HON J BOSSANO:

We are not in favour, Mr Chairman, of Clause 13 at this stage.

MR SPEAKER:

You were last year.

HON J BOSSANO:

I know but the Hon Member has come along now and he is taking 100% depreciation in the first year, is that what he is doing?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, on the contrary, withdrawing the 100%.

MR SPEAKER:

Withdrawing the 100% and making it a yearly depreciation.

HON J BOSSANO:

That is right, yes. Again, this is, I think, the similar argument to that of the development aid where, quite frankly, at this stage we are not totally convinced that a case has been made. We are not sure what effect this will have.

On a vote being taken on Clause 13 the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Clause 13 stood part of the Bill.

Clauses 14 to 21 were agreed to and stood part of the Bill.

Clause 22

On a vote being taken on Clause 22 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 22 stood part of the Bill.

Clauses 23 to 27 were agreed to and stood part of the Bill.

Clauses 28 and 29

HON J C PEREZ:

Mr Chairman, may I raise at this stage before we end the Committee Stage of this Bill, a measure which was announced by the Government but which does not come through Committee Stage because it has been changed in Regulations and that is the question of the increase in duty and the transferability of the GG plates. Am I allowed to raise this at this stage, Mr Chairman?

MR SPEAKER:

It is as good a time as any and there is no reason why you shouldn't.

HON J C PEREZ:

In private conversation with the Hon the Financial and Development Secretary I have been told that perhaps one of the reasons for introducing both these measures was that the trade affected had actually made representations to this effect. Mr Chairman, my information is that the trade affected is against the measures announced and if the reasoning behind it is because the trade have actually asked for this to be done, then perhaps there has been a misunderstanding and this is not the case. If the intention is to satisfy the trade then they are not fulfilling that by passing those measures and perhaps if there are other reasons for the measures, perhaps the Government might be able to explain what those other reasons are.

HON A J CANEPA:

I can explain the position. The bulk of the measures that have been brought to the House in the Finance Bill to do with lowering the duty on motorcars, spares and so on, are a result of representations from the motor trade. The motor trade did not represent to the Government that the drawback on the GG plates should be increased from 2% to 5%. The Government decided that the business was such that it could take it without being a disincentive but that was not represented to us, to set the record straight. In fact, perhaps I should also add that it has been represented to us also by the motor trade that we should not increase it from 2% to 5% in respect of vehicles that are sold without being registered and we have accepted the point and therefore when Regulations follow we are going to draw the distinction that with regard to vehicles which are not registered the drawback will remain at 2% but in the case of the GG plates they are going up from 2% to 5%.

Clauses 28 and 29. were agreed to and stood part of the Bill.

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

MR SPEAKER:

Having done the Committee Stage of the Finance Bill we shall now recess for about half an hour for tea.

The House recessed at 5.25 pm.

The House resumed at 5.55 pm.

THE APPROPRIATION (1987/88) BILL, 1987

MR SPEAKER:

We will now continue with the Committee Stage of the Appropriation Bill.

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

Schedule

Part I - Consolidated Fund

Head 1 - Audit

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

Mr Chairman, could I have a breakdown of the printing and stationery to find out how much the £500 is?

Other Charges was agreed to.

Head 1 - Audit was agreed to.

Head 2 - Crown Lands

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

Could I just ask, Mr Chairman, is the Financial Secretary going to be able to give me any reply on the point that I raised about the total cost of the industrials? I said that the explanation he had given previously was one that I was not happy with and the total cost, I mean we make the point in any Head because there are wages in a number of Heads but the total cost he told me in writing or in answer to a question in the House I think it was, that in fact £11.8m had been provided in the approved estimate of expenditure and that the outturn was now expected to be £11.3m. What I want to know is if in the forecast outturn column that we have got of other charges, if in there the sum total is the £11.3m that he told me and the figure in the estimates for 1987/88 and whether the figure for the estimate for 1987/88 is based on the £11.8m that was put last year or on the outturn of £11.3?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have written to the Hon Member about this, has he received my most recent letter with what I might call a guesstimate, I think in my letter to him I called it, for 1987/88? I cannot really add to what I said in that letter at this stage, Mr Chairman.

HON J BOSSANO:

Mr Chairman, I am afraid that that is not acceptable because precisely what I thought was an estimate until this year, the Hon Member has now told me is a guesstimate which goes to the Council of Ministers and which is changed by the Council of Ministers. I want to know what we are voting.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am sorry, Mr Chairman, if the Hon Member will give way. It doesn't go to Council of Ministers. What I explained in my letter to him was that, and I think quite clearly actually not quite clearly quite possibly we shouldn't have attempted to provide the information, I think very often one tries to be helpful on the basis of information which is not readily available. There is no problem with the non-industrial staff because they are salaries and allowances but there are difficulties with the industrials of actually extracting the information which the Hon Member has asked for and I explained in my recent letter to him what the imperfections in the system of making an estimate were. I must admit that I haven't myself fully appreciated it in earlier years when this information was passed to him which was an estimate of the breakdown of industrial pay. I haven't fully appreciated myself how the information is obtained. When it was explained to me I realised that the information could by no stretch of the imagination be called an estimate in the sense here, it was a guesstimate. It was made available with the best of intentions. I am sorry if he finds it unacceptable or I am sorry he finds my explanation unacceptable but that is the explanation and I cannot improve on it nor can I improve on the information.

HON J BOSSANO:

Mr Chairman, the Hon Member is again wrong in the explanation that he has given and that is why I find it unacceptable and the Hon Member is not, in fact, giving me anything out of the generosity of his heart. He is giving me information that I have now had for four years and before he arrived on the scene every year and I cannot get him to give it to me in this House because I am voting the money and, if necessary, I can stop him in every vote under Other Charges and say: 'I want to know how much of the Other Charges is wages' and then I will add all the wages. Let's be clear. The House of Assembly appropriates funds, I am entitled before I vote to ask for explanations. He is not doing me any favours, he is doing his job. I asked him for the explanation before and the explanation that he gave me was that the figure that was in there would not necessarily be the figure at the end of the year because there was a discrepancy of £1m. I have already told him this in my original submission to give him time to think about it and give me an answer. I have checked whether what he told me was true and it isn't true, there hasn't been a discrepancy of £1m ever before, I have checked. The final figure in previous years is higher than the guesstimate. If I get guesstimates for three years running and final figures that are higher and this year I get a final year of £1m lower, I am entitled to ask why and I am entitled to ask how much money he has included in this vote. If he is telling me now that what

he said to me in the letter is what is included in these votes, fine, we will put that on the record and then if he has got that wrong he will no doubt wish to stand up and say and that he is sorry he misled the House. If that is what he is telling me now that the figure that he gave me which I think was £12.6m, he is telling me that the £12.6m are being appropriated by us in this Appropriation Bill, that is what he has just told me. If he will confirm that that is the case I will accept it and then I will ask him to look into whether the £12.6m is based on the £11.8m or whether it is based on the £11.3m. Can he confirm that the figure that he told me before was a guesstimate is actually being voted by us here?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I am not confirming anything of the sort nor am I going to stand here and be told what I have to do by the Leader of the Opposition.

HON J BOSSANO:

Then, Mr Chairman, I would like to know how much money there is for wages under Other Charges as we come to each Head and if we have to come back on Monday we will come back on Monday. I believe that I am entitled to that information and I will not have.....

MR SPEAKER:

You are entitled to ask.

HON J BOSSANO:

Certainly, and if I have to ask on every single Head, on every single subject and on every single item I will do it. We are abstaining on Other Charges until we get the information we need, Mr Chairman, because we don't know what money we are voting.

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

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

The following Hon Members abstained:

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

Other Charges was passed.

Head 2 was agreed to.

Head 3 - Customs

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

Mr Chairman, can I ask the Hon Member whether the £31,000 in Other Charges is the only amount provided under that Head for wages or whether there is any other element for wages of industrial workers under any of the other items under Other Charges?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It will take a little while for the information to be extracted, Mr Chairman.

MR SPEAKER:

Well, that is information which can be given at a later stage.

HON J BOSSANO:

Mr Chairman, I have already offered the Hon Member the opportunity of simply confirming that the information he has given me in writing prior to this meeting to which he says he cannot add anything is, in fact, the figure included. If he tells me that that is the case then I don't need to get it myself under each Head and add it up. He won't tell me that that is the case. Maybe he doesn't know.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, let me put it this way. I did explain to the Hon Member in correspondence I had with him that the breakdown which I provided him with was based on, it was taken from the departmental estimates which were then subjected to scrutiny by Council of Ministers as part of the annual process of scrutiny. I have explained that and I said therefore for that reason and various other reasons which I explained, one would expect that there would be a difference between the amount provided in the estimates and the outturn for the year. That is what I explained.

HON J BOSSANO:

And what I am saying, Mr Chairman, that having had that explanation from him, I was told in 1984/85 that the estimate or guesstimate was £9.1m, the outturn is £9.6m which is £0.5m more. I was told in 1985/86 that the guesstimate was £9.9m and the outturn was £10.2m which is £0.3m more and this year I was told first that the guesstimate was £12m, then that the figure in the approved estimates in answer to Question No.87, was £11.8m and finally that the outturn will be £11.3m. If I have asked in Question No.87 something and we are coming to vote the money, I believe I am entitled to follow up this question and ask him is the £11.3m which he told me in Question No.87 the figure included in the forecast outturn for 1986/87 and is the figure that he gave me of £12,606,000 the figure included in the estimate that we are now approving, the one we are now appropriating? Is the figure there £12,606,000 which is the figure he gave me in his letter? If it isn't then I would like to know what the figure is.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I haven't got the letter which I sent to him or indeed the information in front of me, Mr Chairman. All I could do is reply in general terms by explaining what happens to the estimates. I am sorry I haven't got that particular letter in front of me. If I can be allowed to see a copy of it I may be able to add something to what I have already said but for the moment I cannot.

HON J BOSSANO:

Mr Chairman, I can give the Hon Member a copy of the letter the moment I find it amongst everything else that I keep that he sends me or says, it is here somewhere. But the point that I am making is the letter that he has given me is in conflict with the facts as I have provided by him in previous years.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am surprised at that.

HON J BOSSANO:

But that is a separate matter which we can pursue after this Budget, there is no need to pursue that matter now. What I am asking now is, I asked him in Question No.87 - forget the letter - in Question No.87 I asked him whether he could confirm that the money provided in the estimates in last year's Budget had not been spent. The answer was yes, that we provided last year £11.8m and that we spent £11.3m. I am now asking him is the figure £11.3m the figure that is included in the forecast outturn for 1986/87, for example, in the summary of expenditure, that is to say, in page 16 in the second column there is a forecast outturn for the year of £72m. Is the figure for wages in that £72m the £11.3m that he gave me in answer to Question No.87, nothing to do with the letter.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I now understand. I am sorry I cannot answer that with the precision which the Hon Member would like at this stage, Mr Chairman, I will have to look into that. Now I understand what it is he wants.

HON J BOSSANO:

Can he answer what the figure is that we are providing now for 1987/88?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

A total figure?

HON J BOSSANO:

The total figure, yes.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I don't think we can as of now provide him with a figure which relates precisely to the estimates. What I did provide him was, as I have explained, a figure based on a sort of an earlier stage of estimates before the final scrutiny by Ministers. That was our best estimate at that stage. We will have to look at it again to try and provide a more refined total figure.

HON A J CANEPA:

One of the main problems, Mr Chairman, arises in an item, for instance, on page 28, Head 3 - Customs, such as minor works. If the House is asked to vote £35,000 the Treasury doesn't have at this stage, they don't know how much of that is wages. You can use the normal rule of thumb that in any works it is two to one wages as against material or 60% wages and 40% materials but that is a rule of thumb. To that extent it is a guesstimate, I wouldn't describe it as a guesstimate, I think it is an estimate if that rule of 60%/40% bears general applicability. But that is a problem for the Treasury that the figure of £35,000 they cannot break it down for you, they have to go back to the Public Works Department.

HON J BOSSANO:

Mr Chairman, I don't want to be given a breakdown of each figure in each item. I am asking for an overall figure, period.

HON A J CANEPA:

They have got to carry out a breakdown. I know the Hon Member is not asking for it but in order to arrive at the figure that he is asking for, in fact, there has to be a breakdown carried out.

HON J BOSSANO:

Could I just explain something, Mr Chairman? If I was given in Question No.87 a figure of £11.8m, I am not talking about being given the figure in hundreds or in thousands but in hundreds of thousands.

HON A J CANEPA:

The reason for that figure, the apparent discrepancy between £11.8m and £11.3m can arise - I am not saying that it did - but a possibility is the following. When the departments ask the Public Works Department to cost for them the non-recurrent works that they want to be carried out and the total sum of the various submissions of the departments could be, say, £1m and then the Public Works Department advises Ministers: 'We cannot do £1m, this is not on. We haven't got the technical staff or the labour to do it or the capacity doesn't exist and what can be done is, let us say, £400,000'. Then Ministers take that policy decision and the departments get £400,000 to be allocated amongst them. There is £600,000 that has been reduced. The figure that I think the Treasury gave the Hon Member when it was £11.8m was at the stage of draft estimates submitted by all the departments including

the element of Public Works Annually Non-Recurrent emanating from the various departments. Then, of course, if there has been such a cut made for the reasons that I have given that could account for a discrepancy down to about £11.3m.

HON J BOSSANO:

I don't know whether the Hon Member is aware that what I am talking about is not a figure given to me by the Treasury, it is a figure given to me in answer to Question No.87 in 1987 in the House which effectively said that the amount appropriated in the Budget was £11.8m.

HON CHIEF MINISTER:

You have four days notice, the question goes to the department, they collate the information, they pass it on to the Treasury and it was given to you because they had to prepare it and that is why you require time for questions. What they give you is what you ask. You ask a question and they take the material from the different departments and give you a figure. Whether that one is right or wrong it is certainly well meant at the time that it is given but it is very difficult now for the Financial Secretary and for me to try and extract from these estimates elements of wages and elements of material and getting out all the items in which wages have been involved.

HON J BOSSANO:

Has the Hon Member any idea then how far or how close to the guesstimate that he gave me in writing the amount put in the Appropriation Bill is? He gave me a figure of £12.6m, Mr Chairman, as the amount included for wages in this Budget, that's the figure he gave me, but he warned me that that figure was a guesstimate and that the eventual result would be different. Fine, I accept that the eventual result at the end of the year could be different. What I am asking is in this Budget where we are voting a total of £69.8m is the amount out of that £69m for wages £12.6m or is it another figure, can I get an answer?

MR SPEAKER:

The answer you have been given is they haven't got a clue.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, I wouldn't say we haven't got a clue.

MR SPEAKER:

No, in fairness, due to the reasons that have been explained.

HON CHIEF MINISTER:

He might as well ask how many envelopes are going to be purchased out of stationery? How do you know?

HON J BOSSANO:

No, Mr Chairman, but I could ask is the Government going to spend £12m in envelopes or £11m in envelopes? Give or take £1m, how much is the wage bill this year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Clearly, I would not think, I may have to eat my words and I would be quite prepared to do it, but I would not think that the difference we are talking about is more than £1m. I am talking now about the difference between the two estimates, that is to say, the estimate which I gave in the letter I sent to the Hon Member and what the figure might be after proper scrutiny. I would say that we have to see what decisions taken during this scrutiny have affected wages, that might give us a lower figure, I would think, perhaps, of £200,000 or £300,000. I would not think it is necessarily going to be a reliable indication of what is spent during the year because other things can change and like the Minister has explained you can have a difference split between.....

HON J BOSSANO:

I am not asking what will eventually be spent. I am asking, quite legitimately I think in the Appropriation Bill and I gave notice of this in the general principles of the Bill, how much money are we now providing in this Bill that we are voting, do we know how much money we are providing for wages? If we don't know then perhaps the Hon Member can let me know as soon as he finds out.

MR SPEAKER:

That is what I have been trying to say for a long time, in due course the information will be available.

Other Charges was passed.

Head 3 - Customs was agreed to.

Head 4 - Education

Personal Emoluments was agreed to.

Other Charges

HON R MOR:

Mr Chairman, under Subhead 5, Books and Equipment. In my earlier contribution I raised the matter about the B/TEC courses in the College of Further Education. The Minister did not supply an accurate figure of what they are intending to spend on that. What is the figure to be spent on B/TEC courses in the College of Further Education?

HON G MASCARENHAS:

Does the Hon Member want to know the specific amount earmarked for the College of Further Education on its own?

HON R MOR:

Yes.

HON G MASCARENHAS:

That is aside from the £55,000 in the I&D Fund? Mr Chairman, I believe it is £39,000 but I will confirm that figure. That is the recurrent books and equipment capitation for the College of Further Education, the £50,000 is in addition to that but I will confirm that figure to the Hon Member.

HON R MOR:

Mr Chairman, in earlier debates and questions in this House there was specific reference made to the amount which would be required to be able to provide B/TEC courses for the College of Further Education. At the time we were talking about a figure of £100,000 and the Minister, in fact, said that it would probably be more than that. I can see in these estimates that £50,000 are being provided and the Hon Member is now saying that about £39,000 is put towards that school and not for the specific B/TEC courses. Is the Hon Member now saying that he knows what exactly is the amount required for providing B/TEC courses?

HON G MASCARENHAS:

Mr Chairman, I think that the figures quoted by the Hon Member, this is not a sum that has been identified by B/TEC. In a recent visit by the two inspectors no sums were ever mentioned, they just mentioned that the College needed some input of new equipment but that this could be done in a period of three to four years and no sum

was identified. We are providing £39,000 in recurrent expenditure and £50,000 under special expenditure included in the I&D Fund, that is £89,000 for this year. It may well follow that next year we will do the same exercise.

Other Charges was agreed to.

Head 4 - Education was agreed to.

Head 5 - Electricity Undertaking

Personal Emoluments was passed.

Other Charges

HON J BOSSANO:

The increased cost in fuel which I mentioned earlier, it is in Subheads 4 and 8. I assume we are talking about price of fuel and not volume of fuel because the £1m is reflected in the Funded Accounts as an increase in the FCA. I find it rather odd that we should have provided a lower sum in last year's Budget, that the outturn should be well below the sum we provided and here we are expecting the price to be higher this year than it was at this time in 1986/87?

HON J B PEREZ:

Yes, but if there is a reduction obviously the FCA would be activated and there would be a reduction.

HON J C PEREZ:

Mr Chairman, since the Hon Financial and Development Secretary in his contribution to the Finance Bill said, in fact, that municipal charges had been reduced by 16%, by how much is he forecasting that electricity charges are to increase in this financial year considering the expense of fuel that is to be passed on to the consumer through the fuel cost adjustment formula?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I haven't got such a forecast. I don't know whether the Minister has.

HON J C PEREZ:

I presume that in forecasting the increase in fuel one is forecasting an average of the increase in electricity charged.

HON J B PEREZ:

Coming back to the point that was made before. The way the estimates have been worked out by the department is that we have taken the price at the rate on the 15th February of this year, that is what we have done. There is no other way of doing it because you have the FCA, if you didn't have the FCA it is different.

Other Charges was passed.

Head 5 - Electricity Undertaking was agreed to.

Head 6 - Establishment

Personal Emoluments

HON J BOSSANO:

I notice there are some small additions to the Establishment Division being made, an EO and an AO. Is this the result of the staff inspection that was carried out of the Establishment and Management Services?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I believe so, Mr Chairman.

Personal Emoluments was passed.

Other Charges was agreed to.

Special Expenditure

HON J BOSSANO:

Mr Chairman, under Special Expenditure in Establishment it has Pensions Legislation Consultancy - £1,000. Is this to do with the Unified Pension Scheme?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, it is, Mr Chairman.

HON J BOSSANO:

Are we paying for something that they did before or is it that the Government is still pursuing the matter?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

These are the services for Mr McNeil who is a UK Pensions Adviser who comes out and advises on this.

HON J BOSSANO:

I know what it is, I mentioned it I think in a highly critical fashion, if the Hon Member remembers anything I say, when I spoke on the general principles but my impression was that the Unified Pension Scheme had now been given up. I am asking whether we are voting money for this coming year because it has not been given up or we are voting money because we owe him for work he has done in the past? I don't want to hold up the work of the House, perhaps they will let me know when they are able to.

MR SPEAKER:

Anyway, the information can be given at a later stage, perhaps, or personally to the Leader of the Opposition.

Special Expenditure was passed.

Head 6 - Establishment was agreed to.

Head 7 - Fire Service was agreed to.

Head 8 - General Division

Personal Emoluments was agreed to.

Other Charges

HON CHIEF MINISTER:

You want to know about Item 11.

HON J BOSSANO:

Yes.

HON CHIEF MINISTER:

Mr Chairman, as Members are aware I announced at the time of the retirement of Mr Pitaluga that his services would be retained for advising on foreign affairs on a month-to-month basis. At the time the Hon Leader of the Opposition made a statement objecting to it though he said that the level of remuneration was not a matter for consideration. Anyhow, I ought to say now how the

thing has worked. First of all, let me say that this is not an isolated item of consultancies. If Hon Members look at Head 5, page 35, of the Estimates, in the Electricity Undertaking you will see that there is a provision there for consultancy, consultancy service, and if you look at page 85, Head 22 - Telephone Service, Item 12 - Telephone Advisory Service, there is a nominal figure there in case it is required. And if you look at Head 25 - Treasury, Item 16, at page 94, we see Insurance Supervision: Consultancy - £6,000. So that the provision there for consultancy is nothing new, you may not like the way it is done but it is nothing new.

HON J BOSSANO:

Can the Hon Member tell me in how many of these votes that he has mentioned we have people who have retired from the public service on a full pension at 55?

HON CHIEF MINISTER:

No, it has nothing to do with it as far as we are concerned and I said so before and I say so now. But I think perhaps Hon Members will want to know how the thing has worked. If they are interested I will tell them.

HON J BOSSANO:

We are going to vote against the money, Mr Chairman.

HON CHIEF MINISTER:

Then you just vote against it and that's all.

HON J BOSSANO:

One thing that I would like to ask him is, is the £9,000 that we are voting for the advice that the Chief Minister is going to get from Mr Pitaluga in the next twelve months or for the advice that he has had up to date?

HON CHIEF MINISTER:

That is what I was going to do, I was going to give you an account of what has happened because I think £9,000 is too much money but you never know whether there will be a crisis and we would need him working twenty-four hours a day. But let me say what the arrangements are because I think it is in the public interest. As the matter was raised publicly let me say what the arrangements are and that is that he worked on an hourly basis and the rate of remuneration for his hourly basis consultancy is the same as that we pay to the consultant draughtsman

at £20 an hour. This has been going on since the 1st December. From the 1st December, 1986, to the 31st March, 1987, the amount paid, before tax, of course, is £1,220. That is to say, the total number of hours recorded by him on the particular system has come up to that. The payment for that money was made out of a reallocation which was tabled here on the 24th March of this year where the Financial and Development Secretary reallocated the amount from general expenses, it is Schedule No. 7 of 1986/87, there was a reallocation of £1,200 because it did not come out of salaries, it came out of general expenses. In fact, the amount paid in respect of the months of December, January, February and March is £1,220 which averages about £305 per month before tax. At this rate the amount required over a twelve month period would be about £3,700 or £4,000 but it is not possible to predict how it is. The basis on which it is done which has been cleared with the Auditor and everybody concerned, is that he makes a monthly statement of the hours and the subject on which he has given advice and I certify that to be correct and then on the basis of that it is assessed - the amount of money has nothing to do with me - it is assessed by the Establishment and it is passed on to the Treasury. The system is working like any other consultancy that would work and I am perfectly satisfied with the results.

HON J BOSSANO:

Is he provided with a printing press or just a telephone, Mr Chairman? Does he have a printing press to print £20 notes or just a telephone to say 'I am talking to the Chief Minister for an hour and I get paid £20'?

HON CHIEF MINISTER:

People in that category, first of all, do not have to clock in or clock out, perhaps they provide many more hours than they account for. I can tell you that I was very agreeably surprised how few hours are provided. Let me give you an example. When he came to London for the visit to the Secretary of State, because he happened to be there at the same time on his own he charged for the hours that he had spent in the meeting with the Secretary of State and so on, he didn't charge for hours being spent outside Gibraltar for his work. But in any case, as far as I could understand it at the time that the objection was made, the question of payment was no consideration so it is no use saying whether he charges for making a telephone call, I don't think anybody of that standard would lower himself to that extent.

HON J BOSSANO:

I would only remind the Hon Member that he or his Government or somebody there decided to bring somebody to be the Chairman of the Steering Committee who presumably must have been of this standard because that is the kind of money he was charging, who used to have a permanent suite in the Rock Hotel and cost the taxpayer £1m.

HON A J CANEPA:

What you haven't said is what the Industrial Society did subsequently when the matter was brought to their attention.

HON J BOSSANO:

I am not aware of what the Industrial Society did subsequently. All I know is that we voted the money here, Mr Chairman, we will never get it back.

Mr Speaker then put the question and on a vote being taken on Subhead 11 - External Affairs - Advisory Service, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Other Charges was passed.

Special Expenditure was agreed to.

Head 8 was agreed to.

Head 9 - Governor's Office was agreed to.

Head 10 - House of Assembly

Personal Emoluments

HON J BOSSANO:

Mr Chairman, we are not, in fact, voting in favour of this vote. There has been correspondence between yourself, Mr Speaker, and the Deputy Governor about what is the proper grading for the post of Clerk of the House and we have ourselves expressed strong support for the view put forward by Mr Pring who looked at the situation. Our understanding of it is that the Government shares our view that the post is incorrectly graded, I have written to the Chief Minister on the subject and therefore as far as I am concerned in order to emphasise that point, to draw attention to it, we are abstaining on this vote because we think it cannot simply be allowed to continue in the grading that it is for another year which is effectively what we are voting. I suppose if we have the two officials voting in favour and the rest abstaining we will still get paid. I invite the Hon Members opposite who are elected to join us in abstaining.

HON CHIEF MINISTER:

Mr Chairman, I think we ought to take a much more serious view of this matter than abstaining. If we agreed to the proposal, however well intentioned we may be, we would be depriving the Treasury from paying the Clerk his emoluments.

HON J BOSSANO:

No, Mr Chairman, I have just told them how to do it. If the Hon and Learned the Chief Minister shares the concern of the Opposition and wants to make a serious and strong protest about this then the two non-elected Members of the House can vote in favour, the rest of the elected Members can abstain as a sign of protest and the Clerk will still get paid.

HON CHIEF MINISTER:

First of all, the matter has not been finally disposed of and though - and I would like to make this clear - though I take a certain sympathetic view, the Government have got a bit more restraint on these matters for obvious reasons in respect of the general service than Members opposite can have but I can assure Members that the matter is having a fresh look in that direction.

MR SPEAKER:

I would like to say, perhaps, because I am to a large extent involved in this particular matter, that representations were made and have been made in writing to the Establishment and there has been correspondence and the matter is still being considered and, as a matter of fact, it is subject to a reply from me to a letter which I have received which I consider to be not satisfactory and I have hopes that on the further representations which I intend to make the matter will be further considered.

HON J BOSSANO:

Those are very familiar words, Mr Chairman, 'the matter is being considered', we can all be in the next world while it is still being considered.

MR SPEAKER:

I have hope that it will be further considered.

HON J BOSSANO:

As far as we are concerned we feel very strongly, we have chosen to make a point of it here because we want that message to get back and, as I say, we are abstaining for that reason, obviously not because we do not want the Clerk to get paid his emoluments but because we don't think he is getting paid enough.

HON CHIEF MINISTER:

I would not want this House to spend one penny of public expenditure on the votes of the Financial Secretary and the Attorney-General alone.

HON J BOSSANO:

If that is the case, Mr Chairman, I am astonished that when the Hon Member brought here a Bill to create a salary for the so-called Deputy Chief Minister which didn't exist until then, he allowed that vote to be carried in this House of Assembly with the votes of the Attorney-General and the Financial Secretary.

HON CHIEF MINISTER:

And our votes, we were voting.

HON J BOSSANO:

With their votes alone, Mr Chairman, the Bill would have been lost because it was a motion and there were equal votes because Mr Canepa as the affected party abstained and it was carried with the two votes of the two officials so I am surprised that he doesn't want to see it done for the Clerk but he didn't mind seeing it done for the Deputy.

HON CHIEF MINISTER:

No, it is a completely different concept. What I said was that I would not like one penny of expenditure to be allowed with the votes of two official Members only. That proposal had the vote of seven elected Members and the two official Members, that is a different thing.

MR SPEAKER:

Anyway, the matter has been ventilated enough and I will put the Personal Emoluments to the vote.

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

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

The following Hon Members abstained:

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

Personal Emoluments was passed.

Head 10 - House of Assembly was agreed to.

Head 11 - Housing

Personal Emoluments was passed.

Other Charges

HON J BOSSANO:

On the rates, Mr Chairman, under Other Charges and while I am talking of the rates, on the estimates of rents in the Housing Fund has any assumption been made that any sales of Government houses are going to take place?

HON M K FEATHERSTONE:

No, Sir.

HON J BOSSANO:

Does the Government then think that it is a reasonable proposition to show in the Estimates of Expenditure and Revenue the income from selling the houses and the rates from the houses that have been sold in the same financial year as if the sale had not taken place, surely, that is not an accurate presentation of the facts? If the Government is assuming a certain level of sales then they must assume a certain loss of revenue from that level of sales and they show both things.

MR SPEAKER:

Are you talking about rates?

HON J BOSSANO:

No, I am talking about rates because the rate assessment on Government housing will be lower than what we are voting.

HON CHIEF MINISTER:

No, they will still pay rates.

HON J BOSSANO:

The owner/occupier will pay the rates not the Government.

HON CHIEF MINISTER:

And now it is paid.

HON J BOSSANO:

No, we are voting here for the payment of rates in respect of Government housing. The rent is then collected by the Housing Department from the tenants as part of the rates. If the house is sold the tenant doesn't pay the rent because he is not a tenant, he pays his rates quarterly in advance as an owner so therefore the figure that we are providing for rates assumes that no houses are going to be sold and the estimates of rents in the income and expenditure and the figure of the housing subsidy that we provided at the revised figure on page 5 that we have been given by the Hon Financial and Development Secretary are all misleading, I regret to say, because in fact they are assuming two contradictory positions. They are assuming that houses will be sold and there will be an income of £1.3m in the Improvement and Development Fund which we are going to vote to spend and they are also assuming that houses will not be sold and that there will be an income from rents which will go into the Consolidated Fund so we are showing money going into the Consolidated Fund and money going into the Improvement and Development Fund as revenue which cannot possibly be the case because if one is sold then the rent disappears and if the rent is there then the houses will not be sold. I would have thought that the logical thing would be that if you are saying 'I am assuming that the houses are going to be sold in such and such a date and that so many houses are going to be sold and I am estimating the money that I am going to get from the sale, I will also estimate the money I am going to lose from the rates in terms of the Housing Fund and the money I am going to lose from the rents and therefore I will recalculate what the subsidy is and I will appropriate accordingly' because, in fact, the result of total liquidity which is so close to the heart of the Hon Financial and Development Secretary as we will continue to find out throughout 1987/88, Mr Chairman, will be lower than anticipated by him on the basis of the revised page 5 which he has circulated to the House today. It cannot possibly, I am sure he must admit, it cannot possibly be true that in 1987 he is going to receive rents for 52 weeks for all the houses that he will sell. Mr Chairman, does the Government not accept that if they are selling a house and they are estimating revenue and they are showing that revenue in the Improvement and Development Fund as income they should stop the flow of income from the rent of that house in order to be accurate and that not to do it is misleading?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The Hon Member is now aware of the point, I accept the logic of what he says as I very often do. These are estimates, there is no way in which we can say, let us take a hypothetical situation. If all the houses were sold at

the very end of the year, we wouldn't have lost, I don't think so, we wouldn't have lost the money which has been included in Housing or we would have lost very little, in fact, the minimum. What I did say and I didn't make any pretence about this in my Budget speech is that it is difficult to estimate, I put the uncertainty, perhaps I can express it this way, I put the uncertainty over the actual sale of houses but I accept the logic of what the Hon Member has said, I certainly don't think it is going to cause serious damage to the Government's returns on its liquidity.

HON J BOSSANO:

Nothing seems to cause serious damage to the Government, Mr Chairman.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I know, the facts speak for themselves, I keep telling the Hon Member.

HON J BOSSANO:

And, in fact, if it did, we just change the rules, it is quite simple.

HON R MOR:

Mr Chairman, earlier on in the debate I raised the matter of rent relief because of the fact that the Government had promised to introduce legislation to allow rent relief for private tenants. The Hon Minister for Housing said that the amount required in this respect would be negligible. Could he give us an idea of how much does the Government think they are going to give in rent relief to private tenants?

HON M K FEATHERSTONE:

The breakdown that I have here is £153,000 for Government tenants and £7,000 for private tenants.

HON J L BALDACHINO:

Mr Chairman, under Subhead 13 - Minor Works, this is something that was introduced for the first time last year. Can the Hon Member explain if all the money was spent on minor works, did the department carry them out or does it also include money that some tenants are given when houses are allocated to social cases?

HON M K FEATHERSTONE:

Yes, Sir, most of the money has been spent. Some of it is actually materials which are given to people to do the work themselves.

HON J L BALDACHINO:

Seeing that he is now estimating for the same amount, does he think that is sufficient or would he like to see some more money under that Head?

HON M K FEATHERSTONE:

Well, I would always like to have more, I think this is sufficient for the time being but if we need more I will come to the House for it.

Other Charges was passed.

Head 11 - Housing was agreed to.

Head 12 - Income Tax Office was agreed to.

Head 13 - Judicial was agreed to.

Head 14 - Labour and Social Security

Personal Emoluments was agreed to.

Other Charges

HON J BOSSANO:

Mr Chairman, were we not going to get at this stage from the Minister the breakdown of the supplementary benefits?

HON DR R G VALARINO:

Supplementary benefits was £754,000; Retirement pensions was £43,300 and the Elderly persons allowance was £569,500, making a total, I believe, of £1,366,800.

HON J BOSSANO:

That is the estimate for 1987/88?

HON DR R G VALARINO:

That is correct.

HON J BOSSANO:

Does he have the figure, by any chance, of the actual outturn for 1986/87 because I think one of the things that we are interested in is.....

HON DR R G VALARINO:

It is there.

HON J BOSSANO:

No, we are interested in whether we are in a situation where the EPP is declining or static or increasing because we know that the supplementary benefits, to some extent, doesn't show a trend. You could have a lot of people claiming in one year and nothing the next but in the EPP we would like to know what the position is.

HON DR R G VALARINO:

Both the retirement pensions and the EPA are getting smaller as time goes by and people are dying. In fact, I did mention I think at the end of last year a certain figure and the figure is certainly less than was suggested. Those two are smaller but the supplementary benefits are going up all the time and that is notwithstanding the amount by which we increase at the end of the year which was 6.7% at the end of last year.

HON M A FEETHAM:

Mr Chairman, there is a particular situation which develops under supplementary benefits which I think gives way to the argument that we ought to review special cases where people are medically retired from work because, for example, they have had an accident or they have become sick and consequently they are not entitled to unemployment benefit because they are not available for employment but what happens is that he can apply for supplementary benefits. But in reviewing the supplementary benefits we find that in the case of a person whose wife happens to be in employment disqualifies him for supplementary benefits but he is not available for employment and he is usually sick. There are, I think, about three cases that I have been pursuing in recent times, certainly during the course of my presence in this House, where, in fact, there are these people who have got no means of income and, in fact, they are suffering hardship. We have a case that I took up about a month ago where Mr Gonzalez - I don't mind mentioning names - the Minister's department has got the details, who has been medically retired, a young man of about forty years old, because he has had both his hips removed and the employer cannot

carry him anymore on that basis and because he is unemployable at this stage he is not entitled to unemployment benefit and he claimed supplementary benefits and he has been told because his wife is working he cannot obtain any assistance. Consequently he would be better off if his wife wasn't employed and I think that is wrong. I think there is a need for a review of supplementary benefits to allow for a special case, a sick allowance where the Department on justification by looking at cases can in fact award an allowance to these cases. We just cannot turn our backs. In fact, to be quite honest about this, I can say that after having discussed the matter in some depth with the Director and his Deputy we have, in fact, been able to argue, the Department has accepted that we should not get to that stage by having a review, has accepted that he is technically available for a type of work if he was sat down, for example, and so we have been able to get round it by giving him unemployment benefit on that basis but that is only for thirteen weeks, what will happen after the thirteen weeks? We have now got the problem that he will not be entitled to supplementary benefits. It is a case that is going to be there for a very long time and I think because you don't have many cases occurring and because I think we are not likely to have abuse of the scheme, I think it is time that the Government gave some thought about these cases because they are cases that can cause very genuine hardship.

HON DR R.G VALARINO:

Mr Chairman, as I said some time before, we are undergoing a complete review of the supplementary benefits scheme. Obviously, we will take into account what the Hon Member has said and in the meantime, until we finish such a review, if he finds any other cases because he has already got several cases, to my knowledge, and we have dealt with them, if he finds any other cases which he feels do need extra funds he can always contact me. But we are undergoing a complete review of the supplementary benefits scheme and obviously when we do that we shall take into consideration what the Hon Member has said.

Other Charges was passed.

Head 14 - Labour and Social Security was agreed to.

Head 15 - Law Officers was agreed to.

Head 16 - Medical and Health Services

Personal Emoluments

HON J BOSSANO:

On Personal Emoluments, the provision at the moment is based on the standing level by the creation of the extra post in the Interim Report and I think the Minister told us that the final report on the nursing staffing levels required has not yet been received. I know that the Nurses Union has made representations to the effect that since we are providing the establishment here and there is a critical problem in the Hospital of staffing, quite frankly, the situation is that it has got so bad in terms of the levels of overtime that have been required that people cannot be induced to coming to work anymore. There have been on a number of occasions people who have come off at 8 o'clock and gone straight on working twelve hours on a night shift until 8 o'clock in the morning and then started work on the day shift at 8 o'clock and that is totally unacceptable because of the risk it puts the patients in. I know that the Government may not be able to move on an improved manning level for the Hospital until they get that Interim Report but at the moment what the Nurses Union is asking for and I don't know whether the matter has gone to Council of Ministers yet or not, if it hasn't then I am asking them to give the matter sympathetic consideration, is that in the knowledge that there are a number of senior posts provided in these Estimates which will create vacancies lower down, those vacancies should be filled, if necessary, in anticipation of the promotions. That is to say, if at the moment they are recruiting junior nurses and they get sufficient applicants and there are, say, three or four more applicants than vacancies, since we know that the promotions will create three or four vacancies and the money has been voted here then we should go ahead and fill the extra three or four posts rather than wait for the post to become vacant as a result of a Sister becoming a Senior Nursing Officer and a Staff Nurse becoming a Sister and an Enrolled Nurse becoming a Staff Nurse because by the time all that chain reaction takes place it will be three-quarters of the year gone by and, quite frankly, the situation is very, very critical in terms of the workload on the people and the fact that people are not prepared to work the high level of overtime. In fact, I am not suggesting something that is likely to cost the Government more money, I am suggesting something that is likely to cost the Government less money because it is not that the Government is unwilling to provide the overtime, my information is that the overtime is available, it is just that the people don't want to do it.

HON M K FEATHERSTONE:

I will give it some consideration, Sir.

Personal Emoluments was passed.

Head 16 - Medical and Health Services was agreed to.

Head 17 - Police

Personal Emoluments

HON J BOSSANO:

Mr Chairman, I think I have asked before and I notice in the Abstract of Statistics that we got just before the beginning of the Budget Session, that the incidence of crime in the last year is up on the previous year which in itself was up on the preceding year. It is an issue on which we feel strongly that the Police must have the resources to deal with the problem and we want to be reassured that the resources that we are providing are considered by them to be sufficient.

HON ATTORNEY-GENERAL:

I think the Commissioner knows, Mr Chairman, that if he requires any further officers, that any increase in the establishment to deal with the increasing crime figures he will get those increases of officers. I think everybody is aware of that, very conscious of that fact, Mr Chairman.

Personal Emoluments was passed.

Head 17 - Police was agreed to.

Head 18 - Port

Personal Emoluments was passed.

Other Charges

HON J BOSSANO:

Mr Chairman, under Other Charges, is there a particular reason why we are not providing for minor works this year which we did last year and we apparently spent?

HON MAJOR F J DELLIPIANI:

The minor works are dealt with by the Public Works Department. Mr Chairman, the reason might be because the sums involved are under £10,000 and if they are under £10,000 the money is in the Public Works Department and not shown in the different Heads.

HON J BOSSANO:

Is it then that we are not doing any minor works at all?

HON MAJOR F J DELLIPIANI:

No, we are doing minor works but it is less than £10,000.

MR SPEAKER:

And therefore it comes under Public Works.

Other Charges was passed.

Head 18 - Port was agreed to.

Head 19 - Post Office, Savings Bank and Philatelic Bureau

(1) Post Office and Savings Bank - Personal emoluments

HON J C PEREZ:

Mr Chairman, I have received various complaints of late about the North district Post Office where it is said there is only one person handling the counter and that pensions are being paid there and that stamps are being sold there and that people need to queue up sometimes for even half an hour or forty minutes to be able to get to the counter to buy a stamp and that the office is very busy and certainly inadequate to meet the demands of that area. Could the Minister explain whether the Department has any intention to remedy that situation and, if so, how and if, in fact, he intends to employ someone else or redistribute the work in a different manner so that the situation does not recur?

HON G MASCARENHAS:

Mr Chairman, I have no information on what the Hon Member is asking, I will certainly look into the matter for him.

Personal Emoluments was passed.

(1) Post Office and Savings Bank was agreed to.

(2) Philatelic Bureau was agreed to.

Head 19 - Post Office, Savings Bank and Philatelic Bureau was agreed to.

Head 20 - Prison

Personal Emoluments was passed.

Other Charges

HON M A FEETHAM:

Mr Chairman, perhaps this would be an appropriate time to try to obtain from the Government an indication of what they intend to do about the Prison, to re-site the Prison. I think I never got an answer during my contribution.

HON J B PEREZ:

The whole question of the re-siting of the Prison is, in fact, still under consideration. It is a matter which has been gone into by the Forward Planning Committee and no final decision has yet been taken.

HON J BOSSANO:

It wasn't included in the answer that we got on the 1986/90 Development Programme, is it that it is being considered beyond that?

HON J B PEREZ:

I think I mentioned it last year during the Budget. What we are, in fact, doing is we have tried to look at various areas which could be suitable and a number of plans have been drawn up but at the moment it hasn't really got off the drawing board.

Other Charges was passed.

Head 20 - Prison was agreed to.

Head 21 - Public Works

Personal Emoluments was passed.

Other Charges

HON J C PEREZ:

Mr Chairman, under Subhead 14 - Rock Safety Measures and Coastal Protection. I have raised it for two years running and last year the Hon and Gallant Major Dellipiani told me that perhaps part of the problem that I referred to in relation to the part immediately above Catalan Bay was that the catch bench that was planned to be produced by the Public Works Department might go a long way in alleviating the matter. I understand that the catch bench only reaches up to the Caleta Palace Hotel area and the area I am talking about and the concern that has been

expressed on previous occasions by me has been on the rockfalls on the site immediately above Catalan Bay where, in fact, the Government itself has a depot there. I believe and my reports are that this year the incidence of rockfalls have been greater than last year, that the rocks falling have been bigger and that the situation is worse. I understand the difficulties, as the Hon Member explained last year, in being able to do something very definitive about it but I wonder whether the Hon Member could tell me whether any kind of survey is planned to see how dangerous it is and whether the danger is greater or whether it is a standard thing and one must just wait and hope.

HON MAJOR F J DELLIPIANI:

Mr Chairman, I am glad the Hon Member has raised this question. It is very true that the catch bench when it is finalised will not cover the area specified at this moment by the Hon Member. I am not a technical man but I have had some experience, I cannot really see a method of making that area safe except by possibly, it just depends on the immediate area below it having some kind of material which will absorb the rocks when they fall but that might entail losing the whole of that area to a particular method of holding the rocks. It just depends on what height it falls from whether the Catalan Bay area is at risk or not. Certainly Catalan Bay Village has had a history many years ago of rockfalls actually in Catalan Bay. I really don't see a solution which we in Gibraltar can afford. If we had £100m or £200m then we could tie up the whole of the Rock with special netting but I really cannot see a practical solution. There might be solutions to make it that bit safer, I will certainly take the matter up. Since we are talking, Mr Chairman, on the question of the catch bench and we mentioned the area of Catalan Bay, I would like to take this opportunity, if I may, of retracting what I said that the Hon Member, Mr Perez, referred to the Sand Quarry personnel lying idle and getting paid. He obviously didn't say that and I accept his explanation.

HON J C PEREZ:

Mr Chairman, I thank the Hon Member for the explanation given. Turning to the point at issue, I am just more worried than I was last year about the situation because of the reports that I have received, that the incidence of rockfalls is greater. There is a house, a car park and a couple of Government depots in the area directly affected. If there is any in finding out whether the incidence of danger is greater than it was, perhaps one might have to consider vacating that area. I would just like to suggest to the Hon Member and I don't know how this could be done, is that my information is that the Royal Engineers at one stage used to carry out regular surveys of that particular area, say, every ten years

and that since they stopped this has not been done and perhaps it might be an idea if the Gibraltar Government cannot cope with the work involved, to perhaps try and approach the Ministry of Defence in that respect. But certainly the situation is getting more worrying every day with bigger rocks falling and more regularly.

HON MAJOR F J DELLIPIANI:

Mr Chairman, I don't know whether my Department has a method of periodic inspections of cliff areas. I do know that my Department do carry out these kind of inspections. I have been there with them when they have carried out the inspection, obviously we have to use telescopic equipment to be able to bring the cracks nearer to us to be able to see them. There are no Rock climbing experts to go up the actual Rock, in doing so he might cause a rockfall. I don't know whether we have a method or whether we do it every year or every six months. I know that I have actually been there with them when they have inspected the cliffs. All reports of rockfalls are submitted to the Department, I will look at the incidents that have occurred in that particular area and I will try and take whatever precautions are possible and practical.

HON J C PEREZ:

Mr Chairman, another point not connected with that, under the cleaning of highways, I notice there is an increase in expenditure of £79,100. Is that due to an increase in the staff of the department?

HON MAJOR F J DELLIPIANI:

Yes, Mr Chairman, there has been an increase of personnel in this department to make Gibraltar a bit cleaner. As I said, we increased last year and we are increasing again the number of personnel for flushing and sweeping.

HON J BOSSANO:

I think last year the Member gave it as four.

HON MAJOR F J DELLIPIANI:

I haven't got it, I can give the Hon Member a guesstimate of the figure, I think it is six extra men this year, for 1987/88.

HON J C PEREZ:

Mr Chairman, Subheads 51 to 56 - Potable Water Supply. Mr Chairman, the Hon the Financial and Development Secretary in his contribution to the Finance Bill said in relation to the municipal services: "In addition there is uncertainty about MOD and GSL requirements in relation to potable water". Could he expand on the problem or the uncertainty that there is about MOD and GSL requirements because we have got expenditure here for the potable water supply and I think one would want to know what those problems are in looking at expenditure for this financial year?

HON MAJOR F J DELLIPIANI:

I am sure the Hon Financial and Development Secretary was referring to the problems that we will encounter with regard to the demand that the PSA will have on our ability to supply them, whether they still want more or less water and certainly a very dark area and a very worrying area for me is the fact that we are now billing GSL directly even though it goes through part of the network of PSA. The guesstimate they gave us at the beginning of the Shiprepair of how much water they consume is quite incredibly higher than what they estimated they would use. Despite the fact that we helped them out in tracing an incredible amount of leaks all over the place and we have, in fact, saved them a lot of water because it was really awful before, it is still a worrying matter as to how much water they are using. I don't know whether it is something to do with the hydraulics of the docks but the amount of water that they are using is far in excess of what they projected. If that phase continues it would mean that our water requirements are increasing at such a pace that our desalination capacity will not be enough in the next three or four years and this is why we haven't lowered the cost of water because we might have to fund a further distiller. In fact, there is room within the present distiller to instal another distiller.

HON J C PEREZ:

Mr Chairman, if I understand the situation correctly, the water goes through the DOE to GSL but the Gibraltar Government actually bills GSL for it directly. Can I ask the Hon Member what they are charging GSL, whether it is the normal commercial rate or the rate that you would normally charge DOE?

HON MAJOR F J DELLIPIANI:

It is the normal commercial rate this is why they are saving a lot of money.

HON J L BALDACHINO:

Mr Chairman, may I ask the Hon Member, under Subhead 38, does that include Housing Estates?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I am glad the Hon Mr Baldachino has brought up this question. It is a question that has troubled me for some time and there is a little bit of holding on to empires from both the Housing Department's staff and the Public Works Department's staff in that areas in Estates which are not really roads, the Housing Department's people are responsible for and the actual roads, for example, Glacis Estate is a typical case, the Public Works Department are responsible for. This is a grey area where you might get somebody who is lazy in the Housing Department sweeping the stuff on to the road and the other chaps sweeping on to the pavements. It is a problem we thought we had solved but it hasn't been solved, it is not satisfactory. I will try and look into this matter again with the Hon Minister for Housing.

HON J L BALDACHINO:

Mr Chairman, am I correct in assessing that what the Hon Member is saying is that it would be better if the cleaning of the Estates came under one Department, either one or the other?

HON MAJOR F J DELLIPIANI:

I think it would be the ideal situation if it came under one Department. There might be points of law because some areas are actually public highways, especially on the Glacis area but I will certainly try and meet my colleague and discuss the matter and see if we can improve the problem.

Other Charges was passed.

Special Expenditure

HON J C PEREZ:

Mr Chairman, just a small reminder to the Hon Member opposite that the purchase of a computer is something that is welcomed for the Public Works Department and that perhaps the Department might be able to overcome the problem of accounting for the vote of maintenance of public buildings better since the biggest objection put by the civil servants in the Department at the time when I went to see them was the problem of accountability of it and the paperwork involved. I know I have certain support within the financial department on how that vote should be accounted.

HON MAJOR F J DELLIPIANI:

Mr Chairman, before answering the Hon Member's remarks on the purchase of the computer, I would like to make an amendment to Subhead 81 - Building Applications - Structural Inspections should read 'Structural Calculations'. The Department doesn't carry structural inspections, that is done by the Director of Crown Lands; what we do do is when there is a planning application we look at the calculations. In answer, Sir, to the remarks made about the purchase of the computer, I thank him for his support. It has a little asterisk which means it is reserved so I still haven't got it but it is quite true, we do need the computer for two reasons. It might be that for one purpose of accounting if we could get into the mainframe of the Treasury one we might solve the problems of the accounting side. Ideally we would want a computer which can be in-house to do both the accounting side and the technical side of the Department which is calculations of buildings, design, work, etc, a word processor for bills of quantity which require a lot of work and a word processor would make life much easier. I thank the Hon Member for his support.

Special Expenditure was passed.

Head 21 - Public Works was agreed to.

Head 22 - Telephone Service

Personal Emoluments

HON J C PEREZ:

On the Telephone Service I think the Hon Member has already told me privately that he was going to amend the complement of the Telephone Trunk Operators to read '10' instead of '7' because he had accepted my argument that by changing it now would prejudice the result of the possible ACAS intervention.

HON J B PEREZ:

What I said to the Hon Member, in fact, it was in the House during the Second Reading that he raised it. What I said and what I say again is that there is a commitment on my part, on the Government's part, that whatever I say is without prejudice to whatever may come out of ACAS. In other words, if the negotiations say that, for example, we don't know because TGWU haven't yet said that they have accepted the offer that Government has put to them. What I am saying is that it is without prejudice to anything. If the result of the arbitration is to the effect that we need ten or we need eight or we need less there is no problem.

HON J BOSSANO:

Mr Chairman, doesn't the Minister understand that the dispute is not about how many they need but about whether they can do what they intend to do now? Until now what they have had is three unfilled vacancies and they have got a dispute with ACTSS because ACTSS argues that to reduce the establishment is to abrogate an agreement on complement because all the complements in all the Votes in the whole of personal emoluments are agreed with the pertinent Staff Associations. In fact, although that is the nature of the dispute the Government has not yet technically done it, technically they have not yet reduced the complement, they have simply said 'We consider that there aren't three vacancies' even though the three vacancies exist on paper. What they are doing now in this House is compounding the dispute because certainly if the Union were to agree to go to ACAS it would be going on the basis that the Government had acted wrongly in reducing the complement. Strictly speaking they haven't yet done that until now, now is when they are going to do it. They are offering to go to ACAS about something that strictly speaking they have not yet done and which they intend to do now. We certainly cannot support it and we have made clear that it is totally independent of the issue of how many are needed, in the view of one or in the view of the other because it is not a question of whether they are needed or they are not needed, it is a question of whether is the Government right to come to the House and say: "I am now reducing the complement in the Telephone Department although there is no agreement to reduce it". It is a serious thing, quite frankly and this is why we feel the Government is making a serious mistake, if we haven't persuaded them, fine, we vote against.

HON J B PEREZ:

I am willing to leave it at 10 but without prejudice to ACAS.

HON A J CANEPA:

There is no financial provision for ten.

HON J BOSSANO:

Well, presumably there wasn't last year.

HON J B PEREZ:

Do I take it that the offer of arbitration will be accepted?

HON J BOSSANO:

Well, all I can tell the Hon Member is no doubt it will be considered by the pertinent persons in the Union to whom he has written.

MR SPEAKER:

I think we are not concerned in the vote in the actual establishment. We are voting expenditure, we are not voting the correctness of the establishment.

HON J C PEREZ:

But in the same way as the Hon Major Dellipiani just changed a word to describe the Head properly, the same type of amendment could be made, Mr Chairman.

MR SPEAKER:

I think it is not a question of amending, it is a question of giving notice of the fact that it is incorrect and that it should be ten instead of seven.

HON CHIEF MINISTER:

I think the answer is to leave it as it was last year.

Personal Emoluments was passed.

Head 22 - Telephone Service was agreed to.

Head 23 - Tourism

(1) Main Office

Personal Emoluments was passed.

Other Charges was passed.

Special Expenditure

HON J E PILCHER:

Mr Chairman, just a quick one on Subhead 80 - Painting of Buildings and Removal of Eyesores. This year we will be revoting £6,000 from the £30,000 that were initially earmarked, I think, in 1985/86. Is the Government saying that they are happy that all the eyesores have now been removed or is it that this particular Subhead is now being taken on by the Public Works or by some other Department?

HON H J ZAMMITT:

I am sorry I didn't hear the question, I apologise.

MR SPEAKER:

Is it that Government is convinced that all eyesores have now been removed and that is why they haven't voted further money?

HON H J ZAMMITT:

No, Mr Speaker, the facts are that the revote is something that has been started and about to be finished. But, of course, as the Hon Member knows, we have a substantial sum of money that was voted for the painting of public buildings, sand blasting and eyesores and at the time we were unable, that was following the Pitaluga Report, unable to continue with the painting of public buildings like The Haven, the City Hall and the like because we had problems with the unions, they wanted it more by direct labour and not by tender.

HON J E PILCHER:

But what I am asking is, if that was a one-off thing and it appears to be a one-off thing because now we are only being asked to revote money which is the tapering off of the amount of money that was put. That special expenditure was a one-off thing and if that is the case is the Government happy that the eyesores have now been removed, that all the buildings that needed sand blasting have been done or will they come back at a future date with other special expenditure for these items?

HON H J ZAMMITT:

No, Mr Chairman, firstly, we are not happy that all the eyesores have been removed, far from it, and I very much doubt that we will come back for more money. We would like to dedicate more money, as you will see later on in the Improvement and Development Fund, for the improvement of the product as a whole but I doubt very much, Sir, that we will be able to come back and get more money for this.

HON J L BALDACHINO:

Mr Chairman, under Subhead 16 - Minor Works, £17,000. Is that to carry out minor works in the two Offices, the one downstairs and the Main Tourist Office or does it entail something else?

HON H J ZAMMITT:

I am sorry, Mr Chairman, could I please be given a few minutes and I will certainly come back to it and give the Hon Member the reply.

MR SPEAKER:

Could I possibly ask how £6 were lost?

HON H J ZAMMITT:

I can tell you, Sir, that much more than £6 were lost and it was the subject of an investigation. We did suffer a break-in. £6 was a small amount from the General Office and from there keys were obtained to be able to open other offices and the safes.

Special Expenditure was passed.

(2) - London Office

Personal Emoluments was passed.

Other Charges

HON J E PILCHER:

Mr Chairman, Subhead 9, there is an increase there of nearly 40% on advertising, 38% to be exact. Since the Minister in his contribution on the general principles said that they were having great difficulties in people getting seats coming to Gibraltar, isn't it difficult to say why they are going to spend an extra £43,000 this year if we still haven't resolved satisfactorily the problem of not enough seats in the route to Gibraltar?

HON H J ZAMMITT:

Yes, Mr Chairman, it would seem quite a logical point to make at this particular stage. The fact are quite simple. Firstly, of course, our advertising campaign in Britain as opposed to the international market which has been apparently accepted is that the value that we get for what we pay is so minute that it is almost negligible and very many people and Members no doubt see the odd advert appearing in the press now and again but they are very expensive. What has occurred, Mr Chairman, is in not being able to keep up with the increases of advertising in Britain what we have found is that our adverts are, in fact, diminishing in size, you are buying a given area and it has been strongly recommended that we should try and keep up with an not improve upon.

I should tell the Hon Members opposite and I am sure they are fully aware much more than I am, that the printing industry despite our good friend Mr Murdoch and others like him is, in fact, an industry that has an increase per annum of something like 18% in printing. The other thing, of course, that I would like to tell the Hon Member is that we are now compelled, Mr Chairman, to pay VAT which we did not have to pay previously. Mrs Thatcher has now made all overseas offices pay VAT which hitherto we were not asked to pay.

Other Charges was passed.

Head 23 - Tourism was agreed to.

Head 24 - Trading Standards and Consumer Protection
was agreed to.

Head 25 - Treasury

Personal Emoluments

HON J BOSSANO:

Two points, really, I think I need to make, Mr Chairman, on personal emoluments. First of all, I have been complaining to the Hon Financial and Development Secretary about the lateness of the information which he sometimes regrets sending me and he has said that it is due to staffing problems in the Economic and Statistics Office. Are we now putting those staffing problems right with the provision we are making in this year's Budget because certainly we are very strongly in favour of that particular unit in Government being well staffed and well able to produce figures, particularly because we feel that it is essential to have information up-to-date and not to be given, as we are, for example, an Abstract of Statistics that has got import figures for 1985 and nothing for 1986 and we are in the 1987 Budget, that is one point. The second point is I notice that the Computer Centre shows the Senior Data Processor and the Data Processor in last year's establishment are no longer there. It does say in the footnote that these grades have been merged into the Administrative Officer and Administrative Assistant grades. Since there is an Administrative Assistant grade shown in the Computer Centre is it that the rest are shown now as part of other people's departments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, let us take the first point about the Economic Planning and Statistics Office. Yes, there have been difficulties as I have said at the clerical level. I am glad to say that the necessary additional staff are now being provided rather later than I would have wished but nevertheless they have been provided so I would hope that that will lead to an improvement. At senior level I am afraid the situation is still one which gives cause for concern quite simply because there were three people at senior level as the House will be well aware not more than a year ago and there is at present only one, I am talking about qualified economic staff. I have made strong representations on this to the Establishment Officer and also to the Deputy Governor who is the Head of Administration. I understand that there are difficulties in getting qualified people. This situation has still not been resolved, I think there were also discussions taking place between the Establishment Officer and the relevant Staff Associations, there are two of them involved, and these discussions are still going on. To sum up that particular point, while at the what I might call the level of clerical support the situation should improve, the situation at senior level still gives me considerable grounds for concern. On the question of the Computer staff, there will be a restructuring and while some staff have been regraded there is also a planned restructure in the sense that modern computer developments are more systems and programmer analysis intensive compared with earlier and the complement reflects that particular shift. That is to say, we are increasing our programmer capacity and reducing our data processor capacity. It doesn't mean to say that we are going short of the data processing grade but simply that the balance of work in keeping with developments in computer technology the emphasis on software development means that this change is taking place.

HON J BOSSANO:

Mr Chairman, the Hon Member has reduced the staff from seventeen to eleven in the Computer Centre. If he had nine Data Processors and that has been merged according to the footnote to the Administrative Assistant grade and he has got one as Administrative Assistant, is he telling me that it has gone down from nine to one at that particular level?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

HON J BOSSANO:

And the Computer Centre is functioning now with six people less as efficiently as it was last year with six people more, that is the answer then?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think I should perhaps have added that there has also been a change in the structure of the staff who input the work whereas formerly the input to the computer system was carried out by data processors as is shown here, it is now carried out by the billing staff so there has been a move in two senses. One is the technical development I suggested and the other is the fact that the work is being done elsewhere by people whose grade now provides for them to do that work.

HON J BOSSANO:

The first thing I asked the Hon Member, Mr Chairman, was are the bodies that have disappeared from the Computer Centre shown under other parts?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The answer to his question is in part yes, but we haven't moved nine bodies from the Computer Centre elsewhere. There has been a rearrangement in work and a regrading.

HON J BOSSANO:

For example, the two Administrative Assistants extra in the Accountant-General's Department going up from 57 to 59 have nothing to do with the decline in the Computer Centre from nine to 1?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't think so, no, those two Administrative Assistants I think I am right in saying, have been provided specifically for further efforts being made in connection with the improvement of collection of revenue, further work on arrears with particular emphasis on rates and processing of court cases. If the Hon Member will recall I did mention this some time ago when we had a discussion on these matters but those two extra are for that purpose. I would think it is fair to say this is improved productivity.

Personal Emoluments was passed.

Other Charges

HON J BOSSANO:

On Other Charges, Mr Chairman, can I ask the Hon Member on the Rates - Refund, there was a provision in the Estimates of £400,000, which is Subhead 24 on page 95. The actual outturn is £288,000 and yet the estimate for the collection of rates is very close to that in the original estimate which seems rather odd because the refund was payable to commercial premises which paid on time and the Government was estimating they will collect, on page 9, £7,225,000 and they have collected £7,200,000. It is odd that they should have collected £25,000 less and yet the subsidy should be down by £120,000. In the 1987/88 provision I find it odd then that having only paid £288,000 when the subsidy was 40% they should be providing £237,000 for the subsidy at 20%.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The figure for 1986/87 represents three-quarters at approximately £90,000 and the 1987/88 figure reflects one-quarter at that rate and then the remainder at 20%.

HON J BOSSANO:

So the subsidy did not operate from the 1st April, it operated from the 1st July but we still provided £400,000 for it last year presumably knowing it operated from July or didn't they know that in last year's Budget, Mr Chairman?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The scheme did begin to operate from April but the credit was made in June, in the second quarter of the year because we had to wait and see who paid their bills when the bills were paid before we gave the rebate so there is an element of retrospection, as I understand it. Therefore there will be an element of retrospection or overlapping to this financial year.

HON J BOSSANO:

When we put £400,000 in last year's Budget the Government didn't expect that this was going to happen, is that it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There was an element of over-estimate.

HON J BOSSANO:

So what we are saying is that part of the £237,000 is in respect of rates for 1986/87 not 1987/88?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, that is correct.

HON J BOSSANO:

In fact, the total amount of rates collected on the revenue side on page 9 is very close to the original estimate. Is it, in fact, that the Government has found during the course of this year because that was one of the things that the Hon Member mentioned when he came here with a motion to remove the interest that he might find that the 40% incentive would produce people paying on time to get their 40%, has that in fact happened?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think the answer is broadly, yes, it is true.

MR SPEAKER:

Perhaps the information can be forthcoming in due course.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I would be happy to provide the Hon Member with further information.

Other Charges was passed.

Subventions

HON J E PILCHER:

Mr Chairman, I would like to be able to take Subhead 35 - Contribution to Gibraltar Shiprepair Ltd Fund on its own since the Opposition will be abstaining in that vote. I did mention this in the Finance Bill and I gave our reasons for doing it. I also mentioned in the Appropriation Bill and I also gave the reasons for doing it and yet in both rounding up on the Government side no mention was made at all as regards the points that we had raised and therefore, Mr Chairman, we have no choice but to abstain on this vote for reasons that we have clearly stated before in many, many debates on the Gibraltar Shiprepair Ltd.

HON J C PEREZ:

Mr Chairman, I have got another Subhead on which I would like some clarification which is Subhead 31 - Annual Grants-In-Aid and specifically that of the European Movement where there is £500.

HON CHIEF MINISTER:

Yes, it is £500 but we have put the contingency a little higher and I have already told the Chairperson that she can rely on another £500.

On a vote being taken on Subhead 35 - Contribution to Gibraltar Shiprepair Ltd Fund the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Subventions was passed.

Special Expenditure was passed.

Head 25 - Treasury was agreed to.

Head 26 - Pay Settlements

HON J BOSSANO:

Can I just ask one question and if the Hon Member cannot give me the information then perhaps he can send it to me when he sends me the other. I would like to know how much of the £1,400,000 is intended for the pay settlement of non-industrials and how much for wages?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will try and send that information.

Head 26 - Pay Settlements was agreed to.

Head 27 - Contribution to Improvement and Development Fund

HON J BOSSANO:

We are not prepared to vote in favour of the contribution to the Improvement and Development Fund unless we clear up the position that we raised before in relation to the Public Finance (Control and Audit) Ordinance. I know that the Hon Member has looked up another section which says that he has the discretion in the public interest to do something different. I have no doubt in my own mind that he hasn't given it a thought until we raised the matter here and that then he looked through there to see what section he could find which allowed him to do what he did and I am sure that that is the position that he took when he used some other section in connection with the GSL Fund and, quite frankly, I think, skirted very close to the limits of possible interpretation. It is inconceivable to us that the kind of discretion for the Hon Financial and Development Secretary to act in the public interest can be in a situation like this. I can well understand that there must be occasions in the public interest when something critical unexpected is happening and the Member has to do something which is not carrying out what the House has provided and approved in terms of expenditure. But this is very simple, we have a situation where we supported the provision last year of £1½m and we said at the time that we were only doing so because it was going into the I&D Fund because we feel very strongly about not using borrowed money and putting it in the Consolidated Fund. If the Member had told us: "I may put it or I may not put it" we would not have supported it and if he is going to tell us now that at the end of the year we may discover that he hasn't put that money into the I&D Fund we will not vote, we will vote if it is going in. If he is going to use his discretion to decide whether it goes in or not, well, then he can have his discretion and not bother to consult the House.

On a vote being taken on Head 27 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Head 27 - Contribution to Improvement and Development Fund was passed.

HON CHIEF MINISTER:

Having voted, because I didn't want to interfere in the vote, the public interest is very broadly interpreted in the Courts as being a way of exercising discretion and therefore it isn't anything of an emergency nature it is just administration, it is just financial management.

HON J BOSSANO:

Can the Hon and Learned Chief Minister tell me whether it has ever happened before because this is one of the problems that I think we face in the House, quite frankly, with the way the thing is developing. Here we are, we have a Budget in 1986, we have a long debate, we take decisions and we vote, we discover twelve months after the event that something different has happened, no information is volunteered to the House. I have raised an issue because it seems to me that it is quite clearly intended by the Public Finance Ordinance that the money that the House votes for the I&D Fund should go into the I&D Fund, it is clearly intended and if there are exceptional and compelling reasons why something else should happen, well, then something else happens. Nobody has said to us there were exceptional and compelling reasons and if there were, any time in the last twelve months, in all the meetings we have had the Government

would have come back here and said: "We have decided not to put the money in the Improvement and Development Fund". It isn't enough to say: "I think it is in the public interest that I should have more flexibility", period. The Hon and Learned the Chief Minister cannot say: "Well, it is really nothing to do with me, it's between the Opposition and the Financial Secretary". What is the Government's policy on this? The Government agrees with this policy?

HON CHIEF MINISTER:

No, what I said was I didn't want to interfere with the vote but I wanted to explain my view on the matter and I have explained it and the fact that it is different from the Leader of the Opposition is neither here nor there, with respect. The point is that there is statutory power and all I wanted to say was that public interest was not exceptional circumstances. If the law wanted to put a burden on the Financial Secretary for exceptional circumstances the law would have said so. But the law which we passed gives him a discretion in the exercise of his financial functions as he explained this afternoon quite clearly. When you look at Hansard you will see he gave a very simple and reasonable explanation but do we have to bring the point every time it is done?

HON J BOSSANO:

Of course, you have got to bring it every time.

MR SPEAKER:

In fairness, the point has been discussed in this House for the last three days ad nauseam.

HON J BOSSANO:

On that particular point, we haven't yet heard the last of that one, Mr Chairman, I can assure you.

MR SPEAKER:

And there is no reason why we should.

HON J BOSSANO:

There is nothing to establish in this House that the point of view of the Hon Financial and Development Secretary which quite clearly the Hon and Learned the Chief Minister is prepared to support because if the Chief Minister comes to me and says: "We are the Government of Gibraltar and we have decided that that is how we want to interpret

the Public Finance (Control and Audit) Ordinance for the first time in 1986/87 because we have never interpreted it like that before". In all the years that I have been here we have voted contributions to the I&D Fund and it has never been necessary ever in the public interest not to put the money in, that has never happened before. I am entitled, I believe, to ask the Government what was different in 1986/87 in the public interest for something different to be done from whatever has been done before.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We did not need the money, I have explained that many times, we did not need the money.

HON J BOSSANO:

Then, Mr Chairman, why did he borrow it? He tells the House there is nothing wrong with borrowing money even if they don't need it.

MR SPEAKER:

Order.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The money is available this year for a revote, that is what we have done. It is not that we have borrowed the money for some other purpose, we have postponed the spending of the money because the plans were not sufficiently far forward. I cannot imagine anything more commonsensical than that, it is an elementary factor of financial management. That is how I have explained it and the law provides for me to do that and I have operated within the law as I operated within the law over the question of the £12m shares which caused the Hon Member so much grief because he made a fool of himself in the House.

HON J BOSSANO:

I think the Hon Financial and Development Secretary, Mr Chairman, suffers from the bigotry of imported expatriates with the support of the Association for the Advancement of Civil Rights.

MR SPEAKER:

Order.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

You don't suffer.

MR SPEAKER:

That is the end of the matter. The Government and the Opposition have taken a stand on this one and all we are doing now is repeating the arguments. The Government consider the Opposition to be wrong and the Opposition consider the Government to be wrong so there is nothing much we are going to achieve by going on with this argument.

HON J BOSSANO:

The Financial and Development Secretary considers that I made a fool of myself over the particular way in which he handled the use of the Fund. I don't think I did and I was prepared, in fact, to let the matter die because it happened a long time ago, I shall have to go back and revive what he did in that particular instance. But what I am asking and what I am entitled to ask is, he said 'there is no sense in using money or in raising money that you don't need to spend'. Mr Chairman, what we are talking about is that we vote the money into the Improvement and Development Fund and we vote expenditure out of the Fund.

MR SPEAKER:

I don't think that is what the Financial and Development Secretary has said. I think what the Financial and Development Secretary has said is that it was not put into the Improvement and Development Fund because it was not needed.

HON J BOSSANO:

It was not needed in the Consolidated Fund either.

HON CHIEF MINISTER:

At the time we voted it before we needed it.

HON J BOSSANO:

Mr Chairman, the House of Assembly has voted here fifteen Budgets with the same Government there and consistently voted money which has been at the end of the year in the Fund and was not needed during the year and it has never been in the public interest not to do that, why is it in the public interest this year? Because it is not that it has never happened before, it has happened consistently, all the time, every year, because every year you find that money that is voted as expenditure is not spent. The famous slippage that the Minister

for Economic Development was talking about caused money to be in the Fund which was not needed in the sense that it was not spent but it was voted to be there, it was a decision of the House to vote that money there and if it wasn't spent then we revoted in this House the expenditure out of the Fund. We have never revoted expenditure into the Fund ever in fifteen years. If it is a new policy and not a new invention of the Financial Secretary then I would have thought that when new policies are taken it is legitimate to come here and explain them, not to have to find them out by accident.

MR SPEAKER:

I understand that the Hon Financial and Development Secretary wishes to include a Head to the Estimates of Expenditure.

New Head 28

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to move the inclusion of a new Head of Expenditure, Mr Chairman, Head 28 - Contribution to Funded Services - in order to eliminate the projected deficits in the Electricity and Housing Funds. Accordingly, it is proposed to provide as follows: Subhead 1 - Electricity Undertaking Fund - £1,786,500; Subhead 2 - Housing Fund - £1,795,400; making a total for this Head of £3,581,900. The new figures in the last column, that is, for the increase or decrease compared with the forecast outturn for 1986/87 are: Electricity Undertaking Fund an increase of £295,600; Housing Fund an increase of £418,500 and an increase in the Head of £714,100 compared with the forecast outturn for 1986/87.

Mr Speaker put the question which was resolved in the affirmative and new Head 28 - Contribution to Funded Services was agreed to.

Improvement and Development Fund

Head 101 - Housing

HON J C PEREZ:

Mr Chairman, I would like to refer to both votes related to the Police Barracks where I mentioned in my main contribution that I would want explanations from the Government on what vote was for both because in comparing with what happened last year I believe that for the reinstatement of defective walkways there was only £7,000 allocated for the defective walkways of the Police Barracks at Scud Hill and in my opinion - and that is what I

need clarification on - the £42,100 estimated is all for the walkways of the Scud Hill Police Barracks at the moment. Again, on the one at 30, Castle Road which is the other Police Barracks, there is £290,000 reserved and I would want to know what, in fact, are the Government waiting for to take a final decision whether to use this money or not and when?

HON MAJOR F J DELLIPIANI:

Mr Chairman, with reference to the Scud Hill walkways, what has happened is that as the contractor was trying to make repairs to remove the steel edging of the corridors which had crumbled, as they were trying to remove the actual rolled steel joists the whole walkway was crumbling, it was just falling to bits and we had to take a very quick decision and very quick structural calculations and we came to the conclusion that we had to more or less rebuild the whole of the walkways. This is why the cost has come up considerably. In respect of the £200,000 which has got reserved and it is obviously intended to do all the balconies that are causing problems which are more or less of the same age, they are just over twenty years old. We do intend and, in fact, we have a programme to start repairing whichever is the best way possible and we will do the worst cases first. We are hoping because one of the Scandinavian countries, in fact, has identified the same problem as us - this is Sweden - most of the balconies built over twenty years ago in Sweden of the same structure as ours have suffered considerably from exposure because of the thinness of the concrete and the steel has rusted away and the sockets of the balconies are beginning to fall down. They are experimenting with a system which is made of, I think it is aluminium, it is certainly of lighter weight, it is certainly cheaper because it is modular and we are hoping to get information from them because there was no information as to the makers or builders, we are hoping through the magazine where we saw this published to get information and if possible we will try this new method of tackling this problem in Gibraltar.

HON J C PEREZ:

Mr Chairman, is the Hon Member saying then that the £850,000 which the completion of the project is estimated to cost is only the walkways of 30, Castle Road or are we talking about more major repairs to the whole building?

HON MAJOR F J DELLIPIANI:

We are talking of two things, Sir, we are talking of £42,000 for the Scud Hill walkways and then there is a reserved sum where we hope to spend on the more dangerous balconies as we go through the year and I will be drawing from that money from the Financial and Development Secretary.

HON J C PEREZ:

Could the Hon Member give us what in the Department's estimation will be the date when the Scud Hill Barracks will be completed?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I won't be able to give him this date now but I will certainly send the Hon Member a note on the condition of the walkways at Scud Hill.

HON J C PEREZ:

Mr Chairman, under Subhead 8 - Problem Buildings, perhaps the Hon Member could explain if not now whenever it is available to him, what the programme is of the problem buildings for this financial year where they are expecting to spend £98,500? And on Subhead 9 - External Painting of Pre-war Buildings, perhaps the Hon Member could also supply me with the intended programme for the year for the external painting of buildings whenever he has got it ready, not necessarily now.

HON MAJOR F J DELLIPIANI:

Mr Chairman, certainly I will do that. In fact, on the external painting we have just completed the programme and the schedule of works and the ones that can be done by our own labour and the ones that we will put out to tender. It is in draft form, when I have it typed I will certainly send it to the Hon Member. With regard to the problem buildings whatever programme we have I shall give this information to the Hon Member.

HON J L BALDACHINO:

Mr Chairman, on Subhead 5 - 30, Castle Road, the Police Barracks, is the project going to be one of remodernising or is it just remedial works?

HON MAJOR F J DELLIPIANI:

Mr Chairman, the Government is thinking that because these units were on the whole sub-standard and most of the bathrooms and kitchens had been built using part of balconies and corridors, we thought it was a good idea that because it is a major problem building which was cause of concern to many people, we thought it a good idea that by losing a certain number of units we could spread the area and make it into proper units with proper bathrooms and kitchens, etc. We would call it a modernisation programme.

HON J C PEREZ:

And at the end of the day you would find that perhaps you might have less units than you had before but in better conditions.

HON MAJOR F J DELLIPIANI:

That is so, Mr Chairman.

HON J L BALDACHINO:

After the completion will it go back being a Police Barracks or will it go to the Housing Waiting List for allocation?

HON MAJOR F J DELLIPIANI:

I don't know if I can answer that, Mr Chairman. I don't think it comes under my Department, really. I am the contractor to the Government departments, I think that would be a policy decision. I would like to help the Hon Member but I really don't know the answer.

HON J L BALDACHINO:

Mr Chairman, am I correct in understanding then that the Government has still not made a policy decision on whether it will be returned to be allocated as Police Quarters or if it will go to the Housing Waiting List for allocation?

HON CHIEF MINISTER:

Sir, it is something which I have had a little to do, it is very difficult at this stage to say what the outcome will be because, first of all, there is a commitment to the Police Force. Certainly it is no longer the policy of the Police as it was before that their housing should all be concentrated so there is no policy requirement that that should be so. Secondly, the bulk of them are no longer in the Police Force and still we are finding them alternative accommodation and so on. I would imagine that subject to the Police not losing on the transaction in the sense of units, that there would be little point in deciding whether they are Police Barracks or not, very much the same as in the case of the B3 Quarters which were completely de-quarterised for the whole of the Service. Otherwise it means you have to provide a new flat for somebody who has already got one and has got a vested interest in remaining there.

HON J L BALDACHINO:

Mr Chairman, on Subhead 7 - Catalan Bay, will these units be for rental or will they be under the same home ownership scheme as Engineer House?

HON A J CANEPA:

Let me explain what the position is with Catalan Bay. I have had over a period of some months, a series of meetings with the Village Council and with a group of young people from there who are interested in looking towards home ownership as a way of solving their housing problem. Over the years the Government has explained to the people at Catalan Bay that it could not solve the housing problem of Catalan Bay in anticipation of solving the housing problem for the rest of Gibraltar, the reason being to avoid a situation where people in town might feel aggrieved at the pace of housing in Catalan Bay moreso as there is the precedent at the time of the allocation of Medview Terrace, it finished up in the Supreme Court. And so the Government has had a project on what is called the shingle car park to provide twenty units there and plans are readily available. But the twenty units do not solve the housing problem for Catalan Bay, they need rather more than that so they have put a proposal to me which I am shortly to take to my colleagues, whether the Government would consider in addition to building twenty units putting the alternative site or the other site which is available, not readily available because there are families in the Nissen huts which is White Rock Camp. Their proposal is between White Rock Camp and the shingle car park that the Government should build twenty units either in one or the other and put the other site out to tender, perhaps in consultation with the Village Council, for home ownership and this is what we have to consider and take a final decision. Really what we are doing here is providing for Government housing for renting but we are not indicating as yet where it is going to go. It could go either at White Rock Camp or on the shingle car park.

HON J C PEREZ:

If I don't misunderstand the Hon Member, is the shingle car park opposite White Rock Camp?

HON A J CANEPA:

No, that is the one below, it is next to Seaview.

HON J C PEREZ:

I thought he was talking about the one where I was worried about the rockfalls.

HON A J CANEPA:

No, it is next to Seaview Terrace.

HON J L BALDACHINO:

Mr Chairman, could the Hon Member explain why is it that for Catalan Bay which is only twenty units the cost comes out, if I have done my arithmetic correctly, at £48,000 when for the ones at Engineer House it is £27,000?

HON A J CANEPA:

I would be shattered if the cost of twenty units at the shingle car park were to be £960,000 though I accept that in the case of Catalan Bay any building at Village level and not at White Rock Camp should in an effort to keep the Village character, obviously the design will result in much more costly units than if you just build an ordinary block. But, in fact, the cost is likely to be higher at White Rock Camp, that site is not so easy to build on as the one downstairs so we are covering ourselves for a much higher cost at White Rock Camp.

HON J L BALDACHINO:

I think that my Hon Colleague, the Leader of the Opposition, did ask in his contribution seeing that the cost is going to be so high because of the explanation that the Hon Member has given me, Mr Chairman, will the rent be related to the cost of the units like they did with Rosia Dale and St Joseph's?

HON A J CANEPA:

It doesn't have to be. A policy decision can be taken, obviously, Mr Chairman, the rents of accommodation at St Jago's and St Joseph's and Rosia Dale were higher than accommodation at Varyl Begg but it doesn't have to be done in absolute terms. I think what would happen is that we would look at rents elsewhere in town and have regard to that and have some regard to the building cost. But I think I should tell the House that certainly St Jago's and St Joseph's were costing well over £40,000 per unit. From that point of view the rent would not be higher than St Jago's and St Joseph's.

HON J L BALDACHINO:

There is just one point which I raised last year, Mr Chairman. Could I have an explanation because I might be wrong, for example, under Subhead 15 - Painting of Estates it has got an (f) which means it includes a revote of £206,000 when I make out that we are voting exactly the same as we did last year so it should only be a revote.

HON A J CANEPA:

What was the question?

HON J L BALDACHINO:

The question is that it should be a revote and not include a revote of £206,000 because we voted exactly the same last year.

HON A J CANEPA:

No, the revote is not in the £470,00, the revote is in the £195,500.

HON J L BALDACHINO:

No, I am talking about Painting of Estates.

HON A J CANEPA:

Yes, but if the Hon Member looks along the page, the cost of the programme is £470,000 and then for 1987/88 the provision is £195,500.

HON J L BALDACHINO:

No, I am talking about Subhead 15.

HON A J CANEPA:

What these tables don't appear to show is what was the approved figure for 1986/87. We only have the forecast outturn but we don't seem to have the estimate for 1986/87.

HON J BOSSANO:

£250,000.

HON A J CANEPA:

£250,000, then that is the answer, £250,000 last year, only £44,000 have been spent so you are revoting £206,000.

HON J C PEREZ:

I missed something before, Subhead 3 - Remedial Works to Balconies - Post-war Buildings. The Hon Member has given a commitment in the past in this House that the works would commence in April, in fact, in particular in relation to Stanley Buildings he said that remedial works to make them safe if they were found to be dangerous would take place immediately before April. I don't think that that has happened and I find that the money allocated under this vote is again reserved which indicates that a final decision to spend this money in this financial year has not been taken notwithstanding the Hon Member's commitment to this House that work would commence in April.

HON MAJOR F J DELLIPIANI:

Mr Chairman, the money is put in reserve because of the doubt as to whether we can do all the programme this year. Certainly as the Hon Member has asked me before, I will give him a programme of works in connection with the balconies and he will see that Stanley Buildings will be at the top of the priorities.

Head 101 - Housing was agreed to.

Head 102 - Schools

HON R MOR:

Mr Chairman, earlier this evening the Hon and Gallant Major Dellipiani when referring to Bayside Comprehensive School mentioned that about £1m would be required to bring that school up to scratch. Would he care to explain what he meant?

HON G MASCARENHAS:

Mr Chairman, I don't quite understand the question.

HON R MOR:

I was asking the Hon Major Dellipiani. The Hon Minister for Education did not make that statement, it was the Hon Major Dellipiani.

HON MAJOR F J DELLIPIANI:

Mr Chairman, we did a quick but extensive survey of the whole of the Bayside building and the school also submitted ideas of what they wanted, they wanted to change the material of the floors, etc, not to put right

but to improve the standards of the building as a whole. As I said before, this morning I think it was, always at the back of my mind I am probably thinking to bring it to the standards of Westside because it is natural like a father who has two children and gives a new toy to one and the other one is jealous, it is a natural reaction. I maintain that it is going to be an expensive project to put right and even more expensive to bring the standard which is acceptable, to bring it to a higher standard and that is the explanation I can only give because we haven't really got down to the details of essential work and what is desirable.

HON R MOR:

In fact, would I be right in suggesting that the £400,000 which are earmarked are to resolve the immediate problems at the school as regards the water seepage problem, would that be correct?

HON MAJOR F J DELLIPIANI:

Yes, Mr Chairman, I am grateful to the Hon Member for asking that question. It is obvious that the first problem that we have to tackle will be the water penetration of the building. The major problems of this building for water penetration are - the roofs which, as we all know, are flat roofs and also the design of the windows. The big problem here is and this is why we have a Committee of the Public Works Department and the Education Department and the school is to see how much work we can do to the school without causing disruption, to take advantage of school working days where we can still work in the school and also of course to take full advantage of the summer holidays, Easter holidays and Christmas. It would be difficult, in fact, to spend even more money in that school in one year because of the physical impossibility of the number of days that you have available to work through the whole year especially if we take into account that in winter a lot of roof work may not be able to be done, etc. So it is just a question of the physical ability of doing the whole works and the school still carrying on working through most of the year.

HON R MOR:

Mr Chairman, would the Hon Member agree that in its present state if it were to rain heavily, say, tomorrow, that there is a possibility that the electrical installations might be unsafe?

MR SPEAKER:

I think, in fairness, we are not going to go into the nitty gritty of how the work is going to be done or what would happen if something else happened. We are voting money to put something right and I think generally we should do that but not specifically. You are asking a question which I myself could answer, that if water gets into an electrical installation it would most certainly be unsafe.

HON R MOR:

Mr Chairman, the reason I am asking this is that we are having contradictory statements in this House. The Hon Minister for Education has denied categorically that the school is sub-standard. If we have a school which cannot be used when it rains then it is a sub-standard school.

Head 102 - Schools was agreed to.

Head 103 - Port Development

HON J E PILCHER:

Mr Chairman, during the course of, I think the Finance Bill, I raised the point reference the liner arrivals in Gibraltar and I was told that an explanation would be given as regards the abysmal situation when liners call at Gibraltar and that an explanation would be given at a later stage by, I think, the Minister for Economic Development. Since there has been no such explanation I expected it to come under Port Development and that is why I am now raising the matter.

HON A J CANEPA:

The Forward Planning Committee has been considering - and excuse the pun - in great depth the question of of reclamation in the Port area. There is reclamation at Montagu for housing; reclamation at Viaduct, partly perhaps for housing and partly for a number of requirements that we have for users of the Port including the Port Department, and there is also the question of the current reclamation of Waterport Basin which it is intended to carry on in a westerly direction but not the same width as at present and we also have to reprovide there the Camber berths somewhere along the North Mole beyond the Causeway. In the light of this scenario we are not yet totally sure as to which would be the most convenient place to have the cruise passenger terminal. We think at the moment that it should be next to the existing Port Offices where there is a Degaussing Station. That

Degaussing Station is Ministry of Defence and we think that they intend to reprovide it. Locally the Ministry of Defence would like to reprovide that and move to the tip of the North Mole and that is where the cruise passenger terminal could then go. But one thing is what the local Heads of Services or the Flag Officer would like to do and another thing is whether he will have the funds available to reprovide that Degaussing Station. Broadly speaking, for these reasons, we were not at the stage of being able to take a definite decision as to where the cruise passenger terminal will go. What I can say to the Hon Member is that the likelihood is that it would be the subject of a project application and we would want to meet it out of ODA funds. To that extent the inclusion in this year's Estimates would not matter too much regarding the overall position. If we are able to make good progress in the course of the year then obviously I will come here for a supplementary, we may have to come to the House, in any case, for supplementaries in connection with Port reclamation or development in the course of the year.

Head 103 - Port Development was agreed to.

Head 104 - Miscellaneous Projects was agreed to.

Head 105 - General Services

HON J C PEREZ:

Mr Chairman, Subhead 8 - Refuse Incinerator - Consultancy. I made several points in my contribution on the general principles of the Bill and I referred to what the Hon and Gallant Major Dellipiani had said last year in his contribution when he said that money had been put aside on an annual basis for keeping the refuse incinerator going for another four years and I asked whether it was possible to find out where that money was being put and at the same time whether he could, in passing, say what was the use of having a consultancy for the incinerator when he had already said last year that it had come to the end of its lifetime?

HON MAJOR F J DELLIPIANI:

Mr Chairman, I think the Hon Member is slightly confused as to what this consultancy means. First of all, let me say that he is right in saying that the present refuse incinerator is coming towards the end of its lifetime and it is becoming very expensive to maintain. We went through a fairly rigorous programme last year - and we are doing it this year - in the hope to maintain it working for another four years but at the end of those four years, if we are lucky that it lasts four years,

we are going to have to reprovide another system or the same system of the disposal of refuse and this is what I mean. The refuse incinerator is not connected with the collection of refuse but with the disposal of refuse. We have asked for a consultancy and, in fact, the tender for the consultants has only just been selected or in the process of being selected, the Crown Agents have been helping us in selecting the best consultants. What we want, in fact, is for the consultants to come to Gibraltar, realise the problem, whether burning of refuse is the best method, whether by disposing in other places, we have to analyse what type of refuse we have, whether it can be recycled, whether it can be burnt properly in a different manner. We want advice on the best and most economical way of disposing of our refuse. It doesn't necessarily mean that it has got to be another refuse incinerator though it might mean so.

HON J C PEREZ:

That is in looking at the alternative when the Hon Member said last year that there certainly wasn't any money available then and there isn't any money available now and the problem in the incinerator seems to be getting worse every day. Would the consultancy look at any immediate steps to remedy the situation whilst an alternative is found or it is just looking specifically at alternatives which could be a replacement of the incinerator or could be another method of disposing of refuse?

HON MAJOR F J DELLIPIANI:

Mr Chairman, the terms of the consultancy as I can remember and I was involved with it, are very broad but I don't think we were thinking of terms of immediate solutions. What we are trying to do is when we go out to contract for the actual building, if we have to build, as a solution to dispose of our refuse, that we get the best bargain possible so that as soon as possible we vote the money for the new system of refuse disposal. It is not a question that we haven't got any money just now which we probably haven't, it is a question that when we will need the money we want to give the Government the best alternative as to how best to use that money, which is the best method for Gibraltar for the disposal of refuse and that is what it is all about.

HON J C PEREZ:

Mr Chairman, just one other point on Subhead 15, perhaps the Hon Member could again commit himself to giving me a programme of works on the Highways whenever he has it available as he did last year. On Subhead 10 - Sir Herbert Miles Road - Widening, I have held meetings with his Department on the matter, perhaps he could give me an indication when the Department intends to commence these works.

HON MAJOR F J DELLIPIANI:

Mr Chairman, the Sir Herbert Miles Road widening, I am not in a position to give a programme because we are waiting the results of the geological tests which have been carried out. If we are still around I will certainly give the programme. Certainly the highways will be easier, I will give the programme and I hope to stick to that programme as much as possible and if I have to veer from that programme I will try and inform the Hon Member.

HON M A FEETHAM:

Mr Chairman, I see that there is a substantial amount of money envisaged for the re-siting of Hesses' Sea Water Pumping Station which is Subhead 3 - £1,100,000 which is still subject to approval by ODA. Could we have some indication what this is all about? This is the first time we hear about it.

HON MAJOR F J DELLIPIANI:

This is what I would call the heart of all our brackish water system in the whole of Gibraltar. At the moment Hesse is in such a situation, the intake for the water which we pump afterwards through our reservoirs and then distribute around the Rock, the intake is around the Mediterranean Rowing Club and what we are finding is that as that area is becoming more and more enclosed we are going to have problems with the intake of water when it is pumped from Hesse to the Waterworks so what we are thinking for a long-term solution is to be able to fix the Hesses' Pumping Station in an area that no matter what happens in reclamation it will not be affected in the future so we are trying to think long-term and also because Hesses' Pumping Station is not a particularly nice area for a pump to be in, the working conditions are not particularly good and we are trying to make a better working environment and also for the Station to be in a better position to draw all the salt water that we need to pump to our reservoirs which we then recycle around the Rock.

HON M A FEETHAM:

In view that they are thinking about long-term here, can the Minister explain the fact that we have got £100,000 estimated for 1987/88, what does he envisage this will be spent on if at all?

HON MAJOR F J DELLIPIANI:

We think that we may be able to spend that kind of money this year this is why it is reserved, probably on design work, etc. We might be able to start ordering things because they are cheaper now and putting it away. We are hoping to be able to spend some money on that.

HON J C PEREZ:

Mr Chairman, just to say that we are certainly not very convinced that the consultancy over the refuse incinerator is needed, certainly not at that cost and that we will be abstaining on this one which is subhead 8.

On a vote being taken on Subhead 8 - Refuse Incinerator - Consultancy, the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Head 105 was agreed to.

Heads 106 to 110 were agreed to.

Head 111 - Tourist Development Projects

HON J E PILCHER:

Mr Chairman, in my contribution on the Appropriation Bill, I asked that I would like to be given an explanation as to:- (1) why all the votes of the tourist expenditure were reserved, and (2) whether I could be given some idea of the timetable that we were talking about. One area was explained which was the Air Terminal and it

was explained quite aptly by the Hon Mr Canepa. The other subject was the nature reserve and although there has been correspondence between us I would want to know whether there has been any advance on the information he gave me. Again, various explanations about items like, for example, the coach park, when will it be passed to its new location, what they mean by embellishment at Europa Point? Mr Chairman, seeing the lateness of the hour I have no objection if this is given to me at a later stage outside so that I can then bring the matter up at the next meeting of the House if I so desire or not. What I need is the information, not necessarily to be told now.

HON H J ZAMMITT:

Mr Chairman, I can either do that now which I think could be very, very brief and go through the items quite quickly. In fact, Mr Chairman, Council of Ministers approved and the House approved some expenditure in St Michael's Cave in the last Estimates. We spent that because Public Works were not ready to commence with the work so what we did was we spent the money that was available within the financial year on equipment, that is to say, we bought things that would be used at St Michael's Cave. Hopefully, this year we will be able to spend and have the seats which is a thing we have to do, the toilets which, of course, are very essential up there and lacking very badly and therefore this year certainly that one will be totally taken up. Europa Point, Mr Chairman, I think it was mentioned here earlier on that the Royal Engineers are in the process of doing Nun's Well and therefore that will become another site on stream, I hope, within the next three or four months.

HON J E PILCHER:

If I may just interrupt for a moment, Mr Chairman. I accept that Europa Point will be ready very shortly but is the Government not going to do anything about the general cleanliness of the area before we open a tourist attraction?

HON H J ZAMMITT:

This is precisely what I was coming to, Sir, that Nun's Well because it is becoming a tourist site that we know will attract people to that particular area, the £50,000 that is provided is for the embellishment of the whole of the area from the look out point that is frequented very much by tourists, the two Pillars of Hercules Lookout, so that accounts for that, Sir. The Air Terminal refurbishment works, Mr Chairman, are that we have had a lot of water penetration at the Air Terminal and irrespective of what we do on further expansion, we must stop the leaks and we must keep up the maintenance of the building because it is quite bad when we get severe rains.

HON J E PILCHER:

This will be this year as well?

HON H J ZAMMITT:

Yes, Sir. The Upper Galleries, Mr Chairman, again one of the main problems we have there and note it says Phase 1, is the traffic problem which does not cater for more than three or four or five cars, let alone a coach, so we intend to do some improved road facilities there but the sum we have here, the £16,000, is mainly geared towards the improvement of the toilet facilities in that area which are, again, extremely bad. The nature reserve I think has been explained.

HON J E PILCHER:

No, the nature reserve has not been explained.

HON H J ZAMMITT:

Mr Chairman, one of the forward looking ideas and I doubt if that amount of money will be able to be absorbed certainly this year but we have and we have agreed that we could get a - when I say consultancy I know Members opposite don't like it, but it is a local ornithological group of young men who are prepared to give us their expert advice on the whole area. The whole area encompasses areas from St Michael's Cave, the area immediately above it up to O'Hara's Gun. The idea, of course, is to have a nature reserve park in that area whereby and, again, I do not want to be caught in a vice about what I am going to say now because, of course, the actual details have been thrashed out and I need not say that to provide a monkey park or an ape park cannot be done by telling the apes that 'as from next Monday you will report there'. We have got to make sure that they are taken, coerced or whatever and therefore we have somebody within the Tourist Office who is very experienced in that field, that is precisely why we took him on in his retirement from his previous position. With that, Mr Chairman, it will be a whole area, hopefully, where people can go and enjoy that particular new element of Gibraltar and at the same time, of course, although we do not wish to diminish but we would like to see the traffic flow not being as bad as it is at the present Apes Den because everybody stops there and it is chaotic so if we could move them elsewhere then there would be a stream of traffic on the Upper Rock with more ease. The Piazza redevelopment, Mr Chairman, one can see that already work has begun there and we hope to do this up. I was saying yesterday, Mr Chairman, when you very nicely stopped me when I was talking about the fountain situation, that the whole area requires refurbishment and, of course,

we are inviting, as Mr Canepa has reminded me, suggestions and ideas for the whole area so that we don't have the kind of monstrosity that we ended up with and we all know about. Wellington Front Promenade, Mr Chairman, hopefully, in the not too distant future we would like to see the Nissen hut at the Parish Hall being removed from there, that is within the 'musical chairs' of premises.

HON CHIEF MINISTER:

It is already happening.

HON H J ZAMMITT:

It is already happening. The musical chairs between the Museum, the Deanery and Bomb House and therefore it would open up the whole of Wellington Front as a walkway with Sir Herbert Miles. The Air Terminal expansion, I think we discussed that, Mr Chairman. As for the coach park, well, work has already commenced on that and I think it is Public Works by direct labour who are resurfacing the reclamation that is there and that, I am told, should be ready within the next two or three or four months.

HON J E PILCHER:

All of these with the exception of the Upper Galleries and the nature reserve and, of course, the Air Terminal should happen within this financial year?

HON H J ZAMMITT:

If anything, I would say that the only thing that will certainly not happen this year, certainly in its totality, will be the nature reserve, the Air Terminal expansion will not happen, I think, Sir, and that's about it. I think the rest will happen this year.

HON J L BALDACHINO:

May I, Mr Chairman, ask the Hon Member seeing that all these projects have an 'R' beside them, aren't they the same as the other projects that the Government have in the Improvement and Development Fund, subject to the approval of Council of Ministers?

HON A J CANEPA:

In practice what will happen will be that the smaller projects where the figure involved is £10,000 or £16,000, they will be approved by the Financial and Development Secretary and the much bigger projects will go to Council of Ministers.

Head 111 was agreed to.

Head 112 - Medical Services

HON CHIEF MINISTER:

I think perhaps I should say that having regard to the fact that we have reduced Estate Duty we are providing a new hearse.

Head 112 was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Part I of the Schedule be now amended by the inclusion of a new Head 28 - Contribution to Funded Services amounting to £3,581,900 and where the total of expenditure is shown, that the figures "£58,388,500" be substituted by the figures "£61,970,400".

Mr Speaker put the question which was resolved in the affirmative and Part I of the Schedule, as amended, was agreed to.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in Clause 2 of the Bill the words "fiftyeight million three hundred and eightyeight thousand five hundred pounds" be deleted and the words "sixtyone million nine hundred and seventy thousand four hundred pounds" be substituted therefor.

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

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in lines 2 and 3 of Clause 4, subsection (1), the words "fiftyeight million three hundred and eightyeight thousand five hundred pounds" be deleted and the words "sixtyone million nine hundred and seventy thousand four hundred pounds" be substituted therefor.

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

Clause 5 was agreed to and stood part of the Bill.

The Long Title

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in The Long Title the words "sixtysix million nine hundred and eightyfour thousand four hundred pounds" be deleted and the words "seventy million five hundred and sixtysix thousand three hundred pounds" be substituted therefor.

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.

THIRD READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to report that the Finance Bill, 1987, with amendments, and the Appropriation (1987/88) Bill, 1987, with amendments, have been considered in Committee and agree to and I now move that they be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

I beg to move, Mr Speaker, that the House do adjourn until Tuesday the 12th May, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday the 12th May at 10.30 am.

The adjournment of the House to Tuesday the 12th May, 1987, at 10.30 am was taken at 9.15 pm on Thursday the 30th April, 1987.

TUESDAY THE 12TH MAY, 1987

The House resumed at 10.45 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, CBE, LVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon M K Featherstone OBE - Minister for Health and Housing
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

ABSENT:

The Hon H J Zammitt - Minister for Tourism (who was attending CPA Visit in Westminster)

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

MR SPEAKER:

Gentlemen, before we go on to the First and Second Reading of the Fast Launches Bill I understand that the Hon and Learned the Chief Minister wishes to make a statement.

HON CHIEF MINISTER:

Mr Speaker, during the Budget debate I made some remarks which suggested that there was no enthusiasm on the part of the Leader of the Opposition about the Ministry of Defence in Gibraltar. This statement was made bona fide and on reasonably reliable information. The Leader of the Opposition took exception to the statement at the time and has now written to me asking for an explanation. I have made enquiries and I find that there has obviously been a misunderstanding on the part of my informant. I have no hesitation therefore in withdrawing the statement which was made bona fide but with mistaken information.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Sir, I have the honour to move the suspension of Standing Order 7(3) in respect of the Fast Launches (Control) Ordinance, 1987.

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

BILLS

FIRST AND SECOND READINGS

THE FAST LAUNCHES (CONTROL) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the licensing of Fast Launches and for regulating their use in the territorial waters of Gibraltar and matters connected therewith, 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, the intention is that this Bill should supercede the Port (Amendment) Rules which were promulgated in the Gazette on the 27th November, 1986, and came into effect on the 1st January this year. The Port (Amendment) Rules were made by the Governor under powers conferred on him by Section 19 of the Port

Ordinance and as such, Mr Speaker, the penalties for contravention of the Rules were limited to six months imprisonment which for technical reasons, Mr Speaker, I reduced to three months imprisonment and to a fine of £500 or both. The Rules could make no provision for trial in the Supreme Court. Mr Speaker, in my opinion after receiving representations and considering the matter, the Rules could not properly provide for the forfeiture of launches contravening the Rules and, again in my view, Mr Speaker, the Rules could not properly provide for regulating the use of fast launches in the territorial waters to the south and east of Gibraltar. In addition, the position of bona fide visitors coming to Gibraltar in fast launches was not clear under the Rules. Similarly the Rules made no provision for the testing of fast launches which had been repaired in Gibraltar. There was also a problem, Mr Speaker, concerning the mooring of fast launches at the Camber and Montagu Basin. This Bill, hopefully, Mr Speaker, remedies these defects. Clause 2 of the Bill defines what we mean by a fast launch and it also defines the territorial waters of Gibraltar for the purposes of this particular Ordinance. Clause 4 of the Bill provides for the granting of a twelve month non-transferrable licence to the owner of or a person intending to purchase a fast launch. The fee for such a licence will be fixed by Rules made under Clause 22 of the Bill and this fee will probably, Mr Speaker, be in the region of £200 as under the present Rules. Clause 5 enables the Captain of the Port to revoke a licence if: (a) the launch is used in the commission of any offence under the Imports and Exports Ordinance and such offences, Mr Speaker, include the importation of controlled drugs into Gibraltar; (b) the licence may also be revoked if the owner of the launch is convicted of an offence under the Imports and Exports Ordinance, the Merchant Shipping Ordinance, the Port Ordinance, this particular Ordinance or under the Drugs (Misuse) Ordinance. In the case of the Drugs (Misuse) Ordinance, Mr Speaker, there must be a sentence of imprisonment awarded on the conviction, a fine will not be sufficient to disqualify him; (c) similarly the licence may also be revoked if a person, be he the owner or not, commits an offence under those Ordinances whilst in charge of a fast launch; (d) the licence may also be revoked if without the approval of the Captain of the Port the launch is fitted with more powerful engines. Clause 6 of the Bill provides for appeals to the Governor against the revocation of a fast launch licence. Clause 8 of the Bill enables the Captain of the Port to grant non-transferrable permits valid for up to fourteen days to visitors who are not resident in Gibraltar. By Clause 9 the owner and any person who uses or is in charge of a fast launch within the territorial waters without being in possession of a licence is liable on conviction in the Magistrates' Court to a fine of £10,000 or in the Supreme Court to a fine of unlimited amount and to imprisonment for two years. Clause 10 of the Bill

enables a licence holder to give written authority to a person to use or be in charge of a fast launch on a specific date and for a single voyage and this authority may be given provided that the person so authorised has not been convicted of offences under the Imports and Exports legislation, under the present Ordinance or under the Drugs (Misuse) Ordinance. Penalties for breach of this Clause are the same as in the case of unlicensed user. Clause 11 of the Bill imposes similar penalties for using a fast launch within the territorial waters between the hours of 10pm and 7am. Clause 12 provides that on conviction in the Supreme Court for using or being in charge of a fast launch without a licence; for using a fast launch within the territorial waters between the hours of 10pm and 7am, or for authorising a fast launch to be used by a disqualified person the Court - and that is the Supreme Court - may order the forfeiture of the fast launch. Clause 13 of the Bill makes it compulsory for a person in charge of a fast launch to report its arrival and departure at the Reporting Berth. The penalty for breach of this Clause is a fine of up to £2,000 and this is by Clause 21(1)(a). Clause 14 prohibits the mooring of fast launches at the Camber and Montagu Basin except with the written approval of the Captain of the Port. Penalty for breach of this Clause is a fine of up to £2,000 and that is Clause 21(1)(g). Clause 15 sets out the identification markings of fast launches. Penalty for breach of this particular Clause, again is £2,000 under Clause 21(1)(h). Clause 16 prohibits the modification of existing engines or the fitting of new engines to give more power and that is without the written approval of the Captain of the Port, again penalty for breach of this particular Clause is £2,000, Clause 21(1)(b). Clause 17 prohibits the modification of approved fuel tanks and the carrying of fuel in other than approved tanks without the written permission of the Captain of the Port, breach £2,000, Clause 21. Clause 18 permits mechanics approved by the Captain of the Port to test fast launches which have been repaired or adjusted in any shipyard or Marina. Clause 19 provides for the annual survey of fast launches by the Port Department Surveyors. Clause 20 requires persons in charge of Marinas or places where vessels are berthed, moored, stored or repaired to furnish the Captain of the Port on his request with particulars of all fast launches berthed in such places. Clause 22, Mr Speaker, provides for the making of regulations. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, we are not happy with this Bill and we were not happy with the Regulations. The Bill has been projected in the public eye as being a measure to prevent smuggling although, in fact, the word smuggling does not appear anywhere in the Bill. We think that there are less cumbersome and more effective ways of preventing smuggling than this piece of legislation, quite frankly, and although the Hon and Learned Attorney-General has by inference and by referring to the Imports and Exports Ordinance and the Drugs (Misuse) Ordinance and so forth, presumably assisted that impression. The reality of it is that this Bill seems to, in some ways, be an interference with certain basic rights that people enjoy everywhere in the Western world and is reminiscent of the legislation introduced by the Government which we opposed which made it an offence to fall asleep on a beach. If you will recall, Mr Speaker, we found it extraordinary that that could be made an offence under the legislation and the only justification the Government could find was that Police Officers would be asked to use their discretion in who they woke up and who they arrested. But nevertheless, there it is, it is on our Statute Book and it is an offence against other laws. Here we have got a situation where even if somebody is licenced and, surely, the fact that their licence can be revoked if the person commits an offence or presumably that the licence can be denied if the authorities have reason to suspect that the person wanting the licence wants it for something that is not bona fide and above board, they can say no to granting the licence. What we cannot understand is once you give the licence why people are not allowed to use it after ten o'clock at night because surely if they have been given the licence it must be because they can be trusted to operate the launch for legitimate purposes so why is it then necessary to impose such draconian fines. It seems extraordinary that people should be licenced, should be charged a fee and then should not be allowed to enjoy their property at whatever time of day or night they want to enjoy it. We don't think that there is anything comparable in the rest of Gibraltar's legislation and we don't know of any other country that does it. If there is then we would like to know where the precedent for this comes from. Do our neighbours stop people coming out of Banus or wherever after ten o'clock at night in fast launches or is it that they are free from the scourge of smuggling? I trust we are not changing our legislation at their request or for their benefit, I trust that we are doing it to protect our own economy which we are entitled to do and to protect our own people from any introduction of drugs in Gibraltar which I think we are all in agreement must be stopped. But to stop what is wrong, I think one must not transgress the limits of what is normal in a Western democratic society of people being given

certain rights which they are entitled to enjoy. I also understand that the Regulations and, indeed, the principles underlying this law are being challenged in Court and if that is the case - well, that is what I understand, if it is not the case then I can be corrected, Mr Speaker, but that is my understanding of the situation - if my understanding of the situation is accurate and my informant, like the Hon and Learned Chief Minister's informant, is reliable and assures me that that is correct and presumably we are all free to use our informants until we find out better, my informant tells me that that is the case and consequently I do not think it is a good thing to have or risk a repetition of something that has happened once which I have quoted on more than one occasion in the House because I felt very upset that I was the only Member of the Opposition who supported the Government on a Bill giving consumer protection inspectors the right to enter premises and look at books and so forth, as it were, without prior warning and pounce on possible culprits infringing the law and I thought the Government made a very strong case in protecting consumers' interests and I supported it. That was challenged in Court, it was found to be unconstitutional, the Government had to come back and repeal the legislation because they were ordered to and they said they would find another way of achieving the same objective and I am still here patiently waiting for that to happen. I think if there is any risk that this law can be challenged I don't think it is a good thing for the House of Assembly to proceed with a law which is subject to a challenge in Court and where we might find ourselves in a situation such as the one I have quoted because I don't think it does the parliamentary or legislative process any good to be shown up to be, if you like, Mr Speaker, so incompetent that it doesn't know itself what it is allowed to do by the Constitution and have to be told by the Courts that it is overstepping the mark. I think those are the main objections in principle. I am also perplexed and perhaps the Hon and Learned Attorney-General can clear up the matter for me because when we have the penalties here, are we saying in this legislation that the fine has to be that or that it can be anything below that?

HON ATTORNEY-GENERAL:

Up to that.

HON J BOSSANO:

Looking at the superficial wording it appeared to be saying that people have to be fined £10,000 however menial the transgression. I think, really, Mr Speaker, basically our message is we support any measures that are deemed necessary and that are going to be effective to prevent either smuggling or to prevent the sale or

the abuse of drugs and we are totally committed to that as the Government is but we think that this law seems to be doing much more than that. For example, we are creating responsibilities, liabilities I would have thought. We have got a map here which shows a huge area around Gibraltar as our territorial waters, I hope they are accepted as ours by everybody else outside the House of Assembly, but who is responsible for patrolling the territorial limits of our territorial waters to make sure that ships that are fast launches as defined by us do not stray over the line we have marked on that map? Do we have the resources to do that? And if not, what are we doing, we are creating a law where anybody that comes within a certain distance of the Rock even if they have no intention of calling in, one of the fundamental changes here and which the Hon and Learned Attorney-General mentioned was that under the Regulations that were being made we were talking about people operating out of the Port of Gibraltar and that to us made more sense, quite frankly, because if we want to put restrictions on what people do or what we allow them to do coming in and going out of Gibraltar it seems to me one thing and then to say 'We are now going to extend that to what people cannot do when they go past Gibraltar within a certain distance from us' because unless I have misunderstood it, my reading of it is that if they go into our territorial waters and out of our territorial waters on the way to somewhere else and coming from somewhere else, presumably for the period that they are within the territorial waters they are committing an offence as the law is being drafted. If that is the case I am not sure that we have got the right to legislate for passers-by and interfere with the international passage of people past Gibraltar.

HON ATTORNEY-GENERAL:

Mr Speaker, if the Leader of the Opposition will give way one moment. The present position, of course, aiming at vessels loaded with drugs on its way from Morocco to Spain which comes into our territorial waters, it skirts through our territorial waters, of course, it commits an offence. Any other vessel coming through our waters with contraband or anything of this sort also commits an offence. We are not interested in vessels going through our waters as part of an international voyage. By making it the territorial waters of Gibraltar, we have changed nothing because they would still be offences under the existing law now to convey drugs in Gibraltar, they would be in the territorial waters with possession in Gibraltar. So we haven't changed anything there, we have got out of the Port of Gibraltar because believe it or not, Mr Speaker, the Port of Gibraltar extends on the Western side of Gibraltar right up to the median line and right down to Europa Point and that is still the Port of Gibraltar so that is one of the problems.

HON J BOSSANO:

Mr Speaker, what the Hon Member has said seems to confirm our concern not cure it. If we already have under existing legislation the power to do something about people who commit an offence because they are carrying contraband or drugs then what do we need this law for? Presumably for the people who are not carrying contraband or drugs because that is already covered by the existing law so the people who today go through our territorial waters without carrying contraband or drugs, carrying tourists in a fast launch today under the existing law would not commit an offence but under the new one would because they would be in a fast launch carrying tourists not contraband and not drugs. We are in favour of Gibraltar being a place which disapproves of drug smuggling and is not, in fact, giving cover or giving encouragement to that. I do not think anybody in Gibraltar feels any different on that issue but the point is if that is already included in our legislation what is the new legislation doing in that area? It seems to us it is doing nothing in that area, it seems to us that what it is doing is to say: 'Well, to make doubly sure that we catch somebody who might be doing it we stop everybody' and that is a principle which is a serious principle politically that we have to address ourselves to. We do not say as a pre-empting measure because there are people who commit burglaries at night we will introduce a curfew and then we arrest everybody after ten o'clock at night and if we arrest 1,000 people one of the 1,000 could be a potential burglar. So what we do is we stop every fast launch in the vicinity and if there are 100 fast launches one of them could be smuggling. If that is not the intention and I would imagine it is not the intention because it cannot be defended as being the intention, then that appears to be, technically, on paper, what we are doing. To then say 'Well, alright, but in the application of the law we are going to use discretion and commonsense and so forth' is not a principle which we support because we think that, effectively, we have a responsibility in this House for legislating and we have a responsibility for passing laws which may be good, bad or indifferent or popular or unpopular but we have to stand by the principles of what we consider to be good for the community as the people's representatives but if we then pass a law that says one thing and then we say the people who are given the responsibility of applying the law are additionally going to be given the responsibility of interpreting selectively who they apply the law to, then it is not a good thing and I do not think it is a good thing for those who have to have that responsibility either because it opens up all sorts of avenues of accusations of discriminatory treatment and so forth which is not a good thing for law enforcement agencies to be saddled with. I hope the Government will understand that the disquiet and

the doubts that we are expressing are totally above board and not because we want to do anything to be obstructive. If there is a serious problem connected with things like drug smuggling which the Government feels it needs to clamp down on, if that is important and that is in existence and they are worried about that they can count on our support to do what is required but I think what we are saying to them is let us do a proper job of it and not find ourselves creating a bigger problem in many other areas than the one we are trying to cure because, presumably, part of the reason for the Bill is that the Rules that were passed are not all that easy to apply and enforce and we don't want to find ourselves with a law that is no easier to apply and enforce and that creates challenges which were not intended by the Government but which they may find themselves having to face.

HON CHIEF MINISTER:

Mr Speaker, in the first place, I think we ought to remember that we already have a law which imposes a curfew on fast launches which was done by Regulations and, in fact, that is the law the constitutionality of which is being questioned. In this case the Hon Leader of the Opposition's informant is also mistaken, there can be no question of anybody challenging the constitutionality of a law that has not been passed until it is passed in the form that it is passed and then it is put to the test. What is being spoken of is questioning the constitutionality of the Rules and it is because it may well be that the Rules do not achieve what we wanted as I think I explained to the Leader of the Opposition in a note I sent him about the amendments which have been dealt with by the Hon and Learned Attorney-General, I don't propose to deal with it, but I did say that the experience gained from the law which had been in force for three months during this period had not only brought to light certain defects in the legislation but had also brought forth recommendations for the strengthening and enforcement of the legislation. It is proposed that this can be overcome and the recommendations on the strengthening and the enforcement of the legislation can be given effect by a substantive Ordinance. In fact, we are going one better in that respect since the Fast Launches Regulations were passed without reference to the House, they were passed as subsidiary legislation. Now we bring the legislation here for consideration. True that in the course of the study of the matter it has been found necessary to strengthen that legislation so that, in fact, there can be no question of the constitutionality of it being assaulted on and, in fact, having regard to that and having regard to the fact that we are going to have a longish period between the Second Reading and the Committee Stage, it is precisely for that reason that we advanced with the consent of

the Leader of the Opposition, we adjourned the House to deal with this case in order that people should have ample time to make representations within the law. But let it be understood quite clearly that the law is meant to stop smuggling and, particularly to stop smuggling in drugs which the Government and the Opposition, quite clearly, want to clamp down on. It is quite clear that we are in a strategic situation in which drugs pass from one country to another and Gibraltar can and is being used for this purpose. We may or may not pass the legislation in all the terms in which they are here and as I told the Leader of the Opposition we would be quite happy to look at any amendments that deal with the problem that worries him but it is quite clear that the legislation is intended to stop drug smuggling. The other point made by the Leader of the Opposition is the question of the jurisdiction of the Port as appears in the Schedule. That is what we claim to be our territorial waters and we claim it on the basis of ordnance maps and on the basis of practice over 200 years and therefore it is not acquiring or encroaching we are defending the same as we do in other areas where the sovereignty of Gibraltar is questioned, we are defending what we consider to be the legal position with regard to the territorial waters of Gibraltar. And it is precisely for that reason that we have defined it in the plan in this way so that there can be no doubt about it and the question of constitutionality arising in other forums and not just in the courts of Gibraltar. It is on the basis of charts which have been observed on the median line and on the basis of what is the interpretation of the territorial waters in our legislation that that is done in order that there should be no mistake in definition. The definition is there and if it is questioned we can defend it. The main point, I think, which already exists apart from the penalties, the main point which is for consideration which is a point raised by the Leader of the Opposition is whether, in fact, if you licence the launch you can impose restrictions on its movement. Well, we think not because we think that the kind of activity that these launches indulge in are obviously not done in the light of day. It is done particularly when it isn't full moon and when very little is seen so that the illegalities can pass much better. Some of the other provisions in the Bill in respect of power and in respect of adding capacity and so on, it is all intended to prevent launches being faster than they are meant to be because they are made precisely faster in order to get away and nobody in his lawful pursuits and business need worry about these Regulations because fast launches are used mainly for what we know they are used and the definition we are giving them is clearly the definition which suits the particular instrument that is being used now to defy the law, that is quite clear and that is why the limitations are put in that way. As I say, the Government, of course, proposes

to proceed with this at the Committee Stage at the next meeting of the House but if, in fact, within the difficulties that have been mentioned by the Leader of the Opposition he wants to clear up or to suggest any amendment that might make it less unacceptable to him we will be happy to consider them but as I told him in a note, please with a little time so that we do not have ad hoc amendments which normally are quite dangerous.

MR SPEAKER:

Are there any other contributors to the debate?

HON M A FEETHAM:

Can I just make one point. I have got a press cutting here which, of course, the Chief Minister may know of it from last year, it says: "Rock's squeeze on drugs" and that the Government were bringing in very strong legislation to clamp down on drug smuggling and so on and the Chief Minister is quoted here as saying: "We are very concerned about the amount of drugs which pass through Gibraltar and we shall be announcing within the next four to five weeks a series of new measures aimed at curtailing activities of those people engaged in this trade". Are we saying in the House today that this legislation which we are introducing and, particularly, restricting the movement during certain hours is, in fact, going to control the movement of drugs through the Straits? That is to say, are these sort of regulations going to be introduced by the Spanish authorities because clearly whether we say so publicly or not, we understand that there is liaison between the Spanish authorities and the Gibraltar authorities in this area, do I take it that there will be similar law enforcement in the Straits because, clearly, this will not stop drug smuggling across the Straits, this will not stop it. The press built it up not only on drugs but also on contraband, they use the word contraband here and presumably they are talking about tobacco, are we legally or illegally exporting tobacco from Gibraltar? As I understand it under the Imports and Exports Ordinance tobacco can be exported from Gibraltar provided you pay your duty from the bonded stores and you are away. Are we depriving people with this piece of legislation from exporting tobacco from Gibraltar because, as I understand it, some of these launches were operating perfectly legally and have been doing so in the area of exporting tobacco. I would like to clear that one as well.

HON CHIEF MINISTER:

If the Hon Member will give way it will give me an opportunity of answering that and then he can carry on. In the first place, let me make it clear that there has been no consultation at all with anybody about this legislation except within Gibraltar. Whether it fits or it doesn't fit the laws of neighbouring countries including Spain is a matter that they will find out. I know that they have welcomed it because I think there have been references in the press to that but we have not consulted anybody about this except within Gibraltar so that this is not the result of any agreement with anyone about it. We are, in that respect, sovereign and self contained and we do what we think is right. If it coincides with the interest of other people, well, in pursuing something illegal that they want to stop so much the better, if the interest coincides it is alright so there is no question about any joint action. There is, of course, joint cooperation in detection, that is different. With regard to the other question, of course, contraband is anything which is moved about without a permit. Tobacco can be contraband somewhere else which is not contraband in Gibraltar. Tobacco can be contraband in Gibraltar if it is exported contrary to the provisions of the Imports and Exports Ordinance so that in that respect the practice is there of giving permits for the export of tobacco for bona fide business and the legislation is not intended to interfere with that in the way it is being done now. I know that people don't like sometimes the restriction that is imposed now but on the other hand there are realities to be taken into account and occasionally there are factors which exercise the mind of those who have to give the permit there is no intention, if it were only for that we would not be here with this legislation. If that satisfies the Member, I hope that he will see that it is not intended for that. The practice of giving permission for goods that have not been imported fully into Gibraltar pay duty exported in order to ensure that it is not re-imported into Gibraltar without duty which used to be a fruitful business to say you were exporting cigarettes out of Waterport and then bringing it in through Catalan Bay. There have been many offences of transporting tobacco from Gibraltar from one side to the other on which no duty has been paid. That continues to be the case and that will also be an element in the judgement of those who have to give permission for the export of tobacco. We have to make sure that we perform in a reasonable manner in respect of proper exports to proper and adequate places and you cannot just blind your eyes and pretend that the little speedboats of eighteen feet can carry 100 cartons of cigarettes, that is unacceptable and in any event and in any case I can imagine it is quite dangerous. In that respect I would like to reassure the House that there is no intention of altering the

practice now and everything that is in the legislation is subject, of course, to the necessary permits being given in respect of goods which are recognised. Tobacco is recognised, it does a lot of harm, I understand, but it is recognised. I read this morning that the Economic Community proposes to ban cigarettes because it is bad for them and for us - I don't know for who - restricting the duty free element of it. Well, I do not think that that is the way to stop the danger but the proposal is that the legislation is meant to cope in dealing with materials, whatever it is, that is not licit and nobody can say marijuana or cocaine or heroin is licit anywhere except perhaps in Colombia.

HON M A FEETHAM:

I am grateful to the Hon and Learned Chief Minister for the explanation given because the way I see this when we are talking about tobacco which is the one that I am interested in from the point of view that if we have a legitimate business to export we should not deprive people from using that because the law is there. This will be restrictive, as I see it, it will be restrictive in that activity but on the other hand whilst we seem to be playing a role in clamping down on the illicit businesses, if you were to go to Ceuta and Melilla; which are Spanish territories, at any given day you will see thirty or forty launches there all used for the purpose of exporting tobacco. Where it goes I don't know. What we are doing by restricting our business, in fact, in many ways is going to help Ceuta and Melilla with their exports.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I have heard with interest the Hon Leader of the Opposition's contribution to this Bill. I am glad he has shown concern and I didn't expect anything other than support. I hope he takes the Chief Minister's offer that any suggestions he has to strengthen and make it really effective he will do this. I think it would be of interest for the Hon Leader of the Opposition to know that there are three departments who have helped in drafting, not including the Hon Attorney-General's Chambers, three departments involved with the drafting of this Bill because they are the ones who have been putting it to work and I refer, of course, to the Police, the Customs and the Port Department. With regard to the ability of law enforcement the three agencies are quite happy that this is good for them. Maybe they haven't seen some Clauses which the Hon Leader of the Opposition has seen but the suggestions that we have incorporated in the law have come basically from them so they are quite happy. The other point that concerns me is the question of the right of people to use speedboats whenever they want. I think one must be realistic about this.

If we are talking of a fast launch and I am told that some of them are capable of doing up to sixty knots, who wants to travel in the dark at night at sixty knots, he is just asking for trouble for himself even with radar and for people in the vicinity of waters which are heavily used. If I have a fast launch and I love the thrill of speed, I would certainly do it in the daylight hours. The other thing that they are strengthening is that a lot of the people who own fast launches which are pretty expensive, we are talking about £40,000 or £50,000, where the hell has the money come from? This is one question I ask myself. How can somebody afford a launch of £50,000, where did the money come from originally? I am also concerned because I was Minister for Labour for three years, that the crew members of some of these fast launches have claimed unemployment benefit and supplementary benefits and they drive about in BMW's. The Income Tax Office should have a look at this, the investigation side. I think the fact that we have introduced a curfew shows that Gibraltar really has not got the ability to chase these launches and this is a way of doing it, through curfew and making them report because quite obviously if a launch travels at sixty knots there is no way, in fact, any of the Customs services can chase them unless they have got helicopters. The question of the true territorial waters is a good point made by the Hon Mr Feetham. Obviously, we are not going to be able to do anything about people who skirt through out territorial waters at fifty or sixty knots, we cannot do anything, we haven't got the facilities, but if they happen to break down in our territorial waters then we can catch them and it is certainly a deterrent the fact that if anything happens they are breaking our laws but I think the Government is quite realistic that in reality we cannot do much. On the question of the territorial waters I share the view of the Hon Members of the Opposition. This has been a known fact for many, many years. I gather there is a guardship somewhere which is earmarked for Gibraltar, probably about 48 hours or 56 hours away from Gibraltar. It is no damned good if we want to enforce our territorial waters if there is no guardship in Gibraltar and the whole idea is absolutely ridiculous. If we want to maintain our territorial waters we have to have the presence to maintain the territorial waters. To have a guardship nominated somewhere in the UK is absolutely ridiculous. I hope that the Opposition will show their concern by submitting constructive ideas on how to implement the law, safeguarding the genuine fast launch people but also doing something about the people who aren't so genuine. I am concerned about the tobacco export business, I feel Gibraltar has been absolutely stupid over many years when we were enduring the economic blockade by trying to reduce the exports. If you go to Ceuta now and you say: "I want to buy ten million cases of tobacco",

nobody is going to say: "Where are they for?" If you went to buy video recorders, they do not want to know why, if you went to Rotterdam they are not interested but we are interested, I think it is stupid, quite frankly. As long as you are not breaking the laws of Gibraltar we should give every possible help to people who want to export from Gibraltar.

MR SPEAKER:

Are there any other contributors? Does the Mover wish to reply?

HON ATTORNEY-GENERAL:

Mr Speaker, I am satisfied after consulting with the Commissioner of Police, the Customs Department and the Port Department that we can police this legislation throughout the territorial waters of Gibraltar and in case there are any susceptibilities about the use of the territorial waters of Gibraltar we have very carefully put it twice in the Ordinance, 'territorial waters for the purposes of this Ordinance'. That is in Clause 2 and in the Schedule.

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

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

The following Hon Members abstained:

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

The following Hon Members were absent from the Chamber:

The Hon H J Zammit
The Hon B Traynor

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I beg to move that the House should resolve itself into Committee to consider the Gibraltar Heritage Trust Bill, 1987, clause by clause.

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

THE GIBRALTAR HERITAGE TRUST BILL, 1987

HON J BOSSANO:

Mr Chairman, can I just make a general point? I hope we can go rather slowly through the Committee Stage.

MR SPEAKER:

We are going to go most certainly clause by clause because there are a fair amount of amendments.

HON J BOSSANO:

Because there are a lot of amendments. We had an advance copy of this on Friday but even so it isn't clear from the amendments, having discussed the general principles of the Bill, how the general principles of the Bill are being changed by very substantial amendments and whether, in fact, the Bill is being taken in a different direction from the one it was originally envisaged.

MR SPEAKER:

I have instructed the Clerk to call the Clauses one by one.

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

Clause 2

HON ATTORNEY-GENERAL:

I beg to move the amendments in the terms set out in the notice of the 8th May, Mr Chairman, to insert in their appropriate alphabetical order the definitions of "antiquity", "elected trustee", "Vice-Chairman". To delete the definition of "conservation area" and to put a capital letter in the word "Chairman" in the two places where it occurs.

HON CHIEF MINISTER:

Before the Attorney-General sits down if he would give way, I would like to make a few general comments on the amendments. It may help the Hon Members opposite if I explain a little of the rationale of the amendments. In the first place, it does not in any way alter the general principles of the Bill. But there is no doubt that the original draft was done in a little haste and that more time given and more research given has shown that there are quite a number of amendments that are required and let me say, first of all, that both the original Bill and the amendment do not come out of anybody's mind originally but they are based on the National Trust Acts in the United Kingdom who have very wide experience in these matters dating back to 1907 of which there have been quite a number of Acts upon which we have been able to draw. Of course, this has been the subject of discussion particularly with the Chairman of the intended Heritage trustees and others interested and that is why we wanted to have more time at the Committee Stage. These things, as I said before, the first National Trust was enacted in 1907 and as the activities of the Trust expanded and in the light of experience, amending Acts were passed in 1919, 1937, 1939, 1953 and 1971, they have had the benefit of all those amendments to consider which were applicable. We hope that the amendments that we are now proposing in the Bill will be as right as we can make them - I don't mean as right in terms of politics - I mean as proper as we can make them. If, however, as in Britain experience shows that further changes are desirable, the House will be invited to consider these in due course because we are creating something very big and we cannot just pretend to get it right from the beginning in the light of experience. The reason for many of the amendments now proposed will be self evident and the Attorney-General, no doubt, as he has just said, will comment on those which are important in terms of policy. The major policy issue is that of the acquisition and disposal of land, which includes buildings, by the Board. The new Clause 5A declares that lands vested in the Trust shall be inalienable so that once you give land to the Trust they cannot dispose of it and that is very important if we are going

to aim to encourage people to give us money to help in maintaining the Heritage. That stems from Section 21 of the 1907 Act which has permeated throughout all the legislation. The purpose of it is that the reason for vesting land in the Trust is that they shall be held for preservation for the benefit of the community. They may not therefore be sold or mortgaged and, indeed, in Britain this is regarded as we do here as crucial and unique. In 1919, however, it was found in Britain that notwithstanding the inalienability of land held by the Trust, it was desirable that the Trust should be able to grant leases subject to the approval of the Charity Commissioners and to confirmation by Acts of Parliament. We propose that a similar procedure should be followed here and the provision is accordingly made for this subclause 3(b)(ii) of the new Clause 6. The only variation we propose is that confirmation of the House of Assembly should be by resolution and not by Ordinance, we haven't got that amount of property that would require that and I think it would be cumbersome if we made an Ordinance every time we wanted to change so that the apolitical approach to this matter has been preserved by dealing with this matter and another matter by virtue of a resolution of the House so that it is not a basis of any particular Government but of the policies generally of the Trust and of the House. However, it is important that the grant of leases of lands held for preservation should be subject also to confirmation by the House of Assembly. For example, take the Northern Defences. If the Trust is given the Northern Defences and they think that it is in the best interest of Gibraltar that they should lease it to a developer or to somebody who is going to run it, then that could only be done with a resolution by the House of Assembly so that the proposed lease or whatever arrangement would come under the scrutiny of the House of Assembly. Let it be quite clear that this is not an opportunity that is being given to the Opposition, it is a right that is being given to the House. The Government may not be happy in any particular case when the Trust wants to do something so it isn't just a safeguard for the Opposition, it is a safeguard for Gibraltar that the exercise of these very wide powers are only done subject to the House of Assembly. First of all, it maintains the independence of the Trust and it makes the decision non-political. The Opposition in the Second Reading of the Bill expressed the view of the importance of the Trust as we did and the matters connected with it being non-political and the subject of a bipartisan approach. That is why the subclauses which we have included in Clause 6(3)(b)(i) will give various guidelines. As to the acquisition of land Clause 6(3)(b)(i) as will be explained by the Attorney-General - I am just explaining the principle to make it easier when we come to it - provides that no land other than Crown Land may be acquired by the Board except with the approval by resolution of the

House of Assembly. It was thought that it might be possible in years to come if the Heritage had a lot of money and there wasn't property out for sale not from the Crown, privately, and the Trust felt that it was better to keep it like that forever they might find that and do nothing with it. Well, that might be justified if the property was listed or had any historical connotations and so on but if, in fact, it was done simply because they had money and they don't want development, they cannot do that without a resolution of the House, to purchase property other than property being given by the Crown. Because when property is given by the Crown the Crown can put conditions on the property which is in the spirit of the Crown.

HON J BOSSANO:

Mr Chairman, if the Hon Member will give way. Doesn't in fact the original Clause 3 which is being amended just by qualifying it to say 'in Gibraltar' it gives the power to the Trust, in fact, to hold, take, deal and dispose of lands and other property virtually as if we were talking about an investment strategy.

HON CHIEF MINISTER:

No, it is qualified by Clause 6. When it comes to Clause 6(3) you will see that the amendment made there says that any transaction under 4(3) will be subject to the approval by resolution of the House of Assembly. It says: "Without prejudice to the generality of Section 4 it shall be the duty of the Board (so far as practicable) - to promote and secure the preservation; to promote the public's enjoyment" and so on and then there is a proviso.....

HON J BOSSANO:

Mr Chairman, if the Hon Member will give way. When we read the original Clause 3 it appeared to us that what we were saying here is that the Trust can have virtually an investment portfolio as if it were an investment Trust or a company where it can use its spare cash, as it were, to hold and buy and sell lands and other property. We are then qualifying in the new section that as far as land is concerned they cannot do that without a resolution of the House of Assembly unless it is Crown Land. But presumably they can do it with other property still?

HON CHIEF MINISTER:

No, Crown Land doesn't require it.

HON J BOSSANO:

I accept that Crown Land doesn't require it, that is what I am saying. The new amendment brought by the Government specifies that in exercising their powers under Clause 3 if the land in respect of which they are exercising that power is not Crown Land it requires a resolution of the House. But what I am saying is the power says lands and other property so presumably they can still do it with other property independent of whether it is Crown Land or not Crown Land because they can buy old masters and sell them which is other property. If we don't want them to do that then certainly by putting a limitation on land other than Crown Land we are not stopping them. I thought that the original Clause which was there was put there deliberately and the only change that I see there is that we limit the property to property in Gibraltar, presumably for what was said during the First and Second Reading of the Bill where Members in the Government said that they were concerned to have a situation where the Trust might decide to invest its money in the preservation of historic sites somewhere else in the world, so that is presumably why we are adding the words 'in Gibraltar' here. But it seems to me that if we are saying 'land and other property' and then we put a limit on land we are still leaving it wide open with other property.

MR SPEAKER:

I think the Hon and Learned Chief Minister has made general observations as to what the different amendments are going to be but unless we are careful we are going to get confused. These are very valid points but let us make them at the time that we come to each particular Clause.

HON CHIEF MINISTER:

I just want to clear one or two points of a general nature. Let me say that it was the Government, looking at the draft Bill, that was concerned about the power given in the draft Bill for the Trust to acquire property. It was the Government who introduced that limitation of the Trust which they thought at the beginning, well, prepared by the draftsman at the beginning, that we were concerned with that and the only way in which we could exercise that concern would be to limit because we have to find a middle way in which the Trust do not feel that they are restrained from carrying out their lawful and rightful responsibilities given to them, the way in which we thought we could limit that would be by making it necessary to have a resolution of the House of Assembly for the acquisition of land other than Crown Land because Crown Land will carry the conditions that the donors want. The vendors need have no conditions

but the acquisition by the Trust without limitation would give them a right to do something that we thought they should not be able to do except with the approval of the House of Assembly. I have made those general remarks because that really is the mainstay of the philosophy that we have adopted since the Bill was prepared.

MR SPEAKER:

I will remind the House that we are on Clause 2 which is exclusively adding certain definitions. Is there anything to be raised?

HON J BOSSANO:

Since we are in Committee Stage, Mr Chairman, could I just make a point as regards part of what the Hon and Learned the Chief Minister has said about the thing being put in a way which reserves the bipartisan support of the Trust. I am not quite sure how the fact that we are talking about resolutions of the House, how that guarantees that something will have the support of the whole House. Am I not correct in thinking that a resolution of the House can be carried by a Government majority just like an Act can be carried by a Government majority?

MR SPEAKER:

What the Chief Minister did say was the fact that this was being brought for approval by resolution of the House not just exclusively for giving an opportunity to the Opposition to express views but that the Government itself might not be ad idem with what the Trust will want to do and therefore they have the extra authority and the extra protection of being able to come to the House.

HON CHIEF MINISTER:

If I may just say one thing, Mr Chairman. In that respect really the initiative does not come from the Government, the initiative comes from the Trust who seeks the approval of the House. We may in some cases say we think it is alright but the Opposition may say no and then, of course, it is carried by a majority but it may be that we are all in agreement that it should not be done and the best message that the Trustees can get is that it isn't acceptable. There is no guarantee that anything can be done, it is not a constitutional amendment that we are writing into it to say 'You must have a two-third majority' or anything like that. In any case it is not unrealistic, it is unrealistic here because either you have a majority or you have not got a majority. You cannot have a two-third majority like you have in big Parliaments where you have rather a big element of support.

I think we ought to explain that it is the Government that is concerned about how the Trust carries out its functions and in doing that we make it subject to approval by the House by resolution. It is not a Government partisan view but a Government concern which will be shared and discussed in the House.

HON J BOSSANO:

I think therefore let's put it in its proper context because what we are saying is that the Government is concerned about its ability to control the Trust because if the Trust wants to do something and the Government does not agree and it comes to the House for a resolution, then the Opposition may agree with the Trust and get defeated by the Government or the Opposition may disagree with the Trust and get defeated by the Government. Essentially what this is doing is giving power to the Government of the day, hopefully with the support of the Opposition but independent of the support of the Opposition, to tell the Trust what it can do and what it cannot do. That is really what we are doing.

HON CHIEF MINISTER:

In substitution of an Ordinance which the Government, like we are doing this one, would bring if the Government of the day would think it necessary that it requires an amendment of some substantial nature, eventually it comes as an Ordinance and it has to be dealt with in the usual way. What I want to stress is that our approach to this is exactly as stated in the debate on the Second Reading by the Leader of the Opposition that it is apolitical. That I want to stress and I think I have said enough on that.

MR SPEAKER:

Coming back to Clause 2, are there any further comments on the alterations to the different definitions?

HON J BOSSANO:

We are, in fact, Mr Chairman, extending a definition of what Gibraltar heritage is to include books and records and all sorts of things which, I think, goes beyond the way that it was presented originally. Originally we were talking really about primarily land and bricks and mortar, I thought. I accept that we are doing something new and that we cannot expect to get it exactly right the first time as the Hon and Learned Member said but we seem already to have widened the scope enormously in this Bill and this is an example of it and we are rather surprised because, in fact, when the general principles of the Bill were being discussed the impression

we got from the contribution of some Government Members was that they were unhappy about the extent of the powers of the Heritage Trust and that we could expect amendments and we then find that there is an awful lot of things where apart from the one we have just mentioned about a resolution of the House when it comes to disposing of land or purchasing land that is not Crown Land, apart from that, most of the rest seems to be to widen the scope of the Trust rather than limit it and arguments had been put in the general principles of the Bill about not creating an overwealthy Trust with very extensive powers to buy and sell and control all sorts of things and here we are now extending it beyond historic buildings to virtually anything that can be remotely said to be of relevance and wherever situated. There seems to be part of a conflict as well there if we look at the amendment the Government is bringing to Clause 3 to which I referred before, where we are saying they may take, hold, deal with and dispose of lands and other property and we are saying 'in Gibraltar' and then we say that Gibraltar's heritage includes works of art or craft, books, records and chattels, wherever situated. If they are wherever situated then they are part of Gibraltar's heritage but the Trust may not do anything about it under Clause 3 because they can only do it if it is in Gibraltar. Well, which is what we want them to do. We seem to be telling them to do one thing with an amendment to Clause 2 and the opposite with an amendment to Clause 3.

HON CHIEF MINISTER:

I think the powers in Clause 3 are very wide in respect of land. I have been trying to say that what we have tried to do is precisely to follow the thinking of what the Leader of the Opposition said in the Second Reading of the Bill. As I said before, the draft Bill was prepared in a bit of a hurry because there was a need to make progress and so on and that a lot of thought has been given since then and that the National Trust Act in England has been studied more and therefore they have included things that were not there before. But I would remind the Leader of the Opposition of what he said on the Second Reading of the Bill which I think is what we are doing now. He said: "We will be voting in favour of this Bill and we support the concept although I think there has been, in fact, very little consultation, practically none, apart from the fact that half an hour ago the Hon and Learned Chief Minister asked me whether in fact we were in favour and whether we had any objection to the matter being taken after the second leg of this House when the Budget session was taken. Quite frankly this is the product of the Government's thinking and consequently when we have gone into it in more detail we may wish to see some of the contents of it changed ourselves at the Committee Stage" - and this is what I wanted to quote - "I think on the principle of the

Trust, clearly we ourselves have had reservations that in the context of taking decisions on economic development there is always a danger that politicians will be influenced by short-term returns by the very nature of things. That is to say, there will be a pressure on, we think there is on the present Government, and we think it is likely that it will be the case with any Government that if they can see an immediate payback there will be a tendency to favour something that produces an immediate payback and therefore it is important, I think, to have something like this which will act as the guardian of the public interest and which will be able to raise the alarm whoever is in Government and therefore we believe that it is correct to see it as non-political in a party political partisan sense. Presumably the Government itself if there were no Trust would have a commitment to which they have referred in the past of improving the tourist infrastructure". So that, really, apart from being our thoughts we coincide with the principle.

HON J E PILCHER:

Mr Chairman, I think the question, and perhaps the Hon and Learned the Attorney-General can answer it, the question is we are now on Clause 2? In Clause 2 there is the definition of Gibraltar heritage which talks of buildings, structures, etc wherever situated in connection with Gibraltar. Is that in conflict with Clause 3 or is it not in conflict with Clause 3? That is the question.

HON CHIEF MINISTER:

It is always good to have a fresh look at these matters.

HON J E PILCHER:

Mr Chairman, is it that they cannot buy land outside Gibraltar but they can buy property?

HON CHIEF MINISTER:

We can do away with that by taking away the words "wherever situated and".

HON J BOSSANO:

Let us make clear that what we are trying to do is produce the best possible Ordinance in this respect. We are not saying we are objecting to the words "wherever situated". What we are saying is in our view the Government is bringing an amendment to Clause 2 and an amendment to Clause 3 and what they are saying that the Trust does under Clause 2 is contradictory by what they are saying

that the Trust cannot do in Clause 3 and they are bringing the two amendments in the same House. That does not mean that we do not think that 'if there is a part of Gibraltar's heritage situated somewhere we should not spend money and bring it back, we are not against that happening, let us be clear. We are not saying to the Government delete 'wherever situated'. By deleting 'wherever situated' we may remove the anomaly but is that the best way to do it?

HON CHIEF MINISTER:

Yes, I will tell you why it is the best way to do it, because the words 'in Gibraltar' need not have been put because they weren't intended to be put and somebody wanted to make sure that we were not going to have some people wanting to buy Heathfield Park in England and acquire it because it had a connection with Elliott or what have you. But it is true that in any case chattels wherever situated if they can purchase that chattel they can purchase them, it does not refer to land in Gibraltar. You can bring them to Gibraltar.

HON J BOSSANO:

Mr Chairman, I am afraid the Hon and Learned Chief Minister is wrong because he is seeking under Clause 3 to put 'in Gibraltar' at the end thereof. Therefore by putting it at the end thereof linguistically he is qualifying land and other property and he is saying that other property in Gibraltar may be purchased, held, taken, dealt with or disposed of, but the power is for property in Gibraltar and therefore he cannot do it in other places and we don't agree that that is a good thing. We agree that if he now deletes 'wherever situated' from his amendment he removes the conflict of the two amendments but we are not satisfied that we should be taking away the power of the Trust so perhaps what we ought to do is to put the amendment of 'in Gibraltar' after 'lands' and not after 'other property' and leave the Trust with the right to buy other property which is transferrable back to Gibraltar, there may be, for example, an old print which comes up for sale somewhere in an auction and we think it is a valuable part of Gibraltar's heritage that needs to be bought and brought back. Obviously we should limit the purchase of land to Gibraltar for the obvious reason that the land cannot be brought back here.

HON CHIEF MINISTER:

Fair enough, that is fair.

MR SPEAKER:

May I perhaps say that if the words 'wherever situated and' are deleted it will not prevent people buying land outside Gibraltar.

HON J BOSSANO:

Except that it would not be part of Gibraltar's heritage as defined now. Presumably the reason why we have had this definition brought by the Government is because they want to specify that the terms of reference of the Heritage Trust are to deal with Gibraltar's heritage and that Gibraltar's heritage does not necessarily have to be limited to what is physically in Gibraltar, that there can be parts of Gibraltar's heritage somewhere else in the world, that is presumably the reason why that is there.

MR SPEAKER:

And therefore if you take away the qualification where the heritage is situated, in other words, if you take away 'wherever situated and' it means Gibraltar heritage is the following, fullstop and it doesn't matter whether it is in Gibraltar or outside Gibraltar. It is a definition of what Gibraltar heritage is and you find Gibraltar heritage and buildings, structures, antiquities, works of art, etc. You don't define the place where it may be found and therefore Gibraltar heritage is Gibraltar heritage wherever it may be.

HON CHIEF MINISTER:

I think the Attorney-General has got an amendment which I think meets the point.

HON ATTORNEY-GENERAL:

This is on Clause 3.

HON CHIEF MINISTER:

Perhaps he had better explain it now because it happens to do with Clause 2 which we are dealing with.

HON ATTORNEY-GENERAL:

If we amend Clause 3 in the way suggested, Mr Chairman, by the Leader of the Opposition 'to purchase, take, hold, deal with and dispose of lands in Gibraltar and other property wherever situated'.

HON CHIEF MINISTER:

When we come to Clause 3 we will do that.

MR SPEAKER:

Coming back to Clause 2, are we going to delete the words 'wherever situated at'?

HON CHIEF MINISTER:

Not now.

MR SPEAKER:

Any other matters on the amendment to Clause 2?

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

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, to amend Clause 3 to insert after the word "lands" in the second last line the words "in Gibraltar" and to insert after the word "property" the words "wherever situated" so that the penultimate and last lines read "with power to purchase, take, hold, deal with and dispose of lands in Gibraltar and other property wherever situated".

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

Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, to amend this Clause by deleting the marginal note and replacing it with "Objects and powers of Trust".

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

HON ATTORNEY-GENERAL:

To delete the existing Clause 4(1) and replace it with the following, Mr Chairman, and I had better read this because there is a line missing in my copy: "4(1) The Trust is established for the purposes of promoting the permanent preservation of Gibraltar's heritage for the benefit of the public".

HON J BOSSANO:

We assume that this is because having defined Gibraltar heritage the rest of it is now redundant, are we correct?

HON ATTORNEY-GENERAL:

Yes, that is correct.

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

HON ATTORNEY-GENERAL:

To insert a new Clause 4(3) in the terms set out in the notice, Mr Chairman. Clause 4(3)(a) deals with the acquisition and retention of lands, buildings etc, and the new subclause 3(b) deals with the acquisition and retention of investments, that is, investments authorised by the general law for the investment of trust funds.

HON J BOSSANO:

Can I just ask, I am sorry to interrupt the Hon and Learned Member. In subclause (2) which we have not amended, there is a reference to the Trust being empowered to hold land. Having limited its power to purchase land to Gibraltar do we now need consequentially to limit that in the rest of the Ordinance or does it follow axiomatically?

HON ATTORNEY-GENERAL:

I think, having regard to the word "Subject to the provisions and for the purposes of this Ordinance", that will cover it.

MR SPEAKER:

You do not intend to read the whole of the new subclause (3) do you?

HON ATTORNEY-GENERAL:

Not unless you wish me to read it, Mr Chairman.

MR SPEAKER:

No, I will read it because we must do it for the record.

HON ATTORNEY-GENERAL:

Mr Chairman, except just to say (a) deals with the acquisition and retention of lands and realty and the new subclause 3(b) deals with the acquisition and retention of investments authorised for the investment of trust funds, the blue chip type of investments, trustee investments.

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

Clause 4, as amended, was agreed to and stood part of the Bill.

Clause 5 was agreed to and stood part of the Bill.

New Clause 5A

HON ATTORNEY-GENERAL:

To insert immediately after Clause 5, Mr Chairman, the following New Clause 5A: "The lands vested in the Trust shall not be chargeable with any debts or liabilities of the Trust and shall be inalienable". Mr Chairman, it may assist while I am introducing this amendment if I were to refer the Committee to the new Clause 6(3)(b)(ii) on page 3 which starts with the words "notwithstanding the provisions of section 5A it shall be lawful for the Board to grant a lease of any land subject to the approval of such a lease by the Charity Commissioners confirmed by resolution of the House of Assembly". Any lease which is granted although the trust land is inalienable they can grant leases but any lease is subject to the approval by the Charity Commissioners and to the approval of this House. This House by resolution would be confirming the approval of the Charity Commissioners or not.

HON CHIEF MINISTER:

I wanted to have raised that before because I forgot to mention it and that is that like in the National Trust in England the giving of leases and so on is subject, well, first of all, the Trust will be a Charity according

to the definition in the Charities Ordinance, it will be examined by the Charity Commissioners who have their own rationale about the way in which charitable property is let and therefore before it comes here if they propose to lease anything before they come here they have to satisfy the Charity Commissioners that it is something worth it when it comes here so it becomes more remote from being political in the sense that another body which is completely independent will have given it sanction that it has the right kind of safeguard insofar as the terms of the lease may be concerned.

HON J BOSSANO:

I accept what the Government says that they have lifted this out of the UK legislation where presumably the question of land has a different connotation because we may be talking about very large estates which certainly, presumably, are being protected from the possibility of being made subject to being taken over by somebody that is owed money which the Trust cannot..... but by limiting it to land are we by definition excluding all the other properties? We are, so that means that, in fact, there is nothing to stop the Trust taking out mortgages for all the historic buildings.

HON ATTORNEY-GENERAL:

No, that is land, and the buildings on it, the real estate.

HON J BOSSANO:

So the definition of land includes the building on the land?

HON CHIEF MINISTER:

Yes, of course. Land and property as against chattels.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 5A was agreed to and stood part of the Bill.

Clause 6

HON ATTORNEY-GENERAL:

Mr Chairman, the existing Clause 6 to be deleted and replaced by the following new Clause, if it will save you, Mr Chairman, reading it I shall read this one.

MR SPEAKER:

I do not intend to read it. Do you wish to read it or do you wish it to be taken as read?

HON J BOSSANO:

We would like to have explained exactly what it is that we are changing and why.

MR SPEAKER:

Most certainly, there won't be a debate, in other words. I think that you should move that Clause 6 should be substituted for a new Clause as circulated.

HON ATTORNEY-GENERAL:

As set out in the notice. Section 4 which it refers to is the new Section 4: "The Trust is established for the purposes of promoting the permanent preservation of Gibraltar's heritage for the benefit of the public". It is the duty of the Board of Trustees (a) to promote and secure the preservation and enhancement of that part of Gibraltar's heritage which is in Gibraltar and to promote the public's enjoyment of and advance their knowledge of Gibraltar's heritage; to promote research into and publications with regard to Gibraltar's heritage, the history of Gibraltar and its social, economic and political evolution; to assist the Government in the formulation of policy in respect of these matters and to undertake such other functions as are conferred by this Ordinance. The Board is, by subclause (2), to provide educational facilities, instruction and information to the public with regard to Gibraltar's heritage; if asked by the Governor or if the Board wants to do it of their volition, advise the Governor on any matter relating to the Trust; for the purpose of exercising their functions carry out or defray or contribute towards the cost or research in relation to Gibraltar's heritage, and to make and maintain records in relation to Gibraltar's heritage. This is perhaps a more important subclause, the new subclause (3): "For the purposes of exercising their functions the Board may, subject to the provisions of this and any other enactment and to the terms and conditions of any trust by or under which any lands, buildings, and hereditaments and any rights, easements or interest are held by the Trust: (a) enter into contracts and other agreements; (b) acquire and dispose of any property, provided that - (i) no land other than Crown Land may be acquired by the Board except with the approval by resolution of the House of Assembly; and (ii) grant leases subject to the approval by the Charity Commissioners and the House of Assembly". The new subclause (4) to make such charges for their services as they think fit.

HON J E PILCHER:

Mr Chairman, the old Clause 6(1)(a) had "to secure the preservation of ancient monuments and historic buildings situated in Gibraltar". Is that now covered by Clause 6(1)(a): "to promote and secure the preservation and enhancement of that part of Gibraltar's heritage which is situated in Gibraltar" taking into account the definition of Gibraltar heritage or is the Board no longer responsible for the preservation of ancient monuments and, particularly, historic buildings?

HON ATTORNEY-GENERAL:

It is covered, Mr Chairman. 'To promote and secure the preservation and enhancement of the heritage which is situated in Gibraltar', compared with 'to secure the preservation of ancient monuments and historic buildings in Gibraltar'. I think the new definition of 'Gibraltar heritage' - buildings, structures, antiquities, historical, architectural, artistic or social interest, I think it is covered, it embraces it, Mr Chairman.

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

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, the existing Clause 7(2) to be deleted and replaced by the following and this sets out the objects referred to in subsection (1). Clause 7(1) reads: "The Board may make arrangements on its own behalf or enter into contracts which have any of the objects mentioned in subsection (2)". And the amendment I am making is: "(2) The objects are:- (a) the production, publication and sale of books, films or other informative material relating to Gibraltar's heritage; and the commissioning of works of art, craft or design relating thereto; (b) the production and sale of replicas or reproductions of works of art, craft or design, or of souvenirs relating to Gibraltar's heritage; (c) the provision of catering or car parking or other services and facilities for the public at any premises or lands occupied or managed by the Board, or on the Board's behalf, and the maintenance and cleansing thereof".

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.

Clause 8

HON ATTORNEY-GENERAL:

Mr Chairman, to delete the whole of the existing Clause 8 and replace it with the new Clause set out in the notice. The number of trustees remains at thirty, they have to be elected at an annual general meeting of the Trust. Subclause (2) makes provision for a Vice-Chairman so subject to subsection (5) a Chairman and a Vice-Chairman shall be elected by the trustees from among the elected trustees. The elected trustees, of course, are as defined in the new Clause 2, 'means a trustee elected at an annual general meeting of the Trust and includes a trustee appointed under Section 8(5)'. The new subclause (3) provides for the death or resignation of an elected trustee. Subclause (4) provides that the resignation of a trustee and of a Chairman or a Vice-Chairman. The Chairman, the Vice-Chairman and the trustees of the first Board shall be appointed by the Governor, this is under subclause (5), and 'in exercising his powers he shall have regard to the desirability of the persons having knowledge or experience of matters falling within the purposes of the Trust or any other subject, knowledge or experience which would be of use to the Board in exercising their functions'. The trustee shall hold office for a term of three years, Mr Chairman. New subclause (6) provides for the procedure on re-election and the rotation of a third of the trustees coming up for re-election every year. Subclause (7) deals with the disqualification of persons who hold the office of a trustee, namely, an undischarged bankrupt or people convicted of a criminal offence involving fraud or dishonesty and sentenced to imprisonment. Subclause (8) protects the validity of proceedings of the Board against vacancies of trustees. Subclause (9) provides for the Board to regulate their own procedure. Subclause (10) provides for the Governor to amend the list of ex officio trustees. Subclause (11) provides for the removal of an elected trustee: "An elected trustee may be removed from office at any time by a resolution passed at a general meeting of the Trust by a majority of not less than two-thirds of the members present at the meeting".

HON J BOSSANO:

We are not very clear whether there are any fundamental changes in the organisation of the composition of the Trust that does not appear to be in the new one as opposed to the old one but something that would apply to both the previous Clauses and the ones and which we are not entirely clear about ourselves is this question of the annual general meeting of the Trust. The Trust, I believe, provides for both individual membership and corporate membership. How would the voting and the elections take

place in that instance? If there was an organisation supporting the Trust by taking out corporate membership how would they be able to influence the voting in a general meeting? Is there provision for that?

HON ATTORNEY-GENERAL:

It will be one man one vote, each corporate member would have one vote.

HON CHIEF MINISTER:

It all depends what subscription they pay, if they pay a personal subscription and a company subscription the company has a vote and the personal subscription has a vote and if they don't then there is only one vote. You cannot do what I think is done in the Chamber of Commerce which is worse than the Trade Union Conference where you put up your hand, I don't think that applies to this one. I have something to say on a matter which was raised by the Leader of the Opposition and which I gave an undertaking about the question of ex officio trustees.

HON J BOSSANO:

I accept that that point has been taken care of but we were not very clear whether, in fact, it was specified here that a corporate member independent of the size of the contribution because I believe, for example, normally in friendly societies or building societies or charitable trusts and so forth, one of the fundamental differences between that and a company structure is that, in fact, the voting is not proportional to the size of the shareholding. Obviously, independent of the size of the contribution it is important that it should be specified that they have only got one vote.

HON ATTORNEY-GENERAL:

Isn't it a matter, Mr Chairman, for the Board to fix their own rules?

HON J BOSSANO:

Well, except that the Board has to be elected, presumably, before it can fix it.

HON ATTORNEY-GENERAL:

There is a first Board set out in Clause 8(5) - "The Chairman, the Vice-Chairman and the trustees of the first Board to be set up under this Ordinance shall be appointed by the Governor". The Governor appoints the first Board and then that Board can make their own rules as to voting at annual general meetings and how many votes corporate members should have.

HON J BOSSANO:

How long does this first Board serve for?

HON ATTORNEY-GENERAL:

For three years.

HON J BOSSANO:

For three years.

HON ATTORNEY-GENERAL:

Yes. If you read section 8(5).

HON J BOSSANO:

I don't think we can go along with that.

HON ATTORNEY-GENERAL:

"Subject to subsections (4) and (6) a trustee so appointed shall hold office for a term of three years".

HON J BOSSANO:

Who is the Governor in this instance? Are we talking about the Government of Gibraltar appointing the Board for the next three years?

HON ATTORNEY-GENERAL:

I think it is probably the Governor's personal powers because this is a Trust it is nothing to do with the Government, it is divorced from the Government itself. It would be this House asking the Governor personally to appoint the first Board.

HON CHIEF MINISTER:

In fact, I don't know whether the Hon Leader of the Opposition knows of the composition but I will be happy to submit a copy, it hasn't been easy and I have had nothing to do with the selection, but I would be very happy to give him a copy of the proposed thirty trustees or what have you and then whoever is dealing with that I would consider any suggestions of additions or deletions. The first Board must obviously emanate from somewhere and then they regulate their own procedure.

HON J BOSSANO:

Mr Chairman, we are talking about people being appointed. I didn't even know that thirty trustees had already been chosen.

HON CHIEF MINISTER:

No, identified. They have been identified.

HON J BOSSANO:

By the Governor, presumably.

HON CHIEF MINISTER:

Actually by the Chairman, the original proposed Chairman who has been instrumental and I think we referred to him at the last meeting, he has really been in charge. Once he accepted the Chairmanship he has been really virtually in charge of setting it up so there has been no Government influence at all nor would we want to have any Government influence except insofar as the ex officio members that ought to be there to give advice.

HON J BOSSANO:

I don't think we can accept that. We are giving very wide powers and we are giving them to a self selected group of people for three years over which there is going to be for three years no democratic control unless what we are saying is that notwithstanding the fact that they have not been elected, one can convene a week later a meeting of the membership and remove them all by a two-thirds majority, presumably, is that the case?

HON CHIEF MINISTER:

You cannot remove them all by two-thirds, two-thirds must remain.

HON J BOSSANO:

No, it must be two-thirds of the people voting. You can remove the entire thirty by a two-thirds majority of a general meeting notwithstanding the fact that they have been appointed for three years. Is that true?

HON CHIEF MINISTER:

It depends on good faith.

HON J BOSSANO:

It is not a question of good faith, Mr Chairman, it is a question that we are legislating and in looking at the legislation and in looking at the amendments brought to the House of which we have had a copy on Friday, we are discovering things as we go along because, in fact, they are matters that are substantial, we are giving powers to this Board to run car parks, catering facilities, buy and sell shares as if it was an investment trust.

HON CHIEF MINISTER:

They will not do that in three years.

HON J BOSSANO:

We don't know what they may do in three years or what they may not do but I think we want to know who they are and we don't think that they should be for three years.

MR SPEAKER:

Are you suggesting that it should be for a lesser period?

HON J BOSSANO:

Yes. One can understand that there is an egg and chicken situation in that if they have to be elected then presumably somebody has got to organise and recruit the membership of the Trust to get the thing on its feet. We don't think it takes three years to get them on their feet and obviously the people who are there and who have been involved in the setting up exercise if they wish to carry on and they wish to stand for election they are more likely to be elected than total newcomers but it is important that it should be seen that, I mean we don't know who the people are. We have no idea of who these thirty people that have already been identified as possible trustees are but we certainly would not like to see a Trust that reflects only one segment of society looking after Gibraltar's heritage.

HON CHIEF MINISTER:

First of all, if we satisfy the Leader of the Opposition that instead of three years it should be two years I don't mind, I don't know what the trustees might feel about it but I have offered to give the Hon Leader of the Opposition a list of the people. I think perhaps the answer could be that - I don't know whether we can have an instant amendment - we might say that the trustees should hold an election within two years of their being established and they can have it perhaps very quickly after. But give them a period to put the house in order.

HON J BOSSANO:

What are the major complexities in holding a meeting that it requires as long as two or three years? Isn't a year long enough for the Trust to get on its feet?

HON CHIEF MINISTER:

If the Hon Member will give way. Obviously, you have to have a caretaker committee that puts the matter in order and then submit it for election, that is obvious. They must have a reasonable amount of time. It has taken about six months or eight months in looking at this going back to the creation of a Heritage Trust. They need time because these things are not only time wasting but the projections of things, they need time in which to put their house in order to be able to submit to election. But somebody must initiate it and, as I say, the appointments as far as I am concerned have been submitted by the Chairman, have been selected by the Chairman. The proposed Chairman has spoken to the Leader of the Opposition, I don't know who they are in detail but I can get a copy of who they are and send it to the Hon Member and I can assure the Member that if he wants anybody added who is acceptable to the rest I will be happy to submit the name. I have submitted one name but I can tell you that all the people that can do harm outside are inside.

HON J BOSSANO:

That presumably is using the old philosophy that the best way to deal with a poacher is to turn him into a gamekeeper. We still are worried about the length of time, it is not that we want to inhibit the success, it is just that there seems to be an important principle that the people who are contributing and taking up membership of the Trust should, at a very early opportunity, have a say in who the trustees are and therefore perhaps we should limit it to two years and say that they are appointed for a maximum of two years and put in the maximum that if they can manage to go to an election beforehand all the better.

HON CHIEF MINISTER:

I think that would be acceptable.

HON ATTORNEY-GENERAL:

Mr Chairman, to amend.....

MR SPEAKER:

I am afraid you cannot amend your own amendment.

HON CHIEF MINISTER:

Well, I support whatever he says.

MR SPEAKER:

Which subclause are we talking about?

HON J BOSSANO:

This is subclause (5). The final sentence would read: "a trustee so appointed shall hold office for a maximum term of two years".

HON ATTORNEY-GENERAL:

Clause 8(6) will need consequential amendment. Subclause (6) wherever you read 'third' now reads 'second' so it reads: "At the second and every subsequent annual general meeting of the Trust one-third of the elected trustees shall retire and shall be eligible for re-election. The Board shall determine among themselves which of the elected trustees shall retire at the second annual general meeting....."

HON J BOSSANO:

I wouldn't have thought that that was the case, Mr Chairman, because in fact, none of the people that we are talking about are elected. We are talking about appointed trustees, not elected trustees.

MR SPEAKER:

I think the Hon and Learned Attorney-General is right to the extent that the first Board, in any event, are all appointed.

HON J BOSSANO:

But what we have got in subclause (6) is.....

HON CHIEF MINISTER:

No, when elected means elected non-ex officio members. If you look at the definition you will see that 'elected trustee' means a trustee elected at an annual general meeting of the Trust as provided in section 8(1); and includes a trustee appointed under section 8(5). For the purposes of the original one he is deemed to be elected.

HON J BOSSANO:

It doesn't say so.

HON CHIEF MINISTER:

The definition at Clause 2.

HON ATTORNEY-GENERAL:

"Elected trustee" means a trustee elected at an annual general meeting of the Trust as provided in section 8(1); and includes a trustee appointed under section 8(5). So 8(6), Mr Chairman, "At the second and every subsequent annual general meeting of the Trust one-third of the elected trustees shall retire and shall be eligible for re-election. The Board shall determine among themselves which of the elected trustees shall retire at the second annual....."

HON J BOSSANO:

We don't agree with that, Mr Chairman, because we think the people who are appointed all must stand for election, not one-third of them. The people who are elected may then stand for election in rotation but the first lot.....

HON CHIEF MINISTER:

That is what is going to happen.

HON J BOSSANO:

No, because it says 'one-third shall retire at the second meeting', so at the second meeting two-thirds of the appointed people are still appointed.

HON CHIEF MINISTER:

Well, you cannot do anything else.

HON J BOSSANO:

Yes, you can. In the first meeting everybody should be elected and then after that in rotation every third year.

HON CHIEF MINISTER:

I am very grateful for the suggestion because we are trying to make a good thing out of it and therefore there is no criticism about it. What I was trying to say is that there must be time for the membership to have the election. The election is by the members and they require at least a year to get a proper membership and they will be the ones that will make the election as soon as possible after the first year or when there are sufficient numbers.

MR SPEAKER:

Gentlemen, may I suggest, it is quarter to one. We are not going to finish in any event before one. Should we not recess now and come back at a quarter past three. That will give you time, perhaps, to discuss the matter informally and we will finalise matters this afternoon. Is that sensible?

HON CHIEF MINISTER:

Yes, I hope we will not be delayed too much after quarter past three.

MR SPEAKER:

I hope not. We will now recess until this afternoon at quarter past three.

The House recessed at 12.45 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

We are still on Clause 8 of the Committee Stage of the Heritage Bill. There is an amendment to be proposed to Clause 8.

HON ATTORNEY-GENERAL:

It is clear, Mr Chairman, that we have amended Clause 8(5) the last line to read: "Subject to....."

MR SPEAKER:

We haven't amended anything yet.

HON ATTORNEY-GENERAL:

To move that the last two lines of section 8(5) read as follows: "Subject to subsections (4) and (6) a trustee so appointed shall hold office for a maximum term of two years".

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

HON ATTORNEY-GENERAL:

Clause 8(6), I beg to move, Mr Chairman, in the terms of the draft which I have handed round. Clause 8(6) will read: "At the second annual general meeting the trustees appointed under subsection (5) shall retire from office but shall be eligible for re-election at such annual general meeting", and to renumber the existing subclause (6) as subclause (7) and consequentially all the way through, subclause (7) to become (8), (8) to become (9), (9) to become (10), (10) to become (11).

Mr Speaker put the question which was resolved in the affirmative and the amendment to the amendment, as amended, was accordingly passed.

Clause 8, as amended, was agreed to and stood part of the Bill.

Clause 9

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 9 be deleted and replaced by the following: Marginal note -- "Exemption from taxes etc". Clause 9: "The Trust shall be exempt from all taxes, duties, rates, levies or other charges whatsoever". So on the note which I have given you, Mr Chairman.....

MR SPEAKER:

All it needs is the deletion of the words "Subject" to "enactment".

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

HON J BOSSANO:

Could I just, before we move on to Clause 10, there is something that I noticed which I haven't mentioned to the Attorney-General, Mr Chairman, before lunch. Is there any particular significance in the fact that originally in Clause 9 we exempted the Board and now we exempt the Trust or is it that, in fact, it makes more sense to have 'Trust' rather than 'Board'?

HON ATTORNEY-GENERAL:

I think it makes more sense to have 'Trust' rather than 'Board'.

Clause 10

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the deletion of the existing Clause and the substitution of the following new Clause: "10(1) There shall be a management committee of the Trust consisting of the Chairman, the Vice-Chairman and not more than twelve elected trustees. (2) A member of the management committee shall hold office for three years or until he ceases to be a trustee, whichever shall be the shorter period, and shall then retire from office but shall be eligible for re-appointment. (3) The Chairman or, in his absence, the Vice-Chairman, shall be ex officio Chairman of the management committee unless the Board otherwise determines, in which event the management committee shall elect from their number a Chairman".

Mr Speaker put the question which was resolved in the affirmative and Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11

HON ATTORNEY-GENERAL:

Just one very small amendment to Clause 11(7), Mr Chairman. In the second line from the bottom: "who make to the funds of the Trust 'an' annual subscription" rather than 'and' annual subscription, it is a purely printing error.

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

Clause 12

HON ATTORNEY-GENERAL:

I beg to move, Mr Chairman, that Clause 12 be deleted in its entirety and replaced by the following new Clause: "12. General meetings of the Trust shall be held once at least in every year and shall be called and held in accordance with such rules as may be made by a resolution of the Board passed at its meeting by a majority of not less than two-thirds of the trustees present at the meeting, and approved at the next meeting of the Trust".

HON J BOSSANO:

Is there a particular reason for removing the rules that were provided in the Schedule?

HON ATTORNEY-GENERAL:

The reason was to give the Board more flexibility. If they changed the rules we would have to come back to the House and change the Schedule and I thought it far better for the Trust to have its own authority to make its own rules rather than coming back here and amending them.

Mr Speaker put the question which was resolved in the affirmative and Clause 12, as amended, was agreed to and stood part of the Bill.

Clause 13

HON ATTORNEY-GENERAL:

Clause 13(1), Mr Chairman, to be amended to delete the words at the end thereof "with the approval of the Governor".

HON J BOSSANO:

Mr Chairman, we have brought to the attention of the Hon and Learned Member that we are not in favour of this Clause as it stands and since there has been no reaction then we think we need to say why we are not in favour because we shall vote against the amendment and we shall vote against the Clause. Let me say, by the way, that I have explained our reasoning to the Chairman of the Trust who agrees with us.

HON CHIEF MINISTER:

Is it that the Members opposite would not like that anybody who is a trustee should be paid? I entirely agree.

HON J BOSSANO:

No. This refers to staff employed by the Trust. What we are saying is it is not normal and in our view it is not proper that people who are employees and paid by the Trust should have the right to be trustees.

HON CHIEF MINISTER:

That is exactly what I have said.

HON J BOSSANO:

Because they fix their own salaries. In fact, it then requires an amendment, it has nothing to do with the transition.

HON CHIEF MINISTER:

I didn't say the transition, what I said was if what the Hon Member is saying is that a trustee should not be paid I entirely agree that if he is a paid official he should not be a trustee unless he would be an ex officio trustee but it doesn't arise. If anybody is appointed by the Trust as a paid person and is a trustee he should cease to be a trustee.

HON J BOSSANO:

But we are saying the opposite in the law.

HON CHIEF MINISTER:

I know, I thought there would be an amendment to that.

HON ATTORNEY-GENERAL:

Would it be met by amending Clause 13(4) to read: "The Board shall pay to their employees, other than such employees as are trustees, such remuneration and allowances as the Board may determine"? Would that be satisfactory? So a trustee could be an employee but a trustee who is an employee couldn't be paid.

HON J BOSSANO:

There are two clear poles, we think, trustees are people who are serving on the Board because they are public spirited, because they are concerned to make a contribution to the heritage of Gibraltar and they have got the right to employ people on whatever terms they want. Let us see what we are saying the Trust can do. It can run car parks, it can provide catering facilities, it can run tourist sites, it can make souvenirs, it can sell souvenirs, in theory we are creating an organisation that can be self perpetuating. The employees all become members of the Trust, they go to a general meeting and they elect themselves as trustees. In fact, if you are an employee you should be deprived, you can be a member of the Trust and go and vote in a meeting like any other member of the Trust but you can be deprived of the right to stand for election because otherwise you are your own employee and in no organisation that I know of are you allowed to be your own employer unless you are doing it with your own money, not with somebody else's money.

HON ATTORNEY-GENERAL:

Mr Chairman, a new subclause (6) to read as follows: "No person employed and paid by the Trust shall be a trustee".

MR SPEAKER:

Could I perhaps suggest that the words in brackets should read "(not from among their number)".

HON ATTORNEY-GENERAL:

I think that shall have to be amended.

MR SPEAKER:

That is all you have to do then "There shall be a Secretary and a Treasurer to the Trust who shall be appointed by the Board (not from among their number)".

HON J BOSSANO:

I think that covers the Secretary and the Treasurer but it doesn't go far enough. What the Hon and Learned Chief Minister has suggested is, in fact, for all other employees that there might be in the future, I think we need to cover that as well.

HON CHIEF MINISTER:

I think that that could be done by a new subclause (6): "No person employed and paid by the Trust shall be a trustee".

HON J BOSSANO:

What we are saying is the trustee may have employees but being an employee disqualifies him from being a trustee.

MR SPEAKER:

"No person employed and paid by the Trust shall be a trustee", is that correct?

HON J BOSSANO:

We are also saying, the point that you made, Mr Chairman, that in the first one the Secretary and the Treasurer we should remove "whether or" and say "(not from among their number)" to make it consistent with this amendment.

Mr Speaker put the question which was resolved in the affirmative and Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

HON ATTORNEY-GENERAL:

Clause 14(1), Mr Chairman, to be amended to read "The funds" with a small 'f' and not a capital 'F'. Clause 14(1)(b) to insert between the word "sale" and the words "hiring out" the word "lease". In subsection (2) to delete the words "special fund" and to substitute therefor the word "account" and to delete subsection (4).

Mr Speaker put the question which was resolved in the affirmative and Clause 14, as amended, was agreed to and stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, the existing Clause 15 to be deleted in its entirety and replaced by a new Clause of which I have given notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 15, as amended, was agreed to and stood part of the Bill.

Clause 16 was agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

One printing error on page 64, Mr Chairman, "will so behalf themselves" I think it should be "behave themselves".

Mr Speaker put the question which was resolved in the affirmative and Clause 17, as amended, was agreed to and stood part of the Bill.

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

Schedule Two

HON ATTORNEY-GENERAL:

Mr Chairman, to be amended by the deletion of paragraph 3, namely, "Alterations or additions to the rules contained in Schedule Three to this Ordinance" and the renumbering of paragraphs 4 to 7 as 3 to 6.

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

Schedule Three

HON ATTORNEY-GENERAL:

I move that it be deleted in its entirety, Mr Chairman.

Mr Speaker put the question which was resolved in the affirmative and Schedule Three was accordingly deleted.

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 Gibraltar Heritage Trust Bill, 1987, has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

Before I propose the adjournment, I would like to thank Members opposite, particularly the Leader of the Opposition, for the contribution he has made in making the Bill a better one than when it started. I now have the honour 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 3.55 pm on Tuesday the 12th May, 1987.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6TH JULY, 1987

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventeenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Monday the 6th July, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 24th March, 1987, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Accounts of the John Mackintosh Hall for the year ended 31st March, 1987.

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. 8 of 1986/87).
- (2) Schedule of Supplementary Estimates No. 1 of 1987/88.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

Answers to Questions continued.

The House recessed at 7.25 pm.

TUESDAY THE 7TH JULY, 1987

The House resumed at 10.45 am.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg leave to move the motion which is standing in my name in the Order Paper and unless you so desire or Hon Members wish I do not propose to read out the terms of the motion which has already been circulated.

MR SPEAKER:

Do Members wish the Hon Financial and Development Secretary to read the motion? It has been circulated and it is formal so I think it perfectly in order not to read it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Sir. Mr Speaker, Hon Members will recall that at the Budget meeting of the House in April the sea passenger tax was increased from 30p to 50p per passenger arriving at or departing from Gibraltar. Operators of the cross-straits ferry services have made a number of representations about this particular increase pointing out that while the tax is negligible compared with the fares paid by cruise passengers, it represents a quite significant amount of the £15 fare charged for the cross-straits journey compared with a relatively insignificant proportion of the fare for a cruise passenger. The Government has accepted this point which, of course, could assume a heightened importance in the event of any further development in ferry services in the area. Bearing in mind that air journeys within a relatively small radius of Gibraltar, fifty miles, are also exempt from tax, it would therefore not be unreasonable to afford some relaxation on similar journeys by sea. It is therefore proposed that in the case of sea journeys beginning and ending within a fifty mile radius from Gibraltar, the tax should revert to its pre-Budget level of 30p. The increased rate of 50p will apply only to longer sea journeys such as the cruises I have mentioned. The effect of this amendment on Government revenues is fairly minimal, approximately £11,000 less, but of course it will make a measurable impact on the finances of the services concerned. Mr Speaker, I formally move in the terms of the motion circulated to Hon Members.

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

HON J BOSSANO:

Mr Speaker, if reducing it, I think it is from 50p to 30p, means £11,000 less then, in fact, the whole of the 30p is also an insignificant part of Government revenues. Why do we need to bother with having a 30p charge at all if all it is producing is something like, what, £20,000 a year? Was it not the case or am I wrong in thinking that, in fact, when we had the Mons Calpe providing services to Tangier they were completely exempt? It seems to me, quite frankly, that if we have revenue raising measures which cost a certain amount of money, presumably, to collect for the Government and put an administrative cost on the commercial operation that we are taxing and the yield at the end of the year is of the order of £20,000 in a budget of £70m, I would have thought we would be better off by not taxing them at all.

HON CHIEF MINISTER:

The point is that they made no representation originally for the withdrawal of the original tax and now they have complained about the increase and I think it is not good policy to give people more than they ask for.

MR SPEAKER:

Are there any other contributors? Does the Hon Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, I think the Chief Minister has made an intervention.

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

BILLS

FIRST AND SECOND READINGS

THE CONSUMER PROTECTION (PROPERTY SERVICE CHARGES AND PROTECTION FROM EJECTMENT) ORDINANCE, 1987

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to make provision for tenants to obtain information from landlords relating to service charges; for limiting service charges to such charges as are reasonable; for prohibiting unlawful ejectment and harassment of tenants; and for matters connected therewith be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, Hon Members will recall that in the latter part of 1986 great concern was expressed by flat owners at Ocean Heights about the level of service charges. I myself received numerous letters and I arranged for those concerned and their representatives to have meetings with the Consumer Protection Officer in order to discuss and to see how best the matter could be tackled. On the 10th February, 1987, I stated here in the House that as a result of representations made to the Government

by the flat owners at Ocean Heights, consideration was being given to introduce legislation to protect those concerned. The Consumer Protection (Property Service Charges and Protection from Ejectment) Bill now before the House, Mr Speaker, has been modelled on the United Kingdom Landlord and Tenant Act of 1985. The Bill, *inter alia*, makes provision to ensure that service charges for flats are restricted to relevant costs which are reasonably incurred and to works and services carried out to a reasonable standard. Except in certain specified circumstances, landlords are required to consult with tenants before carrying out works. The tenants may obtain a summary of relevant costs from the landlord and they may reject the accounts upon which the summary of cost is based. A residential occupier is also being protected from harassment by any person with a view to require him to give up the premises. The Bill restricts the landlord's right of re-entry to premises or ejectment without process of law. There has been more recently, Mr Speaker, further legislation enacted in the United Kingdom, in fact, just before the dissolution of the House of Commons prior to the general election, and our intention is to study the provisions of this further legislation carefully during the summer recess and if any appropriate amendments are considered to be desirable we will be introducing them in Committee at the next meeting of the House. Therefore the Bill today, Mr Speaker, is only being given First and Second Reading. It will give those concerned who have made representations an opportunity to study the legislation and make any further representations that they may have and also, of course, any suggestions from the Opposition about the contents and about the provisions of the Bill will be welcomed. We want to try and see that we get the most effective piece of legislation on the statute book. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, the Opposition, obviously, welcomes this piece of legislation. As the House is already well aware, we have, in fact, been pressing for remedial legislation to protect both landlords and tenants from a situation where there wasn't any formal regulation whereby tenants were able to have some protection from the scandalous situation which existed at Ocean Heights where people were paying more service charges than actual rent and they had no recourse to law. From that point of view, obviously, I am convinced that most of the landlords and most of the tenants in Gibraltar will welcome this

piece of legislation because what has happened is that because of a few landlords who have abused their situation, a lot of tenants have suffered and, indeed, so has the credibility of landlords generally. From that point of view I think that this piece of legislation which we have been pressing for for some considerable time is welcome. There are a number of things which we consider need to be looked at and, obviously, we shall be raising them during the Committee Stage, I don't think this is the appropriate time, in fact, to raise these matters but just as a quick indication, there is no information or legal indication at all in this piece of legislation about management companies that are responsible for management of properties who themselves may be the tenants of such a property. There is also no definition with regard to what is meant in this particular piece of legislation which does not form part of the Landlord and Tenant legislation, it is a piece of legislation on its own and I can see the arguments why since the Landlord and Tenant Ordinance, for example, only covers pre-war accommodation and this covers the whole spectrum of accommodation including business accommodation and so on but what is meant by a superior landlord in respect of this particular legislation which is not indicated in the definition? The other things which need to be looked at are such points as what happens when a landlord may take a tenant to court, takes legal action against the tenant, will the cost of that legal action form part of the relevant costs and shared out by the other tenants? That is not clear in this piece of legislation. There are about three or four other points which need to be cleared up during the course of the Committee Stage and I don't wish to waste the time of the House with these sort of details but, generally speaking, as I said, we welcome this piece of legislation, it regulates the position as far as service charges are concerned between landlords and tenants and from that angle alone. Mr Speaker, we welcome this piece of legislation.

MR SPEAKER:

Are there any other contributors?

HON J L BALDACHINO:

Mr Speaker, I would like some clarification from the Hon Mover. The Bill refers to landlords and tenants. I would like to know, Mr Speaker, if this Bill also covers those people who are owner/occupiers and there is a maintenance company set up which is directed by somebody else and then the service is charged which I think is what is happening to a certain extent in Ocean Heights and up to a very great extent in what used to be the Mediterranean Hotel at one time. Could we have that clarification so that we can judge better what the Bill intends to do?

HON A J CANEPA:

Mr Speaker, on the points that have been made by Hon Members opposite, the question of the definition of 'superior landlord' is one that we can consider and we may well bring the appropriate definition as an amendment at Committee Stage. The question of costs arising from legal action from proceedings is already taken care of in the Bill. I commend the Hon Member to have a look at page 89, Clause 3(4)(a), it is taken care of there.

HON M A FEETHAM:

No, I am looking at it the other way round. I am saying if the landlord takes legal action against a tenant, for example, for not complying with the agreement and is successful or not successful, for that matter, will the costs of that proceeding form part of the relevant costs which have to be shared out by all the tenants in paying the service charges or not? That needs to be made clear, I think.

HON A J CANEPA:

Costs normally follow the event. If the landlord takes the tenant to Court and the landlord is unsuccessful the tenant would not pay the costs, it wouldn't arise. On the other point of the owner/occupier and the management company, I am informed that that is one of the provisions in the legislation in the UK that has been very recently enacted so we will be considering that and if we think that is desirable we will bring the necessary amendments at the next meeting. Other than that, Mr Speaker, I commend the Bill to the House.

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

HON A J CANEPA:

Mr Speaker, 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.

THE EMPLOYMENT (AMENDMENT) ORDINANCE, 1987

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. Since the opening of the frontier there has been an increasing demand for the employment of foreign workers for relatively short periods, mainly to carry out specific jobs requiring specialist skills not available in Gibraltar and in some cases to instal machinery and equipment purchased in Spain by local firms or private individuals. As the law stands, all foreign workers who undertake any work in Gibraltar require work permits irrespective of whether it is just for one day, a week or an indefinite period. Furthermore, if the firm providing the service or supplying the specialist labour is not established in Gibraltar, the local contractor or client who has purchased the goods becomes responsible for applying for the work permits and is compelled by law to enter into a local written contract of employment even though the workers concerned remain subject to labour contracts and social insurance of the country of origin and will return to that country as soon as their jobs have been completed. Current legislation does not cater for this new employment situation. Having regard to the difficulties experienced by my Department in applying certain provisions of the Employment Ordinance in relation to Spanish, Portuguese and other detached workers who are not EEC nationals, such as the anomaly of dual employment in two different countries and duplication of contracts of employment, it was felt that certain categories of detached workers should not require work permits. As far back as December, 1985, the Labour Advisory Board agreed that specialist firms should be issued with a special licence by the Director of Labour and Social Security which would exempt them from the provisions of the Employment Ordinance only when there was no local expertise or the know-how to carry out the work involved. In fact, if I may quote from the minutes which I have mentioned, during the meeting which was defended by both unions and the Chamber, there are some comments from the Hon the Leader of the Opposition who felt that, and I quote: "Mr Bossano felt it was difficult to amend the law to include specific cases and agreed that perhaps a special licence should be issued. Following this Mr Canessa was of the opinion that labour laws should not be used to protect the local trade but that this should be protected by trade laws. He asked whether there should be an element of protection for the small traders. Mr Bossano felt that certain specialist firms should be allowed only when there was no local expertise or the know-how to do the job". This goes back to the Labour Advisory Board. Sir, the Bill now before the House is designed to give effect to the foregoing. 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 M A FEETHAM:

Mr Speaker, we will be supporting this piece of legislation. However, as I understand it, this Bill has been in the pipeline since 1985. There are a number of amendments that we will be proposing and what we would ask the Hon Member opposite is to leave this Bill for the next meeting of the House since the information that we have requested elsewhere is not available to us, particularly the implications of the Bill. As I say, we are supporting it but we don't want to be doing something which can have a backlash later on. We are concerned about the implications for the EEC Regulations on cross frontier services as a result of this particular Bill where people have got the right to carry out such a service without having to have a work permit and we want to look at that. Also how it affects EEC nationals and since we are not clear and, certainly the Bill doesn't seem to indicate anything that clears our mind, we would like this to be left for the next meeting of the House by which time we ought to be in a stronger position to discuss the Bill in depth.

HON J BOSSANO:

I think also, Mr Speaker, it is a point that we have made before on virtually every occasion that we have had to look at Bills where we are taking all stages in one meeting, we think it ought to be the exception rather than the rule and if there was a pressing need to grant somebody these permits in August and the House is not going to meet until October then, fine, we would put aside our reservations and go ahead. But I think as a general policy we would ask the Government to work on the premise that it is better, I think, to give matters more thought than to have to come back later and change things that we have passed already. I also think that it is not a bad thing if we take an opportunity to look at how effective we are now in monitoring other areas where certainly we feel that partly through lack of resources and partly through, perhaps, inadequate precision in the way the legislation is phrased currently, there are many, many people today working illegally in Gibraltar about which very little is being done and very little seems to be able to be done and it would be wrong, in our view, to simply change this principal legislation through an amending Act and allow the glaring loopholes that everybody know exist, including the Department.

HON CHIEF MINISTER:

Mr Speaker, I would like to say that in preparation of the Agenda for a meeting of the House I have to make a valued judgement on what is likely to be possible to get through legislation and when there is a short Bill and I don't see that there are any difficulties I normally allow it to be put in for the Third Reading but as the Hon Leader of the Opposition knows, I never refuse when time is asked for it to be put to another meeting unless it is very urgent. So we have no difficulty in that. I hope the same thing will not be said of one or two of the other smaller Bills which are routine ones and which is a repetition of previous ones such as the review of the social insurance which has to come in time for the books to be prepared. But in the case of this one, certainly, though the Bill is a short one, it has wide implications and if Hon Members want to look at other aspects of it which we may or may not have looked before, we would certainly agree to it to be taken at the next meeting. Again, I should make the same pleas as I have made before, if you have any substantial amendments which are likely to require investigation, we would rather have them in time rather than have to deal with them in the House.

MR SPEAKER:

Are there any other contributors? Does the Hon Mover wish to reply?

HON DR R G VALARINO:

No, Sir.

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

HON DR R G VALARINO:

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE)
(AMENDMENT) ORDINANCE, 1987

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Social Security (Employment Injuries Insurance) 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. As a result of the rapid growth of the Gibraltar Shipping Register, it has become very evident that the current legislation which determines the insurance liability of persons employed outside Gibraltar, which includes mariners, has been overcome by events and is not only inadequate but cumbersome and difficult to enforce. The Bill before the House introduces a 'domicile and residence' condition and brings the Ordinance into line with UK legislation and with the general principles and common practice in many European countries which are mainly concerned with providing protection for workers residing in their own States. The revised legislation must, however, be applied in conjunction with Community Regulations on social insurance for mariners and the practical effect of both measures is that all Community nationals serving on Gibraltar registered ships are liable to pay Gibraltar social insurance contributions except in the following circumstances:- (1) If the mariner has been sent by the employer he normally works for in another community country to work on a Gibraltar registered ship and: (a) he has not been sent to replace someone whose term of duty has terminated; (b) his term of duty is not expected to last more than twelve months. (2) He normally lives in another Community country and is paid by an employer who is there or who has his registered office there. (3) He does not usually work as a mariner and is employed other than as a member of the crew on a Gibraltar ship while that ship is in the territorial waters or in a port of another Community country. In these situations the employee is subject to the scheme of the other country and there is no liability to pay the standard rate contributions under Gibraltar legislation. In the case of EC mariners on Gibraltar registered ships whose owners' main place of business is outside the Community, the employer has no liability to pay his share of the contributions. The employee, however, does have a liability to pay his share, and will be entitled to all the benefits of the scheme. 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 R MOR:

Yes, Mr Speaker. First of all, I would like to say that this is a very controversial Bill and that we believe that this Bill should be left for the next meeting of the House. Mr Speaker, as you are no doubt aware, since 1985 I have been raising in this House the question of

social insurance contributions by seamen employed on ships registered in Gibraltar. The Bill before us, Mr Speaker, I would say that it is, in fact, a piece of shameful legislation which only aims to cover up the gross inefficiency and, in fact, the impotence of the AACR administration. As we all know, up to now seamen serving on Gibraltar registered ships have been treated in exactly the same manner as any other employee in Gibraltar as regards social insurance and their employers should have equally been treated the same way as any other employer in Gibraltar. These employers, Mr Speaker, have all been represented here in Gibraltar because they have registered their ships here and consequently we on this side of the House cannot see any reason whatsoever why they have not been complying with the law. We find it inconceivable, Mr Speaker, why the Government should have allowed these employers to have indulged in a fundamental breach of the social insurance regulations and got away without paying their share of contributions under the passive eyes and, indeed, with the apparent blessing of this Government. We on this side of the House have no doubt that this piece of legislation is going to be opposed in the United Kingdom by the National Union of Seamen as well as other unions who represent the interests of seafarers. This will, of course, bring about further adverse publicity for Gibraltar as regards our ship registry. In the explanatory memorandum, Mr Speaker, it says that the object of the Bill is to bring the law concerning social security insurance of seamen into line with the principles of the British Law of national insurance. What exactly does this mean, Mr Speaker? Does it mean that during all these years our principles on insurance for seamen have been different to that of the United Kingdom? Because throughout all the questioning in this House, throughout all the questioning on this subject we have only been hearing of the practical difficulties in recovering contributions from seamen. It is, indeed, rather surprising, therefore, that we should now find that our principles on this matter were contrary to those in UK. I would therefore submit to you, Mr Speaker, that this House has been misled all these years when all we have heard from that side of the House was about the difficulties involved in recovering contributions and never was the question of principles raised before. Talking of being misled, Mr Speaker, I think it was, in fact, during the last session in this House that the Hon Minister for Labour and Social Security gave an undertaking in this House that all the seamen's rights with respect to social security would be protected. This Bill now renders that undertaking meaningless. The passing of this Bill would also mean that should we have another incident similar to that of the Syneta that any unfortunate victim would have no protection whatsoever from Gibraltar. You may recall, Mr Speaker, the Syneta incident gave Gibraltar very adverse publicity and, in fact, the point about seamen not being covered by social insurance was described as scandalous at the time. Mr Speaker, we believe

that this Bill poses a considerable threat to the reputation of Gibraltar's ship registry and that it will give the impression that we have no interest whatsoever in the wellbeing of people who serve in ships registered here and, indeed, I believe that it will be detrimental to the interests of Gibraltar and would make us out to be only a place where all the interest would appear to be to have a few offices plastered with brass plates and the collection of tonnage fees. As you will no doubt imagine, Mr Speaker, we are opposing this Bill.

HON J BOSSANO:

Mr Speaker, with reference to what the Hon and Learned the Chief Minister has said, as he has heard from my colleague we do not consider this to be a mere technical amendment of the law. We think this raises fundamental issues of principle and we have no doubt that it will be seen as, in fact, a retrograde step in conflict with what the Government has been saying they are seeking to do with the Merchant Shipping Ordinance, that is to say, whereas we were told with the Merchant Shipping Ordinance that there was a need to pass it urgently in February in order to clean up the register of Gibraltar and give greater protection to seafarers engaged on Gibraltar ships, we are now removing a protection which has been there since the social insurance legislation was introduced, which we have been told consistently since 1985, as my colleague has pointed out, that it wasn't that the Government did not want people to pay social insurance, it is that it had practical difficulties in collecting it, we do not believe we have been told the truth. We do not believe that because as far as we are concerned since 1985 the Government could had they so chosen served notice on employers that have got registered offices in Gibraltar and in UK. We think it is inconceivable, for example, that a company like BP tankers which is not a backstreet operation, could not be approached by the Government of Gibraltar and told 'You have to pay social insurance for the people that you employ on Gibraltar registered ships' because that is not a company which is going to disappear tomorrow or overnight, we are talking about very substantial businesses. We might understand that there might be some backstreet operation with a thirteen-year old rust bucket who if approached might disappear from our register. We want them to disappear. Reputable ship owners will want to have their employees insured against accidents. The Government of Gibraltar has stated publicly that the fact that they have failed to collect will not deprive people of their rights and as far as we are concerned having taken advice on the matter, we have been told that the statement made by the Minister for Labour and Social Security is, in fact, enforceable in law, the statement that has been made publicly saying that people who have a right under the law will have that right honoured by the Government notwithstanding the fact that no contributions have been made, if that person had to go

to Court because they were claiming a right in respect of contributions that would have been paid had they been collected, then we are told that the statements that have been made and are on record in Hansard in answer to questions and have been stated publicly as a result of such public statements somebody would be able to go and say: "Basing myself on this public statement I have got such rights". Where do those rights stand today? If this law is passed today what does it mean? On the 24th March, 1987, it has just been brought to my attention by my colleague, that in answer to Question No.107 the Minister for Labour said: "At the moment, as I said, because most of the ships which are registered in Gibraltar do not come here the collection of contributions has not been enforced". Until then we had been told that they had been trying to enforce it and failing but, in fact, the reality is that the attempt had not been made. And he went on to say: "What we want to put right is to make sure that the employees are covered and that the revised legislation will be taken to enforce the collection of the contributions". We were promised in March this year revised legislation to enforce the contributions and we get in July revised legislation which says you don't have to pay and they expect to pass it all in one day because it is not controversial. It makes a total mockery. How can we pay any attention to statements made by Members opposite if the impression that they give to the House and to the people of Gibraltar is that they don't even know the implications of the things that they say? This was welcomed by us, Mr Speaker. The Hon Member was answering my questions and I welcomed the fact that, okay, if there are practical difficulties we are not going to put a gun to his head, we certainly think we have been more than patient since 1985 with his practical difficulties. We have a situation, what, two years of practical difficulties and at the end of the two years because there are practical difficulties they are not doing it. He doesn't expect to satisfy us with that. Certainly I can tell him that if the legislation is put through in spite of the arguments that we are putting which we think should make the Government have second thoughts and at the very least put off the Committee Stage until the next meeting of the House and have a second look at it, but if it does go through we can tell him that it is bound to be opposed by the UK unions that have already been making representations to the Government on this point. And it is bound to be raised publicly and it is bound to be a negative thing for the Gibraltar register because it will be seen for what it is. What would we say? That if we have got 117 ships registered in the Port of Gibraltar we don't care if people injure themselves because we have got a practical difficulty in collecting contributions from their employers, it doesn't matter that they are not covered for insurance. They can get drowned, the ships can sink, people can get injured at work. Working at sea is a dangerous job, Mr Speaker, I can tell the House from personal experience

of doing it for four years and people are more exposed to industrial injuries on a ship than they are working behind a counter in a shop and we insist that people behind a counter in a shop should be covered against injury at work so why shouldn't we do it on our ships? Not to mention the fact that it certainly seems to be contrary to what we have been told before about residence and insurance in an EEC context. Here we are saying that people who are resident in Gibraltar pay insurance but presumably people who are resident in the rest of the European Community are not. I really urge the Government to think about it again and really urge the Minister for Labour to come back with what he promised us in March, Mr Speaker, and he will have our full support.

MR SPEAKER:

Any other contributors? I will then call on the Mover to reply.

HON DR R G VALARINO:

Mr Speaker, since he has brought up Question No. 107 of 1987 I said also at the time: "The Department has been closely involved with other Departments in the UK to find out about the insurability of mariners. There have been certain changes in legislation because of EEC attitudes and pressures and because we felt that the best way would be to get the information at first hand, we arranged for a visit by senior officers, which included the Deputy Director, to go to UK for a week" - to the Board of Trade - "and acquaint themselves with all outstanding information so that he could bring it back and we could then hurry up the revised legislation which we intend to put before the House". Certainly I have no objection to the Committee Stage and Third Reading of the Bill going to a subsequent meeting of the House. The Hon Leader of the Opposition felt that what we were doing would be removing our liability for the insurance of mariners. I have got here a brief note on the practical effects of the proposals of this Bill. If I go through them he will probably realise that this is not the case. Let me say, if the main place of business is in Gibraltar and the mariner is an EEC national and resides in the EEC full contributions are payable. If his main place of business is in Gibraltar and the mariner is a non-EEC national residing in Gibraltar full contribution is payable. It is not there, I have got it here. If main place of business is Gibraltar and the mariner is a non-EEC national not residing in Gibraltar there is no liability to pay. If main place of business is in an EEC country and the mariner is resident in an EEC country, not liable to insurance in Gibraltar, liable to insurance in Community State but possible option to Gibraltar insurance. If main place of business is in an EEC country and the mariner is not an EEC national, no liability. If main place of

business is outside an EEC country and the mariner is EEC national, mariners' share only. If main place of business is outside the EEC and mariner is not an EEC national no liability. Let me add that for this Spain, Portugal and Greece are considered full Community members for this purpose. So we are trying to protect through the law not only.....

HON J BOSSANO:

Can the Hon Member tell us what he is quoting, Mr Speaker?

HON DR R G VALARINO:

I am sure if the Hon Member listened to what I said.

HON J BOSSANO:

Where is he quoting from, Mr Speaker?

MR SPEAKER:

He is quoting from a brief that he has.

HON J BOSSANO:

Can we have sight of that?

HON DR R G VALARINO:

The problem I feel is that the Hon Leader of the Opposition has not heard about Community Regulations being applicable in addition to the Bill. He is certainly lacking as far as Community Regulations are concerned.

HON J BOSSANO:

I am sure. I give way to the Hon Member's expertise on this and on every other subject.

HON DR R G VALARINO:

I am very grateful for those kind words of compliment, it only shows the attitude of the Hon Member. There is only one other thing I would like to say before I finish my contribution. I would like to tell the Hon Mr Mor that this is not a party political broadcast because this is the way he started off talking and that he mentioned the National Union of Seamen. I imagine that this is a subsequent thing on what my Hon colleague mentioned in the previous Bill, that is the only thing I can deduce from that.

HON J BOSSANO:

If I can correct what the Hon Member has said, if he will allow me since he is quoting me! I have not said the National Union of Seamen, Mr Speaker, I have said seafarers' unions in UK and the Hon Member must know that there had been representation from NUMAS which is the Officers' Union.

HON DR R G VALARINO:

Again, obviously, the Hon Leader of the Opposition was speaking to his colleague. I was saying what the Hon Mr Robert Mor had said, not what he had said. Let me say to wind up and close this discussion that the revised legislation must, however, be applied in conjunction with Community regulations on social insurance for mariners and the practical effect of both measures is that all Community nationals serving on Gibraltar registered ships are liable to pay Gibraltar social insurance contributions except in certain circumstances.

HON J BOSSANO:

Before the Hon Member sits down, can he tell us what he is bringing to overcome the practical difficulties which is what he said prevented him from collecting it before? How is he going to be able to collect insurance now from all EEC mariners which he couldn't collect before? Can he tell us that before he sits down?

HON DR R G VALARINO:

Mr Speaker, Sir, that particular question has got nothing to do with the Bill, he is going back in time, maybe he wants to go back to his IWPB days. What I must say is that now that we have got the advice, now that we will pass the Bill at a subsequent meeting of the House, we will be able to start enforcing with certain selected people because it would be far easier than when we were last discussing this when we were rather at a loss to find out who had to pay and who did not have to pay except that they were all covered. Thank you, Mr Speaker.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON DR R G VALARINO:

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

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Mr Speaker, I am not in a position to proceed with this Bill. It will have to be taken at a subsequent meeting of the House.

THE FIREARMS (AMENDMENT) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Firearms 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, the object of this Bill is to increase the fees payable under the Firearms Ordinance. By Clause 2(a) of the Bill, the fee payable on the granting of a firearms certificate is increased from £3 to £5. Clause 2(b) of the Bill, the fee payable on the renewal, replacement or variation of a firearm certificate is increased from £2 to £3. By Clause 2(c) of the Bill, the fee payable of the registration as a firearms dealer is increased from £30 to £40. These fees were last increased, Mr Speaker, in August, 1981. There are 435 firearm certificates in existence and 6 firearms dealers. 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?

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE INSURANCE COMPANIES (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Insurance Companies Ordinance, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. There are three amendments in the Ordinance, Mr Speaker, and the reasons are as follows. In the first place, as a result of the amendment which was passed during the Committee Stage of the Bill earlier in the year, the requirement to publish accounts would as section 50 of the Insurance Companies Ordinance now stands, impose a burden on local insurance companies which was not intended and which, in fact, goes beyond the requirements of similar legislation in the United Kingdom and I think generally in the Community. The essential distinction which I probably failed to make adequately clear to the House during the heat of Committee Stage, if I may call it that, is between accounts required for publication and accounts required for supervisory purposes. Those required for supervisory purposes include a great deal of detailed material which is highly sensitive in commercial terms and which could be damaging to a company if published and seen by a competitor. This distinction is one which is common to both banking and insurance supervision and is recognised in the United Kingdom and other administrations. What the proposed amendment would do is to remove an unreasonable

burden on local companies and lay upon them the duty to publish accounts as required by the Companies Ordinance as in the United Kingdom, for example. As the House will be aware, Gibraltar's company law is in need of revision and it does not, in fact, now require publication of accounts which, of course, is the issue which was the subject of a certain amount of debate, the issue of disclosure nor does the Companies Ordinance at the moment specify the form of accounts. However, these provisions will be introduced when the Companies Ordinance is brought up to date. In the interim what is being asked of the insurance companies is that they should publish profit and loss accounts and balance sheets which they would, under the existing Companies Ordinance, be required to lay before annual general meetings. The other main provision deals with captive insurance or is intended for captive insurance, I should say. Here again the same distinction between supervision and publication would apply but in a more extreme form, there really should be no requirement for publication to shareholders in the case of captive because the parent company is the sole shareholder and there is no third party insurance as such, there is no public involvement. Moreover, security, secrecy in that sense is the essence of the captive insurance industry. If we do not amend the law captives will not come here and those that are likely to go away hence the law allows for making regulations which would exempt captives from the provision regarding publication. The final section, Mr Speaker, simply extends from six months to twelve months the period during which existing licensed insurance companies are allowed to continue without seeking fresh authorisation under the new Ordinance. As I explained during Question Time, a combination of circumstances, pressure of work on a very small and highly select group of Treasury staff plus a desire to sort out the particular problems which are the subject of this amendment Ordinance before publishing the regulations governing the form of applications and so on, has made that extension necessary. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, the Government is now going back on what was legislated in February and, in fact, I think the regulations to which the Hon Member refers which in Question Time he gave us the impression we are not yet ready, in fact, I asked him whether they were discussing the draft with anybody and he told me with the Finance Centre Group and, in fact, they were published on the 2nd July, as I understand it, these are these regulations so the

regulations are now out. If anything, one would think that all they need is six months from today and not twelve months from February because they were given six months initially and the regulations were not needed initially. In February, Mr Speaker, the Government thought it was reasonable to give people six months to come in line with the law and the regulations were not ready. Today the regulations are ready and we are giving them twelve months from February. We don't see why there is a need to give them that extension nor are we clear about the question that the legislation is going to do simply what the Hon Member says it is going to do. That is to say, when we pressed the Government during the Committee Stage of the Insurance Companies Ordinance to include the provision for publishing accounts all that we were seeking to obtain was, in fact, publication of the balance sheet and publication of the profit and loss. If further information has to be provided for supervisory purposes to the authorities in Gibraltar then we do not think that there is any necessity for that information to be made public. But, in fact, we have got an amending Ordinance here which says: "The object of this clause is to impose on insurance companies the obligation to publish at a prescribed time and in a prescribed manner such balance sheets and profit and loss accounts as companies are required by the Companies Ordinance to lay before a General Meeting". In fact, that obligation is already implicit in what in what already exist, so the law is not introducing a new obligation that doesn't exist, the obligation exists already and what the law is doing is removing an additional obligation. Let us put things in their proper context because it is to be assumed that the information laid before a General Meeting must, of necessity, be already included in the supervisory requirements that have to be provided under the existing law. Secondly, the law as it stands at the moment requires that to be complied with presumably the moment that people are licensed under section 17 and here it says 'at a prescribed time'. Does it mean that, in fact, we are legislating with an open ended commitment and that subsequently there has to be, by notice in the Gazette or whatever, a time by which people have to comply with publication of accounts, if not what does 'at a prescribed time' mean? As far as we are concerned, Mr Speaker, having discussed the Bill on the basis of what the Bill says, the Opposition had already taken a policy decision on this matter to vote against. The explanation given by the Financial and Development Secretary of divorcing the requirements for publication from the requirements for supervision, we are in favour of but that is not on the surface what the law appears to be doing. As far as we are concerned, what the law appears to be doing is to create a loophole to negate what we legislated in February because what we are saying here is that the law will read: "Every licensed insurer shall publish in such manner and at such time as may be prescribed". So we are legislating that they shall publish it 'in such manner and at such time as may be prescribed' but we are not saying we are prescribing it so what does that mean?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is prescribed under the Companies Ordinance.

HON J BOSSANO:

And the Companies Ordinance we don't know when that is going to be changed because we had a question on the Order Paper and the Minister for Economic Development said: "Well, it is still there in the pipeline". The law we have got today imposes today and has imposed since February an obligation to publish accounts and it is a total misrepresentation of the facts to tell us that we are now legislating to impose an obligation when what we are doing is removing an obligation that exists and leaving it as a possibility in the future in the event that the Companies Ordinance ever sees the light of day and requires everybody to publish their accounts. As far as we are concerned we support the statement made by the Hon Member opposite that we don't want to put a burden on local companies beyond the requirements in UK. But this isn't just a technical thing, Mr Speaker, there are fundamental issues of principle at stake about the right of access to information especially when you have got a situation where employees and public are involved. There are, of course, from information provided to us by the Government, a total of 46 insurance companies registered in Gibraltar and 23 of them are with £10,000 capital. We have done a search of these companies and they are, in fact, handled by a handful of people. Let me say that, for example, of the total 46, one single legal chambers has 26 of them. We have carried out a search. What we are talking about is a concentration in one particular area and we are not prepared simply to protect that one particular area to go against what are certain fundamental rights that people have because as well as the 43 that have got very little to do with Gibraltar except for providing an income for a few people, except for that because they certainly provide very little for the State, £250 a year. So if they all went the effect in terms of income for Gibraltar as a whole would not be noticeable. But, of course, there are some where there are important factors at stake. For example, there is a company which is responsible for the pension rights of the employees of a particular local company. I don't wish to mention names because I don't think it is right to do so, Mr Speaker, but why should the employees of that particular company not have the right to see the balance sheet and the profit and loss accounts of the company which is responsible for their pension rights until somebody eventually decides in the Government that they are going to comply with a 1968 directive of the European Community to publish accounts under the Companies Ordinance. As far as we are concerned we have made it clear from the beginning, Mr Speaker, that the GSLP felt, partly because the Finance Centre Group was complaining all the time that the Finance Centre could not survive

with EEC terms as it were, that the EEC terms should be amended in order to protect Gibraltar's position. The House knows that we have been pressing that point since 1980 with little support from others other than paying lip service and setting up committees. And our position is that just like we bring in a motion which is on the Order Paper defending in no uncertain manner our rights within the Community, we think we have to accept that obligation within the Community. We cannot have our cake and eat it, Mr Speaker, and if there are things that we have to comply with we should comply with them because that strengthens our hand when we are making demands of things that we are entitled to have. I know that within Community legislation on insurance there isn't a specific requirement on insurance companies per se but it must be taken for granted, Mr Speaker, and I cannot imagine that it can be otherwise, that if a company that is not involved in insurance, if a company is selling fish and chips is required by law to provide a balance sheet and profit and loss accounts that must be even more so in the case of insurance where, in fact, people's savings and people's pension rights and people's cover for risk is, in fact, involved and not a mundane transaction of buying and selling. We are only prepared to support, Mr Speaker, a Bill that does clearly and specifically what the Government said was their intention. Therefore if they amend the legislation that we passed in February so as to limit it to publication of the profit and loss account, that is to say, if we go back to the original sections that we are seeking to amend, section 50. It says there in section 50(2): "Every licensed insurer shall publish profit and loss accounts and the balance sheet prepared in accordance with subsection (1)(c) and (2)(d) of this section". What we want to do, Mr Speaker, is propose an amendment at the Committee Stage removing what the Government is seeking to do and amending the original legislation so that in fact instead of saying: "In accordance with subsections (1)(c) and (d) of this section", we say: "In accordance with section 115 of the Companies Ordinance" and we incorporate that in our law and nothing about the prescribed manner and the prescribed time or as may be prescribed or as may not be prescribed because that is all that is required to achieve what the Financial and Development Secretary tells us he wants to achieve which we agree with. If all he wants to do is to remove the extra requirements which we have introduced unintentionally, I accept what he said in the heat of the debate, we were not asking for that extra requirement to be incorporated in the law. By accepting the amendments that we wanted he may have unwittingly put in more than we were asking him to do. If he is not going back on what he agreed to do then all we need to do is to go back and restore and give effect to what we agreed was our intention in February when we debated this in the Committee Stage. I put it to the Hon Member that to do that all that we need to do is to go back to section 50(2) of the existing Ordinance and where it says: "Every

insurer shall publish the profit and loss account and balance sheet prepared in accordance with subsection (1)(c) and (d) of this section", we remove 'in accordance with subsection (1)(c) and (d)' which are the offending words. Once we remove that it cannot be in accordance with the information given to the supervisory authorities and we put in there 'in accordance with section 115 of the Companies Ordinance' and then we have done what we intended to do in February. As far as we are concerned we are undoing what we intended to do in February. If the Government is not, in fact, going back on what they committed themselves to do under the guise of trying to correct an anomaly then, fine, we have misunderstood what the intention of the Bill was and we are in favour of what they said they wanted to do and we will support it. If they carry on with this then I think we could suppose that, in fact, what they are doing now is going back on what they said they had accepted in February and we cannot go along with that because we spent a very long time in Committee Stage debating that issue, Mr Speaker, and as far as we are concerned we won the day by logic and argument.

HON CHIEF MINISTER:

Mr Speaker, I think I may be responsible for all this trouble and that is because when the matter was in Committee Stage at the last meeting and the Hon Member said that people who invested money in insurance companies should have the right to know how they stood, I readily agreed to an amendment that dealt with that matter. In doing that we closed the door completely to a set of companies which are the captive insurance companies which have no obligation except to themselves in the sense that they are made out of their own resources. In fact, I was accused after the meeting by the captive insurance people in the Finance Centre Group in a friendly way at a social function: 'You have killed captive insurance in Gibraltar by the amendment that was passed'. I think if we leave the position as it is now that is true. What is intended is, as I understand it, to make, first of all, applicable the necessity to publish profit and loss accounts and balance sheet, to do that which was being done before, but to give authority for exemption in the cases of captive insurance companies. Captive insurance do not owe any duty except to themselves and if they were to publish that then Gibraltar would have no attraction because they are not expected to be published elsewhere. That is really the reason for the amendment. Whether the amendment achieves that or not is another matter but that is the rationale and, in fact, sometimes in order to respond to sensible statements made about certain things one goes by agreeing beyond that. I think they would have been happy if we had remained as we were before. Then when we brought in the amendment it could kill the captive insurance business which I understand is a profitable business and one which one should encourage.

HON J BOSSANO:

If the Hon and Learned Member will give way.

HON CHIEF MINISTER:

I will finish and before I sit down I will give way. One final thing I want to say because it could give the wrong impression, is that the fact that a number of companies may be registered in particular Chambers doesn't mean that they are governed from there at all. They have to have a registered office where papers have to be properly served if they have proceedings and so on and that is done everywhere in the world, that they have a registered address is one thing and the management is another. The fact that they are in a registered office which happen to be legal chambers is perfectly normal and does not in any way indicate that the management is done from those Chambers at all. Management is done by insurance managers and not by lawyers at all, it is just that they happen to be in particular registered Chambers, I don't care where they are but they have to be somewhere and some may have more than others. But the point that I made at the time and the way I gave in to the suggestion because it looked to me to be sensible, had the effect of closing the door to captive insurance and this is the way that it is intended. Before I finish I will now give way.

HON J BOSSANO:

Mr Speaker, I think I had, in fact, in my contribution directed myself primarily at the point made by the Financial and Development Secretary about removing a burden to publish more information than necessary of companies that are trading in Gibraltar. Our position on the exempt companies is that we are not adverse to the exempt companies being given different treatment and not being required to publish accounts if the Government feels that they can do that without being in conflict with Community law and therefore we are prepared to leave that door open and not kill the business just for the sake of killing the business provided, of course, that we have got a clear distinction that with local companies we are going to continue to require them to publish the accounts as we agreed to do in February and we think that therefore the amendment, perhaps unintentionally, undoes the work that we agreed to do in February. We are not against and we will not vote against different arrangements being made although in our own minds we have had some reservations about whether we can get away with it in the context of Community requirements.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I wonder whether there is, in fact, all that much between the Opposition and the Government benches on this particular issue. I listened closely to the Hon Member's, I think if I may call it, a suggested amendment or re-amendment which I think would be very close to the existing section 2(2). As far as I heard him correctly if one excluded the phrase 'in such manner and at such time as may be prescribed', the two would be almost coincidental. Perhaps I could, after I have concluded my speech and subsequently before the Committee Stage ask the Hon Leader of the Opposition if that, in fact, is what he intended. What we, in fact, meant by that particular phrase was prescribed under the Companies Ordinance and I don't think there was any particular significance in it but if we can avoid using it then I don't see any objection. The real issue is, of course, the form of accounts and as the legislation stands, the accounts that should be published will be those that are required for supervision. What we intend to do and here I don't think there is any difference between us, is to impose on the companies a requirement to publish those which will be required under the Companies Ordinance.

HON J BOSSANO:

Will the Hon Member give way? Is, in fact, the existing section 115 of the Companies Ordinance as drafted at present one which requires the profit and loss and the balance sheet to be laid before a general meeting?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly it shall be laid before a general meeting but not to be published so it doesn't, in fact, it could be laid before a general meeting and no one would find out anything about it, that is the crucial distinction. The purpose of the second section is exclusively for captives and I take it the Hon Leader of the Opposition accepts that it is reasonable to make that exception. I don't think I need to say any more but perhaps before we get to the Committee Stage I could just take the Hon Leader of the Opposition's mind further on this particular point I have mentioned.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1987/88) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. In accordance with long hallowed convention I do not propose to make a Second Reading speech on the general principles of the Bill.

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Fast Launches (Control) Bill, 1987; the Firearms (Amendment) Bill, 1987; the Insurance Companies (Amendment) Bill, 1987, and the Supplementary Appropriation (1987/88) Bill, 1987.

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

THE FAST LAUNCHES (CONTROL) BILL, 1987

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the amendment set out in the notice dated the 30th June in the definition of the expression 'fast launch' and to substitute a new definition of 'territorial waters'.

MR SPEAKER:

I think perhaps you are not going to get away with it so easily unless Members are quite happy that the amendment to Clause 2 which is basically the definition on 'fast launch'. Should it be read or are you quite happy?

HON M A FEETHAM:

We are quite happy.

MR SPEAKER:

You are quite happy, there are no controversies in the amendment?

HON M A FEETHAM:

There is a question I would like to ask on the definition, Mr Chairman. I want the Hon and Learned Attorney-General to clarify for the enlightenment of the House how he arrived at this formula?

MR SPEAKER:

Which formula?

HON M A FEETHAM:

The formula which is there under (a).

MR SPEAKER:

I will propose the question as moved by the Hon and Learned the Attorney-General that Clause 2 should be amended and then you can ask your question.

Mr Speaker proposed the question in the terms of the amendment as moved by the Hon Attorney-General.

HON M A FEETHAM:

Mr Chairman, could the Hon and Learned the Attorney-General explain how he arrived at this formula, what it means, because quite frankly it is beyond me.

HON ATTORNEY-GENERAL:

Mr Chairman, I am afraid it is somewhat beyond me as well. I have had a long explanation of the formula and I can tell the Hon Member what the formula means. For example, the maximum allowable length of a vessel, let us take a vessel of 19.981 feet in length. That can go at a speed of 24 knots without falling within the definition. A vessel of 40.101 feet in length can travel at 34 knots without falling within the definition of a fast launch. I have got copies of a full explanation of the formula and the maximum allowable speeds and maximum allowable lengths for the speeds which I can hand to the Hon Member, Mr Chairman, if the House likes. It is a very complex formula, it is not easy to follow except by the Port surveyors and the technical people in the Port Department but there is a full explanation of it here.

HON M A FEETHAM:

Mr Chairman, why I have asked is because if it is such a complicated formula which I am none the wiser after having asked him and since he himself finds it equally as complicated, how are people going to interpret the formula by reading the legislation?

HON ATTORNEY-GENERAL:

Because the Port surveyors can work it out in accordance with this formula. This is the formula which they themselves devised and the Port surveyors can show the members of the public what it means, for example, as I say, a 40 feet boat in length can go at a speed of 34 knots without becoming a fast launch. This could be explained to members of the public by the Port Surveyors.

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.

Clauses 3 to 22 were agreed to and stood part of the Bill.

Schedule

HON ATTORNEY-GENERAL:

To amend the Schedule, Mr Chairman, to delete the chart contained in the Schedule and to substitute the chart which has been circulated with my notice.

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

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

THE FIREARMS (AMENDMENT) BILL, 1987

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

Clause 2

HON J L BALDACHINO:

If I may ask the question on (a) and (b) because I think they are related. We are talking here about people who buy firearms other than those who belong to a club because they don't need a certificate, do they?

HON ATTORNEY-GENERAL:

No, these are the fees for firearms certificates, for example, 'No person shall purchase, acquire or have in his possession any firearm or ammunition to which this part applies unless he holds a certificate in force at the time'. It is in respect of those certificates that Clause 2(a) and (b) relate. The exemptions are contained in section 6 of the Ordinance, 'Exemptions from holding a certificate - A person carrying on the business of a firearms dealer and registered as such, or a servant of such a person, may, without holding a certificate, purchase, acquire or have in his possession a firearm or ammunition in the ordinary course of business'. (3) A person carrying on the business of an auctioneer, carrier or warehouseman or servant doesn't need a certificate if he does it in the ordinary course of business. Subsection (4) "Any person may, without holding a certificate, have in his possession a firearm, ammunition on board a ship or a signalling apparatus" etc. All the exemptions there are contained in Clause 6. I think if the Hon Member will look at Section 6(7): "A person conducting or carrying on a miniature rifle range, (whether for a rifle club or otherwise)" - is exempt - "or shooting gallery at which no firearms are used other than air weapons or miniature rifles not exceeding .23 calibre may, without holding a certificate, purchase, acquire, or have in

his possession such air weapons or miniature rifles and ammunition suitable therefor; and any person may without holding a certificate, use any such air weapons, rifle and ammunition at such a range or gallery". People taking part in a theatrical performance, athletic meetings, those are all the exemptions within the Ordinance.

HON J L BALDACHINO:

The point I am trying to make, Mr Chairman, is a person who requires a certificate under the Ordinance whether he buys an air gun or whether he buys some other type of arms still pays the same certificate fee?

HON ATTORNEY-GENERAL:

Yes, the fee for obtaining a certificate under the Ordinance pays that fee. If you don't need a certificate you don't have to pay the fee.

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

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

THE INSURANCE COMPANIES (AMENDMENT) BILL, 1987

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

Clause 2

HON J BOSSANO:

Mr Chairman, I am in the process of drafting an amendment.

MR SPEAKER:

Have you done it now?

HON J BOSSANO:

I am half way through it.

MR SPEAKER:

We can leave this one until after lunch and go on to the Appropriation Bill.

HON J BOSSANO:

What I am suggesting is, in fact, in the light of what the Hon Member has said, is that the words 'in such manner and at such time as may be prescribed' should be removed from that Clause 2. But I have got two new amendments that I want to put forward to that Clause which I would like to put to the Hon Member. I think, perhaps it will give him time to think about it if I mention it. One is that I propose that if we are going to accept the amendment to section 122 which has been proposed of extending it to twelve months then, as far as we are concerned, we will vote in favour of that amendment provided we also amend subsection (2) to add the words "and any insurer authorised under section 122". So what we would be saying would be that the Clause would read: "Every licensed insurer and any insurer authorised under section 122" would be required then to publish the balance sheet and profit and loss account under section 115 of the Companies Ordinance. In that case we don't mind whether it takes them twelve months to register because, in fact, what we are saying to the Government is under the existing law six months after February these companies would be required to register and to publish accounts. If we are going to give them a year from today to register, isn't that what we are doing by altering.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, at the commencement of the principal Ordinance. It is not a year from today, in fact, it is a year from February. It is seven months from today.

HON J BOSSANO:

As far as we are concerned, Mr Speaker, since this is the important point at issue, we are not concerned about how long they have to register provided that while they are still doing insurance business they are required to comply with this so that if any of them have a year end between now and seven months and they have to publish accounts then they have to publish accounts now because we are authorising them to continue doing business whilst they register or they don't register and that can be taken care of by saying: "Every licensed insurer and every insurer authorised under section 122". We also believe that there is another point on which representations have been made to us which has not been mentioned by the Government and which we agree is a valid point in terms of protecting our own insurers and therefore what we would like to see since we are doing something to improve the law, is the addition to subsection (2) of the words: "and where a company is not incorporated in Gibraltar" because it seems to me that if we say that every licensed insurer shall be required to produce a balance sheet and a profit and loss account as required

by section 115 of the Companies Ordinance, I am not sure how that applies to somebody who is not incorporated under the Companies Ordinance and is not required by section 115 to do anything. What we would like to see is that where a company is not incorporated in Gibraltar then such information should be published as relates to its Gibraltar business which is the point that has been made to us by insurers which we support, which is not reflected in what the Government is bringing and which we are in favour of because a company says to us: "If I have all my business in Gibraltar and I publish my sales and I public my profit, my competitors know it. If my competitors have got an office in Gibraltar and they are doing business worldwide, they publish their accounts in UK and all they are required to do by the law is to publish and there is no way of knowing, they know my profit margins, I don't know theirs, it puts me in an unfair competitive position". We support that view. If we are going to do something to improve the situation from what we did in February then we think it is an opportunity to put it right. That is to say, if we are talking about a local company then they have to publish the information they put before their shareholders in a general meeting. But if we are talking about a multi-national company which is in competition with our local company, then publishing their worldwide accounts is meaningless, it doesn't tell anybody anything. It certainly doesn't tell the customers in Gibraltar anything either. Even from the point of view of our concern to protect employees in Gibraltar and consumers in Gibraltar, worldwide accounts don't mean anything at all. I imagine the Government has been asked to do this because we have been asked to do this and we are in favour of it and we are prepared to see it introduced now so we will move an amendment to that.

HON CHIEF MINISTER:

I think, Mr Chairman, that perhaps we should leave the Committee Stage of this till after lunch and then the Hon Member can clear it with the Financial Secretary and the Insurance Supervisor. I am now loathe to have these ad hoc amendments which we find later to be very confusing and complicated, perhaps we can leave that part until later on, leave Clauses 2 and 3 for after lunch.

MR SPEAKER:

Most certainly. We will move on to the Appropriation Bill.

THE SUPPLEMENTARY APPROPRIATION (1987/88) BILL, 1987

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

Schedule

Part I - Consolidated Fund

Head 25 - Treasury

HON J C PEREZ:

Mr Chairman, as most probably was expected by the Government, we will be voting against the £100,000 for the Gibraltar Quarry Company more or less because of the same reasons which I explained during the Budget session where I didn't get an answer and that is that it is our contention that we were misled to believe in the previous Budget, when the £200,000 subvention came to the House, that the company was looking towards a rosy future and that the £200,000 subvention would put it on a firmer footing and the evidence I have and the evidence I gave this House during the Budget session was that at the time that that subvention came to the House, the Government had already considered the possibility of closing the company for other reasons and that was not disclosed in the House at the time of the subvention. Had that been a possibility then perhaps that subvention would not have been voted by the Opposition at the time. I therefore think that it is not warranted that we should come again to the House with an extra £100,000 basically to wipe the slate before winding up the company and we will be voting against.

HON M K FEATHERSTONE:

Sir, when the subvention of £200,000 was requested from this House, there was no intention to close down the Quarry Company and it was thought that the situation was that the company would be able to continue and move to a viable position. It later transpired during the year that the Quarry Company was working in unsafe conditions and that was the reason for the closing down.

HON J C PEREZ:

Mr Speaker, with due respect to the Hon Member, I think that a report commissioned by the Public Works Department from the Council of Ministers, there are two reports, one is August, 1986, but there is one report even in July, 1985, where the question of the safety of the Quarry Company was being looked at by the Public Works Department at the time and all this information has been kept by the Government without disclosing it to the House and without suggesting that there was a serious possibility

of the Quarry Company having to close down and that information was held by the Minister and by the Government at the time they came with the subvention. So with due respect to the Minister, they might have not intended to close it but perhaps they were ignoring fundamental information that they had in their possession which actually lead to the closure six months after the subvention was voted.

HON M K FEATHERSTONE:

No, Sir, that is not so. There were reports from the Public Works Department about certain aspects of the Quarry Company but none of them suggested that the Quarry Company should have to be closed down as it was actually closed down in September last year.

HON J BOSSANO:

Surely, Mr Chairman, the reports that the Hon Member is saying suggested that the alternative was either closure or further investment and nothing happened between the time of the investment and the decision to close to change the parameters. Apart from the fact that, of course, the Government got scared by the implications of what happened at Casemates to perhaps be more sensitive to safety issues but nothing technically was discovered in the intervening six months which was not technically known before, that is one issue. I think the other issue which is perhaps important is the company is already, we understand, in the process of liquidation. We ourselves believe that it is right for the Government to accept that it has a moral if not a legal responsibility to the employees of the company because there is no question that anything.....

HON CHIEF MINISTER:

And creditors.

HON J BOSSANO:

And creditors, well, that is where I am not so sure that that is the case because if we are saying, quite frankly, that people who enter into business relationships with a company of whom the shareholder is the Government, are not taking any commercial risks like they would with any other company, I don't think anybody wants companies to go bust and not pay off their suppliers and their creditors but it happens all the time, let us be clear.

HON J C PEREZ:

And it creates a precedence for when GSL goes bust.

HON J BOSSANO:

Right, if all the unpaid bills of GSL are going to have to be voted as supplementary estimates, it is going to be a very big supplementary estimates when the time comes.

HON CHIEF MINISTER:

There was a direct connection involved.

HON J BOSSANO:

We think that the Government is setting a dangerous precedent with this and we don't want to be a part of it.

HON MAJOR F J DELLIPIANI:

Sir, I would like to clarify a couple of points on the question of the winding up of Gibraltar Quarry Company. First of all, the Hon Member, Mr Juan Carlos Perez, is right in that the Public Works Department had certain reports indicating their concern over the stability of the area where the Gibraltar Quarry Company was working. There were other aspects apart from the stability of the area and that was that the water section which is responsible for the water catchments were also concerned at the damage that was being caused to the catchments by the method of conveying the sand down the slope. There were two aspects to the operation, one was safety of the personnel involved and the other one was the safety of the catchments and the consequential damages that could be caused to the catchments and the cost involved in modifying the conveying system to make it safe for the catchments. So there were questions of finance involved and questions of safety. I think the Hon Leader of the Opposition is quite right in saying that at that time though the Government was willing to see the Quarry Company being a successful venture because we both felt, at least I felt, that joint ventures between a public company with Government participation was good for Gibraltar and in the history of the sand operation it was proved because the Quarry Company was there the sand imported from other sources was kept at a low price, the sensitivity of the Casemates Triangle had a great bearing in my decision to advise Government that despite the fact that I wanted it to be a commercial venture, I was frightened that if anything happened all the engineers would say: "We warned you about it". I think maybe it was a cowardly decision but on the whole, if anything had happened to any of the members of the Quarry Company I don't think I would be very happy standing here. I think, though, that Members opposite were as willing as I was to see the Quarry Company being a success.

HON J BOSSANO:

Absolutely.

HON MAJOR F J DELLIPIANI:

I think the pressures and the sensitivity of the Casemates Triangle had a bearing. Maybe it was a cowardly way of going out but my conscience is clear that nothing has happened but, unfortunately, it has cost us a lot of money.

On a vote being taken on Head 25 - Treasury, Subhead 37 - Gibraltar Quarry Company Limited the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Part I - Consolidated Fund was passed.

Part II - Improvement and Development Fund

Head 105 - General Services was agreed to.

Part II - Improvement and Development Fund was passed.

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

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

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

The House recessed at 12.45 pm.

The House resumed at 3.45 pm.

MR SPEAKER:

I will remind the House that we are still at the Committee Stage of the Insurance Companies Bill and I believe that the Hon the Leader of the Opposition has an amendment to move to Clause 2.

COMMITTEE STAGE OF THE INSURANCE COMPANIES (AMENDMENT)
BILL, 1987, (CONTINUED)

Clause 2

HON J BOSSANO:

Mr Chairman, following discussion with the Government we have agreed on the amendment that we would like to see incorporated which will enable us to support the Bill before the House. In fact, the Government is going to move an amendment to Clause 3 which will, from a drafting point of view, be a neater way of achieving what we would like and what we had proposed before lunch. Therefore we are just moving an amendment to subclause (2) of Clause 2 by deleting the words "in such manner and at such time as may be prescribed" where such words appear therein. We are not proceeding with the further amendment about requiring other companies not incorporated in Gibraltar to produce accounts in respect of their Gibraltar business in the light of the arguments that have been put to us that there are problems in being able to do this although I am putting in a caviat that we haven't given up altogether and we shall be having second thoughts about it and we may come back on that one at a future date when the new Companies Ordinance arises in the House.

Mr Speaker proposed the question in the terms of the amendment as moved by the Hon J Bossano.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We entirely accept that amendment, Mr Chairman, I am grateful to the Hon Member.

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

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

New Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Insurance Companies (Amendment) Ordinance, 1987, be further amended by adding a new Clause: "4. Section 122 of the principal Ordinance is further amended by adding the following new subsection: "(3) the provision of section 50(2) shall apply to a person to whom the provisions of this section apply".

Mr Speaker proposed the question as moved by the Hon the Attorney-General.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 4 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 Fast Launches (Control) Bill, 1987, with amendment; the Firearms (Amendment) Bill, 1987; the Insurance Companies (Amendment) Bill, 1987, with amendment, and the Supplementary Appropriation (1987/88) Bill, 1987, have been considered in Committee and agreed to and I now moved 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 BOSSANO:

Mr Speaker, I beg to move the motion of which I have given notice, namely, that: "This House - 1. Notes the refusal of the Government of the Kingdom of Spain to ratify the agreement to liberalise air travel within the European Community because it applies to Gibraltar; 2. Notes that Gibraltar is a full member of the European Community as part of the Member State of the United Kingdom and has been since its accession in 1973; 3. Notes that Gibraltar is obliged to comply with Community directives and regulations as required by its terms of membership; 4. Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership as part of the Member State of the United Kingdom; 5. Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations as an existing constituent part of the Member State of the United Kingdom; 6. Considers the position adopted by the Government of the Kingdom of Spain in relation to the liberalisation of air travel totally unwarranted and an attempt to deprive Gibraltar and its people of their rights as members of the Community; 7. Warmly welcomes the resolute stand adopted by Her Majesty's Government and urges them to continue to maintain this stand; 8. Requests Her Majesty's Government to transmit the views herein contained to the Governments of the other eleven Member States as the views of the people of Gibraltar expressed through their democratically elected Parliament". Mr Speaker, I know that much of what the motion contains reflects the thinking of the Government on this matter and not just of the Opposition from the reaction of the Hon and Learned the Chief Minister to press questions on this issue where he has said that he is quite satisfied with the way Her Majesty's Government is handling the matter. I think there are a number of reasons why it is important that the motion should be carried by the House - I sincerely hope without amendment - and one of them is that I think that in the last paragraph of the motion by asking Her Majesty's Government to transmit these views which we have already made known directly to them when we first heard what was happening, immediately there was a reaction from our party communicated on the Monday through The Convent. The importance, I think, of the motion and the request that it should be transmitted is that, in fact, we are trying to bring it to the attention of the eleven Member States in the Community other than the United Kingdom, that this is not Gibraltar and the Gibraltarians, in fact, doing what the British Government wants us to do because it suits their policy, we are, in fact, welcoming the stand that they have taken because it is what we would have asked them to do had we had to take the initiative ourselves before they had already

adopted that position. I think that is emphasised by the fact that the motion is moved from the Opposition benches because there is no question of it being suspect in any way that the Government of Gibraltar has been put up to this by Her Majesty's Government so as to produce a local reaction which suits what is being said by them on their behalf. I think it can only serve to strengthen the legitimate stand of Her Majesty's Government in this matter and to demonstrate that, in fact, in Gibraltar it is seen in the only way it can be seen. Needless to say, Mr Speaker, although my motion is undoubtedly critical of the position adopted by the Government of the Kingdom of Spain because I say that it is unwarranted, I will not be as critical as some of the media in UK appears to be of some of the personalities involved. I think the position of the Government of Spain in this matter can only be understood, and I don't want to dwell on that aspect at length because we have got different views on the matter in this House as regards the Brussels Agreement, but we have in fact notwithstanding our different views on the Brussels Agreement, taken a common view on the question of the airfield already before this motion. And I remember that, in fact, it was the Minister for Economic Development who said that it was a red letter day when we carried a motion on the question of the airfield in that since the 1984 election it was the first time when Government and Opposition had agreed on a matter which was related to the Brussels Agreement although we held different positions on the Agreement itself. Clearly, the Government of the Kingdom of Spain having failed to achieve what it wanted to achieve in the Anglo-Spanish talks on the use of the airfield in the framework of the Brussels Agreement, have done what they said they would do. They announced this publicly in January in what they described as a failure in the meeting between Señor Ordoñez and Sir Geoffrey Howe and they made it clear then that they would be launching a diplomatic offensive in the areas of the Common Market and of NATO because they were not making the kind of headway that they would like to see and I prefer to use the word 'headway' rather than 'progress' because when we talk about progress it seems as if we both wanted the same thing and we clearly do not want the same thing and we cannot shy away from that reality or try, I think, to water down the extent of the difference that there is between the aspirations of the Kingdom of Spain and what they want to get out of the Brussels Agreement and the aspirations of the Government of Gibraltar and what they want to get out of the Brussels Agreement. But, of course, by taking it out of the context of the Brussels Agreement and putting it in the context of the European Community, had Her Majesty's Government not taken the stand that it has taken and let me say that as far as we are concerned here on the Opposition benches, we would not have been happy even with a compromise formula. We don't see why we should stay out of the air liberalisation agreement for one year even if we are told at the end of the year

'You'll get in', quite frankly. There is no way that we can accept that because on the other side, for example, Mr Speaker, we have just passed a Bill amending the Insurance Companies Ordinance where I have said: 'We are not pursuing a particular amendment on the publication of results which relate to Gibraltar business because we have been told that we cannot do this without being in conflict with Community law'. That is something that I think is perfectly legitimate for Gibraltar looking after Gibraltar's interest and looking after our own business interest of people who have their base in Gibraltar. If we cannot do certain things because we accept as members of the Community the obligations of the Community and we cannot even change something that affects three Insurance Companies which is all we have got in Gibraltar against hundreds of them in the Community, well, then why should we have to put up with being left out of the Community even if no single plane comes in the whole year. It is a matter that is fundamental to the principle that we are defending and to the principle that we have defended, quite frankly, over many, many years irrespective of political persuasion. I think there has always been a broad underlying element in our relationship with the United Kingdom which has been resentful of the colonial status of Gibraltar and has been resentful of being second class citizens and on more than one occasion we have argued on this side of the House that we don't want to replace being a Colony ruled by London by being a Colony ruled by Madrid and we certainly want to replace even less being a Colony ruled by Brussels where we would become Colonials in relation not to the one or the two but to all the twelve. Let us be clear that the responsibilities that goes with being members of Europe and members of the Community, are responsibilities that are very onerous for a place of our size and of our economic potential. The few crumbs that we might be able to obtain of benefit to Gibraltar cannot be weighed against any national interest and I think it is important that we should take a strong stand. I am not saying that there is any indication of a change on the part of Her Majesty's Government but we all know, as a small people, the difficulties that nations have in defending principles when the stakes are very high and the Transport Ministers have to meet again, we understand, in October and there is no doubt that the Government of the Kingdom of Spain will be lobbying continuously and assiduously between now and October to persuade people to come round to their point of view. We cannot simply sit back with our arms crossed and say how wonderful the United Kingdom Government is to be fighting our battle on our behalf, we must be seen to be doing something ourselves. The very least that we can do is to applaud the stand they have taken, to say in no uncertain terms that we do not consider the position of the Government of the Kingdom of Spain to be justified, to spell out why and how contradictory it would be to treat Gibraltar differently from anybody else in the European Community and to make sure that it is clearly understood throughout

the Community that the Gibraltarians themselves have a view in this matter and that if there was a difference between the view of the administering power in a colonial situation and the colonial people the logic would be that they should listen to the colonial people, well, let them listen to the colonial people. I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, in the first place, this side of the House fully agrees with the spirit and the intention of the motion proposed by the Leader of the Opposition and fully supports the action that he proposes we should take as set out in paragraph 8. But precisely because that is the action that is going to be taken, in the description of some of the matters to be noted there are one or two matters which I think we can improve by slight amendment. It is not intended as an alternative, I will describe the intention because we want to be sure, particularly in a bureaucratic place such as Brussels where the letter sometimes counts for more than the spirit, we have to make sure that the letter is correct. I will then after describing the two or three minor corrections or improvements, if I may put it that way, in no way by way of taking away any part of it, I will then give a short description of the action that we have taken. But let me say at the outset that my understanding, certainly I have not been asked or consulted or requested, most times I cannot say what I am asked but I think I always say 'I can always say what I am not asked' and that is that there was no question of any formulas that were considered as having been an attempt on the part of the British Government to put it to us. I think it is fair to say that the compromise proposals to get the thing out of the impasse were suggested by the Duty Chairman - a Belgian - whose functions were finishing at the end of June and who has really achieved very little in their six months of Presidency. Normally the Presidency goes round the Member States at six months at a time and naturally each one sets itself certain parameters and certain things that they want to obtain. What had been advocated for cheap fares which is very limited in some senses, in fact, there was an article in The Times the previous Wednesday to this event by Lord Bethell who is the Leader of the Freedom of the Air Movement where he was saying that even what was being proposed was not enough because there are quite a number of limitations but, anyhow, we are talking about a liberalisation which had been agreed by the twelve Member States and which has been worked on at that basis. As I say, let me say that the compromise solution to get out of the impasse, according to my understanding, was suggested by the President in an endeavour to get the thing through.

The fact that there were compromise proposals which might or might not have been acceptable here is neither here nor there because my understanding is that the proposals did not come from the British side though, of course, in an international matter of this nature it could well have been that there might have been some way in which they might have got over it if there was a will to negotiate, that is if the spirit was there for an agreement and the principle which was being defended had not been so rigid and obstreperous then perhaps there might have been some way in which perhaps it might have been found. As it happened one kind of adamant attitude brings about another kind of adamant attitude and that, I think, is the result of the outcome of the proceedings. As I say, the three small amendments that I have are purely for the sake of correction and not for any other reason. Paragraph 2, really, is not strictly correct. I don't criticise the Member because I am sure that he has thought out this and has set out as many of the considerations as he could which I think cover everything but really we are not a full member of the European Community as part of the Member State of the United Kingdom. The provisions of the Treaty of Rome apply to Gibraltar as a territory in Europe for whose external relations Britain is responsible, by virtue of Article 227(4) of the Treaty, subject to the exceptions agreed by the Community, and that those provisions have applied to Gibraltar since 1 January, 1973. That is purely, if I may say so, an improvement in the description if there is going to be a correct presentation of the case. I will give notice in a minute, I am just going to describe it. Then in paragraph 4 because of that, the words "as part of the Member State of the United Kingdom" is really not strictly correct and, in fact, is not required there if we put the previous amendment, "Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership" which have been fully described in my previous amendment. And the last one is in paragraph 5, again as a result of the bigger description made in paragraph 2, the last words "as an existing constituent part of the Member State of the United Kingdom" are unnecessary and would read "Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations" which I have described. These are really the amendments which I propose and which I think Members will accept as an attempt at an improvement rather than in any other spirit. As I stress, these are purely for the purpose of technical accuracy and in no way alter the sense of the motion with which we agree insofar as it goes and, of course, subject to those amendments which I think improve the motion, we will support the motion. I say as far as it goes because we have to do more than merely to express the view stated in paragraphs 6 to 8 of the motion. That we can do here but other things ought to be done. In that respect I would like to state just very briefly and in very general terms what we have

been doing in this respect. Naturally, I cannot say what the nature of the representations are, some can gauge what they are by the results if we think that they have done as well as they have, the British Government, and what I propose to do in the future. On the 25th June I wrote to the Governor expressing my views and the views of my colleagues on the situation. Early in the morning on Monday the 29th June I asked the Governor to transmit to the Secretary of State an urgent personal message to Sir Geoffrey Howe. On the following day - and this is by letter not by telex - on the following day, virtually twenty-seven or twenty-eight hours from the time that my letter was deposited on Monday morning, I received a personal message. The Governor passed to me a personal message from Sir Geoffrey Howe in reply and then I sent him another message on the 1st July. On the 3rd July I wrote to the Governor saying that in view of the situation which had arisen with regard to the airport, I would be grateful if arrangements could be made for me to see the Secretary of State as soon as possible as convenient to him and I hope to me because I have a few days put aside for a short holiday. There I set out the main points which I wished to discuss and to that I am awaiting a reply. Paragraph 6 of the motion I fully support especially and I think it is fair to say that the intervention by the Spanish Foreign Ministry in the discussion by Community Transport Ministers at the late stage just before the decision was about to be taken has been greatly resented in Gibraltar and I made this plain to the Secretary of State in my letter. I also warmly welcome the sentiments expressed in paragraph 7 which in turn welcomes the resolute stand adopted by Her Majesty's Government. I also commented on this in my two messages to the Secretary of State last week and thanked him and the British Government for their determination as always to defend Gibraltar's fundamental interests. I have to make no apologies for that because I have always said that we would be supported by the British Government in matters of principle and I think we have been vindicated, other people have at times had doubt and perhaps they will carry on having doubts. One point made by the Leader of the Opposition that because the motion comes from the Opposition it will be seen as not being a motion at the instance of the British Government. I should ask him to have no illusions about that because in the days when we went to the United Nations the Opposition went with the Chief Minister and subsequently in many discussions where there was or up to the time when there was a joint bipartisan approach to foreign affairs on the same spirit as the motion and on the same spirit as has been explained by the Leader of the Opposition, it didn't stop our neighbours saying that we were the tools of the British Government. They would go perhaps even further, they would say that we are the tools and we don't know it. There is the fundamental mistake in approach to a matter and to a way in which matters in a European context are likely to be solved in the future with the spirit that everybody in Europe, even the smallest territory, has got the same right as others in Europe and therefore we will be voting in support of the motion subject to those small amendments.

MR SPEAKER:

You are moving the amendments?

HON CHIEF MINISTER:

I move formally the amendments that I have given notice.

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

HON CHIEF MINISTER:

I should have perhaps said before sitting down that having explained the reasons and having explained the attempt at improving the motion and that is something often done on the opposite side in respect of legislation so they are subject also to improvement, I hope they are accepted in the spirit in which they are proposed and that we will have a unanimous decision on this matter.

HON J BOSSANO:

Mr Speaker, I simply wanted to have the opportunity to speak to confirm that point. In fact, as far as we are concerned the amendments (2) and (3) remove elements as presently drafted which become unnecessary with the first amendment proposed and the first amendment simply gives a technical description of what being a full member of the European Community is. Quite frankly, in a way I don't suppose we would have been able to draft it technically as well which shows that even though I am better at drafting than the Attorney-General, probably the Hon and Learned the Chief Minister is better at drafting than me.

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

HON M A FEETHAM:

Mr Speaker, just one observation I wish to make taking the matter up from where the Hon and Learned the Chief Minister left it. He talked about the days of a bipartisan approach when the Chief Minister and the Leader of the Opposition went to the United Nations. Perhaps I can throw this proposal from this side and that is that whilst we are obviously opposed to the Brussels Agreement and our position will not change on that, the Opposition would be in favour since this is a European Community matter and one where we can perhaps have a joint front, the Opposition is prepared to suggest that the Leader of the Opposition should accompany the Chief Minister on his meeting with the Secretary of State on this matter so that we can continue a united front in areas where we feel that this can be done.

HON CHIEF MINISTER:

I have to take note of that but I think there may be difficulties, I have nothing against it but I think in the context in which the correspondence has gone, I don't know that that will be that easy. But that does not mean that where there can be a bipartisan approach there should be. Therefore we should earmark those things that divide us but not forget those things that unite us.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the Mover to reply if he so wishes.

HON J BOSSANO:

Mr Speaker, simply to welcome the support of the Government on this matter and to say that the response of my colleague has been an offer in good faith and if the Government feel that they want to take it up it is there.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:

"This House -

1. Notes the refusal of the Government of the Kingdom of Spain to ratify the agreement to liberalise air travel within the European Community because it applies to Gibraltar
2. Notes that the provisions of the Treaty of Rome apply to Gibraltar, as a territory in Europe for whose external relations Britain is responsible, by virtue of Article 227(4) of the Treaty, subject to the exceptions agreed by the Community, and that those provisions have applied to Gibraltar since 1 January, 1973
3. Notes that Gibraltar is obliged to comply with Community directives and regulations as required by its terms of membership
4. Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership
5. Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations under the Treaty of Rome

6. Considers the position adopted by the Government of the Kingdom of Spain in relation to the liberalisation of air travel totally unwarranted and an attempt to deprive Gibraltar and its people of their rights as members of the Community

7. Warmly welcomes the resolute stand adopted by Her Majesty's Government and urges them to continue to maintain this stand

8. Requests Her Majesty's Government to transmit the views herein contained to the Governments of the other eleven Member States as the views of the people of Gibraltar expressed through their democratically elected Parliament".

The question was unanimously resolved in the affirmative and the motion was accordingly passed.

HON M A FEETHAM:

Mr Speaker, I beg to move the following motion of which I have given notice: "This House recognises that the Council of the Regions of Europe is a democratic forum which expresses the point of view of European Regions - particularly on problems of concern to them in the context of European Construction and the policies of the European Community, considers membership of the Council as being appropriate and approves that a formal application to join this Institution be made accordingly". Mr Speaker, as you can well see, the motion to a great extent is self explanatory. I wish to inform the House of the background to the reasons why this motion is being brought to the House and where we should be going from here. During a visit to Brussels, my colleague, the Leader of the Opposition, and myself, had a meeting with the Minister for Economic Affairs of the Wallonia Region of Belgium who explained to us that there was a great deal of support in the European Community from Regional Governments in ensuring that in the building up of European Community policies and in the reconstruction of the European Community economy, that the views and interests of regions were not lost in a policy of centralisation and that there was a great danger that the democratic process in the decision making would be seriously hampered to the detriment of the regions unless there was a forum, an institution that was able to express the views and the interests of the region in that policy making process. Having listened to us and the problems of Gibraltar as a particular region in the Community, as we preferred to align ourselves, at least the Opposition who were speaking to the Minister at the time, he thought that this was a particular forum where Gibraltar's interests, to some extent, could be defended and also, equally important, a forum where we could establish contacts and at the same time be known by all other regions who, as events have shown, have

problems which are of particular interest to Gibraltar and because Gibraltar has got particularly the same interests and the same problems and it is only when we can get together and formulate a policy which affects regions that we should be able to resolve them by having this particular forum. The discussion at that time was in its infancy because the constitution of the forum or whatever the outcome was going to be was still in its infancy stage, discussions were in the process of taking place and the forum had not been set up. We were at that point on the verge of being able to be one of the founder members of this particular forum which now, of course, has been instituted and is called the Council of the Regions of Europe. When we came back we informed the Government and we did give the Government certain information for Government to pursue and, indeed, as far as we are aware, Government did take some initiative on the matter and have pursued the matter. Unfortunately, as I understand it, a number of hiccups have occurred which have been recently pointed out to me where, in fact, the forum was set up, the Council was constituted and we were not a founder member, indeed, we are still not a member of the Council. I can inform the House that today there are about 200 regions of the Community represented in the General Assembly and Gibraltar is the only one that is interested in joining but is not a member. The few regions that are not members of the Council are, in fact, regions that have voluntarily said that they are not interested in forming part. Suprisingly enough, the major part of the regions that are not represented is in the South-East of England, the only regions which are not represented in the United Kingdom. All Spain is represented, 95% of the regions in France are represented and so on so we are really talking about fairly few regions because of their own interests are not represented. Why is this motion here then? During our visit to Denmark recently to a conference of the Council of Regions, let me say that this conference had nothing to do with the actual Council but were people that were interested in regionalism. One of the sessions was, in fact, addressed by the Secretary-General of the Council of Regions on its policies and so on, and it was during his intervention that I had a long discussion with him after that particular session and he pointed out to me that it was news to him that we were in the process of applying for membership, that he had had no correspondence at all. Obviously, since I have great interest in ensuring that with Government support, hopefully after this motion is debated, that we should be represented, I entered into formal discussions with him which I will outline now where he explained to me what should be done and how we should go about becoming formally members of the Council. The first thing that had to be done was that the motion had to be passed in the Regional Assembly of the Region, in this case, of course, in the Gibraltar House of Assembly where both sides of the House had to be in agreement in being members of the Council and where we would nominate two representatives

and one civil servant to be the representatives of Gibraltar in the Council. It is probable that as a result of our membership that we will have one representative in the permanent committee of the Council that actually draws up policies and makes formal representations to the Community supported by a permanent foundation which gives technical support to the regions on matters of regional development and regional cooperation. I should say at this stage that the Secretary-General has already given an indication that he would support our application and that he was quite dismayed, quite frankly, that matters from our end had not been pursued, perhaps, with a little bit more determination. I am not in a position, at this stage, to give the reasons why perhaps from the Council end of matters, why in fact there may not have been replies to the Government correspondence. As I understand it, when the Council took off and was initiated, obviously, with such a large influx of membership from the regions, there was some indication at that stage as we had missed the boat, there was indication of opposition to our membership. I am not so sure that that opposition to our membership of the Council will not be there when we pass this motion. The realities are if we are interested in forming part of this Council which, I think, is of tremendous importance, that we should pursue it regardless of what may happen. I should say as well that the Council is completely composed of elected representations of the regions. It is not a forum where we have representatives of foundations or banks and so on as we had in the conference which we attended in Denmark but they are all elected representatives and therefore are involved in political decisions. The idea being that where a national government of a particular region does not take into account the interests of the regions then the Council tends to by-pass national governments and makes representations direct to the Community. The implications for that is a matter, perhaps, that would need to be considered by the House but I am sure that we have to play a formal part in our participation in Europe. I think that we have left it rather long since 1973 to actually play a part in the institutions which are there for us to play a part in. I think already we have noticed the implications for Gibraltar of remaining in a cocoon as we have been doing for the last fourteen years. I don't think we should look back, we should look forward and I think by actually becoming members of forums where we are likely to be listened to, where we are likely to pick up ideas of what is happening elsewhere, I think this is in the best interest of Gibraltar. Let me say that one of the things that was remarkable during our recent visit and I am sure that the Hon Mr Mascarenhas will agree with me, was the similarities in the problem that existed in other regions where border relationships exist and we think that we have got problems in this area, I wish some Members would have heard the problems that exist elsewhere. But the remarkable thing was the great initiative and the great impetus there was on the part of regions in resolving those problems and to what

extent they were afforded technical support and technical advice which is not readily available to a particular region but is available centrally for support to the region where we can perhaps obtain similar technical and administrative support in resolving the problems. I am sure that Mr Mascarenhas has already given a progress report on how he saw it to the Government but the first thing that we have to do if we are interested in participation in Europe, we should be interested in joining the forums which are open to Gibraltar and exploiting that in the best interests of Gibraltar and at the same time making a contribution to the rest of the regions by our support and participation in those forums, Mr Speaker.

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

HON G MASCARENHAS:

Mr Speaker, we welcome the motion as moved by the Hon Mr Feetham. This has been a bipartisan approach to Gibraltar seeking membership of the Council of the European Regions. I am surprised, however, that since this has been, as I say, from the beginning a bipartisan approach and at Government expense, that the Hon Mr Feetham did not inform me that he was submitting the motion. Perhaps when he exercises his right of reply he can tell me why. We believe that after the visit to Copenhagen I made with Mr Feetham, that the general feeling of the different people representing the different regions of Europe was that Gibraltar is ideally placed to be represented on the Council of European Regions and I think it would be a mistake not to be represented on that forum. People within the Community, although the CER has some members who are not members of the European Community, the majority are members of the Community and they encounter very similar problems as we encounter here in Gibraltar and I think, on occasions, what they encounter, perhaps, are more problems than we encounter here seeing that some of them particularly are in the heart of the European Community and yet they have quite unbelievable problems that both the Hon Mr Feetham and I witnessed there of the number of people who are on the dole. For example, the Vice-President of the Commission told us on the first day that the problems that exist at the border between Belgium and Luxembourg where he travels from Brussels, from the Commission, to Strasbourg and he does that journey three times a week, he found that the Belgian side, for example, has high unemployment, there is hardly any commerce and people are moving away and yet three metres across on the other side of the frontier, the Luxembourg side is booming with high employment and a lot of commerce taking place. It is quite incredible that this should happen to two of the founder members of the Community. The CER is a relatively new organisation, it was formed in 1985. I have seen the correspondence that has transpired between

the Chief Minister and the Hon Mr Feetham. The delay has been purely one of getting wrong addresses and the fact that the President of the CER changed, the Presidency changed over, I believe it was in 1986. The then President wrote to the Chief Minister in late 1986 and I noticed something that he had said in the letter to the Chief Minister and I quote: "The experience of Gibraltar is unique in Europe and other regions can only learn from it." It is quite incredible because during the conference in Copenhagen both the Hon Mr Feetham and I took the opportunity, certainly not because we wanted to rub it down people's throat but because we were asked continuously about Gibraltar's special circumstances and we took the opportunity to explain. So much so that I recall that the representation from the Faroe Islands who are an integral part of the Kingdom of Denmark and have a representative in the Danish Parliament, one seat, and they, when I was having dinner with this gentleman, they are now looking at the possibility of having their own assembly and forgetting about having representation in the actual Danish Parliament. They find that one voice in a Parliament of 200 members doesn't go very far and they are thinking in terms of their own assembly and they were very interested to find out about the Constitutional position of Gibraltar. I think that the opportunity of meeting different people with aspirations very similar to the aspirations of the people of Gibraltar is essential for us. For example, the Catalans, they were very interested in Gibraltar and my passing joke to them during the Conference was that, perhaps, if they had the full extent of autonomy that we have in Gibraltar they might be happy. They took this in a very good spirit and I think that certainly the Catalans who were there in strength will not, I don't think, oppose our membership in any way, on the contrary, I think they will support it. Mr Speaker, the position of Gibraltar as a region is clearcut. There is no doubt that we can become a member of this organisation. I agree with the Hon Mr Feetham that the application should be made quickly and that we should be represented in this forum. I have no hesitation in supporting the motion as moved.

MR SPEAKER:

Are there any other contributors? Does the Hon Member wish to reply?

HON M A FEETHAM:

Yes, just briefly, Mr Speaker, on the point that he made at the beginning as to why I had not informed him about the motion was because the Hon Member left it to me in Denmark to deal with this matter. As you know, in my discussion with Mr George Perez, and I have done exactly what I had agreed with him to do and, secondly, when

I came back I informed him of this at the time that we met for the first time which was on the way up to Television House to do the interview. I couldn't do it any quicker than that. As far as I am concerned, you were informed and you left the matter to me.

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

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I 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 5.00pm on Tuesday the 7th July, 1987.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

19TH OCTOBER, 1987

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Monday the 19th October, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan KCMG, CBE, LVO, QC, JP - Chief Minister
The Hon A J Canepa - Minister for Economic Development and Trade
The Hon 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 6th July, 1987, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Gibraltar Register of Building Societies Annual Report, 1986.

Ordered to lie.

The Hon the Minister for Health and Housing laid on the table the following document:

The Housing Allocation Scheme (Revised 1987)

Ordered to lie.

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

The Hotel Occupancy Survey, 1986.

Ordered to lie.

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

The Employment Survey Report, April 1987.

Ordered to lie.

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

- (1) The Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1986, together with the Report of the Principal Auditor thereon.
- (2) The Accounts of the Gibraltar Museum for the period ending on the 31st March, 1987, together with the Chairman's Report thereon.
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.9 of 1986/87)
- (4) Schedule of Supplementary Estimates No.2 of 1987/88.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

Answers to Questions continued.

The House recessed at 8.15 pm.

TUESDAY THE 20TH OCTOBER, 1987

The House resumed at 10.55 am.

Answers to Questions continued.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I move that: "This House takes note of the Accounts of Gibraltar Shiprepair Limited for the year ended 31st December, 1986". Mr Speaker, in moving this motion I feel rather like the poet Keats, on sitting down or rather standing up, to read King Lear once again and once more to assay what he described as "This fierce dispute betwixt damnation and impassioned clay". However, as it falls to me to make bricks if not poetry out of impassioned clay, I will begin with the straws contained in the Annual Report and Accounts for 1986 and the Principal Auditor's Report thereon, although I do not propose to say a great deal about the latter's comments; these being of an incidental nature, and not perhaps germane to the question of the company's future viability which will be the main thrust of my contribution to this debate. I will also provide the House with some further information in response to the Questions which were asked by Members of the Opposition yesterday. It may be helpful if I take as a reference point the various projections in the 1983 Project Study of the proposed commercial dockyard, prepared by A & P Appledore, as Hon Members are familiar with this, and make some comparisons between the forecast for the second year of operations contained therein and the accounts for 1986 now laid before the House. In the second year of operation A & P Appledore forecast a loss before tax of £2.3m compared with a loss of £3.3m reported by the company for 1986. The 1983 projections were for sales of £9.8m and the company in fact achieved sales of £12m. The reasons why the company achieved higher sales, though with a smaller workforce, will repay closer analysis which I hope to attempt to give. I must emphasise that in all these matters I am, of course, dependent on information which has been given to me by the company. I have circulated to Hon Members a note providing the best analysis I have been able to make with assistance from the company of the variances between the original forecast and the results achieved. There are some difficulties in making such a comparison because of a large number of changes in definition and some considerable areas of doubt but I think it is a reasonably fair comparison given that qualification. The different mix of sales comprising RFA and MOD-related on the one hand and commercial work on the other, is fairly straightforward but very little else is quite so straightforward. The company's cost structure has, in the event, been quite different from that proposed at the time the 1983 projections were made. A & P Appledore assumed £12.4m for cost-of-sales in the second year making a net figure of £11.7m. The actual result for 1986 reveal

a cost-of-sales figure of £17.5m less £1.7m work-in-progress and capitalised work making a total of £15.8m net. If Hon Members were to look at page 6 of the company's accounts and add the figures of cost-of-sales and administration together, they will arrive at £15.8m in round terms, the work-in-progress and capitalised element having been lifted from the profit and loss account and charged to capital in the balance sheet. Of course, the depreciation charge is also higher than originally assumed partly as a result of this and for other reasons. In the company's accounts there is a figure of £0.5m called 'Overheads Recovery' which must be netted against the cost-of-sales figure before arriving at the net loss of £3.3m. I will deal in some more detail with the cost-of-sales figures, including manpower, administration and other costs because the accounts themselves are insufficiently informative. In the notes to the accounts, that is on page 11, under Note 7, the total number of employees is given as 817 on the balance sheet date and the total costs incurred in respect of all employees is given as £7.6m or £7.7m including Directors' remuneration. Bearing in mind that the APA project study in 1983 assumed a workforce of 910 employees in the second year, a hundred more in round figures, with total manpower costs of £7.3m, the unwary might be led into thinking that the achievement of sales at a higher level than originally assumed was a pretty remarkable achievement. And bearing in mind that wage and salary increases since 1984 have been greater than originally assumed, they might argue that this showed that the workforce had earned those increases through higher productivity, a superior sales to labour ratio than Brian Abbott had thought possible. Unfortunately that figure of £7.3m does not tell the whole story. As a measure of total manpower input relative to output, that is, relative to sales income, the figure of £7.7m is misleading. It does not include subcontracted labour amounting to approximately £3m which is included in the cost-of-sales figure on page 6 of the company's accounts. I am assured that the figure of £10.3m which I have shown in the note I have circulated to Hon Members, should be compared with the original Appledore projection of manpower costs for the second year of operation to produce a reasonable comparison. The APA assumptions about subcontracting work were not entirely clear from their projections. A total of £1.4m was assumed for labour and subcontract works and a further assumption was made in the project study that subcontract work would be about 5% of sales which would mean about £.5m relative to the sales figure for 1986. In other words, their assumption is substantially less than has, in fact, been the case. Hence the original forecast for subcontract, labour and materials of £1.4m becomes one of approximately £4.2m or thereabouts. To complete the arithmetic, expenses and depreciation must be added. Expenses in 1986 according to the note I have circulated, were £5.3m compared with the original forecast of £3.3m. Depreciation was £0.7m compared with the earlier forecast of £0.4m making a grand total of £17.5m from which, as I explained earlier, work-in-progress and capitalised work must be deducted to arrive at the cost-of-sales figure of £15.8m as, again, in

the note I have circulated to Hon Members. The expenses figure is a far more difficult one for me to compare satisfactorily for a number of reasons. The first of these is that the company accounts and internal management accounts employ rather different conventions. The second reason is that a great deal was left out of the APA projections either because they did not know or they underestimated because of shortage of information or for other reasons. Some items, such as rates, were clearly overestimated in their projections. I am not here to pass judgement, Mr Speaker, simply to present an analysis as best I can on the available information. If one were to consider the original projection item by item as set out in Table 9.3 of the 1983 projections, not all Hon Members will have that with them but if the Hon Leader of the Opposition has that.

HON J BOSSANO:

9.5, surely?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

9.3 Expenses.

HON J BOSSANO:

9.5.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Is it? Well, if you say so. Anyway, we are talking about the expenses, certainly. It is possible to make comparisons in respect of most of these and the actual expenditure on the APA items listed in that Table, the actual expenditure in 1986 I mean, has been something like £1.7m compared with the £3.3m which was projected. And the reason for that is that expenditure on rates, superannuation, insurance and a number of other items was substantially below expectations, this is clearly in the case of rates but it has also been so with other items. On the other hand a substantial number of other non-staff overheads was not included in the original projection, namely, and the list is quite a long one - general office costs; stationery, printing and publications; vehicle running costs; courier and postal services; legal, audit and consultancy costs; protective clothing; carriage and freight costs; equipment rental; and the largest single item of all, consumables. In total these non-staff costs, not included in the original projections, add up to about £1.2m so one can regard those as.....

The House recessed at 12.15 pm (due to a power cut).

The House resumed at 3.15 pm.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I had reached the point, when the lights went out and we had to adjourn, at which I described the total of non-staff costs which were not included in the original projections by A & P Appledore as adding up to about £1.2m. Ignoring those items which, for accounting reasons, cannot be included on either side of the comparison such as the contingency provisions, the projected expenditure and the actual expenditure inclusive of those items I had just mentioned before the lights went out, nevertheless fairly close at about £3m or thereabouts and that leaves a further £2m to be explained. I have circulated to Hon Members at this stage some additional information which, in fact, is taken from an annex to the company's own accounts. This information is not published with the accounts and, in fact, I ought to say that when I suggested last year to the Chairman that some further information of this nature might be made available for the purposes of the annual motion on the GSL Accounts in the House, the Chairman was very strongly of the view that to do this could be damaging to the company's competitive position. I remember the Hon Leader of the Opposition challenging that view at the time. Be that as it may, at this particular juncture in view of the comments made by the Leader of the Opposition amongst other things and having regard to the public interest generally and the present situation in the yard, I feel that the arguments advanced by the Chairman last year have, perhaps, lost a little of their erstwhile force. I have therefore circulated this information. I should explain, of course, that this cannot be compared precisely with the original 1983 projections by A & P Appledore and this harks back to my point about different accounting conventions in the preparation of the information. It may, however, help to elucidate or illuminate some of the points which I will be making in reply to questions which Hon Members raised yesterday. However, dealing briefly with the explanation for the difference between £5.3m and £3.3m on expenses which is where we left off, I believe, this morning when the lights went out, the explanation insofar as I have been able to piece it together lies mainly in two further substantial items. In the first place, the company has charged as indirect expenditure a further £1m of non-productive labour and this can be seen in the note which I have circulated on appendix 2 under indirect costs. Secondly, in addition to the capitalisation of £1.7m already mentioned, the company has written off a further substantial amount of direct costs and overheads which were allocated to the construction of the slop barge. As Hon Members will know from the accounts, this is shown in the balance sheet as having a value of just over £2m net of this write-off. I should also draw the attention of the House in this connection to the Auditor's Report on page 5, also to Note 3 forming part of the accounts referring to certain unresolved accounting differences written off against cost-of-sales and, indeed, to the similar comments made by the Principal Auditor on page 1 of his Report on accounting differences and write-offs.

HON J BOSSANO:

If the Hon Member will give way. Could I ask him to clarify for me, he has mentioned the £1m non-productive labour in indirect costs and given the impression that, in fact, that £1m is included in the £5.3m expenses then how does he arrive at the £10.3m manpower given that the manpower costs in the audited accounts is £7.3m to which he added £3m presumably for subcontract labour and if there was £1m in indirect labour that would come to £11.3m which is in excess of that shown in the audited accounts.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, I agree with the Hon Member. He has asked me how I arrive at it and, quite frankly, I don't arrive at it. I think now this might be a convenient moment, Mr Speaker, if I were to attempt to answer some of the points which were raised by Hon Members yesterday in connection with various points raised during supplementary questions. I think the first and the major one was in connection with expatriate allowances and the cost of expatriates. I should mention incidentally that the figures I gave for total costs were not, of course, the current annual costs, they were the costs since the company started operation. I think I ought to make that point. The second point I should make was that there would appear to have been some slight inaccuracies in what I said inasmuch as certain figures have since been revised or rather further information has been provided to me by the company. The figure I would like to put forward, first of all, is the figure of £1.2m as being the cost of expatriates in 1986, £1,230,000, and I can give a breakdown of this figure for Hon Members. They will pardon me if in the detailed arithmetic there may be the odd thousand or so lost in the roundings. The basic salaries of expatriates in 1986 - £417,000; inducement allowances which excludes the electricity, water and rent, the figure I have now been given is £384,000. I think there was some misunderstanding about what was meant by inducement allowances to be fair to the company and they gave this figure to me and I gave it to the House. Rent, that is to say, accommodation - £103,000, slightly different from the figure of £101,000 but I think that may be roundings. Then there is a figure of air fares - £82,000, these are part of the expatriates' contracts of employment. Electricity is £33,000 and water £16,000, they amount to £49,000 which is the figure I gave yesterday for 1986. Maintenance of buildings, that is in connection with the accommodation of the expatriates, is £3,000. There is a figure here of £48,000 which is the provision for the Managing Director's salary and bonuses for Messrs Abbott and Thompson, two senior employees of the company who have since left. There is also a figure of £123,000 for terminal bonuses, that is in 1986. The figure for 1985 was a very small one, as I thought it would be, I think it is about £2,000. The final figure is other costs which is quite small at £21,000 and this includes, in fact, telephones, travel and subsistence on company business; employer's social insurance; various recruitment costs and

other items. As regards telephones the reason why this was omitted from the figures which I gave Hon Members yesterday was that, I think I am right in saying, that the question related to allowances and the actual allowance as, indeed, the Principal Auditor explained in his Report, is for the telephone rental only. What the Principal Auditor quoted was the cost of the bills which are presented which, of course, will include charges for telephone calls and those telephone calls if the individuals claimed on the company would, it is assumed, to have been made on official business hence the allowance is only related to the rental and is a matter of approximately £2,000 a year, it is a monthly rental multiplied by the number of expatriates. That, I think, explains telephones. The figure, for the benefit of Hon Members, the figure of £1.23m is, broadly speaking, £35,000 per expatriate employee, that is a broad figure and we are, in fact, talking of approximately 40% of the staff costs. If Hon Members will refer to the two appendices I have recently provided we are talking about £1.2m as a percentage of £3m for 1986 or to put it slightly differently, my understanding is that we are talking about 20% of the staff numbers but 40% of the cost and I think this figure corresponds to what we know about the average salary of the non-expatriate staff which is in the order of £15,000/£16,000, this is staff costs so I have been informed. The other main question which the Hon Leader of the Opposition asked me to pursue was the question of the Chairman's fees and the arrangements which have been made with Welbeck. I think I did explain yesterday that Welbeck were, in fact, instrumental in head hunting for a Chairman in 1984. Hon Members may remember that I was rather anxious to relinquish this post myself at the time and I think we were very fortunate in getting Mr Simonis. At that particular time I did have some say in the arrangements which led up to the determination of the Chairman's salary and I am bound to say that the fee which was suggested then by Welbeck was higher than £10,000, they thought that an appropriate fee for a non-executive Chairman would be nearer £15,000 or even £20,000, that was their view then but Mr Simonis agreed to a fee of £10,000 subject, as I have said, to further consideration in the light of movements in remuneration generally. They were not appointed by the Government as consultants as such but I mean they were approached in 1987 and asked for a view as to what would be an appropriate level of remuneration and they recommended a fee of £30,000.

HON J BOSSANO:

Mr Speaker, why? Was it that Mr Simonis complained that he wasn't getting enough?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, I don't think it is fair to say he complained but there was this arrangement which we agreed in 1984/85 at the time of his appointment that his remuneration would be

reviewed and he left it throughout 1985 but reminded us subsequently of this matter which I think is perfectly reasonable under the circumstances. I am sure I would have done the same myself. As I said, Welbeck recommended a fee of £30,000 or £400 per day. Mr Simonis agreed to accept a fee of £20,000 in April, 1987, after the matter had been considered by the Government but at that stage it hadn't been formalised by the Board. The Board considered the matter on the 21st May, 1987, I now have established, and agreed the fee which although included in the 1986 accounts had not, in fact, been paid in that year so my assumption that this was, in fact, an accrued figure, the assumption I made yesterday was correct. This decision was taken before the company had decided on a wage offer for the 1987 pay review and, indeed, was considered at the time when there was, it says here, 'clear improvement in the financial performance of GSL' but I think what that means is the situation during the first part of the year was a satisfactory one or was so considered by the Board at the time in financial terms. Certainly there was no industrial unrest at the time. The Board felt that the additional £10,000 was reasonable and could be met from the company's resources. As far as other Directors are concerned, I think the House will know that only two receive fees, namely, Mr Francis Isola who has since resigned, and recently Mr John Steel at a rate of £5,000 per annum and this also was agreed in 1985 following advice from Welbeck when they were head hunting for the Chairman. I think that is all I want to say on the detail of the accounts for 1986, Mr Speaker. What I now have to say is in rather more general terms, a more general analysis of the company's progress in 1987 although I should add that the main elements of the company's cost structure in the 1987 Business Plan and, indeed, in reality, very little different from those encountered in 1986. The company's sales forecast for 1987 prepared in January of this year was for a total of nearly £18m compared with a figure of £15½m in the original projections and with commercial work representing about £9m of this. The company assumed direct labour costs of £4.5m, materials and subcontract just over £5m, overheads of £2.5m, all of these in round figures, and had the cost structure been as forecast and, of course, the sales as forecast, it would have broken even. But their forecasts assumed that the yard would be working to full capacity virtually throughout the year and that the problem of idle and unproductive time would not reappear, let alone the possibility of industrial action. As the House will be aware, the company was guaranteed no further RFA work beyond the end of the Bayleaf contract. Implicit in this was the prospect that unless commercial work could be obtained in sufficient volume to compensate for the lack of RFA work, the company would be unable to generate sufficient income to cover its fixed costs during the second half of the year. This prospect was magnified by the different profile of RFA work experienced by the yard. The GSL budget was based on RFA turnover of £8m spread over five vessels but approximately £6m in fact came from two vessels, Brambleleaf and Blue Rover with Bayleaf as possibly the last. During the first six months when the

yard was accommodating both MOD and commercial work the company was, indeed, close to break even. Compared with the first quarter of 1986 the company sold 65% more manhours and had 10% less unproductive manhours. Activity in the yard achieved 68% or 69% of manpower utilisation. Nevertheless the fundamental structural problems of the company were apparent as, indeed, they were during 1986. These problems are and they have been now for some time: a high level of direct labour cost because of heavy overtime and use of contract labour; not generating sufficient sales income to feed the high level of overheads - higher than in the original projections; and with the ending of guaranteed RFA work, the reappearance in even more acute form of the problem of idle and unproductive time. The fact is that with its present cost structure the company cannot in a highly competitive and volatile market generate sufficient profit in the good months when the yard is fully occupied, to ride the lean months when the yard is not fully occupied. That, as briefly as I can express it, is the fundamental problem in commercial and financial terms. For example, manhour utilisation in June when the Blue Rover was completed and the work-to-rule by non-industrial staff began, fell to 54%. It has, of course, fallen much further since. But I think it is most likely that even without industrial action and even with no pay increase, the company would have struggled to break even. In the aftermath of recent events this prospect has disappeared entirely and losses of up to £3m if not more are expected this year. I think it is reasonable to give the company some credit for trying to sell their way out of difficulty. The manager's sales arm and network of agencies is generally recognised as highly effective and Gibrepair's location gives the company an enormous advantage in this respect assuming that other factors are also favourable. Nevertheless it is disappointing to have to note that, despite two years of full trading when the adverse effect of the local cost structure should have become apparent to both unions and management, and notwithstanding intimations by Price Waterhouse, amongst others, to this effect, there has been no serious attempt to develop an alternative operational strategy. It would be unfair to say that the company tried simply to forecast its way out of difficulty. Moreover the company was again diverted by industrial action from its business plan and strategy. Nevertheless it was a one-way only strategy, highly sales orientated. I think it reasonable to suggest that the company should have had an alternative strategy in order to cope with the endemic problem of idle and unproductive time and that action should have been taken at an earlier stage to tackle the problem of the very high level of fixed costs. Even the prospect of industrial action might have been foreseen and should have formed part of the contingency planning of the company. In saying that I am, of course, aware of the political factors on which it would be inappropriate for me to make any comment. With the ending of RFA work, continued industrial action and the prospect of no substantial commercial work until the company can re-establish itself in the market as capable of repairing ships without the risk of disruption and delay, the company

has urgently addressed itself to the problem of restructuring the yard and is currently exploring a number of options which will involve the use of a smaller workforce. The Government as sole shareholder in the company has invited the Board to consider this as an alternative to closure and has given the company the necessary guarantees to enable it to continue trading during the remainder of 1987. Without such guarantees the Directors would have no option but to cease trading and/or go into voluntary liquidation immediately. As the House is aware the Government has already provided £2m of equity capital this year. The Government does not propose making any further financial arrangements of a long-term nature until it receives a further report from the Board in November. Nevertheless, the company's cash flow position, with minimal sales income recently and little expected in the near future, is critical. To enable the company to continue paying its workforce and meet its obligations to creditors, the Government is prepared, subject to the agreement of this House, to provide the necessary guarantees to enable the company to obtain short-term loan facilities from a local bank, amounting to £2m. As Hon Members will know, I cannot give such a guarantee without a resolution of the House to this effect, as provided for by Section 9 of the Public Finance (Control and Audit) Ordinance. I therefore propose, Mr Speaker, at the conclusion of the debate on this motion, to propose the suspension of Standing Orders and to move accordingly in the terms of the resolution of which I believe you have been given notice and which I am now arranging for Hon Members to have a copy.

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

MR SPEAKER:

Needless to say the motion which has just been circulated for the authorisation of the guarantee will be a separate motion.

HON J BOSSANO:

It will have to be moved and debated.

MR SPEAKER:

Most certainly, yes.

HON J BOSSANO:

Mr Speaker, when the 1985 Accounts were brought earlier this year to this House I went into the matter in some depth and got very little information back from the Government or, indeed, from the Hon and Learned the Chief Minister who said he would sleep on everything I had said and probably come back with nothing and was as good as his word. I am grateful

to the Hon Financial and Development Secretary for the details which he has provided to the House which, quite clearly, the House should have had this kind of information from the beginning as was promised, in fact, when the Gibraltar Ship-repair Bill was brought to this House and a Special Fund was set up. It was one of the early interventions of the Hon Financial and Development Secretary shortly after his arrival here and we were told then, before the last election, that we would have ample opportunity to go into everything in detail when the time came to approve the accounts and, of course, it has not happened until now when all that we can do is a post mortem on the money that is gone because there is no longer anything to decide now, except whether we give a guarantee so that Barclays Bank can make a profit out of lending money to GSL. Since it is manifest that GSL is in no position to pay back the £2m loan, as they are already predicted to have a £3m loss, I cannot for the life of me understand why the Government prefers to give a bank guarantee rather than provide the loan themselves and at least save the interest. Certainly, I am aware that Barclays Bank refused to provide the company with a loan a considerable time ago without the guarantee from the Government, so obviously they didn't have the confidence in A & P Appledore, Mr Simonis, the business plan and the rest of it that the Financial and Development Secretary has. I am going first, of course, to answer some of the points made by the Hon Member and then I am going to draw the attention of Members to the accounts and then I shall make some references to the situation as we see it from the point of view of the options open to Gibraltar and the political responsibility that lies with the Government primarily and with this House in dealing with the options. I think the Hon Financial and Development Secretary has come as close as I suppose he can to being critical of the lack of preparedness on the part of the company to face the situation that it faces today as it is possible for him to do in the position that he is. I can afford, of course, to be more critical than he has. And I also think I can provide, perhaps, first-hand information which doesn't require, as it is in his case, that I should have to introduce the caveat every two minutes of saying: "This is what I have been told by the managers" and I understand that he is providing the House with the information that he has obtained in order to satisfy the questions that we have put to him and to the Government. I think he knows from experience in this House that generally when he gets a question from us we have got a fair idea of what the answer is and we are trying to establish, in fact, what the Government is doing about a situation and we often find that they have less of an idea of the answer than we have ourselves. Let me just deal with the latest point on which I asked the Hon Member to give an explanation to the House which is the question of the Chairman of the company and his fees. The Chairman that, according to him, we are very fortunate to have still, presumably, although, of course, Mr Simonis is responsible for the performance of the company and any company Chairman of any public company that I know of would not get any plaudits for telling its shareholders that they were now

going to be facing a £3m loss and that the company was on the point of liquidation. He would stand the risk of being sacked but, of course, in our case the sacking starts at the bottom in Gibraltar, the ones at the top are sacrosanct. So what do we learn? That Mr Simonis, of course, was engaged for £10,000 a year and that he had that throughout 1985. Well, so did everybody else. Everybody else was engaged in 1984 and started in 1985 and had no pay increase in 1985, it isn't only Mr Simonis who had nothing until 1986, so did everybody else in the company. We learn that in April the recommendation to raise the salary to £30,000 by Welbeck was considered by the Government. Well, by some people in the Government, Mr Speaker, because the Minister for Economic Development didn't know anything about it in July this year. When I asked in July this year why Mr Simonis was earning £20,000 and I pressed him on it, the Minister for Economic Development said he could give a categorical assurance to this House that he and the majority of his colleagues knew nothing about it. So the Government presumably means the Chief Minister, no? Well, then it means the Financial Secretary or perhaps at that stage it was the Financial Secretary and the erstwhile new party leader of the embryonic party who was still at the Government at the time. I don't know who it was but whoever it was that thought that Mr Simonis should get 100% increase in April was misinformed if they were working on the premise, as the Hon Financial and Development Secretary has said, that wage negotiations had not taken place because, in fact, the pay claim for the salaried staff in GSL was submitted to the company on the 2nd or the 3rd of January and in April the company had already offered 4% for the salaried staff. So when the Government thought that the company was doing so well in April and when the Board considered that the performance was so satisfactory in May that the company could afford to double the salary of its Chairman, at that same time they thought the situation was so bad that the rest could only get 4% simultaneously, Mr Speaker. I invite the Hon Member to ask for a copy of the correspondence, he will find the dates are April and May. I accept that he is working on information provided, I am working on information at first-hand, Mr Speaker. We then go to the other important point made by the Hon Member in answer to the questions and in answer to the point made when we were discussing the 1985 accounts and when I spoke, Mr Speaker. In the context of the 1985 accounts I argued that the company in the 1983 study, the one from which the Hon Member quoted the expenses table to which I made reference when we were debating in June this year, I think it was, the 1985 accounts, or March this year, I was saying then in reference to the first year of operation, the company predicted that they would do £6m of work and they have done £6m of work. So there isn't an argument to say 'the reason why 1985 is worse than predicted', as in fact the audited accounts said and as Mr Simonis said. Mr Simonis as Chairman signed the accounts saying 'if it hadn't been for all the work we lost we would have done much better in 1985'. So then we look for all the work we have lost and we find we haven't lost any in terms of what they predicted. Clearly,

we might have done better than predicted but if you are arguing that we have done less well than predicted you have got to demonstrate what is the effect below what you predicted and you predicted £6m of work in 1985 and you did £6m of work in 1985. There was no doubt that there was industrial disruption in 1985 but it isn't enough for the Government to say: 'That is fantastic, there has been industrial disruption in 1985, we can blame the union, we can blame the workers so that is fine, that means we can save our political name and that is the end of the story'. Their responsibility as owners is that if they have got people managing their business and there is disruption affecting their business, is to find out what is the cause of the disruption and I told them last year, Mr Speaker, in relation to 1985 and I will tell them again in relation to these accounts because it is materially important to the arguments of the performance. The first dispute in May, 1985, in GSL was a dispute over the use of illegal Spanish labour on the sloop barge and here we are being told the cost of the sloop barge is too high and subcontract is too high. We had workers protesting in May, 1985, quite legitimately, in my view, saying: "If the sloop barge is here as part of the training programme" and we have just reallocated costs, Mr Speaker, this reallocation of costs that we have done from investment to cost-of-sales in the 1986 accounts, the reference by the Hon Financial and Development Secretary to the comments of the Auditor where the Auditor says: "Some of the cost of the sloop barge" - which was there as capital investment - "has now been taken away from the capital investment" - you will see it at the back of the accounts where the value of the assets are - "and has been allocated as cost-of-sales". And the reason why it has been reallocated as cost-of-sales is because it is not really investment at all, it is part of the retraining of the old MOD workforce. But how can it be part of the retraining of the old MOD workforce when they were using subcontract Spanish labour to do the work? How can that be? And that is precisely what caused the dispute. People said: 'If this money is here to train us on new skills what are they doing bringing in Spanish workers?' who on top of it in 1985, Mr Speaker, before they went into the EEC, on top of it had no contracts, no PAYE and no insurance and no work permits and what happens? Because the workers protest about a company owned by the Government breaking the laws of Gibraltar and stealing from the Government by not making proper deductions of income tax and social insurance, what happens? The workers get threatened with the sack. And what does the Government do, the owner? Instead of being grateful to the workers for stopping the fiddling they say they are an irresponsible lot who are going to bring the yard to a halt and no ships are going to come here. That is the first dispute in May, 1985, and I can tell the Government, Mr Speaker, and I can tell the people of Gibraltar with a hand on my heart that the elimination by A & P Appledore and by Mr Abbott and the people who surrounded him of the commitment and the goodwill of the workers that went from the Royal Navy to the GSL outfit in the first four months of the life of the yard is unforgivable. The first

four months of that yard, I can tell Hon Members here from personal experience, people were working there with stuff that had been pinched in the Naval Base and pushed over the fence, Mr. Speaker, because there was no equipment for them to work with. People were being told by so-called experts on expatriate allowance with free rents, free this, free the other, how to do things the wrong way round. They started doing the slop barge and they started building it from separate ends in the docks and it was not going to meet in the middle, Mr. Speaker. When the shop steward of the steel workers went to complain he was told by the supervisor who was a Dutchman, who subsequently got sacked for being in a punch-up with the shop steward, he was told by the Dutchman that he was there to obey orders not to question whether the slop barge would meet in the end. So he went back to the union and they said: "If that is what they told you, you carry on with the slop barge. Eventually some way will be found to bridge the gap, no doubt". That history is something that the Government should not have stayed aloof from because at the end of the day because we are talking about something that is important for Gibraltar, because we are talking about hundreds of families who depend on their livelihood in the place, at the end of the day we will have to pay the bill of the Abbotts and the Dutch and all the people who have come in and gone, we have to pick up the bill. Therefore it was important that the Government instead of taking it for granted that it was just the nasty old union making trouble, should have gone in and found out what was wrong. I am not saying that every single time there was a confrontation or a conflict or an argument between a manager and a worker it was always the manager's fault and never the worker's, that wouldn't be true in GSL or in the Gibraltar Government or anywhere in the world, never mind anywhere in Gibraltar. There is always right and wrong to some extent on one side or the other but there were clearcut, verifiable examples which I have given in the House before which required investigation and we have only skimmed the surface with what we have heard so far, Mr. Speaker. But we finished the year and in spite of all those problems, we finished the year, a number of disputes involving attempts by Mr. Abbott to increase enormously the workforce, resisted all along, if it hadn't been for Abbott we wouldn't be facing now an 800 workforce, we would now be facing a 1,200 workforce having to be cut by half if there had not been a number of disputes to stop him employing people. But resisted all along; at the end of the year we finished with £6m of work and a wage bill of £6m. Therefore when we come to the second year I am sure the Financial and Development Secretary expected me to put forward that same line of argument having put it in the context of the 1985 accounts and I am sure that that must have been part of the reason why he pre-empted the argument, if you like, Mr. Speaker, by pointing out the element of subcontract in the figures that he has given us. I think there is, of course, a very important matter that we need to consider in looking at the cost-of-sales and looking at the A & P Appledore projections. And let me say that although it is true to say that one cannot expect a projection made

in May, 1983, to hold absolutely accurate in 1984 and 1985 and 1986 and 1987, that is true, the importance is not that we expect the thing to be rigidly true but that we see whether the different variables had changed by the same amounts, that is the importance. That is to say, if A & P Appledore had said 'We are going to do £9.8m of sales in 1986', in the second year of operation, then whether it is £9.8m or £10m or £11m, the important thing is to say 'Is the relationship sales/labour costs more or less the same?' or 'Have we, in fact, found that we have sold £9.8m but we have had to spend twice as much on labour' as was envisaged by A & P Appledore. The reality of it is, of course, that the sales were £12m in the 1986 year as the figures in the accounts and in the paper prepared by the Financial and Development Secretary says. I think the £9.8m on the other column, for example, the Hon Member then shows a minus element of commission and fees. The fees being the £300,000 that GSL gets and the commission being the £100,000 shown in this sheet where the background of the breakdown is. Therefore, if we are looking at the £12m the comparable figure is the £9.7m after the £100,000 fee because, in fact, the £12m shown by the Auditor is net of commission to agents. The £9.8m shown in the original was the gross figure before the payment of commission. In fact, the increase in sales is from £9.7m to £12m. If, in fact, we then say, out of that £12m let us take out £3m of sales because the £3m of sales is the £3m we paid the subcontractor so effectively it is not money that has come in to the company, we will charge the customer £3m, we have paid the subcontractor £3m so really the income to the company is £9m. Then we are comparing £9m with £9.7m. However, the £9.7m did contain an undisclosed amount for subcontract because that was included in the £1.4m of materials in the original projections. The £1.4m was materials and subcontractors and I think the figure might have been of the order of £3m for subcontract in the original projection. So what we are talking about is after we make all kinds of allowances to make the thing look less good we are still left with the situation where at the end of the year £9m of work was done, after taking out subcontractors, as opposed to £9.2m. So all the disputes and all the loss of sales and all the loss of goodwill and all the people we frightened off cost us a loss of sales of £200,000, of sales not of profits. We cannot compete with Appledore on knowing how to lose money, Mr. Speaker, because they inaugurated No.1 Dock by putting in the Beaujolais and losing £600,000 on one ship. So that we produced £200,000 less in turnover in one year when Abbott lost by a miscalculation £600,000 on one ship seems to me a forgivable omission on the part of the 800 workers. Of course, when Mr. Abbott was challenged on this in television at the time he said: "Well, you win some and you lose some".

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I think, if he is making the point about subcontract he ought to net it from the sales and the manpower, I think so because otherwise it is not a comparison. I am pretty sure it is included in the gross income and therefore it is netted. If he is making the comparison.

HON J BOSSANO:

I have, in fact, netted it from both, Mr Speaker. I am talking about the sales figure which is at the bottom so at the moment I am netting it from sales and I will now come up to the top where I assume he has included it in the £10.3m. Therefore if we take it out of the £10.3m then we are left with £7.3m as manpower costs at the top and £9m as sales at the bottom. And what I am saying is that if we take the subcontract and the commission out of the £9.8m then the figures would look that the manpower cost at the top in cost-of-sales would be £7.3m and £7.3m, no change, and that at the bottom the figure would look £9.2m and £9m. So, in fact, after all the disruptions we finish up with a comparison that is £200,000 less than originally projected by A & P Appledore with one important element, of course, that in the manpower cost of the £7.3m we are including all the expatriates and all their telephones and all their water and all their electricity and all their rents and their flowers and their fares and the lot. That is an important difference. I don't know how much of that was included in the original £7.3m but it certainly wasn't spelt out at the time. It is included in the second £7.3m and, of course, let me say, Mr Speaker, that when we come to the subcontract the Hon Member does know something about the cost of subcontractors. That is to say, he knows what the global figure is and that is £2.98m. But what the Hon Member may not know is what is a typical pay packet of one particular individual worker employed by one subcontractor earlier on this year. We have a situation where we have got one of these subcontractors working in GSL on a ship side by side with out people, getting £225 basic wage, a mere £60, £70 or £80 more, but after all he is a subcontractor that comes out from UK one has to make allowances for these kind of things. He then gets £223 in overtime which brings it to £458 and, of course, he has to have £48 for his digs and £50 for travelling in from La Linea every day which gives him £556 and no deductions, no tax, no insurance £556 net per week for an industrial worker, for a fitter on an RFA employed by a subcontractor. It is no wonder that they come to £3m. Clearly, the cost per unit of output and this worker is working side by side with ours and he is getting four times what ours gets, either we are importing supermen as subcontractors who churn out four times as much work or else what they produce costs four times as much and you have to deduct what they cost and you are then left with the net figure of which the Hon Member talks. So when we receive £12m in sales we have to take out £3m of those sales so that we can pay somebody £556.75 a week and

not tax him and then we find, of course, that we are left with £9m. Then from our £9m we have to pay our management, our Simonis, the inducement allowances, the rent, the water, the electricity. Small wonder, Mr Speaker, there is no money left for giving pay increases. I am surprised there is any money left to pay wages. That is the reality of the situation and it is a reality that the Government could have found by going down there and putting on a blue overall and spending half an afternoon walking round and talking to the people on the shop floor. They didn't need me to tell them, they could have found that out for themselves if they had been interested in finding out. They preferred not to know, they preferred to look the other way. I think, Mr Speaker, that that, in fact, redresses the balance from the kind of impression the Hon Financial and Development Secretary might have had created for him by the information provided by the management when he said: 'It might look as if the workforce was performing very well, alas this is not so because of the subcontract'. Alas, it is so precisely because of the subcontract. The subcontract does not destroy the argument, it enhances the argument because of the expensiveness of the subcontract. The subcontract has been resisted every inch of the way by the local workforce who claimed that they were able to do the work and who suspected that somebody was getting a backhander, that is the reality of the situation when people argued 'why do we need subcontracts? Why do we need to bring people in?' The most cost effective measure introduced in the company in the three years of its existence has been the wholly owned labour only subcontractor which displaced Technoship, which used to import labour from Portugal and used to be run by a Swedish gentleman and that was on the initiative of the union, not on the initiative of the Board or Simonis or anybody getting £20,000. It was a union proposal that instead of getting somebody from outside it should be a local firm and a joint venture was set up, first of all, with GIBUNCO and Pegasus and they went in and did the work and the company said they were no good, they didn't know how to do it. GIBUNCO claimed to have been doing it for years but the company said that they were no good, we had to bring Technoship. So then the union said: "If the local firm are no good we'll run it, we'll show you how to do it" and that has been one of the few success stories of all the initiatives that have been taken to reduce costs in GSL since it started in January, 1985. Let us not talk about the union wanting or failing to come up with initiatives or ideas. The reality of it is that most of the ideas have got nowhere because there is an in-built disincentive in the system the Government has created. Doesn't the Government understand that if they bring people from UK many of whom were on the dole over there although they had to be head-hunted, I wouldn't have thought you would have to be much of a head-hunter to hunt one head in three million but still they did a head-hunting. We don't know what it cost to the head-hunters, depends how big the head is, I suppose. The expatriates come here, they have got a contract, on top of the contract they get perks which, quite frankly, shook me

yesterday when I discovered it because I hadn't realised the extent to which we were giving these people all these tax free extras. Then they have to say when a local man has reached the necessary level of competence so that they go back on the dole in England. You are asking the impossible. If you ask any expatriate manager they will tell you the yard wouldn't work without him and that you have got to keep on giving him £35,000 a year. But the Government has got to explain how it defends the situation where we have got virtually in GSL thirty-odd managers earning more than the Chief Minister of Gibraltar and more than the Financial Secretary. What is there so special about losing £3m a year that you need to employ thirty-five people at a higher rate of pay than the Chief Minister to be able to do it? In any case, if the Chief Minister does the job on his own and does an equally bad job in running the Gibraltar Government, I would have thought he could do it equally well all by himself without the thirty-five expatriates, I am sure he is quite capable of losing £3m a year in GSL. The Government has got to address itself to its problem and the answer isn't for the Hon Financial and Development Secretary to say that the company has failed to come up with an alternative, they haven't made a serious attempt. No, it is the Government that has got to find the alternative not the company. I will tell the Government what the company's alternative will be, sack the natives and keep me, that will be the company's alternative. You go and ask any expatriate whether the company can function without them and they will tell you that it can't and you ask them whether the company can function without the people further down the line and the answer will be that it can, of course. And then you go and ask the people at the bottom and they will tell you the opposite. The Government has got to exercise the responsibility of saying: 'We had a serious difference of opinion on this operation and we tested that in the last election', the Government got the benefit of the doubt from the people of Gibraltar, the Government deposited its faith in the Appledore management, the answer isn't to give them a default notice in September, 1986, and to appoint Michael Casey in September, 1987, to renegotiate the contract. That is a nonsense, that is another palliative, Mr Speaker, that is the patch-up work that the Government and that the AACR have been doing year after year and that is why we have got every building falling down and every school leaking. You cannot keep on putting off the evil day by saying: "Let's get another expert and another consultant", they all come from the same school, they are all equally expensive and they all cover each other up. When are we going to learn that lesson? We get told by the Hon and Learned the Chief Minister that he has appointed Michael Casey and he won't tell us with what terms of reference. Two or three months before the end of his term of office he has got the audacity to say he is going to use public money to appoint somebody to make some recommendations to change Appledore's contract. Well, I can tell him one thing. If that situation is still in train when he decides finally to call an election we'll sack them both, Appledore and Casey.

HON A J CANEPA:

If you get into power.

HON J BOSSANO:

If we get into power and if we don't get into power and the Hon Member opposite succeeds the Chief Minister instead of Mr Joe Pitaluga succeeding the Chief Minister in the AACR, then the Hon Member will have to face the problem with the people of Gibraltar, the workforce and the £3m bill that we have to vote of taxpayers money. Because if the Hon Member wants to defend Appledore even at this stage then, quite frankly, I credit him with more intelligence. I would have thought at this stage of the day what he would want to do would be to distance himself from this crowd. They have taken us to the cleaners, Mr Speaker, they have treated us as if we lived in the Belgian Congo instead of in Europe and here we have got the Government of Gibraltar sticking up for them, it is indefensible. The people of Gibraltar and the people in the yard are not looking for that kind of leadership from the Government. What they are looking for is a recognition that the thing is a total mess and what they are looking for is a response from the Government of what they propose to do to clear up the mess and people have had enough of consultants, Mr Speaker, that is what we were told with Price Waterhouse. Doesn't the Government learn? When we had the major dispute what did the Government offer the people who went on strike? 'Go back because we are going to bring in a consultant'. That won't wash anymore and the Hon Members opposite must understand that they cannot run away from the problem because the reality of it is that we have been told by the Financial and Development Secretary that the loss for 1987 is going to be £3m plus which means the Government of Gibraltar will have to give the company over £3m. Clearly, the £2m guarantee is just to keep their head above water on a week-to-week basis. When the accounts close what will happen will be what happened before in 1985, when the accounts were closed in 1985 that the Auditor said they couldn't certify that the company was a going concern unless the Government was prepared to come in and say: "We'll foot the bill" and that is where the £2m came from. All this nonsense of saying, the company comes out with a press release in April or March, I think it was, this year, saying: "Because of the increased turnover and because work-in-progress is going up, the Government of Gibraltar is going to put in £2m of extra money in shares so that we can finance the higher volume of work". The company, obviously, that takes us all in Gibraltar for a lot of idiots says: "Everybody knows that, of course, with a higher turnover you need more money to maintain your work-in-progress and so forth". Well, everybody may know it but the Auditors apparently don't because according to the audited accounts for 1986 the work-in-progress doesn't show that kind of increase although the turnover has gone from £6m to £12m. Where is the work-in-progress doubling in 1986 as opposed to 1985 with the sales

going up from £6m to £12m? And if, in fact, the argument is that they needed £2m because of the higher turnover of 1987, if their turnover is now going down why don't they give the £2m back? It was a lot of nonsense, Mr Speaker. The reality of it was that it sounded good on paper like everything else they bring out. In 1986 what did they say, in January, 1986? We are looking now at the end of the year. I suppose nobody on that side has bothered to look at what they said at the beginning of the year but I suppose the people on that side know that I will have done it, GSL may not know that but anybody that has been in this House with me for the last fifteen years knows that if somebody says at the beginning of the year: "This is going to happen" and then at the end of the year they say: "This is what happened" I go back to see how it compares with what they said at the beginning, it seems a reasonable thing for me to do. What did the Mr Simonis we are still fortunate to have - this was put out on the 14th January, 1986, Mr Speaker, and signed by Peter Simonis and Brian Abbott, that is, the Simonis we are still fortunate to have and the Abbott we are still fortunate not to have, so that we don't get the two confused. We may be fortunate to be without both of them before very long one hopes, but still that is a pleasure yet to come. What did they tell us? I will tell you what they told us, Mr Speaker, they told us that they expected the work for 1986 to involve a number of increases in the different components, in Gun Wharf, in the RFA programme and in the commercial work and the total was going to be £12.4m. That was the prediction at the beginning of the year without any anticipated disruptions of industrial action or anything. This is not the 1983 proposals I am talking about, this is January, 1986, and at the end of 1986, after a three-weeks strike in May and after major disruption according to the same Mr Simonis, we have £12m of work. But, of course, the interesting thing is that they told us at the beginning of the year that in order to be able to do the extra work they predicted that we were going to do just over £12m instead of £6m and they asked themselves the question, because they are so sophisticated, Mr Speaker, when they bring out this company newsletter they ask themselves rhetorical questions, and they ask the question and they provide an answer. So they asked themselves: "Won't all this extra work need more people to do it?" "Yes it will", they answer. They are talking, obviously, to fairly subnormal natives on the Rock, a little above the intelligence of the Rock ape so Simonis and Abbott talk down to the proletariat and they put the proletariats' question and they answer it. And they said: "Won't this extra work need more people to do it?" - "Yes it will". Of course, we expect to do more because of improved productivity but we still need an extra 150 to 200 people just to increase output. Well, we did it without the 150 to 200 people. We have done the £12m without taking the 200 people, we stopped him otherwise we would have to be making them redundant now. This is in print, this one. In 1985 he wanted to bring in 300 or 400 and he was stopped in 1985 and he was back again at it in 1986 wanting to bring in an extra 150 to 200 people to do £12m of work. In fact, we have

done the £12m notwithstanding the fact that there was a three-weeks strike and notwithstanding the fact that we didn't bring the 200 people. If the argument that I put earlier, Mr Speaker, in analysing the component of subcontract work in the manpower cost and in the sales figure and the argument of £500 a week fitters didn't clinch it, this should clinch it. The performance has been there, the people believe the performance has been there and I believe the performance has been there and I think the Government should be saying to Appledore: "There is overwhelming evidence that the targets that you laid down in 1983 and in 1984 and as recently as January, 1986, and in January, 1987", they have been issuing press releases during the first half of 1987 saying how well we were doing, then the targets have been met. So why is it that we are not performing? If we come to 1987, Mr Speaker, because we are talking about 1986 and we have to keep this other myth of the success that there was in 1987 until the thing got sour in July. In 1987 when the company was doing so well that it could increase the salary of its Chairman by 100% and so badly that it couldn't afford 4% for the rest, the company announced that it had done £10m of work in six months. £10m in six months was the target in the first half of the fourth year, that is to say, in the May, 1983, Appledore proposals the company was supposed to reach £20m in year four so obviously in the first six months of year four it would have reached £10m. So we could say that in the first six months of year three we had reached a volume of sales predicted for the first six months of year four. We were doing between January and June what we should have been doing in 1987, that would justify the increase for the Chairman not the 4% for the rest. However, although the Hon Member opposite has said that had it stayed like that for the rest of the year, that is, had we done another £10m in the second half presumably with the same costs as we had in the first half, we were expecting to break even. In fact, the Chief Minister said in July to the press that we had lost £600,000 in the first six months. He said in a public statement which was printed in the Chronicle, I haven't got it here although I have got a lot of other things but I do remember it and I am sure that if he checks it back he will find that I am right, he said that, in fact, the cost in the first six months had been £10.6m and he gave a breakdown and the income had been £10m and that therefore it wasn't true that because the workers had said: "Where are the £10m that we have made in the first six months and why is there no money for pay increase?" He said: "Well, there isn't money for pay increase because, in fact, the cost had been £10.6m, the sales had been £10m so you really lost £600,000". So we were losing £100,000 a month in the first six months of the year when we were one year ahead of target in our sales figure, when we had reached a volume of £10m in six months in the third year and the prediction was a volume of £10m in six months in the fourth year with 1,200 people. An enormous disparity between the predicted result. The same volume of work, a year ahead of time and two-thirds of the labour force and we were losing £100,000 a month. Clearly, anybody looking at that would come to the conclusion, without the expertise of being a head-hunter or the expertise of

Price Waterhouse or anything else, would come to the conclusion that if we didn't make a profit in the first six months of 1987 we'll never make a profit on the basis of repairing ships at that level and consequently the ground rules need to be re-examined. I think the responsibility must be on the part of the Government because the Government has to take a pinch of salt with what people say to it who happen to have a vested interest in the thing continuing or not continuing. And however impartial they think that people can be, at the end of the day people cannot avoid colouring the picture in a way that puts them in a better light. I think the Government has got to ask itself some fundamental questions and I think the workforce in the yard with the memorandum that they have submitted to the Chief Minister, what they are really saying to the Chief Minister is they have had an experience since leaving the Naval Dockyard of constant uncertainty. I remember a letter from somebody in the Chronicle saying that in addition to all the other ills affecting GSL they appeared to be schizophrenic because they came out with alternating glowing and gloomy press releases about the future. The people who are there don't know from one day to the other whether we are booming or whether we are going bust and they are saying to the Government: "We want the Government to take the responsibility of saying: 'I am going to come clean, I am going to tell you either it is impossible to run a commercial shipyard in Gibraltar and consequently we'll have to find other ways of providing the people there with an opportunity of earning a living or it is possible to do it but it requires drastic changes because the thing as it is put together today is ill conceived and will not work'". I understand that today the news confirmed that the Managing Director of the company has now announced 210 redundancies. It is certainly news to me, I have discovered it on arrival at the House, I don't know whether this was cleared with the Board or the Government or the Chief Minister.

HON CHIEF MINISTER:

If the Hon Member will give way. I think that that statement was completely unwarranted and unauthorised and I will explain later why.

HON J BOSSANO:

I am grateful to the Hon and Learned Member for that piece of information, I am sure people will be glad to hear that, in fact, the need for redundancy or the level of redundancy has not yet been decided or cleared. The thing I think that the Government must have some indication of and I don't think we can shy away from that is that the position in the yard will be that the unions there will obviously make a stand in defence of all their members irrespective of origin. But the Government and the House taking a look at the situation from the point of view of a political responsibility to Gibraltar as a community cannot stand by and say: "This is

a commercial business and we cannot interfere with commercial decisions so if the commercial managers decide that the best thing to make a success of shiprepairing is to sack all the Gibraltarians and keep everybody else then we have to go home because we mustn't interfere with management decisions, this is the day-to-day running of the yard and consequently what we will do is, we accept that they create a yard for themselves and send us a bill every year for £3m so that we tax the Gibraltarians to keep people repairing foreign ships at a loss for evermore". I know that I am drawing an exaggerated picture but let me tell the Government that I am doing that deliberately because I don't want to put the thing in the serious light in which it can get into and there are lots of ramifications. If we get one particular national group at loggerheads with another one and with the frontier on our doorstep I am sure the Government can work out the implications for itself and therefore this is a highly sensitive situation that we are facing. Not only is it important economically because it can have a destabilising effect on the rest of the economy. The fact that the GSLP never believed in the Appledore scenario and would not have supported it in Government in 1984 doesn't mean that we are not stuck with it now and doesn't mean that if tomorrow you suddenly close the yard you don't leave a huge hole in the economy because it is occupying that hole now. So it has serious economic implications which means you cannot just say, as I understand the President of the Chamber of Commerce has said on some occasions, "Well, you just lock the place up and that's it, throw away the key and put up blocks of flats or sweet stores". I am sure he won't want any perfumery shops but still. We cannot take that kind of stand and we have got to be sensitive as well to the primary objective of a yard. It isn't that the Government decided in 1983 when they did the package with the United Kingdom Government to go into a commercial shipyard because it had been their aim in life to own a commercial shipyard, it was because they were persuaded, presumably, that that was the best alternative for the people who were going to be made redundant by the Naval Dockyard. One of the things, of course, that happened in 1985 and in the first part of 1986 and less so in the second half of 1986 and 1987 has been an exodus of many of the original workers in GSL that came from the Naval yard. The Price Waterhouse Report mentioned as one of the factors impeding efficiency and impeding the growth of productivity was the fact that there was this huge turnover which at one stage was 40%. If you don't want to believe what other people tell you the figures themselves tell you something. If you have got a business in which people are living at the rate of 40% there must be something wrong with it, no wonder they have got to give them all these inducement allowances to come into the yard. I suppose if they had offered all the locals rents and electricity and water and telephone the 40% wouldn't have left. There is still a big chunk of skills from the Naval Dockyard particularly in the steel shop and in the fitters shop and the electrical shop but we have lost a lot of good people because, frankly, the place became intolerable, it was impossible, the atmosphere was so bad.

I think it is true to say that that part of the negative climate was, in fact, altered when Torsten Andersson came in. I don't think the fact that we don't agree with A & P Appledore and we don't agree with the way the yard is being run or has been run till now doesn't mean that one should detract from the personal qualities of the man and the fact that he introduced a much better atmosphere in terms of the working environment and the flow of people out of the yard declined after he came and therefore it meant that really that has had an element of the improvement in output and in efficiency in 1986 and in 1987 because, of course, if you keep on getting new people in and by the time you have trained them to use particular pieces of equipment or even to find their way about the yard, there is a loss of efficiency in newcomers just until they get used to going to stores and knowing when to get in and so forth and if by the time they are really familiar with the place they go and you start all over again, clearly, there is a penalty to be paid. That which was an element before is now gone and therefore, Mr Speaker, it seems to me that the indications that I have given by reference to the accounts, the cases that I have given by reference to the original proposals, the improvement in the climate that has already taken place and the figures for the first six months of 1987 when everything was supposed to be ticking over well, all indicate to the reality that the yard is incapable of sustaining a workload and a workforce of the size that was originally envisaged certainly and possibly of the size that exists today. That is a reality, I think we all have to face that reality and I think we must, in fact, say to the people there that it's a reality which whether we like it or not is there. But it isn't enough to say that to them and it isn't enough to say to them: "It is the management who will decide what is going to happen next" and certainly it would not be enough to say: "We are going to start cutting costs at the bottom and we are going to leave behind all these people with all these extras and inducements". Logically, if you are going to reduce costs then you start reducing costs by localising and replacing your most expensive people which are the expatriates and doing it with local people. We have no doubt that there is still a potential for those skills to exist in the yard. We have, of course, suffered I think in the yard from two elements. One is that the tendency to stay today particularly from people who can progress up the management ladder is seriously negatively affected by the uncertainty. That is, if people say: "I have got prospects of promotion in GSL but how long is GSL going to be in existence?" Therefore they tend to go elsewhere and you lose potential management people that way. The other thing is, of course, the point that I made earlier that the expatriates themselves have done very little to pass on those skills because, in fact, it is in their interest to demonstrate that they are indispensable. Those two elements are there and have to be recognised and may create problems. Therefore, Mr Speaker, the situation is what is going to happen in 1988 that at the end of the day, certainly the people working in the yard will be expecting to have an indication of from

this House. However, we are noting the accounts for 1986 and we have already been told that in 1987 the situation is that we are with a loss of £3m. The Government has in the past said they would not provide subsidies to meet the running cost of the yard or the wages of the yard or whatever. And when they were saying it recently they quoted their inability to do it; even had they wished it, by virtue of the prohibition of the EEC Directive which my colleague mentioned at Question Time and on which we have been told that in the opinion of the Department of Trade and Industry and the Foreign Office, nothing that has been done so far conflicts with the requirements of this Directive.

HON CHIEF MINISTER:

If the Hon Member will give way. In that paper that he was referring to, we did not and I said, I think, quite clearly here, we were not hiding behind the EEC Directive for our decision. It was an additional reason that was given. We were not saying: "We wish we could give you money but the EEC won't let us". We haven't said that because the day we decide, if it is necessary, to give money we will seek the approval of the EEC if it is necessary.

HON J BOSSANO:

If the Hon Member checks back when Hansard is published he will find that I had, in fact, not said what he thought I had said. I had said that even had they wished it it would appear that they couldn't do it but they didn't say they were not doing it because they were prohibited. What I said was even had they wished it, it did not appear to be possible according to this Directive. In fact, the Directive requires seeking of approval and it says 'the circumstances under which aid may be granted for shiprepairing'. And in terms of investment aid, I don't know whether what we have done in cranes and docks and so on are investment aid or not, I don't know that, but I know that under this Directive it would seem to me prima facie that if one wanted to give GSL money to buy a new crane now or to do a new slop barge - though why should anybody want them to have another slop barge I wouldn't imagine - but if we wanted to do it then it would seem to me that we couldn't do it because it says: 'Investment aid may not be granted for shiprepairing unless linked to a restructuring plan which results in an overall reduction in shiprepairing capacity'. That is to say, we are not just talking about people being made redundant because that doesn't reduce the capacity of the facility, Mr Speaker. What we are saying is the Government of Gibraltar provided £4m of ODA money so that the capacity of No.1 Dock could be increased. That is what we have been told in the House, bigger ships, panamac size ships could be taken in now which could not be taken in before by lifting the floor and removing the shoulders of the docks and that increased the capacity of the dock. According to this Directive what you have to do is to give money to fill in the dock and reduce capacity.

So this is intended as, indeed, other derogations from the Treaty are intended and that is the importance, of course, the Treaty prohibits subsidies because it interferes with competition but it recognises that there is over capacity in Europe. There is over capacity in steel and there is over capacity in shipyards so it says 'because there is over capacity we will allow people to derogate from their obligation and give subsidies in order to reduce capacity' and that was done in 1981. This Directive passed in January, 1987, was to continue that derogation because the derogation was about to expire and there is still over capacity. So what we had was a situation in the European Community where in 1981 the European Community said 'Community partners may actually give subsidies to dockyards to help them convert out of shiprepairing and into doing other things and they may be allowed to do that for six years and then in six years' time we will find out whether supply and demand in ship-repairing capacity in the Community has more or less balanced'. And what they find in 1987 is that it is still out of balance, that although there has been a shrinkage in Europe the demand has also declined and therefore they are extending the period during which Governments may provide money to shiprepairing and shipbuilding facilities within their national frontiers in order to close down shipyards. The extraordinary thing is that the Government discovered this in 1987, presumably, because we discovered it when they brought public attention to it but it was in 1981. In 1981 when everybody in Europe was conscious of the fact that there were too many shipyards and that you had to give subsidies to close them, we decided in Gibraltar to have a subsidy to open one. I suppose it is symptomatic of how we are constantly trying to catch up with the rest of the world and never making it. When everybody had got round in the 1980's to closing down shipyards, we got round to doing what they were doing in the 1960's, opening them and we went into a programme of investing money in a facility publicly defended as eventually intended to do more ships and employ more people than the Naval Dockyard had ever done, that was the programme although everybody else was closing them and the Directive of the EEC said 'You are not allowed to spend taxpayers money in opening new ones when other people are closing them'. Of course, the Board of Trade may be satisfied that we have done nothing which is in conflict with EEC requirements.

HON CHIEF MINISTER:

If the Hon Member will give way, I don't think it is as simple as that. First of all, it wasn't done here, it was done in England with ODA money and the matter was well cleared for obvious reasons and for the reason that there was going to be £14m worth of naval work and the Directive does not apply for as long as work of a defence nature is taken.

HON J BOSSANO:

I am grateful to the Hon and Learned Member because in this particular Directive of which I was provided with a copy by the Office of the Deputy Governor, there is no mention of military work or naval work at all but I shall check the original because, of course, this Directive replaces the 1981 Directive and it may be in the 1981 Directive. But in this one it is very clear that it says, for example: 'Aid for closures', the kind of situation we have got now. 'Expenditure incurred for the redevelopment of the yard, its buildings, installations and infrastructure for use other than shiprepairing'. So, in fact, what the Government is permitted to do now is to say: "If we are going to have a factory producing containers or whatever but, in fact, there is going to be investment to diversify from shiprepairing into something else, this Directive specifically mentions that as a condition in cases of closure or reductions of capacity". Therefore we now have a situation where what we may want to do with the yard, which we still don't know, or what we may be able to do it would seem to me may have additionally to go through this hurdle now that we have discovered that it exists, of having to be reported to the Commission and having to get the approval of the Commission and I don't know whether our fellow Europeans on the other side are able to influence any decision that the Commission may have to take in relation to any investment we want to do in GSL like they seem to be able to influence every other Community decision when it comes to Gibraltar, but no doubt they will be able to say: "Just a minute, there is something very important about the situation in Gibraltar". Spain and Portugal under Chapter 4 of the Directive have got derogations specifically which we haven't got. They are allowed to do what we are not allowed to do during the transition period and therefore it would be very odd if they didn't immediately pick up that anything we are doing here must not be something that interferes with what they are doing there in Puerto Real or in Cadiz or wherever, they are entitled to raise the matter under Chapter 4, Article 9 because it says that they have got special consideration as part of the entry into the Common Market and as part of their transitional provisions like they have in other areas like the common external tariff and so forth. Clearly, Mr Speaker, we are in a situation where matters that we raised in the earlier part of the House at Question Time have a direct bearing in looking at the accounts of GSL for 1986 and at the situation of GSL in 1987 and the somewhat cloudy future for the company and its employees for 1988. And it is quite obvious that the idea of saying: "Fine, a motion will be brought to the House which the Hon Financial and Development Secretary has already circulated saying 'We approve a guarantee to Barclays Bank that they should lend GSL £1m' and it means, of course, that if GSL goes bust the Government has to pay, presumably if there isn't enough money left to meet all the creditors if the company were to be put into liquidation. I must say that the audited accounts of the company, of course, do show that the company has got very

substantial assets by the standards of Gibraltar companies to my knowledge. They have got in their balance sheet, Mr Speaker, total assets of £12m at the end of December of which fixed assets are £10½m and no debt, no loan capital other than the £½m loan that they owe the Government which everybody knows they are never going to repay. £½m is due to be converted into shares at some stage but we don't know when. In looking at the accounts for 1986 which we are being invited to note, Mr Speaker, I would submit that this is not a weak balance sheet in commercial terms. If Barclays Bank does not feel confident that it can grant a £½m overdraft to a company with net assets of £12m how do they manage to lend money to anybody in Gibraltar? Who else has got net assets of £12m in Gibraltar? What, the local tobacconist? It is certainly very odd that the company should require to have its overdraft facility guaranteed by the Government. That is to say, in spite of the fact that we are in the middle of a banking boom with eighteen banks already in operation not one of them will lend GSL money. All I can say is they must be very sceptical of the accuracy of the audited accounts we are being asked to note.

HON CHIEF MINISTER:

Or worried that the performance of the yard will not justify the payment and having to mortgage the assets or levy execution on the assets which is something that the banks don't like to do in their normal business.

HON J BOSSANO:

I know they don't like to do that but I am sure the Hon and learned Member who knows much more about the business community than I do, must know professionally that three-quarters of the business community is precisely in that situation with their assets mortgaged to their eyebrows. They may not like to do it to GSL but they seem to be prepared to do it to everybody else.

HON CHIEF MINISTER:

But producing benefits.

HON J BOSSANO:

Yes, Mr Speaker, but you have got a situation where you have got a company which is 100% Government owned. The Government has already given an extraordinary example of beneficence by paying off the debts of its other Government owned company even without guaranteeing them. It gave a subsidy of £½m to the Gibraltar Quarry Company to pay off its creditors after the thing had been closed down and the process of liquidation had already started. That seems to me to be an indication that with such generosity on the part of the owners

of a limited company a bank is on safe ground and we are talking about a company, okay; we may be saying that it might mean having a charge on the assets but after all it is not unknown for companies to be able to raise money on fixed assets very near the cost of the asset. What I am saying, Mr Speaker, is that it isn't just a question of the Government being pushed into the giving of a guarantee to Barclays Bank but if GSL doesn't repay the £½m loan the people of Gibraltar will, the Government will and therefore the people of Gibraltar will. Has the Government asked the company whether they have gone to any other bank? What I am saying is if we are going to note the 1986 accounts and we are going to take the job seriously then I would say, quite frankly, the 1986 accounts show a company making an operating loss which is £1m higher than anticipated but it also shows a company being on target in terms of its labour cost, certainly its domestic labour costs, it shows the company being on target in its sales and it does show, of course, that the company has got a level of overheads which Price Waterhouse pointed out and which, of course, is the direct result of the miscalculation on the part of the company about the size of the operation. If you build up a company which is intended to have 1,200 people and it is going to have £20m then, clearly, you have an element of overheads which you then say you are going to share over that operation. If the operation shrinks to half then proportionately your overheads per unit of output doubles and that is part of the problem that they have got. Let me say, Mr Speaker, in looking and noting these accounts, that there is another element which needs explanation and which the Financial and Development Secretary has not mentioned in his introduction which is the question of depreciation. Although the charge for depreciation is shown at £700,000 as opposed to a predicted £400,000 and part of the reason for that is, of course, the overrun on the costs of things, that is to say, since the slop barge has cost much more the depreciation on the slop barge is that much higher because you are depreciating it over the intended number of years. But what was also mentioned in the A & P Appledore May, 1983, study and which has not been mentioned since and which is very important because it is an indication of an understatement of the true cost of the operation and which would indicate that the performance is even worse than the accounts shown, is the depreciation for assets that were either gifted by the MOD or purchased by the Gibraltar Government without being part of the company's share capital. That is to say, if we look at the accounts and we look at the last page, the supplementary estimates, we have a breakdown of expenditure on Government owned assets. You will recall, Mr Speaker, that when we had the original Bill here we had a situation where there was a clear anomaly in that although the Government was going to own some assets and spend money on them, they had to make every disbursement from the Special Fund applicable for the purchase of shares and I think it was the Hon Mr Hull, who was the Attorney-General at the time, who actually recognised that and amended the legislation to correct it so that it would do what they said they were doing. We then have a situation which is shown there where we have got, for example,

the cassoon hauling equipment where the Government has purchased that for £106,000. If the company had purchased that for £106,000 and if that has got a ten year life that would have shown £10,000 more of depreciation and depreciation instead of being £0.7m would be £0.8m and the loss instead of being £3.3m would be £3.4m. But, of course, the fact that it isn't being depreciated doesn't mean it is not depreciating, it is being used up and therefore A & P Appledore said that although some equipment would be bought by the Government and not by the company and some equipment was being gifted by the MOD and would not show up in their balance sheet, nevertheless provision for its replacement would have to be made obviously. If you have got a situation where you have got a crane or tools or whatever that were given by the MOD and had a certain value they don't appear on the balance sheet, they don't exist. Had they been put in the balance sheet the using up of that value in the course of the business is part of the cost of sales and would show up as additional loss. It would not mean a problem of cash flow, there would not be any movement of funds but at the end of the day, in fact, the position would look worse because, in fact, you could decide not to depreciate anything and then instead of having made a £3.3m loss you would have made a £2.6m. The reason why you have to depreciate is so that eventually you have got enough money in the kitty to be able to buy the crane when the crane stops working or the lorry or whatever. That is an important unquantified element which is not reflected in the 1986 accounts, was not reflected in the 1985 accounts and I did mention it in my contribution to the 1985 accounts, was mentioned in the May, 1983, A & P Appledore proposals and requires an answer. Because if we are going to take a look into the future then we need to know, Mr Speaker, that the next projection made is a projection that leaves no loose ends. I think the last thing that people want to go through in GSL is the experience of being told today: "We have now got a new business plan, a new project, provided you cooperate in these changes and those changes", there is going to be so much of a loss of jobs and then in three months' time we are back to square one, another crisis, more uncertainty and another new restructuring. I think people don't want that and therefore the thing has got to be done very, very thoroughly and the work has got to be done of going back and checking and if something is said today which is in conflict with something that was said yesterday then somebody has got to explain which of the two is wrong, they cannot both be right. And I would submit to the Government and to the House, Mr Speaker, that in fact the GSL accounts understate the level of loss although not in a way that will affect the cash position of the company but in the way it would affect the real cost of production of the work that has been done. And, of course, if that has happened with £12m of work in 1986 then we have to say to ourselves if, in fact, in 1986 the yard lost £3½m and we must not forget points that I made in relation to the 1985 accounts which, again, the Hon Financial and Development Secretary drew our attention to table 9(5) as I said earlier, which showed the company's projection for

expenses and gave us a table showing the expenses today. The Hon Member gave us a breakdown of expenses and drew the comparisons between the original ones and now where he mentioned, for example, the fact that there was a £1m in indirect labour which hadn't been there before. Of course, if we look at table 9(5) in the original A & P Appledore proposals, which I don't suppose many people have, Mr Speaker, there is a situation where rates, for example, should have cost the company according to GSL's projections, £½m a year from year one. In practice what we have is a situation where, I think nothing was paid in 1985 and £53,000 was paid in 1986. By now the rates would have cost them £1m, not by now rather by last December, by now it would have cost them £1½m. That was built into the projection of expenses. So what we find is that it isn't a question simply of saying the expenses are £5.3m and they were projected to be £3.3m and we have to explain £2m, no, we have to explain much more than £2m because the £3.3m assumed that we would pay £½m in rates and we haven't paid £½m in rates in GSL, we have paid £60,000. They assumed that we would have a tug the fuel of which would cost £200,000 and we haven't got a tug, they also assumed we would have spent £1m in buying it and we haven't bought it, of course. There was a sum of money of £400,000 for employees' welfare costs which was the provident fund. That means that by the end of this year the original projection was that the cost of the provident fund to the company would have been £1.1m and we have been told in a question yesterday that £½m is going to be put in, a discrepancy of £600,000. What we have is a situation where identifiable elements of cost of the order of £1m can be eliminated from the A & P Appledore projection of 1983. Consequently, on that basis the expenses should not be £2m but £1m less so the difference that needs explaining is the £3m, not the £2m. All this indicates, Mr Speaker, that, in fact, the least variable elements in all their projections and there are hundreds of figures and we can go through them one by one and keep on ravelling them but what sticks out a mile, and that is the important point that cannot be forgotten and the point that I thought the Hon Financial and Development Secretary might be trying to get us away from with his opening remarks and his comparison of labour costs and his comparison of subcontract, the closest approximation of all the figures that we have got in all this volume put up by A & P Appledore in May, 1983, is sale and labour costs. That is where the least deviation is and the two crucial elements but, of course, with the added safeguard that the labour cost is everybody's cost, from the Chairman of the company to the office cleaner, we are including everybody there in labour costs and clearly there are things there that we disagree with very violently included in that element. But even then, forgetting that, the real nigger in the wood pile is outside because even if we forgave them the rates and the telephone and the inducement allowance and the rents and the air fares and the postage stamps and all the other things that the thirty-odd expatriate managers have been given all of which

comes within the manpower cost of £7.3m, it is all covered by that and the important figure is in a comparison we have been given, Mr Speaker, is that we are netting out £3m from manpower costs and £3m from sales and forgetting subcontractors and forgetting the sales generated by subcontractors, we then have £7.3m and £7.3m. Even then we have got in the £7.3m shown in this year's accounts, we are including the money of the Pension Fund, in the £7.3m in the Appledore projection we are not including the money of the Pension Fund which is included as part as the expenses of £3.3m. It means that really the loss way above the projected figure has to be explained by reference to non-labour costs. Although we have got these facts that we can tackle in terms of an unnecessarily large number of expatriates with very generous conditions, before even we tackle that, it is the rest that needs to be explained. Why it is that non-labour costs were more than sufficient to swallow up the difference in extra sales generated over and above the projected figure. No explanation has been made by the Financial and Development Secretary to try and explain that quite legitimate conclusion from analysing the accounts for 1986. It was pointed out in relation to the accounts for 1985 and therefore I would submit, Mr Speaker, that if the Government cannot explain it for 1986, did not explain it for 1985 and are not going to be able to explain it for 1987, what chance have they got of getting it right in 1988 if they are not even looking in the right direction? Unless the Government is able to tell us why this huge discrepancy in non-labour costs exists and what is the explanation for it, frankly it is a waste of time asking the House to note the accounts. I am grateful to the Hon Member because he has given us a lot of detailed breakdown of figures which will be very helpful to us and which we will clearly need to devote some time to. Having just had them when he was speaking I am not able to give him my reaction to the detailed breakdown of figures that he has given me this is why I have had to make my contribution somewhat short and superficial, Mr Speaker. However, no doubt we may have another opportunity between now and the end of the year to come back to tackle the problem once we have digested the figures that he has provided me with and then I would perhaps try and do justice to his contribution. Thank you, Mr Speaker.

MR SPEAKER:

We will now recess for tea.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

HON A J CANEPA:

Mr Speaker, during his intervention the Financial and Development Secretary has concentrated more on what I would term the fundamental problems as seen in commercial and financial terms which underlie the picture that is presented by the 1986 accounts for GSL. I propose myself, Mr Speaker, to concentrate more on what I would term as the political and industrial relations aspects of these problems. Sir, it is only right and proper that there should be serious debate in this House whenever we consider the annual accounts of GSL and its overall performance, both past and projected. And the reasons are obvious given the prominence which the shipyard acquired politically during the last general election and the major contribution which in spite of all the problems and difficulties it makes to the economy as a whole. It is also natural, Mr Speaker, that the House should wish to pose, discuss and debate the major issues which surround the affairs of the company. For its part the Government has spelt out what it considers are its responsibilities having regard to the commercial nature of the operation. The Opposition prefers a more interventionist line and that, in essence, summarises what the approach or the background to this debate should be. I say should be, Mr Speaker, because I do have and, therefore, I must express doubts about the political motive or objectivity of the Opposition every time that we discuss GSL. The record of the proceedings of this House clearly shows that the Government is constantly bombarded with questions on GSL which range from the relevant such as, for example, the question of naval work, commercial sales, employment levels, etc, unfortunately to what one might term the ridiculous with questions as to whether GSL, for instance, should or should not purchase a portable electricity generator, something very much a requirement these days. To add spice, I suppose we have the regular tirade of questions on what I would call the running sore points which usually centre on the issue of expatriates and their remuneration, singling out from time to time and depending on populist appeal either the Managing Director or the Chairman. Today with the unpopular Brian Abbott having left and a much more human down-to-earth Torsten Andersson having taken his place and therefore not being the same object of personal criticism as his predecessor, it is the Chairman who is having to bear a great deal of the brunt of the attack I want at this stage, therefore, to say a little bit about the figures, the question of costs which were the subject of a number of questions yesterday morning and to which the Financial and Development Secretary has referred later on this afternoon where he has provided the relevant figures for 1986. But I think that what emerged from the questions yesterday and this is evidenced by press reports this morning, is the impression given perhaps inadvertently or gathered in answer to questions, that the figures relate to annual cost rather than, in fact, the proper context which is that the figures relate to costs over a three-year period from

near the end of 1984 when the yard first started operations, in late 1984, up to September, 1987. Therefore the figure for expatriate allowances in respect of rent, electricity and water of £418,000, I think one has got to stress that this is the figure for three years and not the figure for one year. These benefits are not part of the inducement allowances. Technically they are benefits in kind, they were never envisaged and nor are they exempt from payment of income tax and it is therefore up to the Commissioner of Income Tax to pursue this with the company and/or the individuals. Insofar as the inducement allowances which amount to £955,000, again, this relates to a three-year period and I think that it is important that, for the record, that should be said because otherwise it is very easy to go away with the wrong impression. Let me make it clear at this juncture, Mr Speaker, that I share much of the criticism that is laid at the door of GSL and its management and I have, on numerous occasions here in the House and publicly, made reference to that. I have made such criticism, perhaps in more strident terms than the majority of my colleagues with the notable exception perhaps of Major Dellipiani who is even more forthright and more blunt than even I am wont to be. But I do not pursue this as a vendetta, it is not for me an obsession or what could virtually be termed a political witch-hunt. GSL may be and is, no doubt, riddled with problems and deficiencies but, surely, there has to be some respite, there has to be some concern for building a future in that yard. There has to be some constructive thinking, some genuine regard for the welfare of those who work there and, ultimately, whose livelihood is at stake. If the company attracts a high level of commercial sales against all the odds as it has done not just the period under review but from about the middle of 1985 onwards, it is accused of bringing in ships at below profit. If it doesn't bring in the ships it is accused of failure, of wanting to run down the yard and to cut employment. If it employs 800 persons, as it does now, it is criticised for having too much of a large scale operation. And when it announces that there are plans to reduce numbers it is attacked for not meeting targets and it is faced immediately with blacking action and a strangle over its income and hence its solvency. And if the yard doesn't have income and if the yard becomes insolvent, it is that which becomes the immediate cause for closure which was the situation we were faced with during the summer. If there is a claim for a pay settlement it has been set at 40% as it was recently and it is then pushed to the ground, to the very edge of closure and the company is told to go to the Government for money and then when untold damage has been caused and a settlement has been struck the yard is pilloried for not bringing ships back into the yard in spite of the adverse publicity and in spite of the bad reputation which it has acquired in recent months in international shipping circles. No sooner was the pay settlement agreed and signed that within weeks the company is once again thrown into industrial unrest. And whatever the cause, whatever the reason, the fact is how can any commercial entity operate

let alone survive under that kind of sustained attack and pressure? I repeat that I do not exonerate management from blame but if we are told to sack the managers we must ask ourselves 'Is that going to solve the problem?' If we are told that the Government is to blame, that we do not care, as Mr Bossano said, we do not don the blue overalls and go down there to see for ourselves, well, let us hit the Government and let us sack the Government if necessary. But what remains to be seen is whether that also is going to solve the problem. Whether that is going to bring in the ships, whether that will cure the managerial problem, whether that will restore peace and stability in the yard. Let no one delude themselves into thinking that without industrial peace there can be a shiprepair operation. And who gains from all this? Is it the workforce that gains, is it Appledore that gain, is it the Government that gains, is it the union that gains? No, Mr Speaker, this is industrial suicide and the only winners are the Portuguese, the Maltese and the Spanish yards which are getting the business which rightly ought to be going to Gibrepair. It begs the question, Mr Speaker, and after a lot of careful thought and deliberation I have to pose this question. Can we be certain that there is no fifth column within that yard, be it within management and/or the workforce that is put there, possibly paid to be there to ensure that GSL faces instant turmoil? A lot of people in Gibraltar are asking themselves that question. Mr Bossano said that the people of Gibraltar and the workforce look for certain answers from Government. There are a lot of people that also ask themselves that question. What is wrong with that yard and they no longer look and they no longer think that the answer is a straightforward one of a neocolonialist expatriate management which treats Gibraltarians as if they were natives in the Belgian Congo. We don't all move in the same circles in Gibraltar but public opinion in Gibraltar is not monolithic. There are various facets of public opinion and Hon Members opposite should also ponder on the reality of what I am stating because it is not something that I am making up or that I have dreamt about, it is a question that a lot of serious minded people are asking themselves in Gibraltar because that shiprepair yard is important, because it has got strategic importance moreso in a situation in which last year there was turmoil in international tension in the Mediterranean and in a situation this year in which there is also international tension in the Persian Gulf and that yard is important to repair the ships of the Royal Navy. I am not looking for chimeras, for skeletons in any cupboard, I am pointing to the reality of international power politics as it can affect a base as strategically important as Gibraltar is today. Turning to, perhaps, the more mundane matters, one glance at the results for the first half of 1987 shows that the yard can handle a reasonably high level of turnover. It shows that the yard can wrestle and overcome day-to-day problems between the management and the workforce. That it can break even or even produce some profit, that productivity is good and that it improved. In short, Mr Speaker, I think the lesson of the first half of 1987 is that there is real hope that

that yard can have a viable future. Admittedly, during that period there was a large input of naval work but it was, nevertheless, still a test of the company's ability and of its capacity to produce results. And the results were good, there is no question of that and they showed that the management and the workforce together could deliver it. It showed that there was a sense of realism and faith in a yard that with all its faults, nevertheless, does have promise. But I wonder whether that suited those who perhaps are hellbent on destruction or in proving that GSL cannot work. At the end of the day, Mr Speaker, the important issue is to keep the shipyard alive, the important issue is to keep as many people as possible employed to run a commercial operation for the benefit of those in the yard and for Gibraltar as a whole for, in the final analysis, what is the alternative, Mr Speaker? If we don't want closure of the yard what is the alternative? Or if the yard were to close what is the alternative? What do we do with the facilities there? We sell the cranes and the equipment, we use the docks as what, as a marina, perhaps, or do we fill them up? Having been hewn out seventy or eighty years ago and once again enlarged, do we fill up the docks? Is that the alternative and use the land for what, for a tourist complex? Is that what we ought to do with a facility that is so well situated geographically and which to acquire would require such huge capital expenditure? I don't think so and I don't think that we can expect in that scenario of an alternative user which is not a shiprepair facility, we can expect that the labour force should be retrained in order to get employment in a new venture, in a new enterprise of a completely and radically different nature. I don't think that that is the solution to the problem. Therefore, Mr Speaker, I think that the yard has to continue as a shiprepair yard. I notice a certain amount of realism on the part of Mr Bossano nearer, I would say, in the last quarter of his speech when he did speak about certain realities, about talking together and discussing the problem and in the context of these realities. The reality is that the yard cannot be kept operating at any price as it is structured at the moment, that there may have to be adjustments, some may be painful involving perhaps less people employed but it doesn't have to be 180 or 200. Regardless of what Torsten Andersson has said and, incidentally, Torsten Andersson I don't think has got much authority, at this stage, to quote those figures because what Torsten Andersson and management have got to do is to produce a business plan to go into a restructuring exercise for referral to the Board. It is the Board that has got to consider the matter and take a policy decision and then come and discuss the matter with Government. The timing of the statement could hardly have been worse, it shows I think that even someone as with all the goodwill of Torsten Andersson perhaps doesn't realise the political sensitivities which the matter has. I think it was most unfortunate that that kind of statement should be made without proper backing and without the proper authority but then one of the problems which GSL has is that it has, what I would term, a management with too little responsibility and too much power and perhaps a Board with

too much responsibility and not enough power and that is why we get statements of that nature being made this morning and reported in the lunch time news. Whatever is done in any restructuring exercise has to be carefully planned, discussed and properly negotiated but I think that if those negotiations which are not going to be short, I don't think they can be carried out in a day or two, if they are going to lead to the optimum solution they have to be free from the threat or from the reality, from the presence of industrial action. There may be a need, Mr Speaker, for further Government funding and I think the Government would be prepared to consider that. What the Government cannot do simply is to give a blank cheque. The Government can and will respond to sensible or realistic business targets that will consolidate the company's prospects for a viable future. That, in essence, was what the Price Waterhouse spoke about, that is what prompted the Government into agreeing to contribute £2m to GSL this year but above all there must be a real commitment to make that yard work. As I have said already, Mr Speaker, I was encouraged by the proof earlier this year, the commitment and the results appear to be there. I am convinced that management and the workforce during that period showed real evidence of that commitment and we in the Government have that commitment too and I am glad to hear that the Opposition today accept that GSL is or ought to be here to stay and that even if there were to be a change of Government and in spite of the stand which the GSLP has taken in the past on the matter, they would not go on a wild-goose chase looking for alternatives to make alternative use of the facilities in the shiprepair yard. We may disagree about the way in which that commitment is put into practice and what it may be costing the public purse. That is the sort of thing that is a reasonable basis for debate and for discussion but I have serious misgivings about the extent to which the commitment exists on the part of everybody concerned with the yard and I am very much afraid from the evidence of the last six or seven weeks, Mr Speaker, that there are some who virtually at the drop of a hat thrive on resorting to industrial action and to the serious damage which it is doing to their own employment prospects and to their own means of livelihood in the context of a company which had only barely started to establish itself in the market. Shiprepair, Mr Speaker, has been a political football for far too long. It requires a breathing space if it is to survive and if it is to develop and the wellbeing and the livelihood of many Gibraltarians who depend directly on it and indirectly on it as well, I think require that we should not put that at risk for political ends. Political will has to be exercised to provide the means for Shiprepair to have a future and not to prove the rights or the wrongs of an economic theory of you or, indeed, of a particular political philosophy.

HON. M. A. FEETHAM:

Mr Speaker, I was not going to address the House on this issue. I was going to leave it to my colleagues, the Leader of the Opposition and Joe Pilcher who deals with GSL matters but having heard what I consider to be a very disappointing delivery from the Hon Member, Mr Canepa, I feel obliged to stand up and answer some of the points that he has made because, clearly, his delivery is completely out of touch with the realities of the situation. In fact, he hasn't addressed himself to the problems which exist today but has contrived a speech which I think is based more on a party political address to the electorate, to the electorate which is going to be there in a few months time in the hope that he can gain something out of the complete fracas of the politics of the AACR Government. He started off by saying, Mr Speaker, that he was going to devote himself to the political and industrial problems and quite rightly so because we are fortunate in the House to have such a capable Member with such great capacity for the economic factors involved in the problems of Gibraltar, as my colleague Joe Bossano and we have also got a Financial Secretary with whom I differ on many, many occasions but today he has been very honest in giving us the economic situation of GSL based on the projections of Appledore and that sort of comparison is what we should be dedicating ourselves to today and leave it to the people who understand the problems and then try from there to come to political conclusions. We have Mr Canepa coming out with all sorts of nonsense about, for example, fifth columnists being in the Dockyard. I ask Mr Canepa and I challenge Mr Canepa to tell this House who is being paid in the Dockyard to sabotage the Dockyard? Otherwise if it is just a red herring he should not say that sort of thing because that is implanting in the minds of the people of Gibraltar that there are people paid inside the Dockyard to sabotage the future economic wellbeing of the people of Gibraltar and that is irresponsible of Mr Canepa. Mr Speaker, let me remind Mr Canepa of the political considerations insofar as the Gibraltar Shiprepair Company is concerned because that is what he wanted to start off with, he said 'I want to devote myself to the political aspect' and it is a political aspect because the whole thing, and this is what he fails to understand, is that the Opposition is responsible for monitoring the policies of the Government and for seeing that the Government is adhering to what they were saying was going to be their policy in respect of GSL and it just happens that GSL and the projections which have been there have failed and it is as simple as that and the Government have to understand that A & P Appledore's projections have failed completely and miserably. And, secondly, the management which they appointed have clearly failed in their functions as managers and the result of that is that we have to make a political decision and decide what is the best future for Gibrepair now because it has to redress its efforts. But what Mr Canepa will not recognise because politically it doesn't suit him to recognise, is that, in fact, what the

GSLP were saying at the time that they accepted the package as being a generous package in itself insofar as Appledore and the future shiprepair company was concerned, that we were saying what was needed was a smaller type of operation taking in the ex-Dockyard employees who were already trained, who were already experts half of which are not there anymore because they have left and we have lost them and restructure the expenditure in that company to meet specialised work and the realities are that that is what they have to do tomorrow. That side has got to start doing that now, Mr Speaker. That is what Mr Canepa, Mr Speaker, has to admit now. If he were to admit that which he is not going to admit, then perhaps we could begin to look at the problems because, clearly, Mr Speaker, my colleague has come out with all the facts point by point insofar as the efforts of the workforce is concerned and the issues surrounding the industrial disputes which has not affected the performance of the company. On the contrary productivity is up, the performance is up and my colleague, no doubt, will have plenty to say about that. If these things are recognised I believe, as I have always believed and maintained from the word 'Go' there is a future for the Gibraltar Shiprepair Company but it has to be based on a more rational approach to the problem which they did not accept from the very beginning, Mr Speaker. Mr Speaker, if there is this need now, which is what Mr Canepa is emphasising which, incidentally, as I am reminded by my colleague, we have been saying so from the very beginning, if there is a need to we accept but it has to be a genuine recognition of the total failure of the AACR in setting up the company under the existing structure as a pillar of their economic policy which has miserably failed and the moment they accept that reality I am sure that we can forward on both sides of the House to save the jobs of those people because it would be criminal, totally irresponsible of the Government at this stage to accept redundancies because of their failure and they have to resolve the problems, Mr Speaker, of those people who at the moment are facing redundancy in the yard.

HON CHIEF MINISTER:

Well, after that impassioned and irrelevant address by the Hon Mr Feetham, I would like to address myself to one or two matters of substance and let me say that I will not go into the question of the accounts, I think as, in fact, the Leader of the Opposition has accepted, the information given by the Financial and Development Secretary has been very full and there are quite a number of matters that have been cleared up since then. I would like to address myself to the main issues which will determine the way ahead for GSL. I think that, as far as I am concerned, is the proper way which we should consider this matter and how we ourselves see the situation. Unfortunately, Mr Speaker, once again this year GSL emerges battered from another costly and damaging industrial dispute over wages, surviving the poor state of communication and understanding between management

and workforce. As shareholders of GSL the Government cannot hide its frustration in seeing such a major industry caught up in a continuous stop-go situation. It is almost as if the fierceness of competition of the market within which GSL has to operate increasingly is dwarfed by the fierceness of disruption inside the company itself. That is no recipe for survival let alone success. Mostly, if not all the time, we are all overcome by the heat and passion of arguments about who is paying what, who said such and such to so and so and who should go and who should stay and so on and yet we fail to recognise or understand that none of this will help build or strengthen the stability and reputation of the yard that perforce has to look to the outside world for its real bread and butter. The shipping market does not stand still waiting for all of us to argue out our differences, eager to forgive and forget. I say this because collectively, and I include the Government, of course, we must have a sense of realism and perspective if we are to secure a future for the yard and for those who depend on it for their livelihood. I would like to say that the thoughts I am expressing now are the thoughts that I had before the petition was presented and whilst I will deal with the substance of the petition at a later stage, I would like to draw the attention that the thoughts that I have now are very much on the lines of what I will reply to the petition but these notes were prepared before the petition was presented a few hours ago at half past ten this morning. Let me therefore deal, first of all, with the Government's view on the internal problems at GSL and I will then go on to say something about what we consider to be the approach it is facing, the external factors which are crucial to the viability of the yard. The lessons of the past two and a half years are clear, the Government is seized of the difficulties which the management need to overcome. It is also well aware of the problems and frustrations which have beset the workforce. The relationship between the Board, the managers and the workforce is fragmented, attitudes have hardened. Looking at it coldly and objectively the Government considers that the situation can only be redressed and improved if there is a fundamental change in the terms of the management agreement. The GSL Board must be given teeth and greater control over the overall operation of the yard. Admittedly, the Government accepted the existing management agreement at the time of commercialisation on the advice of experts in the field drawn from the shiprepairing and commercial world and economic world. The Board of GSL as my colleague has said, Mr Canepa, has in effect too little authority and too much responsibility and the management has got too much authority and very little responsibility. I think that is the crux of the difficulties that have been encountered and that is why we feel that the best way ahead is the procedure that we have adopted. I was very saddened, in a way, to hear the rather, not offensive but remarks that were not, I think, in keeping with the facts that I said at the beginning who we have entrusted with the renegotiation, Michael Casey, because looking back at the time when we had the first problems, Michael Casey's assessment which was an assessment accepted after all the agreements

had been made and let me also say, because I think this is very important, we hold no brief at all for the managers of Appledore, very much the opposite, we are very critical. But let me say, as I think I have said before in this House, that the British Government and this is a judgement that I have drawn and it has not been told to me in so many words but I have it from the highest authority in this matter that the money available for the development of the yard would not have been forthcoming from the British Government if anybody else had been appointed managers of the yard.

HON J BOSSANO:

Is the Hon Member then saying that the tender selection was a farce?

HON CHIEF MINISTER:

No, of course it wasn't but once the tender selections were looked at I can say and, I think, my colleague will bear with me, that at the very top one of the greatest assurances given to us on the basis of the help that was going to be given was that we had the top managers to run a yard. It may be laughable matter now but it wasn't at the time when none of us knew what would happen, it is very easy now and I am not saying, let it be quite clear lest my language is misunderstood elsewhere, I am not saying that that is a correct assessment, I am saying very much the opposite but I am saying that at the time when the money was becoming available that was my judgement of what was said to us a very important factor and I think I have said this before when the Hon Leader of the Opposition has said in this House 'had we been given the £28m we would have done this or the other'. First of all, the British Government doesn't give politicians any money and, secondly, they would secure or would want to secure many assurances before they went and, in fact, so many assurances were looked for that in the end we found ourselves in the position that we are today. The change in managing director last year, as my friend has said, was a significant turning point in the running of the yard and we have expressed our views about the importance also of trading and upgrading Gibraltarians in the yard. We may not have all the skills and we may have to import some or expertise locally to fill all the posts but we are not far short of it and I am satisfied in my own mind that over the coming year if we have the chance and are given the chance we shall be seeing positive steps in that direction as the expatriate complement, as I will explain later when I deal with the question of the review of the management agreement, reduces in line with the original plans put to us at the time of the commercialisation and possibly speeded up and I am glad to say that the ODA recently agreed to make a further modest contribution in ensuring that the company's trading plan is implemented successfully. For our part and during the recent pay negotiations, we decided to take over the running of the apprentices training centre to ensure

continuity of industrial training in the key-area of skilled trade for the yard. We have also intervened when necessary to try and bring management and union together in an effort to harmonise and rationalise discussion and communication. I think the appointment of the controller has also proved to be an effective monitor and check and has helped to strengthen, to some extent, not satisfactorily but to some extent the Board's supervision over some of the operations. Many of the recommendations of the Price Waterhouse Report which we commissioned have also been pushed along particularly in improving the financial machinery so we are far from satisfied how that functions now and, unfortunately, it is evident from everything that has been said that industrial relations in the yard have not been as stable as they have to be. I know that the vast majority of those who work in the yard have a strong sense of commitment, I have seen it myself, and the Government has impressed upon the Board and, particularly, the managers the need to improve the process of consultation and communication. I think that it is fair to say that this has been happening and that there is more open dialogue to some extent but it is still, as my colleague has said, bedevilled and very little is required to flare up into problems that could well be avoided. But in order to evolve a spirit of cooperation there must be an opportunity of being able to work and not under the threat of industrial action. There is an open letter to which I will refer later from EPCS which I think is very relevant but since that came at the same time as the petition I shall deal with both of them at the same time. A company such as GSL has to cope with enough uncertainty about the state of the market which feeds it without having to cope with even more uncertainty about its trading position or solvency every time the yard is thrown into a state of dispute. The major question now is the restructure of the yard. This may well involve redundancies and I understand that some progress has been made over the past few days towards an agreement on redundancy procedures but the Government is awaiting proposals from the company regarding the options ahead in achieving a restructuring of operations and it is therefore still early before commenting on the nature of the adjustments that will be necessary. I will have something further to say on that when I come to deal with the petition. It will take some time and it will cost money. The Government is, once again, as my colleague has said, prepared to consider providing further funding for this once it is satisfied that there is a sound basis for the future. It will naturally do so having regard also to the requirement of the EEC Directive which governs the application of public funds towards a ship-repair industry. As I think the Chairman of GSL has stated, the restructuring of operations to be implemented after proper consultation with the union and it is here that I appeal to both sides when it comes to considering the restructuring, to exercise discretion and goodwill. In this connection I have to say that it is regrettable that a man of the calibre of Mr. Peter Simohis who has put in considerable efforts since he took up his position as Chairman, should be vilified and targeted for personal attacks because he felt it was fair

and proper to explain the situation which the company has to face over the coming year. Together with the rest of the Board he has an unenviable task of reshaping the managerial structure on the one hand and the employment structure on the other. We have every confidence that he will be able, with the help of those concerned, to carry out the necessary exercise. The question of a stable yard even throughout the restructuring process involving redundancies is critical if closure is to be averted. I think the Hon Leader of the Opposition did not believe, during the last crisis, that closure was imminent until perhaps at the last moment and it was a very sad reality and not just a bluff, nothing of the importance of the employment of so many people can be the subject of bluff by anybody, it would be the acme of immorality to be in Government bluffing the life of people away. That was perfectly true and perfectly sincere. We were glad that we were able to avoid it but, unfortunately, the honeymoon lasted a very little time and despite the fact that there is, I think, provision in the agreement for proper procedures to deal with claims, no sooner had the agreement been signed than signs were up again of industrial unrest and attempts at not allowing matters to flow in the way that it had been expected when the agreement was signed. Mr. Speaker, the Shop Stewards at GSL presented a petition or a memorandum, I would call it, this morning before we started the meeting. There will, of course, be more time to look at the matter in more detail but it would not be proper, despite the fact that it was only a few hours ago, if I did not refer to that. It is not, if I may say so, very difficult, in a way, because it is predictable and one knows exactly how one side thinks and the other side has to react to that in the way that it has done all the time because the matter is sufficiently serious and I think that people deserve a statement, at least a preliminary statement, in reply. Let me say that any redundancy measures at GSL will have to be cleared with the Government in the first instance. The Chairman of GSL during his last visit undertook to submit proposals showing a range of options for a restructure of operations. The Government, therefore, will wish to be satisfied that before any redundancies are proceeded with, that these will have been properly considered and prepared. We will also wish to be satisfied that the company will have taken parallel steps to reduce the general level of overheads including the company's proposed managerial complement, notably expatriates. I therefore wish to make it abundantly clear that no redundancies will proceed at GSL without prior consultation with the Government and that any statements made except for by the managing director should be considered in the light of the statement that I have made now. We are the owners, we are the Government and we will be putting in the money at the end of the day. Naturally, there will have to be decisions which are commercially sound but we will want to have regard for the planned redundancy mix and the extent to which the impact should or should not be shouldered by Gibraltarians, particularly those Gibraltarians with the necessary skills. We will also want to see the effect which this may or may not have on the training plan and localisation of expatriate posts to which I referred earlier.

I realise that the uncertainty of redundancy will have a negative effect on people's expectations for the future and that there is a serious risk of a drain of the more promising local skills, but I do ask for a measure of patience, even at this stage, having regard to the manner in which the Government proposes to monitor any redundancy programme. It may, in the end, be a small-scale or it may rise to the kind of numbers being mooted. It is early to say anything until we have the facts before us. I would like to repeat the assurance I already gave that we will expect GSL management to consult the unions properly and fully. I must, again, appeal for normal working in the yard whilst the process of due consultation and negotiation is under way. That, in itself, will help mitigate or reduce the extent to which redundancies may or may not be necessary so I think that there should be no misunderstanding or misrepresentation. Any redundancy plan at GSL will have to be cleared and planned properly and sensibly. It is too serious a matter to be allowed to be handled otherwise and I ask everyone to ignore whatever may have been said in, around or outside the yard to date. As far as APA's own future is concerned, I have already explained the steps which the Board is taking on the Management Agreement. We shall have to wait and see whether the revised terms of the new Agreement will prove to be acceptable or not, to us and to them. To us, of course, it will have to be acceptable before they are put forward, whether it is acceptable to them or not is another matter. But I can assure Members that the intention is for a real revision of the Management Agreement and it is true that experience, as Oscar Wilde once said, is when you lose but with the experience that we have of the operation and the difficulties that we have had, I think that any revision that is made acceptable and comes out of any renegotiation of the Agreement is bound to be one which will be acceptable and which will work properly. I don't think I need say more about that because it is there where we want to leave our muscle to be able to negotiate and I don't think that I would be helping with a tirade against management at this stage. In stating that and in making the appeal I would like also to echo the appeal made in an open letter which was in my desk when I returned to the office from IPCS, the Institution of Professional Civil Servants, because they say in very clear terms what we feel which is 'We firmly believe that we express our members' views in stating that with goodwill on all fronts GSL can be a success. We do not intend to waste time to analyse the analysis of historical mistakes, mismanagement or trade union disputes. Our concern is to preserve jobs and to ensure the full viability of the yard not only for those employed in the yard but also for the benefit of the community as a whole. We do not believe that redundancies are a solution but instead we consider that this represents the thin end of the wedge in a slow painful closure of the yard. We implore both trade unions and GSL management to put aside their differences and to work towards a single objective of ensuring the viability of the yard'. I think that that feeling is not just a feeling from the Government but it is a feeling which I am sure is shared not only by IPCS but is also shared by the other unions concerned.

HON J BOSSANO:

Can I ask the Hon Member, is that on behalf of the IPCS members in the yard or is that the IPCS Branch Committee which represents really mainly Gibraltar Government people because my understanding is, in fact, that the overtime ban was started by IPCS members in July, the one that they are imploring shouldn't happen.

HON CHIEF MINISTER:

Well, I can only go, as much as I give credit to any letter from the Transport and General Workers Union, I will tell you what the heading says and that may or may not help you. It says 'Institution of Professional Civil Servants, PO Box 272, Gibraltar'.

HON J BOSSANO:

It doesn't say whether it is on behalf of the Branch or on behalf of the people in GSL?

HON CHIEF MINISTER:

No, it says 'Open Letter'. I didn't read the beginning because I thought it would be unquestionable but since there are questions being put I will open up at the opening paragraph: "Open Letter - It is evident that GSL is facing an imminent crisis of major proportion. It is our firm view that this crisis is avoidable but only if all parties concerned concentrate their energy and objective in averting such a crisis". So I don't think that there can be any qualification put to the source of this paper unless it has been put through the post anonymously but I do not believe that because they then challenge the Government, they challenge everybody.

HON J BOSSANO:

Including themselves.

HON CHIEF MINISTER:

"We challenge Mr Torsten Andersson to state that he guarantees the viability of the yard provided he is assured industrial peace. We challenge the Government to underwrite this guarantee thereby showing conviction in the viability of the yard. We ask all trade unions concerned to guarantee a period of industrial peace under the following general conditions: the negotiation of a state pay claim to cover the period up to 1990 correlating with the local rate of inflation. A dispute procedure agreement dealing to binding or non-binding arbitration instead of instant industrial action. No enforced redundancy other than through specific agreement with the trade union. Economic assistance from

Government to ensure that guarantees are effective. Full trade union cooperation in all aspects of operations with GSL. We fully hope that all sides will seriously consider the above and offer a reply to our Open Letter which we hope will at least instigate a round table conference with all parties concerned. This is a serious, small, perhaps, but a serious union of responsible professional people and I think it should have the greatest respect. And I only quote it because it coincides with the view that I have been advocating in this and that is that unless everybody pulls together and we do away with this instant resort to industrial action....

HON J E PILCHER:

Mr Speaker, are they the same people that are stopping the public enquiry into the GUNAC affair? Is it not IPCS?

HON CHIEF MINISTER:

I do not think that that helps. The Hon Mr Pilcher should realise that that does not help. Simply because they don't like what another union says we should not try and cast aspersions on them on another matter, that is most improper and reprehensible and shows, perhaps, the contempt with which perhaps the proposals of that union may be considered elsewhere. Finally, I would like to say that nothing my colleague said earlier on in his address which was fiercely challenged by Mr Feetham. I believe he has completely misunderstood the tenor of my friend's remarks if I have understood them properly, and that is that when he spoke about the possibility of somebody determined to get the yard not working, he also exposed the strategic position of the yard and that to anybody with a little intelligence, even Mr Feetham, might have considered that his eyes were cast a little further beyond our shores.

MR SPEAKER:

We will then recess until tomorrow morning at 10.30 am.

The House recessed at 6.55 pm.

WEDNESDAY THE 21ST OCTOBER, 1987

The House resumed at 10.40 am.

MR SPEAKER:

I believe that the next contributor to the debate is the Hon Mr Pilcher.

HON J E PILCHER:

Mr Speaker, first of all, before I start my submission, I think it is only right to say that the motion goes beyond what is, in fact, just the noting of the 1986 Accounts. I think that the reality of the situation has been expounded by all the contributors and I think that the parameters have been opened up much more extensively to an overall debate on GSL past, present and future. I think, therefore, before I start getting into the meat of the submission, I think we have to lay the scenario that has brought about, Mr Speaker, the position in which we are today. We cannot forget, Mr Speaker, that it was just over three years ago that the people of Gibraltar went to an election and in that election decided to give the AACR Government the right to manage what they thought was a perfectly valid and viable operation and which they had themselves decided was the best and, certainly, the most viable of the alternatives open to the people of Gibraltar. There were two main elements, Mr Speaker, in deciding which should be the preferred operator. Those two elements, Mr Speaker, if I remember correctly, were the fact that the Project Study of A & P Appledore would produce at the end of the day many more jobs than any of the other submissions and also that the level of apprenticeship and management training would, in fact, turn the yard round from being full of expatriate managers to a dwindling situation whereby at the end of year four basically all the workforce would be trained, would be local and the local management which came over from the MOD would have, in fact, taken over from the expatriate managers. These two elements, Mr Speaker, were well publicised and advertised at the time of the general election not as an excuse but as one of the main reasons for A & P Appledore having taken up the contract. Today, Mr Speaker, we now realise that neither of those two elements have, in fact, worked. The 1,200 jobs have, in fact, dwindled to 800 and, Mr Speaker, we have heard from the managers of the company, from the Board and, I think, and I will touch upon that later on, from the Hon the Chief Minister himself that a restructuring will have to take place in order for the level of employment in the company to be brought down. We have also heard in this House, Mr Speaker, that the Government of Gibraltar intend to take over the apprentices training centre and therefore take on themselves the training of the local young people of Gibraltar in order to produce for GSL what GSL need in the future and certainly on the management of the company the levels of expatriate managers from 37 have dwindled to about 32 at the moment. Mr Speaker, those reasons that were expounded at the time as being the main reasons for the submission of Appledore and the contracting of Appledore have, in fact, collapsed. I think one has to look at how realistic our predictions were when you are looking at them, not now, Mr Speaker, with the benefit of hindsight, but in 1984. I do not want to get into the argument because I think it was expounded well by my colleague and friend, Mr Feetham, yesterday of what the alternative being offered to the people of Gibraltar by the GSLP was at that time but, I think, the reality is that what we are

going to get for 1988 is, in fact, what the GSLP were saying in 1984, Mr Speaker. It is important, Mr Speaker, to look at why A & P Appledore were the preferred operator. I want to read an article in the Gibraltar Chronicle published on the 12th February this year following the statement in the House of Assembly by the Hon and Learned the Chief Minister in the debate that ensued where the Chronicle states and, in fact, the Chief Minister did state that here in the House: "He stated clearly that the £28m from Britain would probably not have been forthcoming if Appledore had not been accepted with it". This, Mr Speaker, was repeated yesterday by the Hon and Learned the Chief Minister where he said that had we not accepted A & P Appledore the reality might have been that the British Government might not have been happy to go down the path of giving Gibraltar £28m.

HON CHIEF MINISTER:

If the Hon Member will give way because it is very important and I just want to be quite sure that we get the scene right on this matter. I think, perhaps, a fairer way of putting it is that the fact that they had been selected the preferred operators did help to get the money. It certainly wasn't a condition but a lot of stress was laid on the satisfaction at that level about the fact that people like that were getting the contract.

HON J E PILCHER:

Mr Speaker, I think that that certainly clarifies that. The reality, Mr Speaker, is that the pressure on the Government of Gibraltar to accept A & P Appledore as the preferred operator because the UK Government wanted A & P Appledore to be the operator of the yard causes, in fact, a farcical situation where we were being told in Gibraltar that certain submissions had been handed in, that it was up to whoever produced the best submission, where behind the scenes, Mr Speaker, the pressures were on the fact that the contract had to be awarded to A & P Appledore and that they were the preferred operators and that the Gibraltar Government went along with the British Government to give A & P Appledore the blank cheque that the UK Government wanted them to have. What has happened, Mr Speaker, is that as a result of that we now come to the situation today where the UK Government have, and I think tongue in cheek, said to us: "We gave you £28m for the converting of the Naval Dockyard into a commercial dockyard and therefore irrespective of the reasons why it is failing we are not going to give you any more money". Mr Speaker, this decision taken by the Government then and I think the history of the AACR clearly shows that although they believe that the UK Government, and I think we all believe, all the people of Gibraltar believe that the UK Government are the friends of the people of Gibraltar but notwithstanding that, the AACR Government do not want to have a quibble or an argument with the UK Government and

as a result of that they accepted what we knew and Michael Casey who did a study for them in 1983/84. Knew, was a situation where the yard would fail because it was impossible for the managers to produce and to keep within the submission and the projections that they had made. Today it is the people of Gibraltar who are suffering because of that decision, Mr Speaker, because we can no longer go back to the British Government to say: "It was you who decided who the preferred operator should be. It was you who led us down the path and told us 'There are £28m' and it is you who have now got the responsibility to get Gibraltar out of the fracas in which GSL has been". The Gibraltar Government, Mr Speaker, is not in a position today to be able to do that because they went along with the British Government and accepted that A & P Appledore were the preferred operators because of certain political manoeuvrings behind the scenes, Mr Speaker. I would like to read also a comment made by the Managing Director of A & P Appledore which seems to cast a little bit of doubt as to whether the £28m was in fact as generous a deal as the people of Gibraltar were led to understand from the AACR Government. In an article in the Chronicle of the 14th March, 1987, Mr Torsten Andersson said: "Dubai yard, where Mr Andersson worked before coming to Gibraltar, saw an investment of £260 million. That yard employed a similar number of men as Gibraltar, near 800". Logically we are not asking that the British Government should have given Gibraltar £260m but it certainly is by far a long way away from the £28m that they gave us to virtually convert an old MOD Naval yard into a commercial modern yard, Mr Speaker. I cannot understand the problems when the company said that they had to take on a yard which was defective and old, wall, everybody knew that, Mr Speaker, but it was being sold as a very generous package at the time. But that, I think, Mr Speaker, sets the scenario under which the people of Gibraltar have to look at the performance of the company and look at the performance of the Government because it was three years ago, Mr Speaker, and I am a firm believer and advocate that the Government of the day, be it who they may, have to take themselves responsible for what they say during an election campaign and what they say in their own manifesto and are responsible those four years for what they say they are going to do and it is not a question of coming back to the House now and saying: 'Well, let's forget about the past, we have got to think about the future'. I accept we have got to think about the future but, politically, they have to be responsible for the past, Mr Speaker. Having set the scenario, I will now come to the opening of the motion where the Hon Financial and Development Secretary, and this was mentioned yesterday by my colleague and leader, was, in fact, saying that in commercial and financial terms even without industrial unrest in the yard it would be very, very difficult for the yard to break even at the end of the year because of the overheads that the yard had. I think that is a fair assumption. Also we heard, Mr Speaker, the Hon Leader of the Opposition saying, in his intimate knowledge of GSL, that for the first six months of this year where the company supposedly was running at full sales projections, was having many ships in the yard

and had RFA's and had no industrial unrest although behind the scenes there was movement on wage claims etc, the yard was losing £100,000 a month, eventually £1.2m at the end of the year. That, Mr Speaker, was the scenario painted by the Financial and Development Secretary of the Government and the Leader of the Opposition in his intimate knowledge of the workings of GSL. And what happened? The Hon Mr Canepa, Mr Speaker, gets up and in his contribution totally ignores everything that has been said by his own Financial and Development Secretary, by the Leader of the Opposition and by the many reports like, for example, the Price Waterhouse Report which the Government themselves commissioned and starts talking about the problems related to industrial action and, therefore, apportioning, although indirectly, blame on the unions saying he would not exonerate the company, therefore, again, indirectly apportioning blame to the company, talking about the political undertones of the ridiculous questions of the Oppositions, therefore indirectly apportioning blame for the failure of GSL on the political undertones of the Opposition and, eventually, talks about the fifth column working within GSL which produces this total fracas of the company. Well, I do not like to delve in literary memories because that is the Hon Financial and Development Secretary's privilege but I was reminded, Mr Speaker, of Don Quixote de La Mancha. I had mental pictures of the Hon Adolfo fighting the cranes at the dockyard trying to lead all the fifth column out of the dockyard, Mr Speaker. Well, that is utter nonsense, what he was doing in his submission, Mr Speaker, was trying to apportion blame all over the place except in the laps of the people whose responsibility it is and was, the AACR Government, Mr Speaker. Although I normally listen carefully and attentively to what the Hon Mr Canepa has to say, I think that slight mention of his contribution is enough because, certainly, he did not mention anything worth commenting on this side of the House. I think he is living in a world of his own, Mr Speaker, perhaps because he has other problems related to political future within the AACR and has no time to talk about the Gibraltar Shiprepair Limited. Then, Mr Speaker, we get the contribution of the Hon and Learned the Chief Minister who, first of all, starts trying to excuse the Hon Mr Canepa for the comment on the fifth column saying that it has to be seen in the military strategic position of Gibraltar. I was lost, I didn't know, Mr Speaker, whether the Hon and Learned Chief Minister was casting aspersions as to Iranians being in the yard or KGB or the Communists or the Americans but what did, again, come to my mind was Sancho Panza trying to excuse his loony master on the comments that he had made, Mr Speaker. Certainly, the analogy is not correct but everybody knows that the Hon Mr Canepa is not the master of the Hon and Learned the Chief Minister although he would like to be but if he were he wouldn't allow him to give political platform to a person who is trying to fight him against in the next elections, Mr Speaker, but enough said about that. We now come, Mr Speaker, to the main thrust of the contribution of the Hon and Learned the Chief Minister which was basically, and I think I will talk about a couple

of other aspects later on when I talk about the responsibilities of the Government, basically was one following the line of the Hon Mr Canepa in casting aspersions at the industrial unrest in the yard and the fact that would it not perhaps be that the yard was failing because of this industrial unrest and because of the fact that the workers, although he at one stage praised them for their total commitment, but he left it in the air whether it wasn't, in fact, because of industrial unrest and because of.....

HON CHIEF MINISTER:

If the Hon Member will give way. I was particularly careful not to apportion blame, I was particularly careful and referred all the time to the element in its workforce and management and, indeed, somewhat to the surprise of Hon Members when I read the IPCS letter it was exactly that that I used in aid of my arguments and they were just for conciliation and that was the gist of my argument. I didn't apportion blame at all but I said that these were the elements that prevented the thing from working and I did not go to the extent, if necessary I will go whenever it is required but for the purposes of my appeal yesterday to people to go back and to bear with the Government in looking at the restructuring and to giving assurances that there would be no redundancies without the Government looking at it and taking away the natural annoyance that was caused, in fact, that created the demonstration arising out of remarks which were out of place, I was trying to be perfectly balanced in everything I said in that respect. I don't think the Hon Member is fair in describing it that way. I took particular care yesterday to stand neutral and appeal to all parties in order to get on with the yard.

HON J E PILCHER:

Perhaps, Mr Speaker, that is the problem related to the failure of GSL, the neutral position of the Government since Day 1 of the operations. I have heard what the Hon and Learned the Chief Minister had to say but the impression obtained on this side of the House and I am not saying that this is or is not what he tried to do, the impression obtained by us on this side of the House was that he was, not apportioning blame as, in fact, I said about the intervention of the Hon Mr Canepa, but indirectly putting a question mark on the industrial problems and on the work related measures, productivity, etc, of the workforce. I would like, Mr Speaker, to reinforce again the point made by the Hon the Leader of the Opposition which I won't delve into at length because I think he covered them more than amply yesterday but just to impress on the people of Gibraltar that as far as the turnover has failed and as far as the projections on the project study by A & P Appledore, the workforce in the yard, Mr Speaker, have met those projections amply. In fact, in 1985 the turnover was around £6m and the projected turnover was £6m, the cost of wages was £6m and the projected cost

of wages and salaries was £6m. In 1986 the turnover of sales was £12m and the projected turnover was £9.7m, the labour cost was £7.7m as opposed to £7.7m in the project study of A & P Appledore. I think that proves quite clearly, Mr Speaker, that as far as the workforce at GSL is concerned they have, in fact, met the targets set on them by A & P Appledore and the failure of the yard must be looked at elsewhere. I will be commenting quite frequently on the Price Waterhouse Report. I think in the Price Waterhouse Report, Mr Speaker, it does mention that the problems related with the industrial problems in the yard in 1986 actually meant that the yard was only operational for about nine months of the year which, in fact, makes it even more to the point that the workforce of the yard in nine months did what they were supposed to have done in a year, Mr Speaker, and that is contained in the Price Waterhouse Report. Also, I would like to look at the Price Waterhouse Report where it talks about because I think sometimes the Government's mistake is that they commission reports and don't look at them and therefore as a consequence they don't really know what is going on, but in the Price Waterhouse Report page 22, it is Price Waterhouse trying to gauge how the company and how the workforce were performing. In page 22 it says: "The opinion of the local MOD staff to GSL's performance was sought and the following general verbal comments were made: RNAS excellent quality, weeks ahead of schedule; other vessels, military specification work good particularly on electronics; civilian specification work quality as good as any other commercial repair yard. HMS Glasgow damage repairs, GSL's reputation was enhanced by the speed and quality of workmanship. Commercial customers, the 'Jacob' was towed away from GSL in December, 1985, during an industrial dispute, a major embarrassment for the shiprepair yard. However, the owners' confidence in the GSL workforce was demonstrated when her sister ship came into GSL in July, 1986. 'Joanna' visited GSL for collision damage repairs, the original GSL estimate to complete the work was 29 days yet the actual duration was 27 days. This performance merited a bonus payment from the owners and it was reported in the press that a yard in Cadiz had quoted 90 days for this job". I think, Mr Speaker, if there is ample proof in their own report, in the accounts to prove that the workforce have met the targets and the commitment of the workforce has been there to produce everything that A & P Appledore had wanted that the workforce produce. I think the red herring of industrial action, the red herring of disturbances within the yard is, in fact, that, Mr Speaker, a red herring brought out every couple of months by the company, by the Government to try and find an excuse for the failure of the yard. But, of course, it is to a point true and I think the Hon Leader of the Opposition did mention that yesterday, that there are problems related to industrial unrest in the yard but if one looks, Mr Speaker, at a situation where promises made by the company in the past have not been met, things like the pension scheme which was supposed to start operating the moment that the yard started operating and we have just heard that it has

been started now with £1m, not of the company but of the Government. Then, Mr Speaker, if we talk about the fact that although the Government believes there is a moral responsibility to pay redundancy the company do not want to enter into any redundancy agreement, the fact that there are contract workers getting paid £500 and £600 working beside them, the fact that expatriate managers are getting two and three times what they are getting, these are the things that cause industrial unrest. Is the Government blind as to the reasons why the workforce at GSL are committed to industrial unrest? Do you think it is a fair situation for the yard to have been plunged into industrial unrest and plunged into strikes and overtime bans, etc and at the end of the day to settle for 9% which cost the company £200,000 when we have just heard that the inducement allowance of the managers only is £1m? Mr Speaker, of course there is industrial unrest because people, I think, have a desire to work and have a commitment to the company but they don't want to be treated like second class citizens. Mr Speaker, a lot of them went from an MOD yard which had already inherent a colonial aspect and mentality in it, in that it was very difficult to go above a certain line because those lines were occupied by UK managers, into a commercial operation 100% owned by the Government where the same problem was being seen; in fact, a much worse problem than that because in any case in the UK Departments the pay cheque at the end of the year comes from the UK Government. In GSL the pay cheque at the end of the year now is coming from the Gibraltar Government. There is natural annoyance by the people there and it is not a question of saying, 'well, we are going to do a restructuring exercise and get 100 people out and that will lower the overheads'. No, Mr Speaker, GSL needs a complete and thorough restructuring and a complete and thorough investigation so that at the end of the day when we do produce the restructuring we will also produce the confidence of the workforce which will, in itself, produce an industrial action free zone at GSL. But that will only be earned when we earn the confidence of the people working there, Mr Speaker. I would like, just before I turn away from the industrial element of GSL which I think has been mentioned at length, to mention the fact that yesterday whether the Hon and Learned the Chief Minister thinks he did or not and, in fact, he has just said it when he got up, he used the IPCS statement or bulletin or whatever in aid of his argument. At the end what he was trying to produce and it certainly appeared to us on this side of the House and I know for a fact because afterwards I have had certain meetings, it appeared to the rest of Gibraltar as if the Government were saying 'Here is IPCS, the good union, saying how badly the other unions were behaving and therefore why don't the other unions and management get together'. Well, this was not, Mr Speaker, and I did, up to a point, explode yesterday and mentioned the enquiry which I wish I hadn't because obviously the Hon and Learned the Chief Minister like the very able lawyer that he is, twisted my words and said that what I was doing was showing my hate for the IPCS and the problems between ACTSS and IPCS, nothing furthest away from my mind,

Mr Speaker, in fact, I have very good relations with IPCS. The point that I was trying to make was that a union like, for example, IPCS in GSL who have 34 members out of something in the region of 800 workers, has to before they make a public statement, put in perspective the number of members they have so that the people that are hearing the statement will not confuse the issues and believe that it is half the workforce against the other half of the workforce. In any case, having spoken at length last night to Mr John Licudi, the Secretary of IPCS, he has told me quite clearly that if the statement was used to that end he is very, very sorry that he issued it in the first place. I think it was a genuine attempt on his part given a misapprehension by IPCS. The misapprehension was that apparently they had had a meeting with Torsten Andersson and in the meeting it was reported that Torsten Andersson believed that with Government backing the operation could be viable. IPCS understood viable to mean that if Government backed the operation financially there wouldn't be any redundancies. That is what IPCS understood and therefore their plea to the Government was to put money behind the operation so that there wouldn't be any redundancies. That, Mr Speaker, I can understand but I still maintain that the subject should have been cleared up first by explaining the number of people that IPCS represent. That is why I mentioned the enquiry, not because I want to delve into the enquiry, that is a situation between IPCS and the Government and it would be unfair if ACTSS, Mr Speaker, the other non-industrial union who has maybe a few members in both grades, suddenly sent a letter tomorrow, and that was used by us in the House of Assembly to say 'Here is ACTSS asking IPCS and the Government to get together for the good of Gibraltar so that we can start repainting buildings and start getting on with works at Bayside etc'. That is why, Mr Speaker, I lost my cool for a second because I thought that what the Government - well, I knew that the Government were using IPCS's statement to back up their argument - but I thought that IPCS had, in fact, issued the bulletin without realising what they were doing because I hadn't seen it, but having seen the bulletin, having read it carefully I can understand that really all that it was was '34 members of the dockyard saying, in the misapprehension that all that GSL needs is more money, saying 'Well, put more money in and don't sack anybody'. We know, Mr Speaker, quite clearly after the intervention of the Financial and Development Secretary, the intervention of the Hon Leader of the Opposition and in studying the accounts and more basically in looking at the Gibraltar Shiprepair review carried out by Price Waterhouse, that there is much more than just pumping money into the operation to keep it afloat. I will go into it later, the Chief Minister himself in the comments made on the 2nd February, said that that was the last thing in his mind to continue to pump money in an operation that was going to die even if we were allowed to do it by the EEC which I am not sure if we are. That takes care of that, Mr Speaker, and I think we have cleared up the fact that the industrial workforce and the non-industrial workforce have

a commitment to the yard, have accomplished that commitment as far as the projections of A & P Appledore are concerned and have taken very, very low wage settlements in the interim in order to help the company out. What, Mr Speaker, are the reasons for the failure of the company? As far as I am concerned the reasons are diverse. I made several notes of what I consider to be the reasons for failure of the company. (1) Board control; the control of the company by the Board; (2) an overrun on capital expenditure; (3) A & P Appledore's involvement, and (4) the inefficiency and lack of control of the Government. And I intend, Mr Speaker, briefly to go through those. I mentioned Board control. Again, we all heard the Hon Mr Canepa yesterday and I may misquote him but I think what I am going to say is more or less right. He said something about the company with very little responsibility or very little work and a lot of power and the Board with a lot of responsibility and very little power, something on those lines. Well, Mr Speaker, I don't understand how the Hon and Learned the Chief Minister and the Hon Mr Canepa can use that argument. It is their Government that signed the Management contract with A & P Appledore that gave them the right to run the yard as they so wished.

HON A J CANEPA:

If the Hon Member will give way. The Chief Minister later on went on to explain that that Management contract was accepted because it was backed by specialist advice from specialist lawyers in the shipping industry and other commercial advice from experts in the shipping industry. It was the best advice that we had available regarding that Management contract, that is why it was accepted.

HON J E PILCHER:

Again, Mr Speaker, every time they get up to make an explanation I think they get deeper into it because that proves what the Hon the Leader of the Opposition was saying yesterday 'so much for experts'. Shipping experts, experts that tell us what we should pay our managers, experts that tell us what we should pay our directors, experts that tell us what is wrong with the yard, experts that tell us what is wrong with the Management Contract, experts that told us what is the Management Contract we should have signed with A & P Appledore at a very high cost.

HON A J CANEPA:

If the Hon Member will give way. I know that he didn't interrupt me yesterday but then I don't have any right to speak later on in the debate. The Government has a legal adviser who is the Attorney-General, he is not a specialist. It is quite a common practice for Governments and all sorts of bodies to engage specialist legal advice. There are lawyers that specialise in very many fields and that is how they

make a living. In London there are lawyers who work entirely on shipping registry matters, for instance, and I have visited some of the Chambers myself. They only deal with that so complex is the field and you cannot get the Attorney-General to advise on every aspect of the matter. He is the Government's adviser on very many matters but you cannot expect him on a specialist field like that to be able to give the right sort of advice so you have to go for that advice somewhere. I don't think that we politicians are experts either. I am quite happy to take decisions on many matters on which I feel confident but I think angels would fear to tread where we just aren't in that sort of ball game. I think this is what has to be realised or is the Hon Member saying that if they get into Government they are not going to take any specialist advice? They are going to take all the decisions without the benefit of advice?

HON J E PILCHER:

Mr Speaker, angels fear to tread where lawyers have been.

MR SPEAKER:

You will be surprised.

HON J E PILCHER:

I am sorry, Mr Speaker. The Opposition is not saying that if we get into Government, and I am glad to see that in this House the fact that we are going to get into Government is more and more prominent, Mr Speaker.

HON A J CANEPA:

I used the word 'if'.

MR SPEAKER:

Let us not have a debate on that by any means.

HON J E PILCHER:

No, it is not that we are not going to use specialist advice, Mr Speaker, but I who am a layman saw the contract between A & P Appledore and the Government on a confidential basis and therefore I am bound by that confidentiality, but I can say for free to the Hon Mr Canepa that the moment I read that Management Agreement I knew that there was something drastically wrong with it and he has taken three years to find that out, Mr Speaker. I am not an expert in the technicalities but what was absolutely clear was that every single item was given over to the company - industrial relations, employment, salaries, wages, policy decisions - everything, Mr Speaker, was passed on to A & P Appledore.

It is a fact, I am not saying something that is now confidential on that aspect because it has already been mentioned by the Hon Member himself when he was speaking about the problems encountered by the Board on the first two years of operation of trying to get any information whatsoever. I was surprised to hear the Hon Member saying 'and who is Torsten Andersson to say this or that?' Well, who was Brian Abbott and he dictated to the Board, to the Government and to everybody and until he left, Mr Speaker, nobody on that side of the House had the temerity to talk against him until he left. When he left then all the problems were associated with Mr Brian Abbott, all the industrial problems, everything was the fault of Mr Brian Abbott, obviously because it suited the Government at that stage to be able to put the blame on Mr Abbott who had gone and I am glad to say he is no longer even working for A & P Appledore, he has been sacked as well. Mr Speaker, of course that is one of the main problems and one of the main reasons related to the failure of the company. The Board were not able to control the company. The Chairman - and I won't get involved whether the Chairman is getting £10,000, £20,000 - the Chairman was not able to control the company, the Board was not able to control the company. The proof, again, in Price Waterhouse, Mr Speaker, page 42 talks about computer systems and control. And we have heard and we have seen from the 1986 accounts and, in fact, from everything that is said in Price Waterhouse, that the accounting system used by A & P Appledore was abysmal. There were no two sets of accounts that matched. I am not going to say that the money was stolen or not stolen but as far as accounting purposes are concerned, the Auditor had subsequently and in 1985 to make the same statement relating to the substantial differences between sub-ledgers, nominal ledgers and all kinds. In fact, although considerable resources were devoted to investigating and correcting errors, substantial differences had to be written off and something like £80,000/£90,000 had to be written off this year because it was impossible to match a set of accounts. How could the Board work if the information that they were getting on financial information, the most important aspect of the Board was all wrong. Mr Speaker, another comment from the Auditor on page 4 'the figure of £121,633 quoted in paragraph 11 above was provided by the Stores Section. However, recorded expenditure on protective clothing in the main books of account during the same period was only £80,000". Well, there is only £40,000 difference, it is only out on 50%. Mr Speaker, how could the Board operate without proper financial and sound systems? Again, page 45 of the Price Waterhouse Report - management information and reporting. The Board were working without balance sheets, profit and loss accounts, cash flow projections, contract summaries, outturn and work-in-progress, statement of capital expenses by project against budget. I don't know why we needed a Board in the first two years of the operation, Mr Speaker, because I don't see how any Board in the world can operate if it is not allowed to by having proper information presented to them. What happens, Mr Speaker? Well, what happens is very clear, that the only mistake, they are so useless that

having got a Management contract which virtually gave the Government no way out they make the only mistake possible and that is that the computer system which they create doesn't give the company adequate financial information. Therefore, Mr Speaker, the Board see the light at the end of the tunnel and give the company a default notice because, obviously, there was something drastically wrong with the finances of the company and as a consequence of that late in 1986 the directors of the Board decided to serve upon Appledore a default notice of sixty days. At that stage, Mr Speaker, what the Hon Mr Canepa is saying about the fact that they had difficulties and the expert advice which they were given, I think the Hon and Learned the Chief Minister said that yesterday, was in fact wrong at the time and I accept that perhaps it was done in good faith but they have a golden opportunity to terminate the Management Agreement because they have served a default notice on the company and, again, I am not a legal man and if I am wrong in what I am saying I stand to be corrected, but as far as my information is concerned, if a default notice is served on a company and the default notice lapses and nothing has been done about it, the Government would have a right to take that company to court and to terminate their Management Agreement. The Government didn't do this. What the Government have done is the Government have commissioned yet another expert, Michael Casey, to come and look at the Management Agreement and to make another report for the Government to tell them what is wrong with the Management Agreement. Mr Speaker, I accept that Governments need expert advice but GSL on commissioned reports and on experts is nearly costing us another £1m. If we start adding £100,000 for this, £100,000 for that, where do we stop, Mr Speaker? We need now to bring Michael Casey who, by the way, was the person who in 1983/84 and we cannot completely be sure of this because, again, the Michael Casey Report is a confidential report, but I think it is the same Michael Casey - the Hon FDS said 'could there be two Michael Caseys' so obviously there is only the one - the same Michael Casey who told the Government in 1983/84 that the Appledore projections would not work. The report was then marked confidential and it is still confidential. We hope at some time to be able to see that report to see whether or not that is a fact but certainly everything seems to point to that. In fact, I think the Hon and Learned the Chief Minister himself yesterday intimated that after having had that report it was perhaps too late to go back and say to the British Government 'Michael Casey is saying that your submission on your preferred operator is wrong'. But it is the same Michael Casey so he is back now for another expert report. To do what, Mr Speaker? To gather dust in one of the files and one of the dockets of the Treasury, because that is what the AACR Government do with all their reports. Secondly, Mr Speaker, having finished with the Board control which I think has a great amount to do with the failure of the company because there was no control for the first two years of the company, the second is the overrun on capital expenditure. I think, Mr Speaker,

again, this is a point that we were at loggerheads with the Government in the very early stages of the life of the Government and the Opposition, early in 1984, as regards the share capital of the company and who should have what, very legal arguments and very technical arguments which, at the end of the day, we did not lose but we had to see it because the Hon Financial and Development Secretary found a clause in one of the Bills to be able to get the authority to do what he was doing. Certainly, one thing that we pointed out to the Government and which the Government did not heed was the fact that when the £28m was given to Gibraltar it was given for two totally different things. An element of that was given to the Gibraltar Government for capital expenditure on assets that would belong to the Government, ie, No.1 Dock and assets that belonged to the Gibraltar Government, buildings etc, which did not, in reality, belong to the company because they belonged to the Government of Gibraltar, and capital expenditure on the company and running capital for the company. Mr Speaker, if we look at page 35 of the Price Waterhouse Report we see that - 'in the original ODA funding of £28m some £15.5m was allocated for capital expenditure. The total ODA funding has subsequently increased to £30.4m of which the capital element now amounts to £17.659m'. So there was an overrun of capital expenditure of somewhere in the region of £2.1m. On top of that it says: 'When reviewing the likely total funding requirements for the project we identified that the capital expenditure element of the project had exceeded the revised estimate by approximately £5m'. What Price Waterhouse was saying, Mr Speaker, was that the capital expenditure element had exceeded what was thought by A & P Appledore by some £7m of which a proportion of that belonged to the Government of Gibraltar. Now, having read that, do I then say that that is the reason for the failure of the company? Well, it is very easy, Mr Speaker. The company had to pay out of its own money for capital expenditure on behalf of the Gibraltar Government and if the company had £5m or should have had £5m at the start of 1986 to pay for wage increases, pensions, redundancies or whatever, the money was no longer there because the company had spent that money on behalf of the Gibraltar Government and on behalf of capital expenditure on behalf of the company. The money was no longer there but apart from the other problems of overruns on turnover, they also had a major problem of overrun on capital expenditure which took away from the company the running capital which they needed in order to be able to meet pay claims, wage claims, etc. That, Mr Speaker, is very important and it has never been answered by the Government although I have continuously made the point since 1984. In fact, when we discussed the £4m loan, Mr Speaker, I argued that it was immoral for the Government to lend £4m to the company when the Government really owed the company £2m because it was capital expenditure overrun from their assets. And, of course, at the same time, Mr Speaker, what the capital expenditure overrun also does is it produces more depreciation costs for the company so it also produces a burden on the running

expenses of the company. That, Mr Speaker, is another factor why the company has failed. Then, Mr Speaker, we come to A & P Appledore's involvement. I think on the Management Agreement side of it, we have covered that already. Again, we have to look at the capital expenditure and the working capital. If we are able to take the working capital out of the capital expenditure we are only left with about £7m or £8m that A & P Appledore had for running expenses of the yard. If on top of that we take away management fees for Appledore, round about £1m, £300,000 a year irrespective of profit; expatriate fees of some £3m; benefits in kind of some £2m and services to GSL - commission of sales, computer operations, etc - we come up with something in the region of £5m that we have paid Appledore over and above all the other problems related, £5m out of basically the £7m that they had. Can anybody after having gone through those three think that the company could work? But the reality is what did we get for the £5m that we have paid Appledore? Brian Abbott, is that what we got? Mr Speaker, we have got absolutely nothing from Appledore but a total inefficiency and lack of administration of that yard. All that Appledore have been doing, Mr Speaker, is creating industrial problems in that yard and mismanaging the yard. Is it surprising that after all that the company has failed, Mr Speaker? It is not, as far as we are concerned, it is not surprising, it doesn't surprise us. We don't want to say to the Government 'We told you so' and we are not happy to tell the Government 'We told you so' because we could be in Government in a couple of month's time and inherit the fracas of GSL from the AACR, Mr Speaker, so we cannot be happy. Then I come to what I think is the greatest problem related to Appledore's submission and GSL's life since its inception and that is Government inefficiency and lack of control, Mr Speaker. In the first meeting of this House, in fact, in the Ceremonial Opening of the House, my colleague the Hon Joe Bossano said to the Government that although he accepted that they had won the election and although we had accepted that they had a mandate from the people to go ahead with GSL, we were not convinced that it was going to be a successful operation but that what we would do would be to question the Government ad nauseam in order to try and get answers to our questions in order to look at the Project Study. We have done that, Mr Speaker, but what they have not done is take heed of the questions that we were posing to them because our questions were based on two different elements. One was trying to get information in order to compare that information with the Project Study. The other thing, Mr Speaker, was trying to advise the Government of things that were being done wrong in GSL, we brought it up at Question Time in order to give the Government, as the 100% owners, which I think the Hon and Learned Chief Minister said yesterday 'I am the owner'. It is a pity he didn't say it four year's ago.

HON CHIEF MINISTER:

I didn't say that, I said the Government is the owner.

HON J E PILCHER:

Well, sorry, the Government is the owner. It is a pity he didn't say that four year's ago. Today, two months or three months before an election after three years nine months of total inefficiency and lack of control he has the audacity to say 'The Government is the owner', Mr Speaker. I will prove after my intervention that the Government, if they are the owners, have given up their responsibility tremendously. In my first contribution as a new Member to this House, on the 13th March, 1984, I gave the Government one word of advice 'Government is the owner of the Gibraltar Shiprepair Limited and as such is responsible to the people of Gibraltar. It is alright to give Appledore a free hand in negotiations but when problems occur then it is the Government's responsibility to step in and ensure that this free hand does not work against the people of Gibraltar' - page 260 of Hansard of the 13th March, 1984. That was, Mr Speaker, a warning to the Government that they were to expect us to make sure that they took up their responsibilities as owners of the yard and they didn't do it. In the first House, Mr Speaker, the Chief Minister answered my questions on GSL, in March, 1984. When he realised the kind of questions that were going to come from this side of the House, he obviously thought to himself 'it is quite hot in this kitchen' so what he did is he left the kitchen and threw into the kitchen the Financial and Development Secretary who has been the person answering on behalf of GSL in this House since March, 1984. At no time, except for a few debates that we have had, has the Government taken up political responsibility for the company, Mr Speaker, although we said to them that we didn't want them to get involved in the day-to-day running of the company. That is not what owners should do but what they should do is get involved in the policy decisions and in the problems related to the running of what is their operation. What do we get, Mr Speaker? I have already mentioned the two types of questions that we have asked and we have been asking questions and I will give you a brief resume. We asked questions in 1984 about the way that GSL were buying furniture and things like that which seemed to us that the £28m was actually going back to UK and very little was being left in the economy of Gibraltar. We asked questions about the Controller ad nauseam through 1984 and 1985, eventually in 1985 a Controller was appointed. A Controller that the Government said in 1983 would be the main control that the Government would have over the company. They didn't appoint him until two years after the company was running. We told them, Mr Speaker, of the decline through 1985, of the decline in the Gibraltarian element of workers in the company which should have shown them that something was drastically wrong with the company. If we have a skilled person, a craftsman, who suddenly decides to go from GSL where he is getting craftsman wages and goes to work as caretaker for the Gibraltar Government, there is something drastically wrong in that because a craftsman who is committed to the craft and proud of his craft wouldn't do that, Mr Speaker, unless there is

something drastically wrong. Although they didn't believe us, they didn't want to do anything about it, in page 13 of Price Waterhouse, at the end of June, 1986, a total of 120 leavers for a six months period represented an annualised figure of 40% turnover in the yard, Mr Speaker. In 1985 a total of 155 representing 35% of the yard, Mr Speaker, incredible figures and yet the Government weren't feeling very interested. We questioned them on berthing fees which should be fees that should go to the Government but were going to the company, they weren't really very interested. And the famous question, Mr Speaker, which I think shows the lack of responsibility of the AACR Government sitting across the way. Question No.117 of 1986 which I think will go down in history as an epitaph of the failure of the Government to act on behalf of their own company. Question No.117, Mr Speaker, was: "Can Government state how much money was paid from the GSL Special Fund for the demolition and disposal of the former MOD cranes?" A very simple question, Mr Speaker. We wanted to know what arrangements and how much money had been paid for demolishing and taking away the MOD cranes as scrap. The Hon Financial and Development Secretary said that a contract had been given and that the original contract sum allowed for just over £100,000 for this purpose. I then said to the Hon Member who was, in fact, as I have just said, answering at this stage everything for the Government, whether political or otherwise. The heat was getting very, very high in the kitchen, Mr Speaker, but the Hon Financial and Development Secretary continued to sweat there and looked around to try and get somebody to pour a bucket of cold water over him but every time he looked across the way all the Members of the Government looked away because nobody wanted to be related to the FDS when he was talking of GSL because it was a hot potato so the only one who was getting burned was the FDS. But the FDS, Mr Speaker, is able to take it because at the end of the day when the Government decides that somebody has to shoulder the responsibility they can shoulder it on his shoulders and send him back to UK. There is no problem, they did it with Brian Abbott so they can do it - and I am not for a moment comparing the Hon Financial Secretary with Mr Brian Abbott. But to follow this, Mr Speaker, because it is very interesting, I then said: "Mr Speaker, it has come to our knowledge that the contract was given for the demolition and disposal of the former MOD cranes and that this was subcontracted to a Spanish firm which, in fact, did the demolition and disposal for free in exchange for the scrap metal value of the old MOD cranes". So the company was going to pay £100,000 for the disposal of the cranes and they were subcontracting a company who would take the thing for free so what happened to the £100,000 of GSL money? That is what we were asking. And the Hon Financial and Development Secretary said: "No, Mr Speaker, I have given the Hon Gentleman the information which was provided to me by the company and the figure which I quoted, £100,000, is I understand, fairly close to the expected out-turn". I then said: "Surely, could the Hon Financial Secretary therefore undertake to look into the situation?" The answer

is: "The Government is quite happy that we should use £100,000 of UK money to pay somebody". The answer was 'No, Sir', he wouldn't look at it. A terrible argument ensued where it was the Financial and Development Secretary - although this was a political question at that stage, Mr Speaker, it was only the poor Financial and Development Secretary who got up and tried to do his best to placate the Opposition. But at the end of the day nothing at all, the Government said quite clearly, the Government through the FDS because the FDS is answering for the Government in this House, Mr Speaker, although he is, supposedly, not the political arm of the AACR Government. But the reality is that the Government said no, they were not prepared to look into it, 8.7.86. In January, 1987, Mr Speaker, two years after the start of the operation the company do a study themselves on scrap in the yard. Obviously, because at some stage somebody must have said 'what is happening?' It is not a confidential report but it is a report we have been able to obtain which I think clearly spells out the inefficiency and lack of control of Government because having told them what was happening they wouldn't even be prepared to look at it and the study says quite clearly: 'The initial study in the removal of scrap from the yard has highlighted the inexistence of any fixed method or policy. The fundamental starting point to make any thorough investigation would require information regarding the amount of scrap actually available within the yard after the MOD hand-over to the company. The old cranes belonging to the MOD seem to be the main amount of scrap available on hand-over. It should be possible even to establish...' - I won't go into it. The reality is that the report says that on the 1st January, 1987, they would have to start again because the department had quoted astronomical figures of scrap and there wasn't a single receipt until September, 1986, when there was a receipt for £1,200. For two years where the dockyard were selling most of the old scrap of the MOD, the cranes, an astronomical amount of scrap in hundreds of thousands of tons, Mr Speaker, and not a single receipt. Looking through the report and looking at the amount of tons of scrap there must have been at least £200,000 or £300,000, if not more, of scrap which the company should have got paid for but which they never did. Where the money went, Mr Speaker, the report said 'it is better to start afresh, forget about the past'. Another £200,000 which could have paid for the 9% pay increase of the workers in 1987, Mr Speaker. Is this the Government that wants us today to accept that they have said that they are the owners? Why weren't they the owners then on the 8th July, 1986, Mr Speaker, or through 1984 or through 1985? All that the Chief Minister said in a statement on the 11th December, 1984, was that he would take responsibility of Government for the long-term viability of the company. Progress of the company towards financial and commercial viability. Mr Speaker, obviously, like everything else, meaningless words because at the end of the day this certainly is something which will affect the long-term viability of the company. It just wasn't taken up, Mr Speaker. All that the Government wanted us to do was to hold out and discuss GSL when they presented the

accounts to the House. Through 1984 and 1985 we weren't allowed, in fact, we had tremendous battles in the House trying to get information and you may remember, Mr Speaker, you had many a time to stop because at the end of the day nobody would answer but the Opposition continued to want answers and you had to intervene many a time. In June, 1985, we discussed the accounts of 1984. In March, 1987, this year, we discussed the accounts of 1985 and today we are discussing the accounts of 1986. How can any House of Assembly, how can any commercial entity have control over the thing that has happened a year and a half back?

HON CHIEF MINISTER:

We don't have control.

HON J E PILCHER:

Yes, of course, you don't have control, that is the absolute truth. But, nevertheless, we were always able to come back because we used Budget times, we used the arguments on the £1m loan, we used the £2m that was supposedly for working capital and then wasn't and we came to the - I am getting worse than the Hon Leader of the Opposition, Mr Speaker, I cannot find anything - we get to the famous Price Waterhouse Report and the statement by the Chief Minister in the House of Assembly on the 10th February, 1987. By this time, Mr Speaker, the Government had had the Price Waterhouse Report maybe for a month or two, certainly they had the initial summary late in 1986. And the Chief Minister as always, Mr Speaker, read a prepared text - prepared certainly by somebody in the know - which gave what had to be the sequence of events in sorting out the problems of GSL. It is a long statement, I won't go into it, but the reality is here is the statement - February, 1987, today it is October, 1987 - if I am not mistaken, and nothing has been done, Mr Speaker, absolutely nothing. We have heard from the Hon the Financial and Development Secretary: "No serious attempt has been made to find an alternative strategy of operating". That is the reality, Mr Speaker. Those are not my words, not the words of the Leader of the Opposition, they are the words of the Financial and Development Secretary - 'no serious attempt has been made to find an alternative strategy of operating'. Yesterday, the Hon and Learned Chief Minister gets up and basically repeats what he said on the 10th February, not obviously word for word but he was talking about the restructuring which is the same thing he was talking about on the 10th February. If he would like to be reminded, Price Waterhouse said that the only way that the yard could work was with a smaller workforce. Of course, I agree with the Hon and Learned the Chief Minister that the managers should not be allowed to say anything without it going through the Board and the company. But they have tolerated that for three years. Why should Torsten Andersson now think it is going to be different? Why, because there is an election in three month's time? Torsten Andersson is not going to run for election, the Government is. Yesterday the Hon and Learned

the Chief Minister said the same as he has been saying for the past three years. He tried to pour oil over troubled waters and, Mr Speaker, again played for time. I think he is again giving false hope because he said yesterday, 'forget the 210 redundancies, forget about redundancies. We are going to do a study that is going to look at the operation through the Board through the Government'. Mr Speaker, what the unions ask for, both unions I think, although he used the IPCS statement wrongly, what the unions have asked him to do is to give a statement of the way forward for the company. They didn't want a repetition of all this time-holding exercises, holding up for what, Mr Speaker? Is the AACR Government now so convinced that they are going to lose the next election that what they want to do is lumber us with the problem of GSL in four month's time? Mr Speaker, the time for acting is now. To give the company, and I won't go into it because we have another debate, another £2m is only to prolong it for another six or seven weeks. I accept that we have to do that but at the same time we should be acting on the information that we have in order to produce a proper restructuring similar to the one that I spoke about before that will in conjunction with the Trade Union Movement provide for the people of Gibraltar and the workforce the peace of mind that they need. That is the only thing that the workers in the yard want, peace of mind, security for the future. How can they be told, like the Hon Leader of the Opposition said yesterday, one moment 'you are doing excellently' and the next moment 'you are doing rubbish', the next moment 'you are fantastic in your work output', the next moment 'you are a lot of industrial problems in the yard'. Mr Speaker, we have to be able to tackle the problem. The Government other than by saying that they were the owners and were going to look at the restructuring, that is all. That was said quite clearly by the Hon and Learned the Chief Minister six or seven month's ago. And he said: "The Government's decision to make a further financial contribution to the company by way of increased equity participation does not imply Government acquiescence in the view that GSL will need subsidy in the long-term". The Hon Mr Canepa said that the Government will put money there to keep the operation running. He contradicts himself but he doesn't explain why. He said: "The Government's contribution is to meet GSL essential working capital and capital expenditure requirements for 1987". The company have used that for the pension scheme. Is that working capital and capital expenditure? They'll probably use it to pay up the wages of the people working there. I think, Mr Speaker, there is very little else to say because I think it is a proven fact that of all the problems facing the yard which have caused its failure there is one major factor involved in that failure, Government inefficiency and lack of control and lack of responsibility over the company. I would just like to round off, Mr Speaker, by reading to the Hon and Learned the Chief Minister his words at the Ceremonial Opening of the Fifth House of Assembly held on the 22nd February, 1984: "In a recent communique the Gibraltar Socialist Labour Party recognised that we are now in a position to try and implement the commercialisation

package but that the responsibility for this and for its inevitable eventual failure" - we were saying it in 1984, Mr Speaker - "as they say, lies solely on my shoulders and on those of my Government. Whilst we on this side of the House certainly do not accept the inevitability of failure" - that is what they said then - "nor even the prospect of failure". In 1984 they weren't even looking at the prospect of failure - "we do accept fully the responsibility for commercialisation". Mr Speaker, the Government in 1984 said they accepted fully the responsibility for commercialisation. Mr Speaker, after the total fracas which GSL has become I think the only moral righteous thing that the Hon and Learned the Chief Minister and his Government should do would be to resign.

MR SPEAKER:

Any other contributors?

HON M K FEATHERSTONE:

Mr Speaker, the Hon Mr Pilcher last night said he would be about half an hour and he has taken one and a half hours. I promise to be very short, I will need not more than five minutes but I think there is one facet which has not been mentioned by anybody and which does bear some mention. A & P Appledore, and I hold no brief for A & P Appledore, have done two things. One was their management, and their management, unfortunately, has been, perhaps, the worst management that we could have had for some considerable time. We had the very brash and very abrasive Mr Abbott who did nothing whatever to meet the sensibilities of the Gibraltarian labour force and I think it was a happy day when he left Gibraltar. The latest Managing Director has done much to put things on a better footing but the overall management still leaves much to be desired. But the other side of A & P Appledore's operations are something which I think we have not mentioned and which should be mentioned and that is their marketing. They promised that they would get the ships to be repaired. That is something that they have actually done and done to an extent even greater than their promises. In the year that we are reviewing at the moment, 1986, they projected \$9.8m of sales and they actually got \$12m. This year, from January to June, they produced some \$10m of sales. Their marketing has been more than adequate, it has been excellent and if we are going to hear pleas and cries from the Opposition and from leaders of the trade unions, I think we heard last night on television that the only way forward was to sack Appledore, we should remember that in removing Appledore we are removing the marketing facility that they provide. We may be right in renegotiating the Management Agreement with Appledore but we want to keep their marketing facility otherwise we may be left with a vacuum which we cannot fill. It is no use having a wonderful management and no ships to service. Thank you, Sir.

HON J C PEREZ:

Mr Speaker, I am certainly not going to go over anything that my colleagues have mentioned today, I am just standing up to answer the Hon Mr Featherstone in his last comment and only to say that perhaps the marketing policy of A & P Appledore has been very aggressive but we have to look at it in the context of everything else, at what cost? If to have Appledore here because it is an excellent company that markets the dockyard very well means that we have to spend so much money and that we have to incur losses every year of \$3m, well, the reasoning of everybody else that we need to sack Appledore as a package, looking at it as a package is quite reasonable. Of course, there is the other option of giving Appledore a marketing contract only. There are options open to the Government but what the Government cannot do is defend the whole of the operation of the last three years, the whole failure of Appledore by saying they market the dockyard very well and that the ships have been coming. The ships have been coming but the losses are still there notwithstanding that the workforce have done all the ships that have come, that the productivity levels have been met and that the situation, as far as the workforce is concerned, is much better than what was projected so in looking at Appledore as the package that it was, one has to say that Appledore has failed and that the Government has failed for allowing Appledore to continue as they did. You could actually have a contract for marketing with Appledore and nothing else. Thank you, Mr Speaker.

MR SPEAKER:

Any other contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I can well remember and I don't claim to have the memory of Members opposite, but I can remember when Appledore were making their presentation on the viability of the Gibraltar Shiprepair, I was very impressed by the presentation and with the glowing figures of the future but being a simple man I told them 'why don't you put your money where your mouth is?' meaning, of course, if they thought so highly of the future projections of Gibraltar Shiprepair then they would be willing to put in money to share this great opportunity of making money, of course they didn't. But I did not look at Gibraltar Shiprepair as the basis of using the profits to build the coffers of the Government of Gibraltar. I looked towards Gibraltar Shiprepair as the means of providing employment to Gibraltarians and to other people who are committed to Gibraltar as a means of finding decent employment for them and the Government making a profit from the income tax that these people who are employed would contribute towards the coffers. I never looked at it as a profit making business. I don't want to look at it as a business which will be subsidised for ever and ever by the

Government. I am not prepared to go on giving money to a loss making operation because that is not my way of thinking. I agree with what has been said both by my Hon colleague, Mr. Featherstone, and the Hon Member about the suggestions and I don't know how to do it, certainly Appledore have been good at marketing and we might have a lot of expertise in Gibraltar about managing, about the steel shop, about the....

HON J C PEREZ:

Would the Hon Member give way? It is something I forgot to mention but which is relevant to what he is saying now. We are all saying that Appledore has been good at marketing but we have to understand as well that they have been selling at a loss so we have to look at the context of marketing when they start selling at a profit. On many occasions they have been selling at a loss.

HON MAJOR F J DELLIPIANI:

Sir, I am not qualified to judge how the marketing is done. What I am saying, Sir, is that whatever skills we might have in Gibraltar and within the dockyard, and I mean technical skills and management skills, we certainly haven't got the infrastructure that is required all over the world to be able to market the yard.

HON J BOSSANO:

Mr Speaker, will the Hon Member give way? Is, in fact, the Government aware that the Blands Shiprepair Yard, if they look in their own published statistics at ships calling for repairs in Gibraltar, are they aware that before it was put out of business by the competition from GSL that took all the work that was available and if we go back a few years, there was a stage when Blands was doing 150 ships a year according to published Government statistics? How did they do their marketing?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am not aware of Blands operations, what I am aware is that certainly Blands did not employ the labour force that we now employ in Gibrepair so it could be that they had 150 ships which only required one hundred hours each. I am not here, Sir, to talk about technicalities, I am here to talk about how I feel about Gibrepair. And if we follow the logic of the arguments of the Opposition on shiprepair, I think that logic should be approached to other things. If we accept that what the Opposition have said today and yesterday that the blame for everything in Gibrepair is laid squarely on the shoulders of management - and by management I mean Appledore and the Government - let us accept that statement, the blame for everything that has gone wrong is on management and the Gibraltar Government, no blame is

attached to anyone else. If we accept that logic then, surely, we must accept that logic to the future generating powers of the electricity because since I have been a Member here.....

MR SPEAKER:

No, with respect, we must not expand. In other words, you can make a general statement but let us not go beyond that.

HON MAJOR F J DELLIPIANI:

With respect, Mr Speaker, the Gibrepair operations will depend also not only on the water supply about which the Hon Member showed concern yesterday because he asked me what the projections were but also on the electricity capacity of Gibraltar to serve Gibrepair and this is why I brought it up. Yesterday he talked about water projections and today we are talking of Gibrepair, I am talking of the present situation of today and the future of the Generating Station and since they have been in the Opposition they haven't asked for a projection of what the future requirements are and what the Government is doing because they know full well there is a generating set there capable of producing 5 megawatts and it has been blacked for over a year and they say nothing about it and that is my contribution, Mr Speaker.

HON J BOSSANO:

If the Hon Member will give way I will say something to him now. He is bringing in something which has nothing to do with the motion. I'll tell him what I think of him and the Generating Station.

MR SPEAKER:

Any other contributors?

HON R MOR:

Mr Speaker, the Opposition accepts some of the comments which have been made about the poor performance of Appledore's management and that is a fact which we have been bringing to this House for the past four years. What the Government is pointing to is the fact that to a certain extent the Appledore management have been successful in acquiring business for the yard. This is not surprising because they are getting a 5% commission on all the work that they are bringing to the yard but what the Government is not saying and it hasn't said so during this debate, is the fact that to obtain this work the sales managers of A & P Appledore have been going on trips to New York on Concorde, staying at five star hotels, spending tremendous amounts of money and have been charging that money to GSL. That was a matter

which the Board, in fact, was very concerned about and nothing has been said during this debate about this. The other thing, Mr Speaker, is that as is pointed out in the Price Waterhouse Report, I am quoting paragraph 92, on page 22, it says: "In some instances GSL has adopted the deliberate policy of deciding to bid for work at a lower cost than its competitors and its own operating costs. In this case, commercial decisions were made to obtain business for the yard to keep the workforce employed, to give the workforce experience of a specific type of repair task or to cultivate a particular sector of the shipping market. This practice corresponds to that adopted by shiprepairing concerns worldwide particularly those who are in the process of seeking to develop a reputation whilst simultaneously developing them through the skills of its workforce". But the effect that this has had on GSL, Mr Speaker, is that the greater the work that had been brought in the greater the loss that the company had made because most of this work has been at a lower market price. The only reason why the losses are not that much greater is the fact that we have been having RFA work here because otherwise the losses would have been substantially more. Thank you, Mr Speaker.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Speaker.

MR SPEAKER:

As I stated at the beginning of the debate, this is a debate to note the Accounts of GSL for the year ending 31st December, 1986, and therefore there is no vote to be taken.

SUSPENSION OF STANDING ORDERS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, in accordance with the notice which I have given to the House I move the suspension of Standing Orders Nos.2(2) and 19(1) to allow me to move the following resolution: "This House resolves that the Financial and Development Secretary be authorised under the provisions of Section 9 of the Public Finance (Control and Audit) Ordinance (No.9 of 1977) to give in writing in the name and on behalf of the Government a guarantee to Barclays Bank PLC of 217 Main Street, Gibraltar for an amount not exceeding £500,000 to secure any overdraft facilities given by the said Barclays Bank PLC to Gibraltar Shiprepair Limited".

Mr Speaker put the question which was resolved in the affirmative and Standing Orders Nos.2(2) and 19(1) were accordingly suspended.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I don't propose, in fact, to say more than two or three words, Mr Speaker, as I explained the background to the moving of this particular motion in my main speech on the motion which the House has just been debating. There is uncertainty about sources of income for Gibraltar Shiprepair Limited in the immediate future to enable the company to pay its wages and salary bill in the short-term and also to pay any creditors, and the Government feels that it is necessary for the company to be given the guarantee in order to enable it to obtain overdraft facilities. As I have said, the Government will, of course, keep closely in touch with the company's financial situation on a continuing basis. There will be a freeze on all items of a longer-term commitment including capital expenditure, of course, and indeed until the further report by the Board which the Hon the Chief Minister referred to in his contribution to the debate is obtained when the Government will consider the situation more fully once more.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's motion.

HON J BOSSANO:

We do not support, Mr Speaker, the motion that the Government has brought. Obviously, we do not want the company to stop paying the wages of their workers and, clearly, the only way that that would happen if they were to stop the wages, they would have to close down because nobody was going to carry on working without being paid. However, I did make a reference to this in my contribution on the motion noting the 1986 accounts and the Hon the Financial and Development Secretary, in moving the motion now before the House, has made no attempt to answer the points that I have already raised I asked, why is it that Barclays Bank doesn't want to lend a company money that has got, according to the 1986 accounts, £12m of assets in its balance sheet when there are many, many companies, to my knowledge, in Gibraltar with weaker balance sheets than that getting overdrafts from their bankers? It seems to me very peculiar that at no stage since 1985, apparently, because in none of the accounts is there an indication of overdraft facilities that I have seen, what is the situation? Does the company already have an overdraft limit and they want to increase that overdraft limit by £1m and Barclays is saying that the overdraft limit they have got today is what is commercially sensible for that size of operation? Do they owe Barclays Bank any money already? We don't know. Is it that the Government is guaranteeing their existing debts or debts that they haven't yet contracted and that they are going to guarantee what they borrow after today? Or doesn't the Government know how much money the

company owes already? The Hon Member has said that this £1m will enable the company to pay its wages and to pay its creditors. Well, that indicates that the company has got a cash flow problem, what is the size of the cash flow problem? How long will £1m last them? At what rate have they got a negative cash flow at the moment, what is it, £10,000 a day or £10,000 a week or £10,000 a month? We have not been given any information to assess the necessity for the £1m or what the £1m is supposed to do or how long it is supposed to last. We have not been told if the Government is prepared to provide the guarantee, why it is not prepared to provide the loan itself rather than the guarantee because, surely, what will happen is that the company's cash flow situation will be adversely affected further by the overdraft interest on £1m which, I would imagine, could come to £60,000 or £70,000 more. So, in fact, they are going to have now an additional cost on their overheads, £70,000 of overdraft interest. Why have they chosen that road because, surely, if they are giving the guarantee to Barclays Bank all that they are doing is giving Barclays Bank an opportunity to earn money on a commercial loan of what is a gilt edged investment. Barclays is not going to lend the money to the company on the rates it would lend the Government and yet it is lending the money on a secured loan which is not secured on the assets of the company as is normal commercial practice for which the risk is reflected in the interest rate, it is secured on the assets of the Government of Gibraltar which is underwriting the loan. Will the interest that Barclays Bank charge be the interest that would be charged on a loan to the Government or the normal commercial interest on an overdraft? Does the Government know? Has it investigated that possibility? It is not enough to come here and say "We suspend Standing Orders, we move a motion, this is what we would like to do" and the House is not given any explanation of the questions that need to be answered if a rational analysis of the decision is going to be made and therefore we cannot support this on the basis of all these unanswered questions simply because it is what the Government want to do. If they want to do it then it is their responsibility. If at the end of the year we then find that GSL has got another minus £70,000 and then GSL says to its employees 'I cannot give you a pay increase in January because I have got no money because I have had to pay the overdraft interest for Barclays Bank', I suppose the Government will then turn and say 'Well, you see with the industrial climate the ships won't come'. All is interlinked. If you have got a situation where there is no money for something because you are doing something else then the repercussions of there not being money must be traced back to the source, the point we have been making in relation to the accounts. If you spend money on the slop barge then you haven't got money for the wage increase. If people go on strike then the problem is not the strike, the problem is the slop barge which we didn't need in the first place. And the same will happen with this extra cost. There is also no word of explanation about the £3m plus loss for this year. We are now in the middle of October, the company closes its account at the end of the

year, if it is already predicting that in ten week's time it will finish up with a loss in excess of £3m, what is the level of loss today? How much money does it expect to lose in that projection between now and the end of the year? And if it has already lost £2½m then how is that being covered, how is that £2½m being covered because, presumably, when the Government agreed initially to provide the £2m in additional share capital supposedly because of increased work-in-progress, that was the statement issued at the time by the company and this is what the money was for, is it that because it hasn't been required for work-in-progress it is now being used to meet losses? Is there anything in the EEC Directive to which we have already referred about which nobody on the Government side really has made any attempt to answer the points in the other debate, is there anything in the EEC Directive that will prevent the Government from doing what they did last year and give them an interest free loan? Is that why they need to go to the bank because the Government can help them through the bank but cannot help them directly because it would be in conflict with the EEC Directive? I really think, Mr Speaker, that an attempt should be made to answer all these points. As far as we are concerned, it seems to us that all that we are being told is 'the £1m will buy us a little bit of time while the Government decides what to do next'. Well, how much time is it going to buy us? What is the relationship between the £1m and the £3m predicted loss and what are the existing overdraft facilities? Is it that they don't owe anything at all and they are going to owe £1m or is that they already have exhausted what they were permitted to owe by their own arrangements and this is going to be upped by £1m on the back of the Government's guarantee?

HON CHIEF MINISTER:

I don't think that the matter should be looked at as only money from what the company has. You have to bear in mind the amount of money that is due to the company which is to be collected and therefore it is the cash flow, really, that has been cut short. I think that subject to certain clearances, a certain considerable amount of money due from the previous RFA work which is being cleared up before the Ministry of Defence authorise the payment thereof and this is the best assessment, as I understand it, of one thing linking up with the other. It is not that this is the only money that the company is going to have and it has no other money. The company has assets not only in their assets but it has net assets, that is, money owed to them for work performed which is pending payment and that has been taken into account in assessing the extent of the amount that is required now to tie over until the payments are made. My understanding is that there is no overdraft due to or rather, my understanding is that the company has not obtained, subject to correction, any overdraft on their own and that this one is being obtained with the guarantee of the Government because these are the conditions that are laid down. The point made

yesterday by the Leader of the Opposition whether other banks will provide better terms is a good one. On the other hand, if the company is banking with that particular bank it is more likely that the arrangements that can be made are more convenient if the same bank is dealing with both the assets and the liabilities.

MR SPEAKER:

Any other contributors?

HON J E PILCHER:

Mr Speaker, it is very difficult to contribute anything when none of the questions being asked have been answered. I accept that what the Hon and Learned the Chief Minister has said is one aspect which he has cleared up as far as his understanding is concerned. Time will tell whether the £1m guarantee is just a guarantee or that the Government will have to pay it as well but that is just one minor aspect. The other aspects have not been answered.

MR SPEAKER:

Does the Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker, I think in reply to the points made by the Hon Leader of the Opposition, as best I can, what I think I would describe as the starting points he made. First of all, the Chief Minister has, in fact, explained that the company does not have an overdraft facility at the moment. I should also explain that there has been a history of discussions between the company and this particular bank and also, in fact, with other banks in connection with possible sources of finance of a short-term or temporary nature in what I might call the happier days. That is to say, it is not uncommon for a company, as Hon Members will know, to seek short-term overdraft facilities to finance, for example, an increase in stocks or an increase in activity. The company has explored with commercial banks the possibilities of, for example, overdraft facilities being obtained against receivables and also it has explored, again with commercial banks, the possibility of financial advances being made secured against a mortgage on the assets. It has to be borne in mind that the company itself only owns a limited number of assets and while we are not talking exclusively of cranes and other items of equipment, we are certainly not talking about the land and the buildings and during the course of their negotiations it did not become possible for the company to obtain finance in this way, ie from the security of the equipment in the yard. That is really all I can say on this particular point except that during informal discussions, again, between the bank and the company

in more recent and perhaps I should say less happier days, the bank made it quite clear, both banks in this country and also in the UK, that there was no question of any overdraft facilities or loan being made other than after the Government had given a firm guarantee. That is really the position on that. As regards the company's cash flow position, the company has given the Government its cash flow forecast. I have received these but I am not prepared to make these available to the House. For one thing any position which I gave at any particular point in time might be falsified by events in the near future. What I can say, and this is really all I can say, is that I have discussed the matter closely with the company's Finance Director, and we are satisfied as well we can be that £500,000 will be enough to carry the company forward to the end of this financial year but beyond that I really cannot say any more. As to the choice of this particular arrangement rather than a formal Government loan or, indeed, Government voting funds, I think I would merely say that it is seen by the Government as the most appropriate step in the circumstances. I accept that there will, of course, be interest charges. I do not think they will be as much as £70,000, which I think was the figure the Hon Leader of the Opposition quoted, and it will not necessarily be £500,000. If it is for three months it could only be £70,000 anyway and I would imagine the overdraft figure will be a fluctuating amount. This is really all I can say, Mr Speaker.

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

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

The following Hon Members abstained:

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

The motion was accordingly passed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, there are two motions, the first one is, in fact, the Licensing and Fees (Amendment of Schedule) (No.3) Notice and I hereby beg to move the motion in the form in which it has been circulated and with your permission and the permission of the House I do not propose to read it out in full. I beg to move.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg leave now to move, Mr Speaker, the resolution standing in my name: "Be it resolved that this House do approve the giving by the Financial and Development Secretary of the following Notice - In exercise of his powers under section 4 of the Penalty Rates Remission Ordinance, 1986, the Financial and Development Secretary, with the approval of the House of Assembly, has extended the period of remission prescribed in section 2 of that Ordinance by a further period from 1 April, 1987, to 31 July, 1988, inclusive". Mr Speaker, the effect of this resolution will be to extend from the 1st April, 1987, until the 31st July, 1988, the moratorium on the imposition of the 5% penalty on rates accounts which are not settled within the stipulated period. Hon Members will recall that this moratorium was introduced at the meeting held in November, 1986, with retrospective effect to the 1st April, 1986. It was implemented initially for one year on a trial basis as part of a package of measures but designed to reduce the high level of rates arrears in due course. The moratorium lapsed on the 31st March, 1987, and I must therefore apologise to the House for the oversight in not presenting this resolution earlier. The intention was to introduce it either at Budget time or when the annual accounts of the Government were debated. However, the period from November, 1986, when it was introduced until March, 1987, would, I think, have been too short for the effect of the measures to have been properly assessed. I am not using that particular point as an excuse for my failure to bring it to the House but, perhaps, in mitigation, Mr Speaker. I can report to the House that since September, 1986, there has been a small but, nonetheless, perceptible decrease in the arrears, namely, for the September, 1986, quarter, the figure of arrears stood at £1,093,000. It reduced gradually until at June, 1987, it stood at £981,000 that is a reduction from £1,093,000 to £981,000 during the period in question. I am proposing that the moratorium be extended to the 31st July, 1988, rather than to the 31st March as this should provide the House in due course with rather more information about the impact of the measures over a two-year period quo terminus with the period of ranging rebates. Referring again to the figures which I just gave the House, I naturally tried myself

to determine to what extent the reduction in the 5% penalty had had a real effect on reducing arrears, that is to say, the extent to which more people had paid their rates as a result of the whole package of measures including, of course, the need to pay arrears of rates before receiving the rebate. This I found rather a difficult question to establish to my satisfaction or for that matter, I think, to the satisfaction of the House. What I can say is that looking at the information in the Government's accounts, if the House will recall, they may recall, they may not have the accounts here so I will mention the figure myself. The arrears position of rates at the 31st March, 1985, was £838,000. At the 31st March, 1986, the arrears position had deteriorated still further, it was then £1,025,000 so one had had a deterioration during that period of £200,000 and this, of course, was partly my concern, that the situation was getting worse. As I mentioned briefly a short while ago, by September, 1986, it was £1,093,000. Well, it has now come down, we calculated that if the penalty remission had not taken place there would have been a further increase of £200,000 so the fact that there has been a reduction of £100,000 may give the House some fugitive information about the effects of the measure. I cannot really say more than that at this stage, Mr Speaker.

HON J BOSSANO:

But when the Hon Member is saying there would have been a further £200,000, is he saying that that is what the penalty would have been?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Broadly speaking, yes. If the 5% quarterly penalty had continued to be levied during the period the 1st April, 1986, to date, the additional sum collectable in rates is estimated at £290,000 using previous years figures as a basis, approximately £70,000 or thereabouts of these penalties would have been recovered so the current rates of arrears would have been increased by about £200,000 in round figures. In fact, we have had a reduction of about £100,000 in round figures. That is, however, transient and uncertain, that is the arithmetic of the calculation. That is really all I can say on the subject, Mr Speaker, except that I do think that a further extension to allow the House at least two years in which to consider the impact of this particular measure would be desirable and I so recommend to the House.

MR SPEAKER:

Before you do, could I be clear in my mind, is it the 31st July, 1988, or is it the 30th June, 1988?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The 31st July, 1988, yes, Sir.

MR. SPEAKER:

It is July and not June?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's motion.

HON J BOSSANO:

We are opposed to the motion, Mr Speaker. Nothing that the Financial Secretary has said in support of it has any logic. In fact, he has given very sound arguments for not doing what he wants to do. It is quite extraordinary that he should come here and say 'There are people who owe the Government money, if the Government charges them interest on the money that they owe they don't pay the interest and therefore the money they owe us gets bigger so in order to reduce how much they owe us we don't put interest'. Well, I am sure that if Barclays Bank doesn't put interest on the overdraft to GSL, GSL will owe Barclays Bank less money so why doesn't the Financial Secretary take his motion to Barclays Bank and see if he can persuade them to follow his philosophy? If that is the way they want to run the shop, Mr Speaker, they have to take the responsibility for it but as far as I am concerned they are giving good money away, that is what they are doing with this motion. I made the point the last time when it was going to be done for a long period, I don't know if it is the same period he is bringing now or not, we were not happy with the arguments, but okay, we gave him the benefit of the doubt although we couldn't see what it was that he was trying to achieve. It seemed to me a contradiction, let us put it in simple terms that the average person can understand. If I owe somebody money and I don't pay when they are charging me interest I am less likely to pay when they stop charging me interest I would have thought. Why does the Government think they are going to have more success in collecting arrears if they don't charge people interest than if they do? It baffles me and the Hon Member in his reply to the point that I raised about whether the fact that the arrears have gone down by £200,000 is due to the fact that we haven't charged interest has just confirmed it. He has said had they not done it they would have charged £290,000 interest of which they would have collected £70,000 and they would be owed £200,000. So they are not owed the £200,000 which is a good thing according to him and, of course, they haven't collected the £70,000 which must be a bad thing according to him, I would have thought so they are out of pocket by £70,000 due to the measure having been introduced in the first place and now they want to extend it until next year. The other point, of course, is that in July, 1988, there could be a different Government and therefore I am not happy with situations where this Government

is taking policies into the future. What happens if there is an election at the end of the year and we are there and we want to change this? Will the Hon and Learned Attorney-General come and say that these people have got an acquired right not to pay interest which I cannot take away from them or provided that it is not walkie-talkies it doesn't matter, we can take everything else except the walkie-talkies? Because, certainly, I am going to have to watch everything that we do now to find that whether we are creating acquired rights which then become sacrosanct under our Constitution, a very dangerous situation we are in these days. I think on the point that you yourself made of clarification which the Hon Member has just confirmed that he does want the 31st July, am I not correct in thinking that rates are charged quarterly and, if so, what is he saying, that in the quarter July/August/September interest will be charged in the second month of the quarter and not in the first month of the quarter? What is the incentive there and what is it, that he expects people to rush in before the end of July and pay all their arrears so that they don't pay interest in August? Well, then that is an argument for not taking it away. I don't really think they have done their homework at all on this one and therefore we certainly will vote against it. I would certainly like clarification on whether, in fact, if they go ahead and pass it, a future administration can come back and say 'We don't agree with this and we are going to change it'.

HON CHIEF MINISTER:

I think we have got to look at the history of this matter in simple terms in order to appreciate what has happened. First of all, no penalty is charged on the non-payment of all the other services of the Government, that is to say, arrears in telephone, electricity and water but, of course, in that case the Government has got the power to cut off the supply. In the famous IWBP administration, they proposed a law which they wanted so that people who did not pay rates should have their electricity and their water or their telephone cut. We fought against that very hard because it is improper to use one law to impose another law. Then when the arrears started to become high it was thought as there was this relic of a proposed penalty on non-payment of rates, we are not putting the blame on the previous administration but there was this relic and there was something in it to say my view is the opposite, my view is that there should be a remission for quick payment. One other way of collecting money and that is instead of charging more giving a 5% reduction if you pay within a certain time. Anyhow, that was passed and I assumed responsibility with the other people who thought that this might make people pay. It came, unfortunately, not at the time when people were in the best condition to pay and, in any case, people are always reluctant to pay, particularly traders wait until the very last moment. But there isn't that threat of the man with the pliers to cut off the electricity saying 'He is going' and then he

says 'Just a moment, I'll pay my debts'. But then it was considered when we were looking at the arrears that the arrears of rates were being distorted in a way because we were including in the arrears the penalties. So, really, we were not getting either the money or the penalties and the thing, as I recollect it, became disproportionate and it did not give a good picture of the actual rates that were being owed because a lot of it, as he has said already, a lot of it was arrears so it was obvious then that the imposing of the arrears didn't have the effect that was intended which is to make people pay before they pay the arrears and people were just owing the rates and the arrears together. The idea of allowing that, whether it is the 31st July or whatever date, as far as we are concerned it is purely an administrative matter, it is not a political matter, but it has to be for a specified period for the purposes of the rate book and so on. I don't know why it says the 31st July when, in fact, the quarter finishes at the end of June and, perhaps, the Financial Secretary will explain, this is not a matter of policy, it's a matter of administration. But the idea is that if we are making an effort to try and collect the arrears of rates in themselves, we will be in a better position to make a crack at that, get people to pay them rather than to pay them with the penalties and, in fact, the not very reliable but the best estimate that the Financial Secretary has made is that it might have that effect, it might have the effect of people paying it. I don't understand why but it is likely to be the case and that, apparently, has been the result of the period during which it has been removed. This is purely a matter of administration and to see what is best. As I say, my own view is that we should give people remission for paying quickly but that, at this stage, is too late to introduce. Anyhow, I thought I would explain, as I see the problem, and I have, if I may say so, the experience of the City Council and so on where we have tried that before.

HON J BOSSANO:

I was asking him to give way before he sat down because there are a couple of points I want to make which I omitted to do before, Mr Speaker, which has been triggered off by something that he said. The Financial and Development Secretary said that the decision not to charge the penalty run out in March, 1987. Is it the case then that from March, 1987, until now they have not been charging the penalty and that they have not been doing so illegally without authority?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, guilty.

HON J BOSSANO:

Guilty, so then I think he should be hung, drawn and quartered.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As long as I am not the only one.

MR SPEAKER:

Any other contributors? Does the Hon Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, I don't think I need. The Chief Minister has really said everything that I would have said. The only point outstanding is the question of why the 31st July. Clearly, this would cover the rates that were sent out on the 1st July so they will continue to attract the moratorium, that is to say, the remission of the penalty. The reason why it is July is that we wanted to arrange it at a time when the House was likely to meet subsequent to the Budget meeting and that is purely for administrative convenience. Well, not purely but mainly for administrative convenience because there is such a lot going on at the Budget meeting and if the House were then to consider it and decide, assuming that there is a July meeting, whether there should be any further remission or extension, Mr Speaker. That is really the rationale of that.

HON J BOSSANO:

Mr Speaker, we haven't had an answer on the point about whether this can be changed which I thought the Attorney-General might answer, it is a serious point. The Government may think it is an administrative matter. We obviously have a policy on it. We want to know what is the situation. Is it that once this is passed the 31st July is immutable?

HON ATTORNEY-GENERAL:

No, of course not, that can be changed.

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

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

The following Hon Members voted against:

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

The motion was accordingly passed.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

BILLS

FIRST AND SECOND READINGS

THE GIBRALTAR REGIMENT ORDINANCE, 1967

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to provide for the organisation, duties and discipline of The Gibraltar Regiment, and for matters incidental thereto be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Mr Speaker, I beg to move that the Bill be now read a second time. The Gibraltar Regiment Ordinance was passed in February, 1974, and there have been quite a number of changes both within the Regiment and also insofar as some of the Regulations of the Army Act and so on, apply to Gibraltar. Therefore it has been a matter of study for a considerable time, particularly, I think, since March, 1979, when it was realised that some parts of the legislation were out-of-date and other parts required bringing into line with Queen's Regulations which have been changing all the time. Over the years several alternatives have been discussed and finally it was possible to produce a Bill which was acceptable to both the Commanding Officer and the Regiment and, of course, to Fortress Headquarters who are directly responsible and that is the reason for this Bill. The explanatory memorandum is rather a longish one because it sets out the purpose of each of the clauses and if I may go, for the record, through

them and clarify any points that may be required later on. Clauses 3, 6 and 7 of the Bill replace Section 3 of the Ordinance which provided the establishment and command of the Regiment. Sir, it is rather a biggish one but it is set out in much clearer language than before. Clause 6 provides that the Regiment shall be under the Supreme command of the Governor. Well, I don't think there might have been much doubt but it is necessary to do so, and that the Governor shall appoint a Commander of the Regiment who shall be responsible to the Governor for the duties, organisation, training, discipline and efficiency of the Regiment, and the Governor shall appoint a Commanding Officer who shall be responsible to the Commander for the matters specified. Clause 7 provides for the placing of the Regiment under the command of the Defence Council. Clauses 4 and 5 of the Bill replace Section 17 of the old Ordinance, that is the requirement of an officer and the years of service that he has to do for the purposes of pension. Clause 4 provides that the Army Act 1955 of the United Kingdom shall apply to members of the Permanent Cadre at all times and to members of the Volunteer Force when on peace-time training or when called out by proclamation under section 26. Clause 5 provides that the regulations, manuals, warrants listed in Schedule 1 shall apply to the Regiment and these are the current ones in use in the United Kingdom. Unlike HMS Calpe, the Regiment is regulated by local legislation and it is specific. Clauses 8 and 9 deal with the composition and strength of the Regiment. Clause 10 replaces Section 13 of the old Ordinance which deals with the disbandment of the Regiment. Clause 11 updates the existing Section 7(1) which deals with the eligibility for entry into the Regiment. Clause 12 which replaces Section 6 of the old Ordinance deals with the Governor's Commission. I would like to say here that in the time of General Jackson there was a real attempt to try and make the officers of the Regiment have a Royal Commission but because of other limitations in the body of the Ordinance that has not been possible. Clause 13 makes provision for the Commission Selection Board. Clause 14 provides for the Commanding Officer's term of appointment, ie not exceeding three years which may in exceptional circumstances be extended for a period or periods of up to one year. Clause 15 deals with the promotion of officers. Clause 16 deals with the transfers of officers between the Permanent Cadre and the Volunteer Force and vice versa. A lot of the people who go in initially are volunteers and if there are vacancies whilst they are volunteers they opt to become members of the Permanent Cadre. Clauses 18 and 23 replace Section 14 of the old Ordinance. Section 14 of the old Ordinance dealt with the appointment of the Commanding Officer which has already been dealt with before. Clause 17 deals with the retirement age of officers of the Volunteer Force, that is, 42 years which may in exceptional circumstances be extended for a period not exceeding three years. And the old Section 14 which was the appointment of the Commanding Officer has been dealt with already in Clauses 18 and 23 which replace Section 14 of the old Ordinance. Clause 18 provides for the revocation of appointment of officers and Clause 19 provides

for the discharge of soldiers. Clauses 19 and 20 replace the existing Section 12 which provides for the enlistment and re-engagement of soldiers. Section 12 is a little more elaborate than this one, soldiers service and discharges, which is a bit out of date now. Clause 21 deals with transfers of soldiers between the Permanent Cadre and Volunteer Force and vice versa. Clause 22 deals with the Governor's Warrant. Clause 24 replaces Section 4 of the old Ordinance. Section 4(1) charges the Regiment 'with the defence of Gibraltar and with such other duties within Gibraltar as may from time to time be defined by the Governor'. I think this has always been understood and, in fact, that has been reflected in many other ways in that when there was conscription, the conscription was limited to service within Gibraltar. When conscription came to an end and the Volunteer Regiment was set up, the same thing prevailed but it seems it is necessary to make it quite clear. Clause 24 replaces Section 4 and Section 4(2) enacts 'save as may be necessary for the local defence of Gibraltar no member of the Regiment shall be liable to serve or proceed on duty outside or beyond Gibraltar without his consent'. The new Clause 24 renders every member of the Permanent Cadre liable for service within or, if the Governor considers it necessary, outside Gibraltar. Clause 25 replaces Section 9 of the old Ordinance that members of the Volunteer Force shall undergo such peace-time training as may be prescribed. That is well known, a lot of them go across to the United Kingdom because there are no facilities here. Clause 26 replaces with amendment the existing Section 15. And the amendments are mainly the avoidance of the somewhat imprecise term 'actual military service' and the removal of the words limiting the exercise of the Governor's power to issue a proclamation, ie 'invasion, war or danger of any of them or by reason of any internal emergency threatening the security of life or property to quell which the available civil force is deemed by him inadequate'. Section 15 provides for actual military service - 'the Governor may, by proclamation, call out the part-time element for actual military service whenever it appears to him advisable so to do by reason of invasion, war or danger of any of them or by reason of any internal emergency threatening the security of life or property to quell with the available civil force is deemed by him inadequate and when so called out the members thereof shall be held to that service until such time as the Governor may by proclamation declare that they are relieved from that service'. That has been deleted and, therefore, it reads only 'to quell which the available civil force is deemed by him inadequate'. Clause 27 ensures that offences against the Ordinance or against the Army Act committed at any time by members of the Permanent Cadre or committed by members of the Volunteer Force when on peace-time training or when called out by proclamation under the previous section are dealt with under military law. The new clause replaces and clarifies Sections 18 and 19 and that is to make it easier for the having of Court Martial, fortunately, we don't have many of those. Clause 28 makes it a criminal offence for an employer of a member of the Volunteer Force to penalise such member for or prevent or hinder such member

from serving as a member of the Regiment. Clause 28(2) and (3) defines the word 'penalise'. Clause 29 which replaces Sections 20 and 21 of the old Ordinance deals with assaults on and obstruction of members of the Regiment. Clause 30 provides for notice to be given in the Gazette of certain happenings and events. Clause 31 enables the Governor to make regulations which do not conflict with the regulations contained in Schedule 1. This is a modernisation of the Charter upon which The Gibraltar Regiment exists. It has been seen and considered by the Commanding Officer and what I think is called the Council of Colonels or whatever it may be, I hope they don't have a Colonel riot one of these days, they are getting a bit ancient some of them. But it really puts the law up-to-date and makes it much easier for those dealing with matters, particularly disciplinary and otherwise, to know that the regulations equate to those prevalent subject to the limitation of the Regiment and those prevalent in the United Kingdom. I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, just briefly to say that we will be supporting the Bill. I think, in essence, what it does is to bring in line the existing legislation of the Gibraltar Regiment but there are a couple of queries that come to mind and that is that there is a fundamental shift although it may have been understood, but there is a fundamental departure from the previous legislation insofar as the Gibraltar Regiment was set up to defend Gibraltar and for the first time in legal terms the Governor has got the power to send the Regiment outside Gibraltar. The question I pose to the House is that if those who are enlisted in the Regiment have done so on the understanding that they are enlisting for the defence of Gibraltar they can now say: "I am not prepared to be a member of the Regiment under these conditions and I would like to ask for a report". I am just thinking aloud. I can see the necessity of bringing the Regiment in line with Queen's Regulations so as to avoid misunderstandings and misinterpretations on the role of the Regiment but I hope that that, in fact, also means that the Regiment will be subject to full equality with British Regiments in all aspects of the role they have to play in the military structure of Her Majesty's Forces. I think that is a point that has to be made. There are, for example, societies such as SSAFA which do not apply to the Gibraltar Regiment but presumably they will have a right to the services provided by that body. One of the things that has always concerned somebody who happens to be in public life for a long time

is the problems that we face in Gibraltar where as a Colony we are subjected to pressures at times because there are differences between the way we see the future of Gibraltar and perhaps the way the British Government would see the future of Gibraltar and whilst it will always be understood, I wish to make this point because it is the first time that we have had an opportunity to discuss the Gibraltar Regiment, certainly since we have been in office, is that whilst we have always understood and it should continue to be the case, that the Governor should be the overall Commanding Officer of Her Majesty's Forces on the Rock, the difference is the powers to call out the Regiment to quell civil disorder and I think that we have to be very careful, at least, those that believe they have to say what they have to say, to say so at this point in time that civil disorder can mean a host of things and that it would be a very difficult position that the Regiment should be placed in civil disorder in a case where any understanding that could arise in the future puts the people of Gibraltar at variance with - and let us hope it doesn't but I think at the time of passing legislation one has to say these things - at variance with Her Majesty's Government and the Governor is called to quell civil disorder that it shouldn't be the Regiment that should be put in that position. I think that in conscience one has to say that at this point in time. Mr Speaker, I don't think there is anything else that we need to say because we understand the spirit and necessity of bringing the Bill up-to-date but I think the points about the conditions of the soldiers having now changed from defending Gibraltar to being able to be sent out from Gibraltar and whether the Regiment will now be considered on a par with the Regiments of Her Majesty's Forces need an answer, Mr Speaker.

MR SPEAKER:

Are there any other contributors?

HON R MOR:

Mr Speaker, my contribution is not going to be very much different to what my Hon Colleague has just said. I think he has covered most of the points that we were looking at. But just as a point of clarification, Clause 7 provides for the placing of the Regiment under the command of the Defence Council. As far as I know we do not have a Defence Council in Gibraltar, presumably that refers to the.....

MR SPEAKER:

I think the Defence Council is defined in the Ordinance, isn't it?

HON R MOR:

But in any case how can it be then under the command of the Governor and under the command of the Defence Council?

HON CHIEF MINISTER:

The Defence Council commands the Governor.

HON R MOR:

The other thing is, Mr Speaker, that since the Regiment now seems to come under the Army Act 1955 then, presumably, all that is applicable to the British Army is applicable to the Gibraltar Regiment. Is that, in fact, what we are saying? As I understand it, Mr Speaker, during the crisis in the South Atlantic when the Falklands War was on, I think there was an attempt to have some volunteers from Gibraltar and when they looked at the legislation they found that they could not do it and this presumably was one of the reasons why this legislation has come here. What worries me, Mr Speaker, is whether the volunteers in the Regiment are aware that once this Bill is introduced they can now be posted out anywhere such as the Gulf or any similar area where there is a crisis on. Another thing, Mr Speaker, is that presumably parity of pay and conditions of service will apply in their entirety now that this Bill is introduced.

HON ATTORNEY-GENERAL:

If I could take the last point first, Mr Speaker. Clause 24: "Every member of the Regiment in the Permanent Cadre shall at all times be liable for service in the performance of the duties of the Regiment within or, if the Governor considers it necessary, outside Gibraltar". The liability to be sent outside Gibraltar if the Governor considers it necessary is on the Permanent Cadre and not on the part-time element or the Volunteer Force.

MR SPEAKER:

May I perhaps refer the Hon the Attorney-General to subclause (3) of Section 26.

HON ATTORNEY-GENERAL:

Yes, that is the liability. If this Bill is passed it is the Permanent Cadre who can be sent outside. Once there is a proclamation under Section 26: "The Governor may, if he considers that the circumstances require it, by proclamation call out for service the whole or any part of the Volunteer Force". So you have the Gibraltar Regiment split up into the Permanent Cadre which is liable to be sent abroad if the Governor considers it necessary. Then you have the Volunteer Force. If the security situation or whatever it

is is such the Governor can issue a proclamation calling out the Volunteer Force and then, of course, the Volunteer Force become almost as if they were members of the Permanent Cadre and can then, subject to the complete rules, be sent out. So if we need them we can have them and that is the position insofar as the Volunteer Force is concerned. The Hon Mr Feetham asked about does this give full equality in all respects to the Gibraltar Regiment with the British Army. Well, I can say this, insofar as all those regulations, manuals, and warrants as contained in Schedule 1 are concerned, yes, most certainly and, of course, if you have a look at what they cover, there is the Queen's Regulations, the Manual of Army Security, the Regulations for Army Employments, the Army Commissioning Regulations, the Regulations for Army Allowances and Charges, the Pay Warrant, the Army Pensions Warrant, the Pay Services Regulations, the Manual of Army Pay Duties, the material regulations, and all these various regulations which apply to the British Army now apply, if this Bill is passed, to the Gibraltar Regiment. And, of course, as a quid pro quo for equating the Gibraltar Regiment with the British Army, the Permanent Cadre are liable to be sent overseas and that, you might say, is a quid pro quo point - You have got the full rights of the British Army and therefore you have the full obligations of the British Army.

HON M A FEETHAM:

I understand that now that you have explained it in much more detail and it clarifies a couple of the points. What I was saying was, if somebody signs on in the Regiment knowing that these are the conditions as a member of the Permanent Cadre and we pass the legislation which now says 'you can be sent out of Gibraltar', somebody may want to change his mind and whether his conditions have been changed without him being in agreement.

HON ATTORNEY-GENERAL:

If he wants to change his mind I am sure the Commanding Officer will allow him to opt out, if he only wants to stay in Gibraltar, if he doesn't want to be, dare I say it, a real soldier should be liable to orders to be sent abroad, if he is not prepared to do that his terms and conditions are governed by the present Section 4: "Save as may be necessary for the local defence of Gibraltar no member of the Regiment shall be liable to serve or proceed on duty outside or beyond Gibraltar without his consent". Well, if he wants to stick to that then there is no place for him in the Regiment now and certainly in the Permanent Cadre. In the Volunteer Force, yes, unless it is an emergency. I think I know the Gibraltar Regiment well enough to say each and every one of them will want to be equated as soldiers to serve as their Commander-in-Chief wishes them to serve be it within Gibraltar or without Gibraltar and if they don't want to do that then they can opt out.

HON M A FEETHAM:

Mr Speaker,

MR SPEAKER:

With respect, this is the debate on the Second Reading, perhaps this is a matter which can be clarified at the Committee Stage but we are not going to have a ding-dong now.

HON ATTORNEY-GENERAL:

The only other point I wanted to raise for the Hon Mr Feetham was the question of the power to call out the Regiment for civil disorder. We haven't changed that at all, it was just what does 'actual military service' mean? I don't know what it means, it was imprecise and the Ordinance limited the Governor's powers to issue a proclamation for all those things, civil disorder, etc, etc. Now what we are saying is the Governor may issue a proclamation if he thinks it is proper, regardless. But, anyway, without this if there was a situation as such in Gibraltar that we needed to call out the Regiment to deal with civil disorder it probably wouldn't be done under the Gibraltar Regiment Ordinance, it would be done under the Emergency Powers Order in Council where you declare a state of emergency and then the Governor is free to act more or less as he wants under the Emergency Powers Order in Council. I don't think this is changed in the slightest.

MR SPEAKER:

Are there any other contributors? Does the Hon and Learned the Chief Minister wish to reply?

HON CHIEF MINISTER:

Yes, I want to deal with the two matters which have been raised which I think are the only matters, really, of substance. In the first place, from my knowledge of this and I have been answerable here for some time on the Gibraltar Regiment, in fact, we had a nominated Member at one time, I think it was Charlie Piccone who used to answer on the Gibraltar Regiment and then the Chief Minister took it over. First of all, I can say with all authority that the Gibraltar Regiment is considered by the Army Council, by the Chief of the Defence Staff and by everybody in the hierarchy of power as a great contribution to the defence of Gibraltar primarily and for no other purpose. To some extent, the same as HMS Calpe is considered of great importance for the Communications Centre. What would happen in an emergency and everybody was called, the bulk of them are employed in the Government, I don't know how the Government would run

with all the people in the Volunteer Force being called out in an emergency, perhaps some arrangement could be found for that. I don't think there is any change about that, I think it is just a reiteration. The second thing is, of course, in a proclamation being able to call the Army for civil disorder. That, I think, is because it happens in the rest of the Army Act and so on. First of all, one is reluctant to have soldiers even who are not local, let alone local soldiers being called out for civil unrest and I don't think is anybody's intention. In 1968, the one and only Black Saturday, I stuck my neck out to stop the Army from coming out and in the morning we avoided it but later on another group came and it was impossible to control it. So it is certainly not the intention of the Government or anybody having anything to do with the amendment of this Bill to think in terms of the Army for civilian unrest, I hope it never happens and I hope that if it happens that our Police Force is adequately trained to cope with any situation like that. With regard to the other one, it is interesting that I was telling the Attorney-General that the last time I had recollection of this matter regarding the conditions of service is when they were, I think, assimilated because at one stage I remember the pensions of officers had an 'X' element reduction from the normal UK pensions because they did not have the duty to serve abroad and they fought hard to get their equality and, naturally, they got it but equality means equality all along the line.

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

HON CHIEF MINISTER:

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

This was agreed to.

THE HOUSE OF ASSEMBLY (AMENDMENT) ORDINANCE, 1987

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the House of Assembly 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 CHIEF MINISTER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. It is the second shortest Bill that I have ever brought before this House, the other one being the amendment of one section. This is the amendment of two sections. It has been done, of course, in consultation with the Opposition and that is that the present allowance of £400 per candidate for an election be increased to £750. There have been comments in the press about the fact, in fact, we had one particular, eternal independent candidate who always complains that he hasn't got enough money to run an election campaign and that it gives an unfair advantage to those who stand in a list because the amount can be multiplied by the list consisting of eight, seven, six, or whatever it is. But, anyhow, it is quite clear that printing costs, distribution costs and postal costs have gone up and we felt that £750 strikes a fair balance. If you put up the amount too high then you give an advantage to a person with a lot of money to be elected as against a person of modest means yet if you put it too low you don't give persons with reasonable means sufficient money to project themselves in order to be elected and that is the first amendment, by amending section 4(1) by omitting '£400' and substituting it with the expression '£750'. The second one is an advantage which we have been able to take to further extend the right to vote by postal vote and that is, we are taking away the words 'on courses of study, or for health reasons or recreational purposes, or for purposes connected with their employment or business within Gibraltar' which really means that anybody who registers himself beforehand because he is not going to be here for an election, hasn't got to qualify other than the fact that he is in the Register and he won't be here and I think this is a good move because it will increase the number of people who would not otherwise be able to vote. In fact, we are ahead of UK on this in that respect because they are still limited in some extent as to the way in which they vote. I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Briefly to say, Mr Speaker, that we are supporting this Bill. We have already agreed beforehand that we would be doing so. But in passing just to say that I hope that now that we have increased the expenditure allowance for people to stand for election, that we will have loads of independents coming forward, standing for election and telling us how they are going to resolve the problems of Gibraltar, Mr Speaker. I hope that there will be plenty of candidates.

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

HON CHIEF MINISTER:

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

This was agreed to.

THE COMPANIES (AMENDMENT) ORDINANCE, 1987

HON A J CANEPA:

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

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, I want to mention right at the outset what the intention is, in fact, regarding the Committee Stage of this Bill. I believe the Chief Minister has already indicated to the Hon the Leader of the Opposition what the intentions are. When Hon Members see on the Agenda Paper that the Committee Stage of the Bill is being taken at this meeting that does not mean that the Committee Stage is going to be taken today or tomorrow. The intention is to adjourn the House to a convenient date in November when, not only will the Committee Stage of the Bill now before the House be taken, but when substantial amendments will also be introduced then and they will be circulated well beforehand, in time to give Hon Members opposite enough time to consider their import, amendments in order to enable the incorporation of open-ended investment companies. But coming to the Bill at the moment before the House, Sir, I think the House will recall that during the last Opening of the Legal Year, the Leader of the Bar expressed the Bar's dissatisfaction at the delays at the Companies Registry over the registration of companies. The Finance Centre Group have on various occasions, particularly in the financial sector think tank, raised their grave concern at these delays which are not only inhibiting the growth of Finance Centre activities, but causing the loss of clients to other jurisdictions. The Gibraltar Lawyers' Association have also made strong representations on this matter. It should also

be said, Mr Speaker, that the staff at the Registry have been praised for their goodwill and for their dedication in a difficult environment but the problem as of late been worsening rather than improving as the volume of business has increased. The nub of the problem is the time which is taken for vetting the proposed names of companies as required by the Companies Ordinance. At present the computer is taking an average of forty minutes to search through its memory and print out lists of what it identifies as identical or similar names. These lists are then manually checked, as, apart from not being visually identical, a name must not be phonetically identical. This procedure is employed for every company name which is submitted for approval. The following statistics, Mr Speaker, show the growth in the number of names which are submitted for approval and in the number of companies being incorporated. During 1985 the number of names submitted for approval was 5,161. This has grown in 1986 to 10,219 and up to the end of July, 1987, the corresponding figure is 8,893. Insofar as the number of companies incorporated is concerned, the figures are 1985 - 1,999; during 1986 - 3,820; and during the first seven months of this year - 2,872. The number of companies on file during 1985 was 10,611; during 1986 14,431 and the first seven months of the year 17,303. Mr Speaker, I think Hon Members also probably saw an article on the front page of the Chronicle, I think, of this Monday. What measures have we adopted and are we adopting in order to try and correct the situation? Let me say, first of all, Mr Speaker, that on the 23rd September the Government, that is, Council of Ministers in this case, gave the go ahead for the appropriation of funds for the purchase of a new computer. Secondly, we instructed the Establishment Division to submit a paper to Council of Ministers by the third week in October making provision for the employment of additional staff. That paper would have gone to Council of Ministers today had we been meeting, I saw it in draft on Monday and I dare say that it will be considered by Council of Ministers at the next meeting. The third measure is the legislation, the Bill now before the House. It is considered to be a significant step towards a solution in an area which is in dire need of revision. The Ordinance, Mr Speaker, prohibits a company from being registered by a name which is identical with that of a company registered in Gibraltar or, from information available to the Registrar, to that of a company registered in some other country or which so merely resembles those names as to be calculated to deceive. However, this is, in fact, placing an intolerable burden on the Registrar since he has to satisfy himself that a proposed name does not offend against these requirements before approving it. And given the Registrar's scant resources, we don't think that he should have to concern himself with protecting companies elsewhere when no reciprocity exists for Gibraltar companies. The United Kingdom Companies Act 1985 simplifies the arrangements for the approval of company names and what we are recommending is that similar arrangements should be introduced in Gibraltar. Under such arrangements the Registrar of Companies would keep an index of the names of existing companies to

enable promoters of a company to select its name by comparison with the index and thus approval before registration will not be required. When choosing a name, the promoters would be expected to satisfy themselves in advance as to the acceptability of the proposed name bearing in mind that an objection could be received and that could result in the company being directed to change its name. Broadly speaking, a company would not be registered if: (a) it is the same as a name already appearing on the index, and phonetically identical names would be allowed as not being the same, they would not be regarded as being the same (b) if it contains the word Limited or an abbreviation of the word except at the end of the name, and (c) if in the opinion of the Registrar it is offensive or its use would constitute a criminal offence. The Registrar will not be required to give provisional name approval except in cases where the prior approval of the Governor is specifically required, for example, where it contains the words Royal or Crown. The Registrar would have certain powers to direct a company within a period of twelve months of its registration to change its name if it is the same as or, in his opinion, too like a name appearing in the index at the time of registration. Such names would normally be brought to the Registrar's attention by objections being lodged by any person who may feel that the name is the same as or too like that of a previously registered company. Redress would continue to be available to an existing company by means of legal action, for example, by seeking an injunction to restrain another from carrying on business under a name likely to cause the public to believe that the business of the company is that of the existing company. Mr Speaker, the measures which I have referred to, namely, in respect of an increase in staff, in respect of the provision of a new computer and in respect of the Bill now before the House, are considered to be important and urgent in order to tackle this problem and the urgency of that is, in fact, reflected in the fact that we are not postponing the Committee Stage to the next meeting of the House which could be, say, in December, but that we are desirous to take the Bill through Committee as early as possible. The Bill has been seen and vetted by the Finance Centre Group who have expressed themselves content with its proposals. 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 M A FEETHAM:

Mr Speaker, we shall be voting against this Bill as a matter of principle because I think it is deplorable to find ourselves today discussing an amendment to the Companies Ordinance which no doubt let me say that the Opposition supports fully the development of the Finance Centre, indeed,

the arguments being put over by the Government to assist the streamlining of the activities of the Finance Centre. Indeed, the boom in the Finance Centre is reflected by the figures which have been given to us by the Hon Member opposition which shows that the legal profession are easily making increased earnings. Fine, nobody should decry anybody increased prosperity and consequently it is not that that puts us against this amendment. Why we are going against the amendment, of course, is that for a considerable time we have been pressing the Government to include in the Companies Ordinance Directive No.4 on the disclosure of company accounts. And whilst we support that more money should be made in the Finance Centre and that more companies should be registered, and that more banks should come to Gibraltar, there is the other responsibility in that industry to their employees and to consumers and to the rest of the people interested in knowing exactly what the accounts of that company is all about. Whilst we have been told very clearly by the European Community that we have to comply with that Directive, the Government is still dragging its feet and, quite frankly, it reflects on the Government's will to resolve that problem. We cannot continue to put the day off. At the last meeting of the House, I think it was, the Hon Member said in response to a question that I put, that the Companies Ordinance streamlining was not imminent. In other words, it was going to take time and I said at the last meeting that it was not acceptable and consequently we are going to vote against the Bill and I wanted to make it quite clear why. It is one thing for an inspired story to come out in the Gibraltar Chronicle saying: 'The Finance Centre is having difficulties with this, difficulties with that' at the same time that this Bill is in the House and, no doubt, to influence - everybody does it - to influence the people who are going to pass legislation.....

HON A J CANEPA:

If the Hon Member will give way. I don't know whether everybody does it but the Mover of this Bill, that is myself, has got nothing whatsoever, I declare most solemnly, to do with that inspired story in Monday's Chronicle. Nothing whatsoever, I haven't said a word to any journalist about it.

HON M A FEETHAM:

Let me say one thing, I agree with the story, I have said we are in support but what I am saying is it happens all the time, Mr Speaker. People do lobby and people want to get their business through as quickly as possible and I accept this question that people want to register a name of a firm and before the name is approved they have to look through all the list and so on and I think it is an outdated piece of legislation insofar as that is concerned, probably going back to 1927 or whatever, as there are lots of legislation in Gibraltar which are outdated and it is only when the pressure is there that we begin to update it but we must

not lose sight that there are other responsibilities to everybody else in Gibraltar so far as the Government is concerned in updating the Companies Ordinance because it is deplorable. Last year the Government brought a Bill to the House on the employment side, the Employment (Amendment) Ordinance for 1986, it is still there, you are bringing one now for 1987 and it is still there. We have got the Sex Discrimination Bill which was brought in the first meeting of this House in 1984, it is still there and I am sure if I carry on I will remember other Bills. Things which are important to working people in Gibraltar and they are still there and all of a sudden we are told we want to update the Companies Ordinance, we want to bring it up-to-date, we want to incorporate this part of the companies disclosure of accounts which has still not been done and then we get legislation being pushed through because they are under pressure from a particular sector and we tend to forget the rest. As a matter of principle, Mr Speaker, having cleared our position of supporting the Finance Centre activities we have to vote against this Bill on the basis of the arguments I have put.

MR SPEAKER:

Are there any other contributors?

HON ATTORNEY-GENERAL:

Could I just make one point and I think I must make it in all fairness to the Government. The Government is not dragging its feet on the implementation of the legislation implementing the second and fourth Directives on company law. It is with a draftsman in the United Kingdom, the last meeting I had with this draftsman and with the DTI was, I think, at the end of May and specific instructions were given. There is nobody more anxious to implement this legislation implementing the Second and Fourth Company Directives than Her Majesty's Government in the United Kingdom but the amendments are considerable and one of the problems in getting these amendments is we are putting highly sophisticated legislation onto the framework of a 1929 piece of legislation. This is much easier in that it is simply two clauses. The implementation of the Fourth Directive needs much more legislative amendment and it seems, I think the whole of the first draft of the legislation implementing the Directives, we sent it back to the United Kingdom with many comments and this was post-May this year and the draftsman is now drafting in accordance with the comments that we made. I originally asked the draftsman if she would include these particular amendments in this Bill. I didn't want to hold up the legislation implementing the Second and Fourth Directives so I did this one myself so as not to hold the implementation of the Second and Fourth Directives. And the present position is, as I stated at the Opening of the Legal Year, I am hoping that we will have a completed draft for circulation by the end of this year, and in the Opening of the Legal Year I said this year, the calendar year 1987.

I am completely and utterly and entirely in the hands of the draftsman in the United Kingdom and she is being pushed by the Department of Trade and Industry because Her Majesty's Government want it, so please it is not the Government dragging its feet. If anybody is dragging its feet it is, perhaps, the Attorney-General because he cannot prod the draftsman in London hard enough to get us the legislation.

HON J BOSSANO:

Mr Speaker, it is very generous of the Hon and Learned Member to gallop gallantly on the scene to try and give the Government a cover-up operation, it won't work.

HON A J CANEPA:

He has stated the facts.

HON J BOSSANO:

It is not stating the facts, Mr Speaker.....

HON A J CANEPA:

It is..

MR SPEAKER:

Order.

HON J BOSSANO:

We joined the EEC.....

HON A J CANEPA:

We know the facts, you don't know them.

MR SPEAKER:

Order.

HON J BOSSANO:

The Hon Member may know the facts and I have been long enough in this House to know that they twist the facts on that side of the House and they come out with press releases saying one thing about GSL one day and the opposite the next day because they are.....

HON A J CANEPA:

We have had enough of GSL for two days.

MR SPEAKER:

Order.

HON J BOSSANO:

The Hon Member has had his say and if he wants to have another say I will give way.

HON A J CANEPA:

I do and I shall when I exercise my right of reply.

MR SPEAKER:

Order.

HON J BOSSANO:

Then he should shut up and wait until then, that is what he ought to do. What the Attorney-General has done is an obvious and transparent attempt to provide a cover-up for the Government and the reason, Mr Speaker, is that we joined the EEC in 1973 and the First Directive was passed in 1968 and it isn't since May that we have been waiting for the application of the First Directive on company law requiring publication of accounts, it is since 1973, fourteen years. Where was the Hon and Learned Member in those fourteen years, talking to his counterpart in the Foreign Office? The reality of it is that there is pressure from certain areas of the business community to keep their accounts under wraps and those pressures operate through the machinery of the AACR and that is why it is a political issue, nothing to do with the Attorney-General, nothing to do with the Foreign Office. Of course, when it comes to company accounts would the Hon Member like to spell out how they compare the new registration in between Chambers or has that nothing to do with it? No, well, I think it is very fair. What is fair, the kind of innuendos they throw at us from the other side? That is fair, Mr Speaker. The rush to do this is because there is money, a lot of money, and it is not money that is coming in through the Income Tax Ordinance or money that is coming in through the exempt companies, it is a lot of money being made by a lot of people. If 2,000 companies were registered in 1985 and 4,000 were registered in 1986 somebody did twice as much business.

HON CHIEF MINISTER:

There are forty-five lawyers.

HON J BOSSANO:

Well, then forty-five lawyers shared 100% increase in their turnover or maybe somebody had 10% and somebody had 500% and the average was 100% increase in turnover in 1986 and another 100% increase in 1987. I would like to know what Hon Members would say if they had been faced in GSL or in any other area with union claims of 100% per annum compound increases in income. What would they do, throw their hands in horror? But when it is a question of bringing legislation in if we have to meet in two weeks time to get it through then we do because we must have a unit trust, we won't make the end of the year without the unit trust, without the open investments. The average person in the street won't know that there are unit trusts or no unit trusts. The average person in the street is interested about how it is that all this boom and all this money and all this wonderful Finance Centre, how that is improving their life, the average person that works and lives in Gibraltar. Of course, there is no reason why we shouldn't welcome prosperity in one quarter provided it is even-handed, as my colleague has said. We certainly are not prepared to support any amendments of the Companies Ordinance designed to encourage more companies to register in Gibraltar who are in breach of Community Directives like the ones that are already registered are and that is what you are doing. What you are doing is, you say it is not enough that we have got 17,333 companies breaching the Directives, we want to make it easier for 30,000 companies to come in and breach the Directives. If one of the arguments about not wanting to publish accounts is that they are all going to go away, then they are going to pass a law now to let them all come in and then by the end of the year when we make it compulsory to publish accounts they all go, so what are we doing it for? Because that is one of the arguments that has been said if not here it has certainly been said in more than one cocktail round. They are all going to disappear in fear, privacy and secrecy is very important and therefore they come here because they have got something to hide, presumably, that is why they don't want to publish their accounts and other people require them to publish their accounts. What is the mystery about the publication of the accounts? Why cannot we have a two-line amendment in the law that says that the information you have to give to your shareholders should be available to anybody that writes in to the company and gets it? If I want to find out, Mr Speaker, what is happening in a business activity here I cannot but I can write to the company secretary in London and I can get the annual reports of what they are doing everywhere else but I cannot find out what they are doing in Gibraltar where I may be affected as a customer or I may be affected as an employee or I may be looking after the interests of the employees of that enterprise. Well, it is not on, certainly they will come back to the House but they will have to vote against an amendment that we shall bring disclosing company information.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, the Hon the Leader of the Opposition has, of course, in his intervention given the lie fully and entirely to the lip service which the Hon Mr Feetham pays to the development of the Finance Centre. They are not really interested in the development of the Finance Centre. Perhaps they are grateful and welcome the additional jobs that are provided, yes, but they are not really interested. They are not interested because as we have seen here this afternoon they consider that the Finance Centre is just an opportunity for lawyers in Gibraltar to make more and more money, that is all, lawyers and accountants and the Hon Mr Bossano has said that in the House. For political reasons and for electoral reasons they try to pretend that they care and they are interested and they try to pretend that they are not, in fact, antagonistic to the aspirations of people that work in the Centre. But by their attitude here this afternoon and by their voting against this amendment the message that is going to go out of this House to people in the Finance Centre is that the Opposition doesn't care and that if Hon Members opposite get into Government then heaven help the people in the Finance Centre and I will predict that the growth that we have seen in the last six months will be a thing of the past. Capital will flee from Gibraltar because of the attitude of Members opposite and jobs will be lost. I am glad to see that their protective clothing is off this afternoon and that people are going to see exactly where Members opposite stand on this important growth area of the economy of Gibraltar. Why on earth is the Opposition so interested, why have we had question after question in this House about the implementation of the Fourth Directive? What is the real motive behind the Opposition? Why do they want that information? I have my own view as to that and to say that they are voting against as a matter of principle, to say that the Attorney-General is covering-up. Do we need the Attorney-General to cover up for anything? And I myself least of all, I push the Attorney-General incessantly to get legislation ready and to bring matters to the House as expeditiously as possible. To say that there is more urgent legislation affecting working people that we have ignored, my record in this House over the last fifteen years is second to none when it comes to bringing legislation to the House and no Member of this House in the past has brought more legislation on labour matters and more legislation on social matters than I have done. The same attitude and the same effort and interest that I put into my work as Minister for Labour, I also put into other matters. Some are more complex and more difficult but I try to do my duty and to do my job and that is why I continue to bring, at every opportunity, important legislation to the House. That is what has happened

with the Bill now before the House. I took over the Chairmanship of the Finance Centre Think Tank a year ago, it has taken me some months to begin to familiarise myself with the problems and with the aspirations of the people concerned and I give them my support and my help as I would give any group of people in Gibraltar who are desirous of improving the economy and doing things for the general good. That is why this Bill is before the House and that is why at Committee Stage there is going to be another important piece of legislation brought to the House also for the benefit of the economy in Gibraltar. The legislation for the Fourth Directive is in London, it is being drafted by a person specially engaged and paid for by ODA to produce that legislation and when it is ready we will bring it to the House. We certainly are not going to bring a piece of legislation to the House which is going to stultify Gibraltar's development as a Finance Centre. I will say to London that if they cut off development aid to Gibraltar, if we are expected to pay the bill for Gibraltar in the future and so on, then we also have a right to determine what legislation we bring to the House and to ensure that that legislation does not work against the economic interest of Gibraltar. That I will tell London.

HON M A FEETHAM:

You are wrong.

MR SPEAKER:

Order, I will not have interruptions and I will have to call your attention.

HON A J CANEPA:

And I am sure that if they get into power in respect of the implementation of the Fourth Directive they will be the 'darling boys' of the Department of Trade and Industry and of the Foreign Office, I have no doubt. But let Hon Members not forget that the average parent in Gibraltar is also very grateful that their sons and daughters can look to secure employment because it is the most secure employment that there is in Gibraltar in the present circumstances. Over 100 jobs were created in this area in the six-month period from October, 1986, to April, 1987, and that is a very real achievement. What I think irked Hon Members opposite is that we are the ones who are in office, I have been in office during the last two and a half years of dramatic growth in this sector. I expect that they don't like it because it is a real political success. As I say, I am sure the message will get loud and clear to people from outside that the lip service of the Opposition to the growth of the Finance Centre has just been mere words and that there is no substance to that at all.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill will be taken at a later stage in the proceedings when the House resumes on the 10th November.

THE LANDLORD AND TENANT (AMENDMENT) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this Bill is to remove another difficulty which has arisen in the interpretation of the Landlord and Tenant Ordinance. Under section 69 of the Ordinance the Landlord has the right to charge a premium not exceeding two years rent as a condition for

granting his consent to an assignment of a tenancy of business premises. Under the existing section 2(3) of the Ordinance 'unless a court of competent jurisdiction otherwise determines, any transfer or change in the legal or beneficial ownership of any share in a tenant company or any change of the membership of a tenant company constitutes an assignment of the tenancy or a cesser of occupation of the premises and consequently every time a person buys or sells shares in a company whose shares are traded in on a recognised stock exchange, the company is deemed by section 2(3) to have assigned the tenancy of any property which it rents in Gibraltar or to have ceased to occupy such properties and thus giving the landlord the right to charge a premium of up to two years rent. Mr Speaker, this is clearly wrong and it was not intended by the draftsman or by this House when it enacted section 2(3) of the Ordinance and this Bill corrects the position and I commend it to the House, Mr Speaker.

MR SPEAKER:

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

HON J L BALDACHINO:

Mr Speaker, this Ordinance has always been a controversial Ordinance even when it was brought initially. I won't refer to Part III of the Landlord and Tenant Ordinance which applies to dwelling houses but it appears that Part IV which applies to business premises is receiving the same treatment. Even though we are amending section 2(3) it still has a bearing indirectly to section 69 of the Ordinance. Section 69 of the Ordinance, Mr Speaker, has up to date received two or three amendments already. As a matter of fact there is still one which was brought by the Hon Member on the 27th November, 1986, which he withdrew on the First Reading saying that he would bring it at a later date and we still haven't heard anything about that amendment.

HON ATTORNEY-GENERAL:

That Bill is not being proceeded with.

HON J L BALDACHINO:

I am grateful to the Hon Member for clarifying that point. Anyway, Mr Speaker, my reservation on Part III was that landlords had really all the advantages when it came to finances and as a matter of fact the last amendment to section 69, Mr Speaker, when the Government brought this amendment, the initial provision in the Ordinance was that if you had a business and if you sold that business and whoever bought

that business was going to carry on with the same business then there was no premium whatsoever to be paid and my Hon Colleague, the Leader of the Opposition, at the time objected to this. What is happening now is precisely the contrary to the spirit of what they have been doing to the Landlord and Tenant Ordinance. In other words, whereas before it was all the time protecting the landlord, now we have the tenant being protected against the landlord and it is a question of how strong or how wealthy the tenant is. That is really what they are doing. If a tenant has shares in the stock market it must be quite a powerful business and company, a bank or something like that. And what are they doing? If those shares are sold so long as it is in the stock exchange they don't have to pay a premium to the landlord. And yet if somebody has a small business and he sells his business to somebody else he has to pay a premium of two years rent. That is what the Government is doing. If they want to do that for the powerful why don't they do that for everybody? Another query I wanted to raise, Mr Speaker, is what happens if there is a company with shares and the person passes away and the shares have to be passed to somebody else in the family - I hope the Hon Member is listening, Mr Speaker, because I expect him to answer that - a company which is not on the stock exchange which has shareholders, a local one, is owned by shares by the family and one of the shareholders dies and if the shares have passed to somebody else within the family then they have to pay a premium because of that. And why is it for one and not for the other, Mr Speaker? It is an injustice. It was an injustice on Part III of the Landlord and Tenant Ordinance for dwellings and now the same injustice is happening on Part IV of business premises. I hope the Hon Member considers what I am saying and most certainly, Mr Speaker, we are not prepared to vote in favour of any amendment on this piece of legislation or on this Ordinance because I think it is an injustice. They did it in Part III and now they are doing it in Part IV, Mr Speaker. There are no more than six companies involved in this at the moment. We are not prepared to support this on those grounds, Mr Speaker. Thank you very much.

MR SPEAKER:

Are there any other contributors? Does the Mover wish to reply?

HON ATTORNEY-GENERAL:

Mr Speaker, it is not a question of trying to help the powerful or the strong and not doing anything for the weak, it is simply really a matter of commonsense. Let's take Barclays Bank - I wish I could have thought of another example but that was the only one I could think of - but Barclays Bank, their shares are quoted on the London Stock Exchange. Barclays Bank are tenants of many properties in Gibraltar. Barclays Bank shares are dealt with every day on the stock

exchange. The membership and the shareholding of the shares of Barclays Bank change from Mr A who lives in Worthing to Mr B who lives in Shoreditch and every time that happens the way section 2(3) is drafted, there is an assignment and therefore the Gibraltar landlord who is fairly astute says: 'I want my premium of up to two years rent'.

HON J BOSSANO:

If the Hon Member will give way. Have, in fact, there been cases of the half a dozen public companies that are operating in Gibraltar, because we have asked before how many of the companies registered were public quoted companies or how many of the companies incorporated were public quoted companies and the figure was negligible. Have there been any instances, in fact, of what the Hon and Learned the Attorney-General says is happening, some clever landlord coming along and saying 'I want my two years premium'?

HON ATTORNEY-GENERAL:

A firm of lawyers referred the matter to my Chambers and said 'This is the danger'. We have no doubt whatsoever because this is covered in section 2(3), unless a court of competent jurisdiction should decide otherwise. We know that if we went to the Supreme Court the Supreme Court would say 'That is not a transfer and that doesn't entitle the landlord to the premium'. But the lawyer was right in pointing out to me because this obviously wasn't intended, 'Why should we put our clients to the cost of applying to the Court to say 'This is not a transfer'? I think every Member of this House if he puts his hand on his heart can say 'when we passed and enacted section 2(3)' - I wasn't in the House at that time - but when section 2(3) was enacted we never expected this scenario. I don't think it was ever thought and so we said 'When Barclays Bank shares or any of the other six or how many it is public companies whose shares are quoted on the stock exchange have a sale of shares don't let's give the Gibraltar landlord the right to charge up to two years rent on a deemed transfer or assignment of tenancy'. It doesn't make sense and that is what the Bill is about..

HON J BOSSANO:

If the Hon Member will give way. Does he then argue by implication that the point that was made, we know what the Bill says, we are not arguing with what it says, we can see that it is in fact a nonsense to suggest that every time somebody buys or sells shares on the stock exchange the landlord should raise the rent or charge a premium, that's a nonsense. The point that we are raising, Mr Speaker, is there are for six or seven companies that have got publicly quoted shares there are 17,000 that haven't publicly quoted shares. We have had a situation where Galliano's Bank has just had its shares sold. Apparently they own the properties in which they are housed, had they not owned them the landlord would have been able to charge a premium.

HON CHIEF MINISTER:

Of course.

HON J BOSSANO:

Why of course? Suppose one of the brothers had sold his share and not the rest, the same would happen. You have got a situation where if it is less than 50, I understand, it is not a public company. Less than fifty shareholders is not a public company.

HON CHIEF MINISTER:

No, a private company can have more than fifty.

HON J BOSSANO:

Right, a private company can have more than fifty so if it is less than fifty it is not public, it is private. There are many companies, for example, that I know of where there are changes between members of the family or relatives or people buying in or every time there is a share transaction we are being told the landlord can raise the rent and that makes sense and that is equitable. That is the policy of the Government. This one doesn't make sense and it is not equitable and it is a manifest nonsense and it was never intended. But what is being retained is Government policy, is intended and is equitable. We must be told that because they are not seeking to change the rest or we will move an amendment to take the others out as well when it comes to the Committee Stage.

HON ATTORNEY-GENERAL:

I accept that, of course, the second part of the Hon Leader of the Opposition's contribution is a matter of policy of the Government but my brief is not to protect but to remove the nonsense. I don't know about the policy decisions of the Government insofar as the transfer of companies whose shares are not quoted on the public stock exchange, that is up to the Government.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

HON CHIEF MINISTER:

I would like to say something about this. It is all very well to say 'we will bring an amendment' but, of course, that amendment could be very serious and could have wide repercussions. I don't mind if, in fact, they are serious about this, to leave the Committee Stage to the 10th November or whenever we are going to meet and let us have the amendment long before so that we know the implications and we are now going to ask exactly what you are entitled to ask from us and that is time to consider this matter. With that and all the other amendments which you have had plenty of time with the Bill.

HON J BOSSANO:

We agree with that.

MR SPEAKER:

So notice is being given that the Committee Stage will be taken on the 10th November.

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) ORDINANCE, 1987

HON J B PEREZ:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Utility Undertakings 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 J B PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, basically the main objects of this particular Bill before the House is, what I would term, a tidying up operation of our present legislation, in particular section 40 onwards of the Public Utility Ordinance. The main basic reason making this change in the legislation necessary was as a result of a court case, I think it was in the Magistrates Court, in which the Arrears Section of the Gibraltar Government were proceeding against a particular individual for non-payment of telephone bills and the evidence being adduced was, of course, the metered units which we had at the Exchange and the Judge held that, in fact, it wasn't absolutely clear whether we could use the metered units in the Exchange as prima facie evidence that the call was actually made. So it is as a result of that particular court decision that this legislation is now required. Hon Members opposite will note that there are also provisions, of course, in the event of a particular subscriber which, again, there is a provision which doesn't exist today, we are now enacting legislation to enable a subscriber who perhaps may be aggrieved or unsatisfied with the number of units on the bills that he is receiving and there is now provision in which he can make certain applications to the court in which the whole matter can be looked at. As I say, it is basically a tidying up operation and basically arose as a result of a decision of the Magistrates Court. Now the position will be, if the Bill goes through and becomes law, that we will be able to use the metered units by way of evidence to establish that somebody has made those calls. I think there is very little that I can add, Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, it seems to me that this Bill is being brought in as the Hon Member has explained because in one particular court case the Magistrates ruled that the Government wasn't able to use the meter as prima facie evidence in court. One wonders how many cases have been taken to court with similar evidence and on how many occasions the Government has been breaking the law to that extent unless it is that this was the first case and the Magistrates warned the Government that this situation was an anomaly. Then we are actually putting right something which we have seen is wrong with the first case but that would suggest that since metered

calls were in existence no other cases of arrears of telephone subscribers have gone to court or of disconnection, of course. Clause 3, as I understand the explanatory memorandum here, in effect gives the Government the power that it does not affect the consumer's liability to pay any amounts outstanding to which no objection has been taken. Surely, that is the position today and why do we need to include it in the legislation? Surely, if I have a dispute about one bill, the situation is that the other bills for which I have no dispute with the Government I am still liable, that is true today without this clause being entered into the legislation.

HON ATTORNEY-GENERAL:

If the Hon Member will give way. This is so but, of course, if you have got a bill outstanding on your meter, the meter reading, and you say 'I don't object to that, I am paying that' but then you get the next bill and it carries on the meter reading from the last meter reading and you say 'I object to that one, I haven't had so many units'. So this is ex abundanti cautela, if you like. If you don't object to the first one which takes it up to 1234, you pay that and, okay, you object from 1234 to 2345 and you are objecting to that but you must still pay the 1234 because you are not objecting to that. That is the reason for it.

HON J C PEREZ:

That is what I am saying should already be the case.

HON ATTORNEY-GENERAL:

Yes, but there has never been the right of objection given by clause 2 before, the new section 42 where there is a presumption. We have created a new situation.

HON J C PEREZ:

Mr Speaker, what I think we need is, basically, clarification of the points I have made, whether the Government has been empowered up to now before this Bill came to the House to disconnect telephone subscribers in arrears or to take legal action against people in arrears considering that the Magistrate has found that the law was not sufficiently tied down for the Government to be able to do this until now.

HON CHIEF MINISTER:

It would be monstrous to say that all the cases that have been taken for arrears have been improperly taken. The point is that the Public Utility Ordinance which provided for the electricity from the beginning of meters has got the provision. We had a Telephone Exchange without the use of meters prior to the going international and so on and when the.....

HON J C PEREZ:

If the Hon Member will give way. I have said since meters were introduced.

HON CHIEF MINISTER:

Perhaps if he will let me finish. Before meters were introduced, before we had the direct dialling service and there were no charges for calls either international or local, there was no need to meters, we had no meters. When we introduced meters the necessary amendment to the legislation did not provide for the existence of meters. The same as a meter reader goes to your house and whatever it reads if you find that it is very heavy, you put an objection and they put your meter to the test and this is what this is going to do, that when people object to that they can have their objections heard. He did say in one which he disputed that he wasn't satisfied that that was evidence, this is prima facie evidence, it can be upset by all sorts of things. A meter can be recorded as having made twenty-five calls and somebody can prove that nobody has entered that household and he will say 'No, I did not make the calls as the meter has recorded'. But he will have the right now to go and object and prove that he cannot be made liable to pay for that. Before we didn't have one or the other.

HON J BOSSANO:

Mr Speaker, surely, somebody must have said 'I am not paying' and was taken to court.

HON CHIEF MINISTER:

One who had an objection raised it and then the Magistrate said 'where is the power for me to show that that is a prima facie evidence?' and as it is natural that it should be, we are trying to make it so, correcting an incorrect piece of legislation.

HON J BOSSANO:

When we are talking about correcting an incorrect piece of legislation, one of the things that we have noticed, we had a situation where the Hon Financial and Development Secretary pleaded guilty earlier in these proceedings to having acted as if the legislation on rates had been changed before the legislation on rates had been changed and we changed it today retrospectively. We have had a number of incidents, the Government passed legislation in March, 1986, Mr Speaker, to which we made a reference in relation to GSL exempting from income tax the inducement allowance of expatriate managers. I asked at the time in the debate, 'is it that these people have not been taxed illegally? And now in 1986

you pass a law saying they have to pay no tax since 1984. Well, what has happened since 1984? Is it that they have paid it and they are going to get it back as the law should have laid down or that they never paid it in defiance of the law so you then come and legislate?' I am still waiting for an answer and we haven't had an answer now or since. This is the point. If the Government finds that it has been acting illegally it comes along and legislates.

HON CHIEF MINISTER:

No, you are wrong.

HON J BOSSANO:

So, in fact, the existing law, before this amendment, gives the Government the right to require people to pay whatever is on the meter independent of this law.

MR SPEAKER:

Unless he objects and then he goes to court.

HON J BOSSANO:

I know many consumers and I have been myself in the situation, Mr Speaker, of suddenly getting an exorbitant bill. I know of people who have been away on holiday from Gibraltar and they get a huge electricity bill or a huge telephone bill and they cannot explain it. When they go to the department the department tells them 'The equipment cannot be wrong, you either pay or we switch you off' and people pay. It has happened to me. No good saying 'no', I have experienced it and I know other people who have and in the end people give up. Obviously, somebody didn't give up and tested it and has found that they couldn't do what they were doing. That is our interpretation of the thing. If we are now going to give them the power to say 'what the meter says is prima facie' and the person has got the right of objection, what does it imply? Does it imply then that the Judge is the person who decides whether the meter is right or wrong and are there any indications of how the Judge....

MR SPEAKER:

No, whether he pays what he has been asked to pay or not, not whether the meter is right or wrong.

HON J BOSSANO:

So it means then that until now people had the right to say 'I am not paying the bill' and if they were sued the court could still rule that they didn't have to pay what the meter said even though it wasn't in the law because the Government couldn't use the meter as evidence. The question of their objection or not is not very clear to me because if they didn't have the right to object until now I don't see how the Government lost the case in court, somebody must have decided that he would go to court rather than pay. I will give way if the Hon Member can explain. We are not clear whether we are going to support this or not at this stage.

HON J B PEREZ:

Perhaps I can help the Hon Member. Let's be clear on one thing, the law is there which entitles the Government to Bill on a meter basis. What we are dealing with here is how to prove in a court of law when the Government takes somebody to court for non-payment of telephone bills we say, by way of evidence, 'Mr X who lives at so and so, telephone number so and so, metered units from months January to March, so many metered units, total cost per unit X' there is no doubt that we are covered in law to do that. But when it comes to proving your case the department would send somebody along and say, by way of evidence, 'we checked the meter, the meter read so many units on such and such a date and so many units on the other date'. That, according to the Judge, in his interpretation of the law, we couldn't go. I am going to give the Hon Member a very good example and draw a comparison. If you are taken to court on a speeding offence, a Police Officer would say 'I saw Mr so and so driving along Queensway, in my opinion, at a speed of X and I followed the car for fifty yards'. The law provides, by statute, because you need that evidence to be corroborated by something else, it is not enough for a Police Officer to say 'I followed the car for fifty yards and in my opinion it was going over the speed limit'. The law provides that in that case the Police Officer can refer to his speedometer so the law allows, the law actually specifies that a Police Officer can use his speedometer and the evidence of that speedometer which the Police Constable relates to the court is evidence. That is exactly what we are doing in connection with prima facie evidence of the meters. There is no question at all that we have broken the law, on the contrary, it is only a case in which in the Judge's interpretation of the law he felt that it ought to be changed and that is exactly what we have done. I hope that helps the Hon Member.

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

HON J B PEREZ:

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

This was agreed to.

THE ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

The Bar has requested that this Bill be considered by the Law Reform Committee before being proceeded with. I have agreed to the Bar's request and will submit the Bill to the Committee, I perhaps should have done it before printing the Bill and consequently the Bill will not be proceeded with at this meeting of the House.

MR SPEAKER:

So you are not proceeding with this particular Bill?

HON ATTORNEY-GENERAL:

At this meeting of the House.

THE ESTATE DUTIES (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Hon Members will recall that during the last Budget Session the Government announced its intention to restructure the system of calculating estate duty so that the duty bands should be applied on a progressive basis instead of on a flat rate dependent on the value of the estate. That is to say, a system similar to the income tax progressive taxation system would apply. I don't mean progressive in the sense that the penalties become more intense but that the succeeding tranches are

treated not with the additional ones. I haven't explained that very well. I think Members probably understand what I mean. Members will also recall that in the interim a doubling of the existing bands was introduced and that a commitment was given that the restructuring when eventually implemented would be backdated to the 1st May, 1987. The amending Bill now before the House seeks to give effect to the restructure. Its main provisions are to establish the calculation of estate duty at rates ranging in steps of five steps from nil to 25%. These rates apply progressively to bands of £20,000. To exclude from estate duty the value of matrimonial homes up to a maximum of £100,000 and to qualify for this concession the home must have been occupied by the deceased and the spouse and children, if any, for at least the twelve months preceding death. And, finally, that the amendment shall be deemed to have into operation on the 1st May, 1987. It is considered that this restructuring provides for a fairer calculation of estate duty by affording relatively greater relief to the smaller estates. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, as the Hon Financial and Development Secretary has said, this Bill now before the House was well discussed at the time of the Budget and agreed to by the Opposition both in the bands and in the property aspects of it and the backdating to the 1st May is, in fact, in consonance with our policy.

MR SPEAKER:

Does the Hon Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1987/88) (NO. 2) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time and in accordance with convention I do not propose to make a speech on the general principles of the Bill but I wish to give notice that at the Committee Stage of the Bill the Government will be moving an amendment in respect of one of the major items, in fact, featuring in the Schedule of the Bill under Head 101 - Housing, with a view to removing that particular item of expenditure from the Bill.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, perhaps, if you could clarify whether you think it would be better procedure that the reason for this amendment to delete this considerable sum of money to the Bill, whether you would prefer that it be given now in the Second Reading of the Bill or in Committee.

MR SPEAKER:

No, there is no reason, if it is going to affect the principles of the Bill and being a Supplementary Appropriation any amendment would definitely affect the principles, there is no reason why it shouldn't be done now and thereby give notice to the Opposition of what it is intended to do.

HON A J CANEPA:

This is the deletion of the sum of £1.2m which was being sought from the Improvement and Development Fund under Head 101 - Housing. I think that Hon Members opposite are aware that the Government had agreed as its contribution to housing under the Home Ownership Scheme, to meet the costs of the infrastructure of the Montagu Basin Project and the cost of the infrastructure was estimated to be £1.8m. Subsequently the developers sought Government assistance to help resolve the cash flow problems which they would be facing in having to fund the costs of reclamation without having recourse to the flow of funds they had expected from the sales of the first units. The Government then agreed to reimburse the developers those costs estimated at £1.2m and only contribute £0.6m to the infrastructure and thus we would be maintaining the same level of contribution to the overall project as had been originally planned. As the funds were required within the current financial year, the appropriation of this amount was accordingly included in the Bill now before the House. Subsequent and more recent negotiations between the developers and the Crown Lands Department have resulted in changes which have meant that the company will not have to be reimbursed the reclamation costs until reclamation is completed in the coming financial year. There is, therefore, no need to appropriate the funds now and the Financial and Development Secretary will move the necessary amendment at Committee Stage.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

The House recessed at 5.20 pm.

The House resumed at 5.50 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Employment (Amendment) Bill, 1987; the Social Security (Employment Injuries Insurance) Bill, 1987; the Consumer Protection (Property Service Charges and Protection from Ejectment) Bill, 1987; the Gibraltar

Regiment Bill, 1987; the House of Assembly (Amendment) Bill, 1987; the Public Utility Undertakings (Amendment) Bill, 1987; the Estate Duties (Amendment) Bill, 1987; and the Supplementary Appropriation (1987/88) (No.2) Bill, 1987.

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

THE EMPLOYMENT (AMENDMENT) BILL, 1987

Clauses 1 to 3 were agreed to and stood part of the Bill.

New Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the following amendment to the Bill by the addition of the following new Clause. The marginal note should read: "Amendment to Section 52". The new clause 4 to read: "Section 52(5)(a) of the principal Ordinance is amended by omitting the expression "£1,500" and substituting therefor the expression "£8,883". Mr Chairman, this is the amended version of Clause 2 of Bill No.2 of 1986.

HON M A FEETHAM:

Mr Chairman, we are now at the Committee Stage of the amendment Bill for 1987 but we appear to have left behind the amendment Bill for 1986 which has not been brought to the House of which you are now bringing an amendment which was raised in the amendment Bill for 1986 and incorporating it into the amendment Bill for 1987. If you will recall, in the amendment Bill for 1986 I raised a fundamental issue whereby I said that we would be bringing an amendment on the question of the basic award in the case of dismissals and, in fact, I did raise this with the Attorney-General some time after the meeting of the House and put my proposed amendment and, as far as I am aware, I have not heard any policy statement from the Government that the amendment I am proposing is accepted or not accepted and any reason why they are not proceeding with the amendment Bill for 1986 when we have got a Bill for 1987.

HON ATTORNEY-GENERAL:

As I explained, Mr Chairman, the 1986 Bill had three clauses. The first one the short title, the second clause requiring the notification of certain employments, I think it used to be £1,500 and that was agreeable. The third clause dealt with the compensation for unfair dismissal. That was clause 3 of the 1986 Bill, that clause is not being proceeded with for the time being because, I think, it is subject still

to discussion by the Government as to what they are going to do with regard to the question of compensation. I think you made the point very forcefully in the Second Reading, this deals with unfair dismissals and you took the point that anybody who is unfairly dismissed before they can have compensation it is compensation for loss and therefore an employee who hasn't lost anything is not entitled to compensation although he has been unfairly dismissed. You wanted to make the point that the amendment that you were proposing was anybody who has been unfairly dismissed should be ipso facto entitled to compensation whether or not he has lost anything. I think the point you that an employee who is unfairly dismissed on Day one and gets a job on Day two, he gets no compensation but the lazy employee who waits to Day thirty and therefore has lost a month's wages, he gets compensation. I think that position is still being considered by Government. All I can say about Clause 3 of Bill No. 2 of 1985 is that it is still under consideration by Government. I don't know if the Minister can shed any further light. As I understand it, it is still being considered and for the time being we are not proceeding with clause 3 of Bill No.2 of 1986, but in clause 2 before it was £7,852 and we have now increased it to £8,883. The rest is policy and I cannot say anything.

HON M A FEETHAM:

When do we go through the Committee Stage of the (Amendment) Bill of 1986, in 1988? You either say that as a policy you do not accept that an employee is entitled to basic compensation at the time of dismissal and say 'This is not our policy. We can now forget about the amendment Bill for 1986, we are now going into a fresh Bill for 1987, let's get it off' and then, of course, it would be up to us, as any future Government, to say 'we want to bring in the unfair dismissal basic awards for employees who are unfairly dismissed'. The other thing is since we have been presented with this at the time of the meeting of this House, this amendment, although there may have been some discussion outside the House, as a matter of fundamental approach and commonsense, is it necessary that we should put a limit? All we are going to be doing here is that in a year's time or in two year's time we are going to update this. Shouldn't we accept that every employee, whether it be higher management, lower management, worker, should have a statement of conditions of employment on taking up employment? Why should we say 'anybody below £8,000 is entitled to a statement of conditions and anybody above is not'? I would say that quite a number of people in employment are earning over £8,883 and they would like to have a contract of employment, at least stipulated conditions laid down, I am sure I would, I am sure some of the Members opposite would if they were in employment. Would the Government not consider withdrawing this amendment and not stipulating any amount?

HON ATTORNEY-GENERAL:

Mr Chairman, as you appreciate, I cannot alter that, this is a matter of policy entirely for the Government. I must leave that to the Minister to alter or for the Government, it is policy and I don't know.

HON DR R G VALARINO:

The only way I can help here, Mr Chairman, is that I did write to the Hon the Leader of the Opposition regarding this particular Bill and his reply of the 22nd September, 1987, said: "I refer to your letters of the 20th August and of the 10th July. The Opposition will not be tabling amendments to this Bill as having looked at the principal Ordinance we have come to the conclusion that the whole Ordinance requires revision. The question of possible conflict with Community law is being followed up with the Attorney-General by Michael Feetham and other than clarification on this point, we shall be supporting the Bill. Yours sincerely, Joe Bossano, Leader of the Opposition".

HON M A FEETHAM:

That has been done.

HON J L BALDACHINO:

Mr Chairman, can the Hon Member say why we are bringing it up to £8,883, why that figure?

HON ATTORNEY-GENERAL:

It has something to do with the calculation of the minimum wage which has been agreed. I think it has something to do with the minimum wage.

HON DR R G VALARINO:

Mr Chairman, yes. If I can read: "The 1986 Bill also provides for an amendment to Section 52(5)(a) of the Ordinance which relates to extending the protection afforded by that section to persons whose wages do not exceed £7,852 a year. The amendment of this section is not controversial and the Leader of the Opposition has suggested that it should be incorporated in the 1987 (Amendment) Bill. I would certainly be grateful if action could be taken to this effect. It should be noted, however, that the figure of £7,852 should be amended to read '£8,883' as this figure is arrived at on the basis of 52 times double the current minimum wage prescribed by orders made under the Ordinance. At present £85.41 per week". That is how the figure is arrived at.

HON M A FEETHAM:

Mr Chairman, I know how the figure is arrived at. I am just questioning whether it is logical and reasonable that legislation should say that anybody is entitled to have a statement of conditions even if it is a question of them requesting it rather than limiting it to people below what one would consider to be the lower income bracket. Is there a great need on the part of the Government to limit this? It seems to me, Mr Chairman, that somewhere along the line somebody decided that we should have a minimum and I think that philosophy is out-of-date, quite frankly.

HON DR R G VALARINO:

Mr Chairman, may I clear up another matter which the Hon Gentleman has brought up as well and this could very well explain the point that he has raised. I shall read, if I may: "There is another amendment to the Employment Ordinance Bill No.2 of 1986 which has been outstanding since last year as a result of certain points raised by Mr Feetham on the amount of compensation for unfair dismissal when the Bill was debated in the House. The matter was referred back to the Conditions of Employment Board and has still not been resolved". Obviously, why it has not been incorporated into this Bill at this moment is because this matter is still with the Conditions of Employment Board and therefore has not been included as part of the Bill. I am sure that once this particular point is dealt with by the Conditions of Employment Board, it can be incorporated into this particular Bill.

HON J E PILCHER:

Mr Chairman, my Hon colleague asked, and we now have a reason, why the amendment Bill for 1986 is not being proceeded with. It is an amendment Bill for 1986 and what the Minister is saying is that it has not gone to the Conditions of Employment Board yet.

HON DR R G VALARINO:

If the Hon Member will give way. It was referred back to the Conditions of Employment Board but they have not resolved it yet so we haven't had a definite answer from the Conditions of Employment Board.

HON J E PILCHER:

When did it go to the Conditions of Employment Board?

HON DR R G VALARINO:

I am afraid I haven't got that answer at hand.

HON J E PILCHER:

As a matter of information, after the Conditions of Employment Board does it have to go back to the Government for a policy decision?

HON DR R G VALARINO:

Mr Chairman, the letter is dated the 2nd October so it is fairly late in the day. I would have thought it would have to come back to Government so that it becomes Government policy because there will naturally be a change and then Government would bring it to the House.

HON J E PILCHER:

There is, therefore, no idea of when we are likely to get the 1986 amendment which is of particular interest. The Hon and Learned Attorney-General mentioned how strongly it had been defended by my Hon colleague, it is of extreme importance to us so when are we likely to be able to see that amendment come to light?

HON DR R G VALARINO:

Mr Chairman, I will try to endeavour to bring it to the next meeting of the House and in the meantime if I may help the Hon Mr Feetham, I shall get in touch with him and I will let him know how this particular Board is getting on and I can inform him of the progress of this matter.

HON M A FEETHAM:

Mr Chairman, the reason why I am being a little bit persistent on it is because on the issue of the basic award for unfair dismissal although the unfair dismissal tribunal doesn't meet very regularly, it does meet and since the 1986 (Amendment) Bill came to the House and I proposed the amendment, and incidentally I proposed the amendment in the light of legislation in the UK, it wasn't something that one was saying 'This is a novelty'. No, it is something which is already very much an accepted principle and we wanted to include it. There has been at least one particular case very recently in the unfair dismissal tribunal where the employer was arguing that there had been no material loss on the part of the employee because he left his employment and within a week he had taken employment elsewhere. Because the law, as it stands, could be interpreted in such a way that it was very favourable to the employer, I think it is going to be prejudicial to the employee because although the award has not been made by the unfair dismissal tribunal, clearly, he was making a very strong case and the lawyer was entitled to make that case. If the House had acted a little more expeditiously in resolving as to whether we accept or we don't, at least take a decision on it, I think it would have been helpful to the tribunal.

HON ATTORNEY-GENERAL:

I can assist a little as to the date because the Second Reading of the No.2 Bill of 1986 took place on the 28th January and my recollection is that the Hon Mr Feetham came to see me sometime at the end of April because I wrote on the 2nd May, 1986, and acknowledged the letter to the Hon Mr Feetham on the 2nd May, 1986: "I refer to our recent discussion with regard to this matter. I have looked into the problem and I have referred the documents which you left with me, together with a copy of the relevant provisions of the United Kingdom legislation, to the Director of Labour and Social Security for his instructions". Therefore it would have been referred to this Board sometime after the 2nd May because the Hon Mr Feetham came to see me, as I say, towards the end of April and I sent it to the Director on the 2nd May and it probably was referred some time in May or June. Probably the delay between January and May was awaiting Mansard, Mr Chairman. I don't know, that is just my guess.

HON M A FEETHAM:

They haven't answered whether they are prepared not to put a limit, whether we can do away with it.

MR SPEAKER:

We could defer the Committee Stage of this Bill.

HON CHIEF MINISTER:

We may be able to clear up the matter, if you will bear with us.

HON ATTORNEY-GENERAL:

I believe we would like to look at this, to maintain the amendment as it stands at £8,883 for the time being because we are looking at further amendments to the Employment Ordinance and to leave this matter in abeyance as it is, on the same principle as it has always been and then when any other amendments are brought this one and, perhaps, even the unfair dismissal compensation one will be considered and put in one omnibus amendment but leave the position as it is at the moment.

HON CHIEF MINISTER:

That was the view of the Leader of the Opposition according to a letter here: "The amendment of this section is not controversial and the Leader of the Opposition has suggested that it should be incorporated in the 1987 amending Bill. My Minister has no objection".

HON M A FEETHAM:

I know what the Hon Leader of the Opposition has said. Our understanding is that you were pushing for this. We have still maintained that we are going to go along with the whole Bill, we are just holding up the House now, unfortunately, because it is a matter of principle. We still argue though that we don't see why there should be a limit on this.

MR SPEAKER:

I think the answer to that one has been that they take your point and that they will consider that when the general amendments to the Bill are taken.

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

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) BILL, 1987

HON R MOR:

Mr Chairman, before we proceed with the Third Reading of this Bill, it is our understanding that the Government of Gibraltar is being taken to court by the International Transport Workers Federation for non-compliance of the law as it stands. In this respect in order not to pre-empt the findings of what they have asked would it be possible to delay the Third Reading of this Bill?

HON ATTORNEY-GENERAL:

As I understand it, Mr Chairman, an application to the Supreme Court for leave to apply for judicial review is in the leave stage. I have only just glanced at the paper, it is being dealt with in my Chambers and they haven't even got leave yet to apply for a judicial review and, of course, if they don't get leave to apply there could be an appeal and we would have a full hearing of application for leave. That is the position, whether it affects the position of this Bill I wouldn't have thought so. I think the application is to get the Director of Labour and Social Security to enforce the provisions whereby he should collect the deductions of the social insurance contributions from the shipping agents who are actually resident and have a registered address in Gibraltar and to compel this an order of mandamus, I think, to say to the Director of Labour and Social Security 'You collect these contributions' as required by the Ordinance. What view the Supreme Court will take

on that application if they even get leave, Mr Chairman, I wouldn't like to hazard because I haven't read the papers properly but there is that application in the Supreme Court. It hasn't much to do with the amendment, Mr Chairman, it applies to shipping agents to collect the employer's contributions when ordered by the Court to do so.

HON M A FEETHAM:

Will the Hon Member give way? Mr Chairman, you will recall that when this was previously discussed the Government said to the House that they were going to bring the necessary legislation to enforce or to strengthen this particular piece of legislation. In fact, what they are doing today is a complete reversal. They are doing the opposite to what they said. We have got to be consistent, Mr Chairman, especially the Hon and Learned the Attorney-General who is very conscientious about acquired rights. People have got acquired rights and it is repugnant and unconstitutional to take rights away from people who have got the acquired rights and he has been throwing that in our faces time and time again. The problem is that these mariners, in our view, have got acquired rights and you are now taking away those acquired rights. I think it is not a laughing matter because what both sides of the House want to do is to have a shipping registry and have legislation regarding registration of ships in Gibraltar which is acceptable to the rest of the world and we are quite capable of competing on our own in that respect without doing things, as has been happening in the past, which give Gibraltar a bad name. As a result of the Department of Social Security not collecting contributions we have had seamen on the high seas subjected to the dangers of working aboard ships and consequently, to all intents and purposes, not being liable or covered so strictly they would have to go to court to enforce it. We had the problem of the Syneta. We have had also the problem that perhaps the Department has not been able to collect the contributions because the Registrar, in this case the Captain of the Port, hasn't had the crew list so that they could go to the agents to enforce the legislation insofar as contributions is concerned and, all in all, we have been registering ships and we have been suspect. What we cannot do, Mr Chairman, is to be inconsistent. If we are being asked to pass legislation here which is now taking away the very argument that we were putting on behalf of the employees because, let's not forget it, the ITF and the National Union of Seamen, you may agree or disagree with what they were saying but some of the facts are very correct, we have not been complying and we left ourselves open to bad publicity. What we cannot do is say in the House 'We are going to do this to ensure that we comply' and then come to the House and do something completely different. Therefore, Mr Chairman, when we talk about this the Government or the Department being taken to court which I understand the ITF has already done and given instructions to their legal solicitors it is because there are very important principles involved and I think that Government

is rushing if knowing that there is a possible judicial review in progress, that they should try to force this piece of legislation to go through the House today. I think we should wait and see what the judgement is and in the light of that see whether we should think again, Mr Chairman. I think we should not discard lightly the fact that there are possible court proceedings. I understand that it is as a result of all the bad publicity that we are getting that the ITF is doing what they are doing and it is taking time for the thing to permeate through into the Chambers of the Supreme Court. Therefore, I think that having waited for so long for a Bill which was supposed to do something which is not being done and something else coming forward today, at least we could wait until the November meeting and see what happens.

HON A J CANEPA:

Surely, Mr Chairman, the bad publicity that we have been getting has less to do with the question of social insurability than it has to do with outer matters. I think that it would have been wrong of the Government to bring an amending Bill to the House once it knew that there was an application before the Supreme Court for a judicial review. But this Bill was brought to the House on the 25th June. We are now four months later and we are told that there is a possibility, it is not clear yet, that there might be a judicial review. I don't think that the right which the Government has to enact legislation can be constrained in this fashion because whenever it happens that the Government brings a Bill to the House and gives its First and Second Reading, if between the intervening period between doing that and Committee Stage somebody gets it into his head to make an application for a judicial review on a matter to do with the principal Ordinance, not with the amending Bill before the House, but a matter that has to do with the principal Ordinance, if that is going to be allowed to hold the proceedings of the House then the Government is undemocratically, perhaps, being held back in its right to go about its lawful business. The Bill before the House, my understanding is, does nothing more and nothing less than to bring us into line with legislation in the United Kingdom and therefore in conformity with Community law, with Community requirements and the law, as it stands at the moment, puts greater obligations on the Department of Labour and Social Security in respect of the insurability of mariners than is the case in the United Kingdom or elsewhere. We have got greater obligations at the moment than what we ought to have.

HON J BOSSANO:

Which we have never applied.

HON A J CANEPA:

which we have never applied for a variety of reasons. First of all, because we never had any ships registered at Gibraltar until the last few years and then when it was drawn to the Department's attention they had problems and as a result of going thoroughly into the matter the Department advised the Government and the Government has so agreed and therefore the Bill is before the House that we should bring out legislation into line with that in the UK. I can understand that Hon Members may disagree as they indicated during the Second Reading of the Bill that they were not in agreement with what the Government was doing, but that the Government should not proceed today with its legitimate business of getting the Bill through Committee because recently and not before June there is an indication of judicial review, I don't think that this is acceptable in principle. I don't think we, as a Government, can accept to have our rights hamstrung in this way in bringing legislation because we are establishing a precedent and the next time, in fact, it could have been on the Town Planning Ordinance that I brought an amendment to, the same argument could have been advanced, 'don't legislate because there is an application for a judicial review against the principal provisions of the Ordinance'. I don't think this is on.

HON J BOSSANO:

There isn't an application for a judicial review against the Ordinance. The Government, Mr Chairman, had their attention drawn to the fact that there was a law there and the law was not being implemented in 1985 and the record in Hansard shows the Government consistently fobbing us off with excuses when, in fact, they were knowingly collaborating with the non-implementation of the Social Insurance Ordinance. For two years they told us they weren't sure whether it applied to ships, for two years. A child could understand that it applied to ships because it was made compulsory under the Employment Insurance Ordinance and the Social Insurance Ordinance says 'anybody that has to pay employment injuries insurance pays the other'. It was obvious. When we had the tragic accident and the sinking of the Syneta the Minister for Labour gave a public undertaking in this House to the effect that the people in the Syneta would be paid death benefit if they claimed it as if they had contributed to the scheme notwithstanding the fact that they had not contributed because he recognised that his Department had made no effort and that therefore those people had an acquired right. Presumably everybody else on every ship has got that acquired right today still until it is taken away and therefore if the insurance contributions do not become payable after today they will be payable up to today and the ITF has engaged a lawyer to obtain a writ of mandamus requiring the Director of Labour to enforce the law and collect the contributions and that,

if the Government goes ahead and passes it, fine, the court will still be asked to rule whether the Director of Labour can require people to pay insurance up to today which they will. That will demonstrate the nonsense of the law to the Government because, in fact, what will they do then? They will say to all the people concerned 'You have to pay insurance until October, after October you don't have to pay insurance'. So I am somebody who is in insurable employment in October and in October you legislate and disinsure me. Then I will sue you for what you are doing to me with this law because I want to continue to be in insurable employment because you have got a law in Gibraltar which protects me against injury and death by giving me certain security which you as the Government are required to enforce, which you have made no attempt to enforce as a Government and now you take the law away, so I will sue you to protect the rights that I have acquired under the existing law which you are changing. The people who join the ships after today may not be able to do it but the people who are sailing on Gibraltar ships today will be able to do it even if this law is passed. So, in fact, we don't need the Government to stop the law to do anything because the court will still go ahead and do it. What we are saying to the Government, in the knowledge that this is going to happen, don't they realise what a nonsense it is to do what they are doing because, in fact, what they promised us, Mr Chairman, was an amendment to the existing law not to discriminate between different nationalities on Gibraltar ships, an amendment to the existing law so that they were able to collect the money. I would like the Hon Member who is moving the law to show me where in this amendment he is fulfilling the undertaking he gave this House. He promised the House he would bring legislation to the House which will enable his department to collect insurance contributions. That is what he is supposed to be doing. I want him to show me where it does that and then we will vote in favour because we are in favour of that happening. We have been accepting for two and a half years his argument that he cannot collect the contributions and we were promised legislation so that he would be able to collect the contributions. It is a complete nonsense. This law is even less enforceable than the existing one. They don't even know the crew they have got, how are they going to know the nationality of the crew? The last ship over which there was a complaint which was the City of Piraeus which was arrested for non-payment of wages in Scandinavia, had a totally Polish crew including a Polish master which is against the law of Gibraltar. How can we have a situation in which the Government is saying 'if you employ a Community national you have to pay social insurance'. If you employ a non-EEC national you don't have to pay'. Then what we are saying to people is 'don't employ EEC nationals'. The whole purpose of the ITF campaign against flags of convenience is to get jobs for British seamen and the Government passes a law that says 'if you are a British seaman you pay insurance but if you are a Cape Verde islander you don't pay insurance'. We are telling people 'don't employ British, employ Cape Verde islanders, it is cheaper'. So

the law goes against the ITF campaign which we support, the GSLP supports the ITF campaign and the GSLP supports doing what has been done in the Isle of Man which has been much more successful than Gibraltar and that is to reach an agreement with the ITF where Gibraltar will be declassified from being a flag of convenience. As it is, what is happening is that Gibraltar's name is known to every ITF inspector in every Port in the world like Liberia and Panama and Cyprus are, 'look out for the ships because they are bad news and if you can clobber them clobber them'. I can tell the Hon Member I get the information here. I had a letter from the ITF four or five weeks ago that there was an industrial action on another Gibraltar registered ship and that they wanted me to follow it up with the owners in Gibraltar because they actually succeeded in getting an agreement signed but they wanted to be sure that I checked that here, that the agreement was going to be fulfilled. They actually signed an agreement paying ITF wages. There, incidentally, I discovered that the master of that ship wasn't British because I got the crew list through the ITF. We have got a situation where it's a difficult sector to maintain high standards and this legislation is weakening our legislation. So what if our legislation is better than UK, what's wrong with that? The whole of our social insurance legislation may be better than in the UK. The Hon Member has often told us that in UK you pay income tax on old age pension and in Gibraltar you don't, that in UK you cannot get the old age pension and carry on working and in Gibraltar you can. So what is wrong with having things that they cannot have in UK, we already have them. But if we have got a situation where the Government is saying for two and a half years 'I know that I should be making people pay social insurance and I know that I have done nothing about it and I am therefore, because I know it's my fault, I am therefore going to give a public undertaking that anybody working on a Gibraltar registered ship will be able to claim benefits from the fund without paying a penny because it is not that they refuse to pay, it is that I have done nothing to collect it. But the reason why I haven't done anything to collect it is because I lack the necessary machinery and I am studying how that machinery can be brought into existence. Finally, I have got a law that will bring in the machinery into existence to enable me to collect the insurance contributions and the machinery I have created is that people don't have to pay. So now since people don't have to pay, I don't have to collect so that is the machinery'. It is a complete nonsense of every promise the Minister for Labour has given the Opposition in this House, a complete nonsense. He has gone back on his word and that is what is wrong, not that the matter is going to be taken to court. I can tell the Hon Member I have no doubt that the court can only rule one way, that is the law and the Director of Labour has to apply the law, it's his responsibility. It must be the responsibility of somebody in Gibraltar to collect insurance contributions if they are compulsory and they are compulsory at the moment and the Hon Member is not making

this retrospective so it will continue to be compulsory for certain nationalities after today but they will continue to be compulsory for all nationalities until today. For nine and a half months of 1987 the ships registered in Gibraltar will be asked to pay insurance because they have got until the end of the year to pay and you can get the insurance contributions paid up to a certain period after the end of the year, we cannot collect before 1987 but we can certainly collect 1987 and that will still happen. If in the light of that the Government wants to do this, fine, but I would like to explain to the Government what is the advantage to either the seafarers or the ship owners or the Government. If they really intended to implement this law, Mr Chairman, they would need an army of flying labour inspectors chasing people all over the world to find out whether they have moved from one country to the other because change of residence changes the liability of people under this law. It seems to me that they are doing other things that I don't know whether they intend to do. One of the things that they are introducing, which to my knowledge is not in the existing law now, is that if somebody has got a place of business in Gibraltar or is managing the vessel from Gibraltar then even if the vessel is not registered here it now has to pay social insurance. That is something that has not been explained or defended or ever discussed.

MR SPEAKER:

I have been very, very patient because we are in the Committee Stage and we are talking about matters of principle which I think should have been discussed at the Second Reading.

HON J. BOSSANO:

I am talking to Clause 3.

MR SPEAKER:

No, we haven't got to any Clause as a matter of fact.

HON J. BOSSANO:

It had already started when I got here, Mr Chairman, I assumed we were on that clause.

MR SPEAKER:

No, we just called the Bill and the Hon Mr Robert Mor got up.

HON J BOSSANO:

I am prepared to wait till we come to the Clause and say the same thing.

MR SPEAKER:

Perhaps you are prepared to continue from where you left when we get to Clause 3 but for goodness sake not to say the same thing.

HON J BOSSANO:

Perhaps the Hon Member can clarify for me whether I have understood it correct but my reading of the actual amending legislation is that one thing that is happening that is new which, to my knowledge nobody had asked for, is that if you have got a Panamanian registered ship like those operated by Ramajim Shipping Company, are they covered by this one now or not? They employ EEC nationals on their ships. They have certainly got a place of business here, everybody knows where it is. The ship is not registered in Gibraltar, however, and that is what it says here: "Employment on board a ship" - the people are contracted here - "the contract in respect of the employment is entered into Gibraltar with a view to performance while the ship is on her voyage". But that is a ship that is not registered in Gibraltar which is clause 3(2)(a)(ii). Is that the intention and what is the purpose of that one?

HON A J CANEPA:

Mr Chairman, if you will allow me a small fraction of the latitude which the Leader of the Opposition has had in Committee on Clause 1 of the Bill, I would like to deal with three points. First of all, the Leader of the Opposition has given me ample evidence over the years that at least he has a memory which is as good as mine and therefore I will give him credit that on Monday he was either not present in the House when I answered a question from Mr Feetham or else, if he was present, then for some reason or other he chooses to forget the answer that I gave and that was that we do have the crew lists to 85% of the vessels registered in Gibraltar.

HON J BOSSANO:

And that they are changing all the time.

HON A J CANEPA:

Of course and we are getting them as they change. Secondly, it is abundantly clear, clearer now that Mr Bossano has intervened and has strengthened the point that Mr Feetham was making that the objections of the Opposition to the

Bill have to do with matters of principle which we went into during the Second Reading of the Bill more than the fact that the matter might end up in the courts. That is clear, they are objections of principle. Insofar as matters ending up in the courts is concerned, I stand to be corrected by the Attorney-General, but I seem to recall that at the time of the Syneta incident, the loss of the ship, the Director of Labour and Social Security, I think, has given an undertaking that whether contributions had been paid or not the department accepts liability. Liability as at the time when the Syneta was lost and at the time and under the law as it stood because this law is not retrospective and therefore that liability will be met by the department under the old law. So what is the problem other than one of principle?

HON J BOSSANO:

Surely, I think the Hon Member has argued in our favour and I am grateful for the argument. Surely, he accepts that that liability wasn't limited to the twelve people that drowned from the Syneta, it is a liability that the Department of Labour has accepted and that the Minister has accepted here in respect of every seafarer on every ship in those 85% crew lists that he has got. And what I am saying to him is those people today are covered by that statement of principle until you change the law because the law is still the same today. Nothing is being done to collect social insurance contributions in respect of those people. Then I should say to the Hon Member, suppose I am one of those people on those crew lists, Mr Chairman, and I have paid or I am entitled to have paid my contributions until now and the department will treat me today, if I have an accident, they will treat me today as if I had paid but next week they won't treat me as if I had paid because next week the law has been changed. Haven't I got an acquired right which I have lost this week? Well, I will have if the court orders the Government to collect my insurance stamps until today because then my right insurable employment, which you will have removed from me, will not remove my acquired right for the insurance contributions until the beginning of October. What I am saying is, in the light of that does the Government think it is still sensible to do it? They haven't given us any reason for wanting to do the opposite of what they promised. They promised machinery for collecting insurance contributions, we don't see the machinery here. We see a system that is already difficult to implement being made more difficult by this law because what you are doing is discriminating on grounds of nationality and on grounds of residence. Can they tell us how they propose to collect in respect of EEC nationals? What is it that they are going to do after they pass this law to collect insurance contributions from EEC nationals which they are not able to do at the moment? Can they tell us that?

HON A J CANEPA:

Mr Chairman, if we accepted their argument about acquired rights then the Government would never amend any piece of legislation.

HON J BOSSANO:

That is what I was telling the Attorney-General yesterday.

HON A J CANEPA:

What is not being considered and no regard is being had for the fact, how did the present legislation come about? I have a pretty shrewd idea as to how it happened. Back in the 1950's when the Social Insurance Scheme was set up in Gibraltar, they virtually copied willy-nilly the model legislation that existed and that is why even though for thirty years no ships were registered in Gibraltar, we had provision in the law from the 1950's for the members of the crews of ships registered in Gibraltar to be insurable. That was never amended, it ought to have been taken out of the legislation and it never was because there was never any proper revision of the legislation and then all of a sudden ship registry business picks up in Gibraltar and we realise that we have got a piece of legislation which has not been activated for thirty years and suddenly it comes into force. In the meantime, in the United Kingdom which was no doubt used as the model for our legislation, there must have been umpteen changes on the position either prior to joining the EEC or as a result of accession to the EEC but we have stayed put here until something happens and the Hon Mr Mor brings to our attention the fact that these people ought to be paying the insurance. Have some regard for the reality of the position as well.

MR SPEAKER:

Let's get down to the clauses. Could you call the first clause again.

Clause 1

On a vote being taken on Clause 1 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Clause 1 stood part of the Bill.

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to amend Clause 2, to delete the full stop at the end of the existing Clause 2 and to add the following words: "and substituting therefor the following proviso - Provided that such employment outside Gibraltar is employment in any capacity on board any aircraft registered in Gibraltar or of which the owner (or managing owner if there is more than one owner) or manager resides or has his principal place of business in Gibraltar". Mr Chairman, as presently drafted, the Bill excludes persons employed in aircraft registered in Gibraltar. This was not the intention to exclude these people, only to deal with mariners, and this amendment makes sure that persons employed in aircraft registered in Gibraltar will continue to be in insurable employment under the Ordinance.

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

HON J BOSSANO:

I would like to ask the Hon and Learned Member is there a definition of manager? If you have got a situation like the one that I described a few minutes ago where you have got a ship registered in Panama, the owner presumably is the company that owns the ship in Panama. How does the Hon Member identify whether the manager of the ship resides in Gibraltar or not? Is there a definition of what a manager is?

HON ATTORNEY-GENERAL:

Of what a manager is. I think it is probably a de facto position, we have to look and see who was the manager and we would also have to look with regard to the place of business.

HON J BOSSANO:

But if the place of business of the owner, clearly, when you are talking about limited companies then presumably the place of business of that limited company is the place in which it has the registered office. But, in fact, these things are mainly owned by brass plate companies.

MR SPEAKER:

If I may interrupt, I think one of the requirements to be able to register a ship in Gibraltar is that it has to have a principal place of business either in Gibraltar or in British territory so the principal place of business must be defined.

HON ATTORNEY-GENERAL:

It is a de facto position, for example, where the company operates from.

HON J BOSSANO:

But, Mr Chairman, what I am saying is, in fact, where the ship is not registered in Gibraltar so it doesn't make any difference what the requirements are for registering ships in Gibraltar. I gave the example of the fact that we have got a number of ships, for example, there was a ship that was bringing water from Morocco here every week, the Gunga Din which was registered in Panama. The registered owner has got his place of business where the registered office is in Panama. Would the people on that ship under the existing legislation be in insurable employment and under the amended legislation be in insurable employment? That is my question. Because, as I understand it, they were not in insurable employment under our law because our law limited it to ships registered in Gibraltar. We are now saying that if a ship is not registered in Gibraltar but the manager resides in Gibraltar, then he does pay, as I understand it. If I am wrong then I would like to be corrected because I would like to know exactly what we are doing. That is my reading of it. Am I right or not?

HON ATTORNEY-GENERAL:

I am no expert in social security matters but I will read the Bill as I understand it, it will help me and perhaps help the Hon Member. Where a mariner is employed as a mariner and the employment is on board a ship registered in Gibraltar or is employed as a master or a member of the crew on board any ship or vessel, not being a mariner to whom the last paragraph applies, and the contract is not entered into in Gibraltar, the employer or the person paying the earnings has his principal place of business in Gibraltar, then the mariner shall be treated as being in insurable employment.

Where a mariner is employed as a mariner and the employment is on board a ship or a contract in respect of the employment is entered into in Gibraltar with a view to its performance (in whole or in part) while the ship is on her voyage and the person by whom the mariner's earnings are paid, or in the case of the employment as a master or member of the crew of a ship or vessel, either that person or the owner of the ship or vessel (or the managing owner if there is more than one owner) has a place of business in Gibraltar. As I understand this, this is identical to the position in the United Kingdom.

HON J BOSSANO:

No, I am not talking about the United Kingdom, Mr Chairman. I am talking about the existing law which we are amending and I am asking a very simple question, I cannot express it in technical legal jargon so I am expressing it in a way which the Hon Member can then translate into legal language and tell me whether that is what the law is doing. My understanding of what we are doing here, apart from deciding that on Gibraltar registered ships people will pay or not pay depending on what nationality they have and on where they reside.

HON ATTORNEY-GENERAL:

On where they reside, not nationality.

HON J BOSSANO:

No, if they are a non-EEC national then one thing applies and if they are an EEC national another thing applies independent of their residence.

HON ATTORNEY-GENERAL:

Mr Chairman, that is so because there are separate rules governing EEC nationals as mariners. This is for non-EEC nationals.

HON J BOSSANO:

But what I am saying is, it seems to me, reading the amendment brought by the Hon Member, that whereas the existing social insurance legislation only applies to mariners on Gibraltar registered ships, that is my understanding, the new legislation applies also to mariners who join a ship in Gibraltar even if the ship is not a Gibraltar registered ship. That is correct. Then, in fact, tomorrow we have got a situation where the Bayleaf is in dry dock and is going to be crewed in Gibraltar before it leaves and the managing agents of the Bayleaf may be the PSTO(N), for all I know. Does that mean that the crew of the Bayleaf has to pay social insurance in Gibraltar?

HON ATTORNEY-GENERAL:

The liability to pay contributions depends if the mariner is domiciled or resident in Gibraltar and the secondary contribution which is the employer's share of the contribution is that he is resident or has his principal place of business in Gibraltar. If those two conditions are satisfied then the contributions must be paid.

HON J BOSSANO:

No, Mr Chairman. Apart from Gibraltar we are talking about Community.

MR SPEAKER:

I think Members have a right to give their interpretation to what the particular clause says. We have got to the stage when we must beg to differ.

HON J BOSSANO:

No, it is not that we are not begging to differ, Mr Chairman. I am asking what is the law doing. I am entitled to be told, surely, before we vote on it.

MR SPEAKER:

If you think you are not being told, there isn't much more than one can do.

HON J BOSSANO:

Well, would you like to tell me, Mr Chairman? Do you know what it does?

MR SPEAKER:

No, it is not for me. But it is for me to decide whether we are getting to a stage where we are getting nowhere and to stop the debate, most certainly.

HON J BOSSANO:

Mr Chairman, how can we in this House of Assembly pass a change in the law and a Member of the House stands up and says 'Can I have an explanation of what is the implication of this change in the law?' and is not entitled to be given an explanation. I don't understand that.

MR SPEAKER:

It is not a question of not being entitled it is a question of being given one.

HON ATTORNEY-GENERAL:

I think I have given one, Mr Chairman.

MR SPEAKER:

That is why, we are talking at cross purposes.

HON J BOSSANO:

Perhaps I am being very obtuse. He hasn't given me the explanation that I have asked for, he has explained something else which I haven't asked for. I am asking him, am I right in thinking - if I am wrong I would like to know that I am wrong - am I right in thinking that when this law is passed somebody that signs on a ship in Gibraltar could become liable to social insurance contributions in Gibraltar even though the ship is not Gibraltar registered? Yes or no?

HON ATTORNEY-GENERAL:

Yes.

HON J BOSSANO:

Right, now that is a new thing we are doing.

HON ATTORNEY-GENERAL:

Yes.

HON J BOSSANO:

Yes, we are doing a new thing. Can the Hon Member tell me why we are doing it? I am asking for the people who work on our ships to pay insurance, that they don't want to do. So instead they pass a law that requires people who join, God knows what nationality of ships, we have got hundreds of crew changes here every year on all sorts of nationalities of ships, Liberian, Panamanian, Cypriots. Under the new law anybody joining any of those ships here, if the ship is managed from Gibraltar and he is an EEC national he can then say 'I have got to pay social insurance in Gibraltar' although he may be the only person in the whole ship who does that because the others may not be EEC nationals.

HON ATTORNEY-GENERAL:

If the Hon Member will give way. Leave EEC nationals on one side. This legislation deals with mariners who are resident or domiciled in Gibraltar. So if we have a person who is domiciled, that is, has his permanent home in Gibraltar or is resident in Gibraltar and he joins the ship in Gibraltar, he has to be protected, we say, and this is what we are doing.

MR SPEAKER:

Then perhaps the difference arises, it is not whether he signs up in Gibraltar but whether he is domiciled in Gibraltar.

HON ATTORNEY-GENERAL:

It is whether he is domiciled in Gibraltar.

HON J BOSSANO:

Mr Chairman, haven't we had to change all our social insurance legislation because we cannot distinguish under Community law between people resident in Gibraltar and people resident somewhere else? Is he saying that if a Gibraltarian is resident in La Linea then it doesn't apply?

HON ATTORNEY-GENERAL:

No, this has got nothing to do with the EEC. A separate set of rules apply for EEC, this is a non-EEC thing. This is why I tried to explain, the United Kingdom has this legislation, it is a Member of the European Community, it has got nothing to do with the EEC.

HON J BOSSANO:

Can I be told, are we putting in an amendment in the law that somebody joining a ship in our Port, somebody that signs on on a crew list here has to pay insurance.....

MR SPEAKER:

No.

HON J BOSSANO:

Yes, he is saying yes and you are saying no.

MR SPEAKER:

With respect, I can only say what I have heard in this House. What has been said in this House is that a person who joins a ship in Gibraltar and who happens to be resident or domiciled in Gibraltar has to pay his social insurance but someone who comes from outside Gibraltar and joins a ship in Gibraltar hasn't got to pay social insurance. That is the difference between what you are saying and what the Attorney-General is saying.

HON J BOSSANO:

I am then asking, how come we can pass a law that makes liability to pay insurance limited to residents in Gibraltar when, in fact, we have had to change all our references to Gibraltar in the social insurance legislation because it is prohibited by Community law? How can we do it? How is the Hon Member able to say to me, I asked him a question and he talks about UK. I am giving him a specific example. There are two Gibraltarians, one living on this side of the border and one living on the other side both joining the ship, is he saying the one who lives on this side has to pay insurance and the one who lives on that side doesn't have to pay insurance? Is that what the new law does?

HON ATTORNEY-GENERAL:

No, what I am saying is the man who lives on this side is resident and domiciled in Gibraltar pays insurance under this legislation. If he is resident in a Community State he pays whatever the EEC requirement is in accordance with the Regulation which is 1608. This one deals with people resident and domiciled in Gibraltar who join a ship in Gibraltar. If the man is not resident or domiciled in Gibraltar but is resident in La Linea, he pays in accordance with the Community requirement. What they are, Mr Chairman, I don't know.

HON J BOSSANO:

Can I just ask one point? What is going to happen, are we going to monitor from now on all the crew changes in Gibraltar through the Labour Department to find out whether there is anybody breaking this law?

HON ATTORNEY-GENERAL:

I don't know how it will be monitored. I would have thought that the monitoring is done through the Captain of the Port and then the Captain of the Port has the duty to pass on this information to the Director of Labour and Social Security. Obviously what will have to be done from an administrative point of view, the Captain of the Port has to make sure that everything is reported to him and he passes it on very quickly to the Director of Labour and Social Security.

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

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

The following Hon Members voted against:

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

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

Clause 3

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

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

The following Hon Members voted against:

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

Clause 3 stood part of the Bill.

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Long Title stood part of the Bill.

THE CONSUMER PROTECTION (PROPERTY SERVICE CHARGES AND PROTECTION FROM EJECTMENT) BILL, 1987

Clause 1

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that Clause 1 be amended to delete the expression "(property Service Charges and Protection from Ejectment)" and to substitute therefor the expression "(Property Management)".

HON M A FEETHAM:

Mr Chairman, can I facilitate your work. All these amendments have been discussed with the Attorney-General and we have gone through all the amendments so there is no controversy.

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.

HON ATTORNEY-GENERAL:

Immediately after Clause 1 I wish to insert as per my notice of the 5th October the following new part "PART I: PRELIMINARY".

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

Clause 2

HON ATTORNEY-GENERAL:

Clause 2, Mr Chairman, to amend as per my notice of the 5th October. Do you wish me to read it, Sir, because it is very long.

MR SPEAKER:

No, we have been given notice that it has been circulated.

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

HON ATTORNEY-GENERAL:

And after Clause 2, to amend as per my notice of the 5th October at the bottom of page 1.

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

Clause 3

HON ATTORNEY-GENERAL:

To amend as per my notice to delete the word "ot" in paragraph (a) of subclause (4) and to substitute the word "or".

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

Clause 4

HON ATTORNEY-GENERAL:

To amend the marginal note by inserting immediately after the word "charges" the expression: "reasonableness".

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

Clause 5 was agreed to and stood part of the Bill.

New Clauses 6 and 7

HON ATTORNEY-GENERAL:

After Clause, Mr Chairman, to insert two additional clauses to be numbered Clauses 6 and 7 as set out at the top of page 3 of my notice.

Mr Speaker put the question which was resolved in the affirmative and New Clauses 6 and 7 were agreed to and stood part of the Bill.

Clause 6

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this clause as Clause 8.

Mr Speaker put the question which was resolved in the affirmative and Clause 8 (old Clause 6) was agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 9 and to amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 9 (old Clause 7), as amended, was agreed to and stood part of the Bill.

Clause 8

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 10 and to amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 10 (old Clause 8), as amended, was agreed to and stood part of the Bill.

Clause 9

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this as Clause 11 and to amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 11 (old Clause 9), as amended, was agreed to and stood part of the Bill.

Clause 10

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 12 and to amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 12 (old Clause 10), as amended, was agreed to and stood part of the Bill.

New Clauses 13, 14, 15, 16, 17, 18 and 19

HON ATTORNEY-GENERAL:

Mr Chairman, immediately after the old Clause 10 which has now been renumbered Clause 12, to insert the new Part as set out on pages 4, 5, 6, 7, 8 and the top of page 9.

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

Clause 11

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 20 and to amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 20 (old Clause 11), as amended, was agreed to and stood part of the Bill.

Clause 12

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 21.

Mr Speaker put the question which was resolved in the affirmative and Clause 21 (old Clause 12) was agreed to and stood part of the Bill.

Clause 13

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 22.

Mr Speaker put the question which was resolved in the affirmative and Clause 22 (old Clause 13) was agreed to and stood part of the Bill.

New Clauses 23, 24, 25 26 and 27

HON ATTORNEY-GENERAL:

Mr Chairman, after the new Clause 22, to insert the amendments as set out on pages 9 to 15 of my notice.

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

Clause 14

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this as Clause 28.

Mr Speaker put the question which was resolved in the affirmative and Clause 28 (old Clause 14) was agreed to and stood part of the Bill.

Clause 15

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this as Clause 29.

Mr Speaker put the question which was resolved in the affirmative and Clause 29 (old Clause 15) was agreed to and stood part of the Bill.

Clause 16

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this as Clause 30.

Mr Speaker put the question which was resolved in the affirmative and Clause 30 (old Clause 16) was agreed to and stood part of the Bill.

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, to renumber this Clause as Clause 31 and amend as per my notice.

Mr Speaker put the question which was resolved in the affirmative and Clause 31 (old Clause 17), as amended, was agreed to and stood part of the Bill.

New Clause 32

HON ATTORNEY-GENERAL:

Mr Chairman, one further amendment, after the new Clause 31 to insert the following new Clause as Clause 32: "Repeal - 32. Section 33(9) of the Landlord and Tenant Ordinance is repealed".

Mr Speaker put the question which was resolved in the affirmative and new Clause 32 was agreed to and stood part of the Bill.

The Long Title

HON ATTORNEY-GENERAL:

Mr Chairman, to insert after the expression "harassment of tenants;" the expression "to make provision for the appointment of a manager by the court at the instance of such tenants;".

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 GIBRALTAR REGIMENT BILL, 1987

Clauses 1 to 32 were agreed to and stood part of the Bill.

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

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

THE HOUSE OF ASSEMBLY (AMENDMENT) BILL, 1987

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) BILL, 1987

Clauses 1 to 3 were agreed to and stood part of the Bill.

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

THE ESTATE DUTIES (AMENDMENT) BILL, 1987

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1987/88) (NO. 2) BILL, 1987

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

Schedule

Part I - Consolidated Fund was agreed to.

Part II - Improvement and Development Fund

Head 101 - Housing

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Part II of the Schedule be amended by omitting under Housing "£1,208,055" and "£1,329,041" and substituting therefor "£8,055" and "£129,041" respectively.

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's amendment.

HON M A FEETHAM:

Mr Chairman, in support of this amendment the Hon Minister for Economic Development made a statement informing the House why it was necessary to take the step. What I would like to know from the Hon Member opposite is whether there has already been a policy decision in respect of the development of the Montagu because as I understood the position the developers had submitted proposals which were under consideration and the Working Committee was studying it and if I recall, the Hon Member opposite committed himself to inform this side of the House of the developments and the proposals as the matter materialised. It seems to me now that the way the statement has been made to the House is as if it was already a fait accompli, that the developers have got the direct allocation and I want to know whether this can be cleared up.

HON A J CANEPA:

The position is that progress is being made in the negotiations. As a result of the progress that is being made we don't need to come to the House asking for £1.2m as we thought we did but the negotiations have not been finalised and therefore in that sense, in the sense that they have not been finalised, I have not reported yet back to Council of Ministers as to what the result is of those negotiations and what are the decisions that the Government is required to take.

HON J BOSSANO:

If the amendment had not been produced at the last minute, having looked at the Bill before coming to the House we saw £1.2m for reclamation. Does it mean that the Government is now going to be doing the reclamation rather than the developer? No doubt we'll get an explanation when we get here. What were they going to do, give £1.2m to somebody without having finalised the negotiations?

HON A J CANEPA:

Of course we would not give £1.2m without finalising the decision. It was thought that the £1.2m might be required during the current financial year if the matter materialised. That will not be the case.

HON J BOSSANO:

Before March.

HON A J CANEPA:

Right, if it materialised. That is not the case any longer.

HON J BOSSANO:

So it is not that, in fact, the intention was to vote so that they would have the money and do the reclamation at Government expense?

HON A J CANEPA:

It was never that, no.

HON J BOSSANO:

That is the impression it gave, that is why I am asking. I thought, frankly, that it was either that the Government was going to do the reclamation itself, that is why we were voting the money, or else that the Government had reached an agreement to reimburse.....

HON A J CANEPA:

We are not doing the reclamation ourselves but, in fact, if the Government were to, at the end of the reclamation, pay for the £1.2m there is no doubt about it that the Government has got a much greater control over the situation, over the land that has been reclaimed if it is putting the money towards that, money which was earmarked originally to be towards the infrastructure. In fact, it gives the Government more control.

HON M A FEETHAM:

How have you arrived at a figure of £1.2m?

HON A J CANEPA:

I haven't arrived at it, the developers have arrived at it and they have submitted proposals to the Crown Lands Department as to how the figure is computed.

HON M A FEETHAM:

I do take it that the commitment to inform the House about the....

HON A J CANEPA:

If the Hon Member would like to put down a question on the Agenda for the next meeting of the House I will tell him what the position is but I would ask him please, I don't want to exhaust my memory. If he puts down a question I will give him a progress report on the matter at the time. I am happy to do so.

HON J BOSSANO:

Mr Chairman, how does that kind of cost compare, has the Government got any idea? The Government has done some reclamation itself so does it look a low figure or a high figure or a reasonable figure?

HON A J CANEPA:

The cost of reclamation that the Government carried out, for instance, at Waterport, that sort of piecemeal reclamation cost the Government very little, next to nothing, in fact, even the resurfacing has been done by the Public Works Department. A very reasonable amount. That is not the sort of reclamation, I think you ought to compare this reclamation with the reclamation between Nos. 1 and 2 Jetty and that, at the time, was slightly below £1m. At the end of the day we saved something like £70,000 below £1m but that was seven or eight years ago. So I don't think it is unreasonable.

Mr Speaker then put the question which was resolved in the affirmative and Part II - Improvement and Development Fund, as amended, was agreed to.

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

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in Clause 3 the words "one million three hundred and twenty nine thousand and forty one pounds" be deleted and the words "one hundred and twenty nine thousand and forty one pounds" be substituted therefor.

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in Clause 4, subclause (2), the words "one million three hundred and twenty nine thousand and forty one pounds" be deleted and the words "one hundred and twenty nine thousand and forty one pounds" be substituted therefor.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour and pleasure to report that the Employment (Amendment) Bill, 1987, with amendment; the Social Security (Employment Injuries Insurance) Bill, 1987, with amendment; the Consumer Protection (Property Management) Bill, 1987, with amendment; the Gibraltar Regiment Bill, 1987; the House of Assembly (Amendment) Bill, 1987; the Public Utility Undertakings (Amendment) Bill, 1987; the Estate Duties (Amendment) Bill, 1987; and the Supplementary Appropriation (1987/88) (No. 2) Bill, 1987, with amendment, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Employment (Amendment) Bill, 1987; the Consumer Protection (Property Management) Bill, 1987; the Gibraltar Regiment Bill, 1987; the House of Assembly (Amendment) Bill, 1987; the Public Utility Undertakings (Amendment) Bill, 1987; the Estate Duties (Amendment) Bill, 1987; and the Supplementary Appropriation (1987/88) (No. 2) Bill, 1987, the question was resolved in the affirmative.

On a vote being taken on the Social Security (Employment Injuries Insurance) Bill, 1987, the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

The Bills were read a third time and passed.

The House recessed at 7.45 p.m.

THURSDAY THE 22ND OCTOBER, 1987

The House resumed at 10.50 a.m.

PRIVATE MEMBERS' MOTIONS

HON J E PILCHER:

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

- 1) The commitments given by the Government to the people of Gibraltar in the course of the 1984 General Election to make Tourism a pillar of the economy
- 2) That the figures of Tourist expenditure in respect of 1984 showed a decline from 1983

- 3) That the recently published Hotel Occupancy Survey 1986 shows a decline in Guest Nights sold in 1986 as opposed to 1985
- 4) The crisis facing the Tourist Industry as a result of the withdrawal, or partial withdrawal, of major Tour Operators

and considers that the Government has totally failed to carry out their electoral promise to create a tourist resort of international repute in Gibraltar even without the advantages conferred by access to the Spanish hinterland, and censures the Government therefor".

Mr Speaker, in moving the motion I have, again, as in fact I did yesterday, to refer to a matter of principle that certainly I adhere to, which is that a Government is bound by its electoral promises, Mr Speaker. A Government should be judged by the electorate by looking at the commitments made in their manifesto and during their election campaign and gauge at the end of the four years whether, in fact, these commitments have been undertaken or are in the process of being accomplished. I think this is a primordial fact that should exist in every democracy and which, to a point, is forgotten in Gibraltar when people say: "We have got to look at the future and not at the past". That is true, Mr Speaker, but politically the electorate have a right to look at past performances in order to judge before they cast their vote, Mr Speaker. In so doing I would like to refer to the Ceremonial Opening of the House of Assembly on the 22nd February, 1984, where the Hon and Learned the Chief Minister announced, Mr Speaker, the fact that the Government wanted to give tourism, in fact, making tourism which they had mentioned during the election, the second pillar of the economy. The first pillar, Mr Speaker, being Gibraltar Shiprepair Limited which, I think, everybody except the AACR, now accept has totally collapsed. In so doing, Mr Speaker, the Hon and Learned the Chief Minister said: "The second major issue I wish to speak about" - the first being, of course, GSL - "is tourism. As the House will know and because of the much greater importance which tourism has assumed in our economic future following decisions to close the Dockyard, I directed that a special study be made of the tourist industry in Gibraltar. The study has been completed and a report has now been submitted to me. I am considering the report" - he goes on to give an explanation of his Government's total commitment to the report and to tourism and announced, in fact, that these two elements would form the basis under which the AACR Government would produce the economic boom or a better economic climate in Gibraltar over the following years. In analysing, Mr Speaker, this four-year programme, one has to look at two avenues, two differences of approach. One difference is what the Government of the day were telling the House of Assembly. The other, obviously, is the fact that at the same time there was the Pitaluga Report commissioned early in 1984

and the path which the Pitaluga Report took with the Committees to the point that we arrive today. In a perfect society or a society led by the GSLP, Mr Speaker, the two would obviously meet because one cannot have Government policy as expounded here by the Minister for Tourism and a situation where a prime report accepted in total, as I will explain later on by the Government, leading in parallel with Government policy should at one stage or other meet. I will prove, Mr Speaker, that at no stage have those two elements met and, in fact, the two elements have totally failed. I would like also to add, Mr Speaker, that the motion of censure is a motion of censure on the Government it is not a motion of censure on the Minister although the Minister in his capacity as Minister for Tourism is responsible for Government policy on tourism but this, Mr Speaker, as I will prove when I go into the main thrust of the argument, is a Government failure in general, in total, Mr Speaker. The Government have paid lip service to tourism and paid lip service to the Minister for Tourism, Mr Speaker, and to the people of Gibraltar. I would like just before I go into the arguments, to say that I think it was in the Ceremonial Opening, I will just check, the Hon and Learned the Chief Minister said: "A particular point made in the Report is that tourism as a business cannot be run effectively if it is subjected continuously to political controversy. I hope that this is one area in which the Government and the Opposition will be able to work together for the public good. I do not think that tourism is an ideological issue" etc. Mr Speaker, I took up that statement by the Hon and Learned the Chief Minister in the first House on the 13th March, 1984, on page 264 of Hansard I told the Hon and Learned the Chief Minister, in fact, his Government: "A particular point made in the Report is that tourism, as a business, cannot be run effectively if it is to be subjected continuously to political controversy. I hope that this is one area in which the Government" - I was quoting from his statement - "well, I take up what the Hon and Learned the Chief Minister said and I am quite prepared to work with the Government in order to make if, as I say, this is the direction that the Government wants to give the Gibraltar economy, and try to work together with the Government to give the economy this direction, Mr Speaker". But, of course, since the Government were paying lip service to tourism, they obviously were also paying lip service to the Pitaluga Report, and lip service to what I said because as a consequence of that, all that happened, Mr Speaker, and I think I have to make this clear before I go into the main thrust, all that happened is I had one meeting with the Minister for Tourism in his office when he took me round on a Rock Tour, which I was very glad for, he treated me as a VIP and showed me around in the same way as any other visiting dignitary at the end of which he dropped me in my house or at my work, I forget, and then he forgot that I existed, Mr Speaker, totally. He has even accused me of not asking too many questions in the House, not caring too much about tourism because I wasn't giving him as many problems as I was giving the Government on GSL because I

committed myself, Mr. Speaker, to keep controversy out of tourism. And he said that why didn't I put as many questions for tourism as I did for GSL, the reality is all that I have done and I have continuously, and if the Minister which I know he says he does, bothers to look at Hansard he will find that in every single House since 1984 I have been questioning on tourism but at no time has there been any single controversy on tourism questions. They have been simply on information, trying to get information about what the Committees were doing, how they were going and in the Budget speeches the controversy over tourism was kept from this side of the House, Mr. Speaker, at a minimum. The result of that is that the Opposition wasn't involved in the Committees, involved in the Consultative Committee, involved in the Forward Planning Committee, in fact, the Minister stopped inviting me even to Cocktail Parties, he did me a favour, Mr. Speaker, because we all know that in our public life we have too many of those but the reality is that the Minister completely forgot that I existed. With hindsight, Mr. Speaker, he did me a favour because after today and the fracas which tourism is in, I think if I had been there all that had been done is that the Minister would probably have used me as well, as he has used every single other person within the tourist trade in which to share and apportion blame. Having said that, I would like to go through the policy of the Government, certainly, as far as the Minister for Tourism saw that policy. Since tourism was not a controversial issue, really, all the meat that will be found in Hansard is, in fact, found during Budget debates which is when I spoke on tourism and so did the Hon Minister for Tourism. In the first Budget of 1984, the euphoria about tourism being the first pillar of the economy was very high in the Minister's mind, Mr. Speaker. I think the Minister for the first time ever believed that he really would be a Minister for Tourism because he had heard from the Hon and Learned the Chief Minister and the Government the thrust financially, etc that the Government would put towards tourism and I think the Minister was very euphoric, the Minister was very optimistic that he would start coming up the ranks in the AACR to produce a great part of the economic development in Gibraltar which could be lying at his doorstep and, of course, thereby lose the image that he had within the AACR or within the people of Gibraltar that he was way down in the ranks. But, of course, little did he know that all that the AACR Government were doing was paying lip service to him as well, Mr. Speaker. But he should have guessed it, looking at the AACR track record he should have guessed that this was the case. But, as I say, the first year was optimism, the first year there was no controversy, it was just the Minister saying everything that was going to happen and the Opposition was sitting by and saying 'We'll comment about it when we see it happening'. We come then, Mr. Speaker, to the second Budget. The Minister was, at that stage, still optimistic. The Committees had met, the Committees had produced reports - I will tackle those separately under the second avenue.

The Minister was even seeing tourists in the street, Mr. Speaker, because by the second Budget the frontier was open and he could even see tourists in the street which is something new as far as the Minister for Tourism was concerned. Mr. Speaker, tourism was becoming, in his mind, a reality but, of course, what the Minister himself knew even at that early stage was that there was no sign that the Government's tourist policy was being backed up by financial commitments by the Government. The Minister also knew that there was no sign of ODA being prepared to put money into tourist projects although at that stage in 1985, it was not clear at that stage and the Government were still going forward with their 1986/90 submission. Certainly at that stage and I will refer very briefly to what I said because at that stage the Hon and Learned the Chief Minister, I think, during his intervention in the Budget of 1985 said that he would like to consolidate the position as it was at that stage in 1985. But, of course, we didn't see that there was a position to consolidate because like the situation that happened yesterday, Mr. Speaker, where the Financial and Development Secretary got up and spoke on Gibraltar Ship-repair Limited and made a point about the future of the company, in exactly the same way the Financial and Development Secretary got up in the 1985 Budget debate and said: "The Tourist Industry had another bad year. Arrivals by air and sea fell by 8%". And the Hon and Learned the Chief Minister got up and said that he wanted to consolidate the position so far as we were concerned, Mr. Speaker, it seemed a very strange statement coming after what the Hon the Financial and Development Secretary had said and we have heard it again and again in the House that what one side of the Government, whether political or otherwise, say does not necessarily reflect what the other side of the Government is saying. And, again, all that had happened was that an amount of money had been put, something in the region of £350,000, to increase advertising and for minor works related with the tourist industry but certainly no major financial thrust towards accomplishing what the Government had said the year before that they would do which is make tourism the second pillar of the economy. And the Minister was, as I say, still optimistic. He said, Mr. Speaker: "The opening of the frontier now makes us comparable to other resorts and we can be better. We must all contribute to make Gibraltar what it ought to be, although it needs polishing up", and then he goes on to tell us a story about a little lady, he likes these stories. "We hope, Mr. Speaker, that the new impetus given by Government" - again, Mr. Speaker, he was referring to an impetus which we still hadn't seen - "in trying to stimulate tourism there is an entirely new set-up in the Tourist Office today. Apart from the driver and myself, everybody else is virtually new". With hindsight we might have left the driver but the Minister we could have done without, Mr. Speaker. "There is an enormous amount of enthusiasm, there is an enormous amount of determination and there is a will to succeed. We need help from everybody, particularly, the tourist trade". We know that, Mr. Speaker,

we know the people in the Tourist Office, we know the commitment and determination of the people there but, of course, that determination, that will to succeed always hits against the brick wall, the stagnation of the AACR Government. All the determination, all the accomplishments, all the success that they wanted to push through was always being stopped at the level where you have to put your money where your mouth is and the AACR Government didn't do it. Obviously there could be very little happening if at the end of the day nobody was prepared to foot the bill. And, again, he went on to speak of the enthusiasm by everybody in the Tourist Office, the tourist trade and his only comment was that the people of Gibraltar had to change their mentality slightly in order to look into the future and become waiters and hall porters, etc which is a philosophy which, obviously, is one which is correct if the Government is pushing part of the economy towards tourism. But also in that same Budget the Minister said, and I think this was the first time that, I think, we agreed - I am not going to go through all the Hansard, obviously - that there was a difference between the excursionist trade, the excursionist market and the overnight tourists and I think he pointed to the fact that there was a spin-off of hotel occupancy, etc but that the excursionists were coming over the border and that should not, although it would enhance the tourist side of the industry in Gibraltar, it should not be seen as the only aspect of tourism in Gibraltar. That was in 1985. In 1986, a year later, the Minister was now struggling because, obviously, they were now coming into the third year of the present Government and, as yet, the Minister, certainly the House as well, had not seen anything being realised from the financial side of the Government. But there was one important element which now made the Minister struggle more than ever, Mr Speaker, and that is that by that stage ODA had clearly spelt out that there was no money for tourist orientated projects. They would only give money for infrastructure which, to a point, perhaps was the back-up of the tourist trade but certainly would not go anywhere to improving the Gibraltar resort. That, Mr Speaker, was I think a blow to the Government because I think if we analyse it, I think all that the Government were doing which is what they have done throughout many, many years, Mr Speaker, in saying that that was going to be a pillar of the economy, saying that they were committed financially and then put up a submission and run to the UK Government in the hope that they could get money from them. The UK Government as, indeed, they said for GSL, said to the Government of Gibraltar quite clearly in early 1986 'No more money!'. All that was happening was that Gibraltar was full of day visitors or excursionists which were not, by the way, producing what the Government thought they would be producing. Of course they produce money, of course there was an influx of tourists and as a result an upgrade of the tourist expenditure, more money on import duty but it wasn't making the money that the Gibraltar Government thought they would make out of it and as a consequence, since the Gibraltar Government had to plough money back into goodies for the people of Gibraltar, because how else were they

to convince the people of Gibraltar that everything was rosy, since they did that they left the Minister for Tourism without a single penny, Mr Speaker. Obviously over and above the budget which the Tourist Office holds and over and above the £300,000 which the Tourist Office got for minor expenditure but no major development in the tourist industry, no major development whatsoever and I will deal with that separately as we come to the Committees, Mr Speaker. I think at that stage when I say the Minister was struggling he was struggling because if you read his speech on the 24th March, 1986, he was talking about the figures of hotel occupancy, he was talking about the extra flights to Gibraltar, he was talking about what everybody else was doing. He was talking about what the tourist trade were obtaining for Gibraltar, he wasn't saying what the Government of Gibraltar were doing to improve that but, of course, he jumped on the bandwagon and there were more flights, the hotels were full up although it wasn't reflected by the statistics at that time but the Minister said that the statistics were wrong and that he was going to look himself into the bed occupancy levels, etc. And he said: "Mr Speaker, my mission is to talk about the future and, in particular, may I remind the House I have to talk about that very much advanced future and not just of 1986 but I should say 1987 because the planning of tourism obviously takes a year to permeate and to get results". Waffling, Mr Speaker, the results weren't there. 1984 had gone by, 1985 had gone by and in the thrust of the Government for 1986 there was still nothing to show the people of Gibraltar that there was any major impetus from the Government behind tourism, streets were still as dirty. I remember in 1986 we had, I think, a television programme where the programme was a total fracas because at one stage the Minister wanted to stamp his feet because he was being told that Gibraltar was dirty, that Gibraltar was this and that, it was a reality, Mr Speaker. The impetus was just not there. Of course, we then come to 1987, the Budget debate of this year and I think this year we have gone from optimism to slight optimism to struggling and, I think, this year proves total desperation, Mr Speaker. The Minister has highlighted this year, again, what everybody else is doing. He was saying about the hotels, he was saying about the flights but, he made two very important points this year. Again, very unfortunate because yesterday the Hon and Learned the Chief Minister said, and I will repeat what he said and the way he said it, 'the Government is the owner of GSL for the first time in four years'. The Hon Minister for Tourism this year has said what the policy of the Government is on tourism this year, on the fourth year. He said to us that the policy of the Government cannot be one of a shopping market, of an excursionist market, the excursionist market is there but, certainly, we couldn't put all our eggs in that basket, we couldn't look at the shopping element because within the next five or six years and the entry of Spain in the EEC, that would be slowly eaten away by the fact that Spain could be developing closely to what we were doing and destroy

that element of it and that the excursionist market had a role to play but was not what he wanted as Minister for Tourism. He announced very clearly that what he wanted, his aim was to absorb some 4,500 to a maximum of 5,000 hotel beds. At present we have about 1,900 hotel beds so what he was talking about is an increase of somewhere in the region of 150% more beds, 2,000/3,000 more beds in the Gibraltar market. Mr Speaker, that should have been the Government policy at the start of the four years so that we today could be analysing that policy and looking at how the Government had accomplished that. He made that statement as, indeed, the Hon and Learned the Chief Minister made the statement on GSL yesterday, for the people of Gibraltar to believe that within the next four years they are going to do it. But, in any case, there is no truth, Mr Speaker, that Gibraltar today can cope with 4,000/5,000 beds, quite the contrary, as I will mention later when we talk about the crisis that Gibraltar is suffering today in the tourist industry. He gave many excuses, the fact that people didn't find seats on planes, the fact that the hotels were full, but I have to say that at no stage during - and I will mention that later - during our visit to UK and meetings with the hotel industry in Gibraltar, have we found that the main argument and the main problems facing the Gibraltar tourist market are, in fact, any of the excuses that the Minister has given although, of course, there is an element of truth in all of those but at no stage is any one of those excuses the cause of the tourist crisis today. That looks at the thrust of the Government through the four years. Now we look at the thrust of the Government on the other side, Mr Speaker, which is what I was saying before, the Pitaluga Report and what had happened to the Pitaluga Report and how the Government had played the Pitaluga Report through. First of all, I would like to say that the Pitaluga Report was a good report as far as civil service reports go, Mr Speaker. It enhanced everything that everybody was saying into one report. It is not that Mr Pitaluga actually thought or discovered this and I am not saying this in any way to try to minimise the job that he did but, certainly what he did was just meet the trade, meet the civil service, meet the Public Works, meet the Minister, and write it all out in a concise very good civil service report which is what civil servants are for, Mr Speaker, and it was a good report inasmuch as that was contained. Therefore it contained, Mr Speaker, all the thoughts of everybody involved in the tourist industry and should have been, to a point, the way ahead for the Government. In fact, it appeared to be so because the statement by the Chief Minister on the 26th June, 1984, thanked Mr Joe Pitaluga and said: "The first nine policy recommendations have been accepted and steps are now being taken to give effect to these. The tenth recommendation will be looked at". This was the improvement of the tourist plans in the private sector by the Government. Mr Speaker, he went on to say that it was going to be done and it was going to be done quickly and it was going to be done with impetus. By early 1984, in fact, when that

statement was issued, all the tourist committees, all the people in those tourist committees had been appointed. I would like to remind the House and the people of Gibraltar what those recommendations were, Mr Speaker. There were ten policy recommendations of which the Government had accepted nine. "Collective policy decision be taken by the Council of Ministers formally affirming the newly elected Government's recognition of the importance of tourism to the economy of Gibraltar. Its intention to adopt as a matter of high priority the necessary legislative administrative and financial measures required to promote the fullest possible expansion of the tourist industry under the conditions which exist in Gibraltar at present". That is very important, Mr Speaker, because what he was saying there is with the conditions that existed in Gibraltar in early June which is with a closed frontier. What the Government accepted is that they would make Gibraltar a tourist resort with a closed frontier. He said: "I accepted the first nine policies". So the Government of Gibraltar accepted that they would, as a matter of high priority, put the necessary legislative, administrative and financial measures behind this report, it didn't happen, Mr Speaker. "I recommend that there should be the fullest possible involvement and consultation with the commercial sector of the tourist industry", etc, etc, the committees, Mr Speaker, which were appointed. "I recommend that further consultancies should be commissioned only when a clear specific need has been identified of the emphasis should now be an urgent implementation". What, I think, everybody in the trade was saying and I think this is what the Opposition were saying, enough of experts, enough of consultancies. The tourist trade in Gibraltar, the Tourist Office in Gibraltar, the locals of Gibraltar knew what had to be done, enough of paying money out to people to come from outside to tell us what it is we have to do. They accepted that one as well and yet a year later they employed Mr Colin Jones as the Director of Tourism in an unprecedented move because at that stage we were in an open frontier situation. We could have understood it if they had brought him in with a closed frontier situation because obviously his marketing in the UK, etc was valuable but, be that as it may, it was a mistake and a year later or nine months later they, Mr Speaker, put the blame on his doorstep and off he went to the UK, similar to the analogy we can draw with the Brian Abbotts of this world, Mr Speaker. Fourth recommendation - "I recommend that the staff of the Tourist Department be increased" - well, that was done. "I recommend that particular be given to putting across Heads of Government Departments and Senior Officers and through them to the civil service as a whole, the Government's tourism aims and policies and the need for their cooperation and assistance in giving full effect to this". Well, the reality is that this happened but the problems were not coming from the Heads of Department, the problems were coming when the Government tried to encompass that into policy and were unable to produce policy because policy needed money and they didn't have the money and therefore they couldn't produce what they needed. The Heads of Department, as I will show later on, said 'Yes,

we will do that, this will cost £100,000. Yes, we will do that, this will cost £200,000. But, of course, if the money wasn't there what did the Government expect the Heads of Department to do? Comment No.6 - "A major campaign to be launched with the Government in consultation with the co-operation of a private....". That, to a point, was only a reaffirmation of something that was happening, ie the Government and the tourist trade getting together to promote Gibraltar. No.7, I did not understand then, I do not understand it now and it certainly has never happened. It reads: "I recommend that any unreasonable obstruction to the Government's tourism policy should be dealt with firmly and promptly where necessary by legislative action". I take it that that was referring to the question where we had eyesores all over the place with people trying to make a fast buck with our land and holding on to it until such time as they could sell it at a profit, in the meantime they had eyesores all over the place which Mr Pitaluga and the tourist trade wanted the Tourist Office to get rid off. But, of course, that never happened, people continued to speculate with our land and only released it when they had made a killing and a profit at our expense. Policies No.8 and No.9 have no significance. Policy No.10 was the one that the Government didn't accept but said that they would take it for a policy decision which was that the Government would be prepared to give financial assistance to the improvement of the tourist plans in the private sector and I dare say that to a point I would tend to agree with the Government that this is a matter that would have to be looked at very carefully before we start paying out money to improve the tourist plans of the private sector. But, of course, we couldn't improve the plans of the private sector and put money into that until we found the money to improve the plans in our sector. Until the money was not there to improve the plans in our own sector how could we do it for any other sector? So we made all the Committees, we appointed people to the Committees, the enthusiasm of the people in those Committees was great, Mr Speaker. There was a lot of enthusiasm within the trade and people flocked to the Committees and obviously produced tremendous recommendations through the Committees to, eventually in early 1985, to the Consultative Committee. On the 12th February, 1985, we had asked and we were told that the Consultative Committee was now deliberating on the recommendations. I have got here a list of the recommendations, far too extensive to read but, of course, if one looks at various of those points to see the impetus and the thrust, one is I would say, to a point, even embarrassed to mention them. One of the recommendations - "the main shopping areas to be flushed each morning and the area kept clean. The Board felt very strongly on this issue and wanted an immediate commitment that this would be done". And the comment of action is: "PWD pressure jetting machine has been obtained and put to good use this year. Regular flushing requires increase in PWD labour complement". We all heard the Minister earlier in this House after questions from the Opposition saying that he wasn't sure whether they had asked for twenty or six or eight but that he had asked for six and that a policy

decision had been taken in late 1986 by the Government to employ these people, it's late 1987 and the people have yet not been employed, is that the thrust? Is that how the Government see the comments made by the Committee who wanted an immediate commitment and action that this would be done? A year later the people haven't yet been employed, Mr Speaker. "Flower tubs" etc, and the Government said: "That would be left to pedestrianisation", pedestrianisation hasn't happened. "The Government should consider making available adjacent sites to the Government tourist venues such as St Michael's Cave, the Galleries for establishment of shops to be leased" - and I am only referring to a few, Mr Speaker, and I know that from this extensive list there were some minor items that were done. There were some items which were, I won't say ridiculous because they are not ridiculous because, obviously, the people's enthusiasm in the Committees was such that they put in all that they thought was necessary. But there are things, Mr Speaker, that I can accept that haven't been done and couldn't have been done in four years like, for example, a permanent greyhound racing track should be set up in Gibraltar. I accept people's enthusiasm, they put everything in the report and I don't think there is anything wrong with that. The Government should have then picked up the report and said: "This is certainly a very long-term thing, it is not a bad idea but it is a long-term thing. These are immediate and these are medium things". All that the Government have done is do a couple of little things here and there like taking away dilapidated signs, putting more rubbish bins but all the reports, Mr Speaker, this is what I said about the shops and the tourist side referred to DPC. All the report does when we get to the main thrust of what the Committees were saying was, in fact, estimate the capital cost - £50,000, £130,000, £2m, £130,000, £1m, etc, etc, producing an astronomical sum of money of some £5m which the Government then dwindled to some £2m or £3m and all that they did was to pass those comments to the 1986/90 Development Programme which I said, Mr Speaker, after it had been studied and were then told 'no' by ODA. But as, indeed, the Hon Financial and Development Secretary said that there was no other strategy in GSL, no alternative strategy in case the first strategy failed, so did the Government not have any other strategy in case their first strategy of going to ODA failed. Let's see how the Committees operated, Committees appointed in early 1984, Consultative Committee late 1984, deliberations early 1985, studied and passed to the Development Programme. January, 1986, went to Council of Ministers, 8th July no funds available from ODA, 3rd November, 1986, passed to the Forward Planning Committee, 10th February, 1987, still deliberating and the last one is Question No.236 of 1987 where all the reports, all the recommendations of all the tourist reports were dwindled down to the improvement to the Upper Galleries, improvement to St Michael's Cave, refurbishment of the Air Terminal, embellishment to Europa Point, Nature Reserve, Piazza development and Wellington Front development of which we know, Mr Speaker, none of this will happen, certainly,

this financial year and, in many cases, won't happen for a few years to come, Mr Speaker. Because I can refer to a letter which the Hon Mr Canepa sent me which says that what they are looking for is making provision in the Estimates for 1987/88 for a survey of the area by local experts in order to create the Nature Reserve so it won't happen, Mr Speaker. During 1985, during 1986, we know what the Committees started to feel, that they had been used by the Government as a stop-gap in order to see whether the opening of the frontier would create some tourists and at the end of the day would create some money so that the Government could say 'tourism is working'. But we all know that that didn't happen, Mr Speaker. In fact, having created because the Government said they were committed to create a situation of creating an international tourist resort in Gibraltar with a closed frontier. The frontier opened which made it far easier, Mr Speaker, but the Government are so incompetent that all they had to do is keep up because the commercial operators would have done their job for them. Gibraltar became a gateway, Mr Speaker, and the commercial operators, the tour operators, the airlines, would have done the job for them if only they had been able to keep the product in line with everything else. And what do we find after all this, Mr Speaker? That like the Finance Centre which is a pillar that suddenly appeared through 1986 with the Government doing nothing at all, the pillar of the Finance Centre was created because there was a market and it was created and due to a lot of exertion by a lot of people the pillar started growing and then the Government when it saw the pillar growing said 'There we are, this is our third pillar'. Basically, that is what they did with tourism. They assumed tourism was going to grow, they picked it up, they put it there but the reality as opposed to the Finance Centre pillar, they weren't even able to keep the tourist pillar up because even though everything else was happening, Mr Speaker, in 1987 tourism in Gibraltar was in a crisis situation. I know, Mr Speaker, given an article in the Chronicle of the 21st September where Mr Brian Sutton of Marshall Sutton fame, who is a small operator in Gibraltar, Mr Speaker, I accept that, but who had the courage to say what was in everybody's mind, in all the tour operators' minds, Mr Speaker. Everything that the Government knew, Gibraltar was dirty, the traffic problems, the problems of public service, all the problems facing Gibraltar which the Government had done nothing about. And what worried us, Mr Speaker, was that in his statement he said that he was going to have to leave but so would Sovereign Enterprise, so would Thomsons, so would Intasun, etc. We already knew that Thomsons had, in fact, threatened to pull out six months before and we all knew that the reality was that we were only able to obtain a partial presence of Thomsons in Gibraltar. And the reasons were made quite clear to the Government because they got copies of this like I did because, in fact, the Hon Minister in answer to one of my questions commented from the report they had got from the hotels and the tour operators and the reality was that here was a major tour operator saying 'The uniqueness of Gibraltar as simply being British or having certain geophysical qualities or having an active military background

is not yet sufficiently developed as a holiday experience and therefore cannot be distinguished with the mainstream of sun and sea destinations of the Mediterranean. Hence we had an uncompetitive market, we had an uncompetitive environment and we had lack of incentive and measures to prove to the tour operators that we were getting there and Thomsons said they were pulling out. It was only due to a letter by the Hon and Learned Chief Minister that they didn't pull out. We hear this a few months later from Marshall Sutton, the following day we hear in the local press that Sovereign Enterprise is also leaving. Mr Speaker, there is a crisis, of course there is a crisis. At the same time, Mr Speaker, we have a report by the Chamber and we all know that the Chamber have been utilised politically many a time in order to create certain political rights which the President wanted but that is immaterial. This is a Chamber report on tourism which also says in its conclusions that during the years of closed frontier Gibraltar survived in a false environment. It says that the Pitaluga Report has failed, that the opening of the frontier has brought untold opportunities many of which have been wasted, that it is essential that the Government invest money on its own product and there is need for Government to define a clear policy on the future of Gibraltar's tourism. We had the tour operators, we had the Chamber of Commerce, everybody was saying that tourism, as the second pillar of the economy, had failed. So what does the Opposition do, Mr Speaker? The Opposition goes to UK to find out whether that is true. I want to clearly state for the record because I have said this in the press and on television that I don't want to embarrass the tour operators. Tour operators are apolitical, they will support whichever Government is in if the Government is doing what it promises to do but the message that we got back was that Gibraltar was in a very unkempt situation, that the Government had not put the money that they should have into the product, that the tourist product was not what they wanted it to be and that if there was no improvement in the short to medium term then there would be no option for the tour operators but to leave Gibraltar. With one exception, and we all know what exception that is. Well, there are two exceptions, one is one company that is very closely linked to a group of companies in Gibraltar and the other is a major tour operator that works on the more down market sort of tourism which is nothing to turn your nose up to because I think we need a balance in Gibraltar. But, of course, that is what we need, a balance not just one or the other. The message that we got was quite clear, Mr Speaker. The message that we got was that if Gibraltar didn't improve there would be no future as far as the tour operators were concerned, for tourism in Gibraltar and the only reason why they stayed, Mr Speaker, was that Gibraltar was becoming a gateway and that they could see that there could be an expansion of the market in the future but that they were sure that that expansion would not become a reality unless Government put money into the product and were able to sort out all the problems and we weren't talking about major problems. The tour operators understood that you just cannot

find £6m to fix up everything that is wrong in Gibraltar but they didn't expect that, all they expected was a clean Gibraltar, problems of traffic being sorted, problems of parking being sorted, that is what they expected. They told us that in the long-term, of course, they wouldn't mind more hotel beds but they didn't complain about the fact that they weren't getting any. They didn't complain to us that they couldn't find seats in the airlines, on the contrary, one operator told us that he was now fixing up conferences and that he had just sorted out a conference for 89 people with their families and he had had no problems with either hotels or the airline. Of course there is a problem during the summer months as opposed to the winter but the reality is that what the Government had been telling us is giving excuses and it is a fact that the hotels are sometimes full in summer and that the airlines are full but the reality is that what is wrong with the tourist product is that the Government other than pay lip service to it, have done absolutely nothing to put money into tourism and as a result, as we say, we have all the problems related with a bad resort here in Gibraltar, all the problems. And what that does, Mr Speaker, to frighten away the tour operators is that because Gibraltar is such a small market producing for the tour operator, perhaps in the case of Thomsons or Intasun a .001 of their market, the complaints coming from Gibraltar produces a much bigger element, perhaps a .5 in that and, of course, why should a tour operator who is looking at his commercial side and his reputation in the market put up with a place that is producing for him £100,000 or £1m and two million complaints and he is losing reputation. That is, Mr Speaker, the true facts of the tourist crisis. The tourist crisis is that other than paying lip service to all the committees, to the tour operators, to the hotels, to the travel agents and to everybody, other than do that, nothing has been done to produce a good tourist product so that we at the end of the day and the people of Gibraltar could be looking forward to an improved climate on tourism. The proof, Mr Speaker, is very clear. The proof is, as I have said in my motion, in the statistics by the Government and at this stage I would like to say that I am surprised that being at the end of October, 1987, we still haven't got the Tourist Report for 1986, we still haven't got it. I don't know whether it would be associated with the fact that we had a censure motion today and that might have given us even more ammunition but the reality is never ever, since I have been in this House and before when I was part of the GSLP through the Hon Leader of the Opposition, have I ever seen a report on tourist expenditure being that late. But even so we can use the other reports. The Tourist Report for 1985 shows that although there was an increase in the excursionsists from Spain if you took away the expenditure of those in the overall figures the increase in the expenditure due to the mainland visitors was not that great and since the Government cannot even tell us today in this House what is the percentage into National Income of that expenditure, then I don't think they themselves even know what that is producing for them. But I think the most important fact of all, Mr Speaker, is that the Hotel

Occupancy Survey of 1986 I think proves the failure of the Government. In the column for 1986 we find that although there has been an increase in all arrivals to hotels and although there has been an increase in tourist arrivals for hotels, the guest nights sold, Mr Speaker, are lower, 266,000 on all and 201,000 on the tourist side. Why, Mr Speaker? Well, I will tell the Hon Minister, nothing that he doesn't know, two elements. The first element is that the night traveller, the excursionist, is taking over from the tour operator. Secondly, that the tour operators are now using Gibraltar as a two-centre holiday and decreasing the number of stays in Gibraltar. Why? They are decreasing the number of stays in Gibraltar because the tourist product is so bad that they cannot leave them here for five or six or seven days, they can only do it for two or three or four, that is the most that they can do. Gibraltar does not offer anything for long stay tourists, Mr Speaker, and in four years the AACR have done nothing whatsoever to produce anything at all that would attract tourists to Gibraltar. All that they have done is attract excursionists, attract day visitors and, of course, made a lot of money for the people here in selling tours out of Gibraltar. The reality, Mr Speaker, is that there is no way that the Minister can today follow the policy of increasing hotel beds by 150%, no way, Mr Speaker. The only way you can increase hotel beds is by having a parallel policy of improving the product at the same time as increasing the capacity. You cannot increase the capacity without increasing the product. Where is he going to fill the hotels from if people just don't want to come here because of the product, if the tour operators are pulling out? The Financial Centre might produce some offshoot into the tourist market but it is not going to fill another 3,000 beds. That is the reality. We have to have a parallel policy that slowly builds up the beds at the same time as you improve the product if not what you do is you kill the hotels already here if you suddenly plough into the market another 3,000 beds and you push back the clock to when the frontier was closed and the hotels had to fight with each other in order to try and attract customers. The reality, Mr Speaker, is that in four years the Government have done absolutely nothing other than a thing which has happened on its own which is tourists coming over from the coast, being marketed in the coast over here for day trips and excursionists. I am glad sometimes for the Hon Mr Canepa's intervention because yesterday, again he got upset and he got passionate and he said 'Now the Opposition are finally taking their skins off and we are now seeing the wolves underneath the sheep'. Well, Mr Speaker, it is a must to be wolves sometimes because we need aggressiveness because on the other side they are all wolves in their own businesses. What they are is sheep when they are in Government, sheep which have stagnated.

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

HON H J ZAMMITT:

Mr Speaker, Sir, if history is to repeat itself I think that probably this will be the occasion when almost four years ago, in fact, in December, 1983, the then Shadow Minister for Tourism, the Hon and Gallant Major Peliza, prior to the General Election, thought of bringing a motion of censure on the Government because of its inactivity in the tourist field. I have taken the words of the Hon Mr Pilcher with, if I may say so, some humour. At the time when the Hon Major Peliza was on that side, I remember - I have checked Hansard as I always do, Mr Speaker - the cries from that side of the House saying 'You wait until we get into Government'. I must say in all sincerity that I do not wish that this present Opposition finds itself in the same position as the DPBG did three months after Major Peliza's intervention when not even one of them was returned to this House. Mr Speaker, I would like to say that in the four years that one has had this Opposition in the House, in total sincerity and in total fairness, I have never had one single word of aggressiveness with my friend Mr Pilcher and I have got on with him reasonably well as one would expect in the British democratic system that we are fortunate to have but I am taken aback by some of the things he has said. I think that it would be futile for me or any Minister for Tourism to stand up in this House and say that everything in tourism is the goal of perfection. I think that I recognise the faults, I recognise the improvements I would like to see and I think everybody else would like to see and, as is often said, tourism is but one subject in which everybody is an expert and no sooner does one meet somebody that one receives an idea to which I listen to, invariably an idea that is not novel, that either somebody has brought before or that one, in all modesty, has thought of but finds difficulty in implementing. Mr Speaker, I am taken aback by the insincerity of this motion because the GSLP throughout its existence, even when the Hon Leader of the Opposition was in isolation over there, has not had faith in tourism and therefore it is because of that that I wonder what the motive for bringing a motion of censure against Government on tourism could be in the final months or weeks of the present Government. One wonders why. In the case of Major Peliza, the then Shadow in 1983, one found that his main contention was that I should be based permanently in England and then, of course, one analysed the motives. Well, because if he became Minister for Tourism as he lived in England it would be very, very proper. Yet the Hon Mr Haynes was totally against the fact that I even went on trade promotions, he used to call them 'jollies', so there one found the disparity. But for all the love and affection that I may have for Members opposite, I must say that I find even greater disparity in the GSLP towards tourism because - I can quote from Hansard but I don't want to make this too laborious - I can quote from Hansard where the Hon Leader of the Opposition does not and has not supported tourism at all during his sixteen years as a Member of this House. One finds that the GSLP in their manifesto, and I refer to the manifesto because our manifesto is mentioned in the motion, says nothing about tourism but comes up with a conclusion and even the conclusion is wrong, Mr Speaker.

Conclusion - 'Whilst the party believes that the achievement of the above policies would have been a relatively easy matter if Gibraltar's resources and its economic potential had been better used in the past, there can be no doubt that it will prove a much more difficult task in the current state of the economy' - of course we are talking of 1984 - 'but it can still be done. Gibraltar faces further economic decline and a drastic drop in the standard of living if the policies of the past are continued for the next four years'. Well, their forecast was wrong, Mr Speaker. I will give way to the Mover of the motion but I will say one thing, if I may. I have not interrupted at all during the Hon Mr Pilcher's speech and I would dare say that I expect the same courtesy when I am talking. Mr Speaker, they got it wrong because there was a growth in the economy since 1984 or is it that the general public has not seen the growth in the economy? Is it that the little bit of goodies that we have given back has not been a betterment? Is it that the opening of the frontier was not a betterment for Gibraltar? They said the Brussels Agreement was a disaster. Well, look, Mr Speaker, at the disaster it's been because whether you call them excursionists or whether you call them tourists or whether you call them what you like, the fact is that since 1985 there has been a better cash flow situation to the whole industry affording, in particular, the hotels, a better cash flow and a better relationship with the banks to afford them cash facilities to improve their product. I think that it doesn't take very long to go around and to see what the hotel industry has done in the last eighteen months or so in improving their product substantially. I think I can say they are probably close on £4m expenditure. Mr Speaker, there are very many other facets. Mr Pilcher has mentioned a number of facts which, I am afraid, he has got all wrong and I say all wrong, not half wrong or partially wrong, all wrong, and I am surprised because it shows that they really haven't got their heart in tourism. It's a good political gimmick at this time of the life of a legislature to bring this up but they haven't got their heart in tourism. I remember saying to the Hon Major Peliza that during his time as Shadow I had received four letters. Well, whether Mr Pilcher says he wants to keep it apolitical or not, I will tell him that his other colleagues of his side of the House write to their corresponding Members on this side of the House in all spheres. I know Mr Juan Carlos Perez is a very good letter writer and is writing constantly to the Minister for Public Works and the Minister for Municipal Services. I haven't received one letter from Mr Pilcher, not one. I offer my hand of friendship, as I always do, to Mr Pilcher and he is very welcome to come round and I have offered other things to Mr Pilcher but he hasn't taken it up seriously, Mr Speaker. So it is no good saying that I do not invite him to Cocktail parties. Let me tell you, Mr Speaker, I normally don't invite anybody, it's my staff who invite the people appropriate for that particular function. But, Mr Speaker, they have got it wrong. Mr Bossano, for instance, way back in 1984 as Leader of the Opposition not only didn't support tourism

but actually spoke against it, and if I might quote, Mr Speaker. In Hansard of the 30th October, 1984, Mr Bossano says: "In the long-term, Mr Speaker, perhaps tourism will produce but not only do we have no guarantee of that at all, the figures that we have had since 1972 onwards do not show that this will be the case and that is why we abstained from the vote of £357,000" - I will pause there but I will carry on quoting. That is the attitude that one has found in this Opposition and Mr Pilcher says that we should pour more money in, that we haven't done this and we haven't done that. The Opposition abstained. I quote again from Hansard on page 75, Sir: "will not produce the amount of tourists that the Government think that they are going to bring and if this is not the case then it will certainly not produce any increase. In fact, as my Hon Colleague was saying" - and I can tell Members that he refers to Mr Feetham's previous intervention - "there might even be a contraction of the tourist industry as such". Mr Speaker, there hasn't been a contraction of the tourist industry and I will prove it. It is very easy for Members opposite once every four years to start picking figures of extracts. If there was a decline, as the Hon Mr Pilcher mentions in paragraph 2 of the motion, between 1984 and 1983, he did not explain why or what had occurred in that year. If Mr Pilcher cares to check he will find that there was an increase of air arrivals, there was an increase of people coming over the frontier, there was a decrease on account, very much beyond our control, of the Moroccan Government's imposition of a £50 departure and a visa requirement for two European nationalities, I think it was Holland and Belgium, but it wasn't a tourist effect as such or a tourist decline, the decline was by sea. Mr Speaker, Mr Pilcher himself has explained but I don't think he has convinced himself that the decline that he also mentioned in 1985/86 of the Occupancy Survey, does not show what he tried to interpret. He spoke, very briefly, of the situation whereby today because there are people coming into Gibraltar and occupying beds on a short stay of one night or two nights and back on single occupancy and, of course, the two-centre holiday then, of course, people instead of staying in Gibraltar - and please don't hold me down to figures - instead of staying in Gibraltar 7.8 days, they are staying 4.5 days but there is a greater turnover. In fact, I can tell Mr Pilcher, never mind summer, that now hotels are doing exceedingly well, already it is impossible to get a bed for Christmas and therefore I don't see the crisis that the Hon Members opposite are trying to bring about. Mr Speaker, one is chastised individually or even the Government when some tour operator decides to leave Gibraltar and, of course, I regret the fact that a tour operator wants to leave Gibraltar. I think Mr Pilcher has been economic with the truth because although it is true that the tour operators are not satisfied with the Gibraltar product as it stands today because of the very many undeniable facts that Gibraltar faces - the cleanliness and the like - I am sure tour operators have told him what they have told me and if they haven't then the tour operators, although

they might like to work with two Governments, might rather work with a known king than a king to come and they have told me what the problems are. The problems are that tourists today in the competitive market of this world industry that tourism is, are not prepared to have to come to Gibraltar and suffer the hindrances that Gibraltar affords them - power cuts; dirty roads; you mentioned, I think, the flushing machine, that was blacked for eighteen months by the union, not a word from the Opposition. You cannot expect people to come here and find they cannot go on a lift because of a power cut. You cannot expect people to come to Gibraltar and find that the buses aren't functioning or the taxis aren't functioning or the coach operators aren't functioning, strike after strike after strike. Why should people come here and pay that little bit, I say 'little bit' extra and find the hindrances that none of us have the courage to come out and say 'That is what is ruining Gibraltar's product', because there is no excuse when one finds what my colleague mentioned earlier on, the number of people we have employed to clean the roads, the mileage that has to be cleaned, the amount of money the Government spends on cleaning, in refuse collection, it is second to none I am sure in Europe. Certainly I cannot think of any area of our size that spends as much public money in cleaning, in refuse collection and in sanitation and the rest, as Gibraltar does. But, alas, no sooner do you get out of one strike that another one is on the way. I was checking some time ago, Mr Speaker, that it is almost impossible to find a week in Gibraltar where there is not some industrial action, be it at the airport, the Caves have been blacked, people have been sent back because they cannot get there, tour operators have had to pay out enormous sums of money because pre-paid Rock tours, the Caves and the other sites have not been able to take place. But none of us say that, it is the Government that is wrong, it is the dirty streets. I suppose Sir Joshua and I should go out with brooms sweeping when we are paying people £100-plus per week. Let us look and let us be honest about the product and about the failings of the product and then if you care to ask tourists in Main Street what is wrong then they will tell you 'Why should I come here?' - as British as we are and as much as we wave the Union Jack or whatever - 'Why should I come here when for £300 or £400 I can go to Greece or Spain' and not put up with these hindrances. Let me tell Members opposite that Gibraltar has a very bad reputation in Great Britain with people saying: "I want there, I won't go again, I couldn't find a car, I couldn't find a taxi, I couldn't find a bus or I was given candles because the hotel had no light". That we just cannot afford to do. Mr Speaker, I think it is high time that someone stood up and said this kind of thing because let us not kid ourselves, let us not say that by employing six more men in Main Street it will be swept because Gibraltar has problems, every street in Gibraltar cannot be swept because of parked cars which makes it very inconvenient and when you see the poor man trying to sweep he cannot get under the engine and then when the car moves away you find there are sixteen coke cans below it and, of course, the man starts sweeping at 9 o'clock and

the car moves away at 11 o'clock, it will stay until the following day providing another car doesn't come in and takes up that place. At the last Budget Mr Pilcher very gallantly stood up and said there was only one department that had a projection and got its things right and that was the Tourist Office and I think although he has expressed, and I am very grateful, a word of thanks or a word of praise to the Tourist Office for their endeavours, which I wholeheartedly supported because I can say that I have the most enthusiastic staff that any Minister could ever hope to have, a staff with an entire commitment, sometimes they feel very frustrated at the reaction that takes place. Mr Speaker, Mr Pilcher said that the Government has failed in the election manifesto promise on tourism. Have we failed now at the end of the term of office or did we fail when we came in, as the Hon Member mentioned, one month later, or after the Pitaluga Report? Why have they had to wait at the end of the term to bring this up? It is very obvious, Mr Speaker. Although one can be criticised because Sovereign Enterprise leaves Gibraltar, although one can be criticised because something else happens, invariably not entirely of Gibraltar's making, I have never received any form of encouragement, let alone appreciation, or the Government for that matter, on what has occurred. I think that most of us are old enough to remember, for instance, the flight situation that we had prior to 1982, five aircraft a week with Wednesdays and Saturdays no communication. Today we have 27 flights a week with the hope that in the not too distant future more planes will be coming on stream and more important, indeed, is the fact that it will be from other departure points and not just Manchester and Gatwick. I didn't hear the Opposition express any concern over the dismay of GB Airways not being able to secure the European market. I have not heard any word of sympathy or attempt on GB Airways approach to try and bring aircraft from Frankfurt when it was thwarted by international situations.

HON M A FEETHAM:

I don't think you read the papers.

HON R J ZAMMITT:

Well, I say I haven't heard it here in the House of Assembly, the papers can say what they like. I think the House of Assembly as there have been issues very much less important than that, I think it might have been appropriate, probably with a motion of censure, it would have been appropriate to have incorporated or another motion of censure condemning other Governments for their trying to bring us to economic ruin. Mr Speaker, all in all, one sees that there has not been throughout the four years a concerted effort to try and support or to try and encourage. Mr Pilcher is right in what he said about the questions that they have asked and he knows I complained about it because, Mr Speaker, during

the whole of 1984 out of 247 questions the GSLP brought, 7 were on tourism. I think Members opposite with their tremendous economist acumen might like to work out the percentage, so much for the concern for tourism. In 1985 out of 256 questions, 13 are dedicated to tourism. In 1986 out of 304 questions, 9 on tourism. And in 1987, up-to-date, Mr Speaker, out of 337 questions, 11. Mr Speaker, if there is the crisis in one of our major pillars of the economy that the Hon Members are trying to portray, is it proper that nothing has been done to bring the Government's attention to the crisis? Mr Feetham, and I don't want to involve other Members, in the debates over the years he got it wrong too and, may I say, Mr Feetham was involved in tourism roughly about that time. When he said, in Hansard that tourism will not create job opportunities, in fact, he is the one that says there will be contraction. Well, there wasn't contraction. If you look at the Employment Survey you will see that there is much more work and let us be quite honest, Mr Speaker, about this. Let us not just look at the hotels and catering employment figures but the spin-off that they have, the distributive trade had benefited from it because if a shop in Main Street had three people employed and today they have five it is only because there are 10,000 people walking up Main Street from wherever. I welcome tourists from Soviet Russia or from Fascist Chile, as long as they are tourists and spend money here, welcome. These are excursionists that produce, as Mr Pilcher rightly pointed out, a very valuable contribution to the economy although I am not denying the fact that what is, in fact, more pleasing to me and to the economy of Gibraltar is the person that occupies beds in Gibraltar, that without doubt. Mr Speaker, there is no crisis. I said in answer to the Hon Mr Pilcher that I hoped to be able to announce, hopefully, next month, the appearance of an entirely new operator to Gibraltar. There is faith in Gibraltar but what we have to do, Mr Speaker, not the Government alone, do not blame the Government alone, the whole infrastructure of Gibraltar requires an element and, may I say, I commend the private sector for what they have done. I think that those of us who are here permanently and walking up and down the various streets fail to see the improvements because, of course, they are coming up day by day but visitors that come back are seeing landlords with a greater spirit of enhancement of their properties. Unfortunately, during this particular period Gibraltar is suffering a tremendous hindrance in the form of construction. I think it is very good, it employs and distributes a great wealth to the economy but there is a hindrance in traffic flow, in hoardings, in lorries running around with iron or cement, which of course will come to an end. I am sure a day will come when all these things are finished and therefore we will see Gibraltar as it ought to be. Mr Speaker, again Mr Pilcher is wrong in saying we have done nothing towards the product. Well, of course, we have. We would like to do more and no one on this side of the House better than me would like to see vast sums of money put into the product in improvements but already as we have spent, I wouldn't

say enormous sums, but we have spent money in St Michael's Cave - new chairs, we have provision for a new toilet. However, I also would like to spend more but I have to be reasonable and accept that I am one of eight Ministers and every Minister wants to try and improve their own Ministries and their own improvements in social services, hospitals, education, etc so therefore I have to get in line and take out what I can. Mr Speaker, Gibraltar has the touristic potential. We are doing as much as we possibly can. I think it requires a concerted effort by everybody, not just the Government, the whole of the tourist industry and, again, Mr Speaker, we must accept that we are not a serving community. The attitude towards tourism should change as I am glad to see the Opposition have changed by bringing this motion on tourism. I don't think, with the greatest respect, Mr Speaker, there should be any laughing because if Mr Bossano wants and I do not wish to do it, I can quote Hansard where he absolutely fought against the development of tourism so let's not have the chuckling. It is now, in the dying days of the existing legislature, that the GSLP are coming out with tourism. There is nothing in their manifesto about tourism, there was nothing about tourism and, in fact, they have made fun of it and if we want to really be somewhat humorous about it let's not make a hoo-ha about the Pitaluga Report because fun was made of the Pitaluga Report and the Hon Mr Juan Carlos Pérez, who I am glad to see has joined us, referred to 'Piturismo' in his newspaper and has joked about Joe Pitaluga's Report so let us not say now that the Pitaluga Report was the Financial Times, no, as far as they were concerned it was the Beano or the Dandy, it was a comic for them and now they say that it was the Gospel coming down from Heaven. No, they made fun of it, they tried to ridicule it. Now it pays to get on the bandwagon because tourism is doing well, because people are seeing the growth of tourism and let me tell you, Mr Speaker, that I am not trying for one moment to say that it is the goal of perfection but I do say that Gibraltar can cope four-fold with what we have today. Everybody is an expert on tourism, everybody gives you ideas of what you should be doing but let not the Opposition jump on the bandwagon two or three or five months before a general election with their pious promises on tourism because there are over twenty Hansards that amply portray the genuine feeling of the Opposition towards tourism. This Government, Mr Speaker, the AACR, and I have been now at the helm of tourism for something like eight years considering that I was acting for my very dear colleague Isaac Abecasis during his lamentable illness for four years, and his predecessor Abraham Serfaty, have been saying this on tourism for a long time and we keep solemnly to that because we do see tourism and Gibraltar's position in the tourist market and the golden opportunity to make Gibraltar's economic situation improve day by day. I would say the Government has been very unlucky in circumstances, Mr Speaker, of not being able to pour more into the tourist industry, for instance, the £2m of GSL. It would have been £2m that I could certainly have made a bid to try and spend on improving this, that or the other. But there are very

many things that we have done which the Opposition has not given us credit for and very many more things that have to come on stream, for instance, the inauguration of the Heritage Trust. Mr Speaker, we can all chuckle and laugh at it but then it is no good, with great respect, I have a lot of time for him but it is no good then attending the Heritage Trust and saying how much he supports Heritage and then start chuckling about it because I am the kind of individual that will not, if I don't believe in it, I will not go to the Heritage Trust and partake. But it is no good saying 'I support conservation and I support this and if we come into Government we will give the Island Games £90,000 to go to the Faroe Islands and if we go into Government we will reduce municipal charges'. Mr Speaker, when you are on that side of the House you can make all the promises in the world. One read yesterday, Mr Speaker, in the Chronicle, about Miss Mari Montegriffo's participation in an Annual General Meeting of the Small Islands Games. She said that if they got into Government they would underwrite - I don't know if the Hon Mr Bossano knows about it - £90,000 from the Tourist vote. I thought Mr Pilcher wanted more money spent on tourism. I doubt if Mr Bossano with his great socialistic ideals would like to saddle the taxpayer with a £90,000 bill to send athletes, as meritorious as it may be, to the Faroe Islands. If the Hon Mr Pilcher and Mr Juan Carlos Perez can go and tell tour operators in England 'if we come into Government we will reduce a, b, c, d, e, f, g', well, Mr Speaker, probably because of their inexperience of ever having been in Government they might find that if they ever do come into Government which, of course, is a very remote chance, they may well find that they may not be able to fulfil their promises. I remember Sr Felipe Gonzalez promising that if he was elected he would produce 700,000 jobs. A tremendous promise, it got him into office but he didn't do it. It is easy to make promises and I would warn Members opposite that one has to be very careful as to what one can promise and if you care to put pen to paper to all those promises and add them up you may be faced with a greater bill than we have been faced with GSL. Mr Speaker, Gibraltar, over these last years, and the Tourist Office in particular, have had to carry out a tremendous amount of work and very many things have occurred which we have done, again, I am not asking for any support but we seem to forget that when things do work our way no one is ever prepared to say 'Thank you' or 'Well done', nothing at all but to criticise on top, it does hurt. For instance, the diversion we had of aircraft, eleven in one day, because of industrial action in Malaga airport. My staff worked tremendously hard at the airport with little, if any, hitch yet not a word from anybody. My staff have had to cater with diversions in mid-air by a tour operator that had to divert here because of overbooking in another place. We had them here for two weeks and we bent backwards because it was another tour operator that we were trying to collar so we bent backwards at no small expense to try and encourage them and to convince them that Gibraltar could be used by them as tour operators and as air carriers but

I was embarrassed by the lack of appreciation shown by that company when I tried to contact them later on but there you are, that's life. Mr Speaker, one has seen Air Europe's expansion in Gibraltar, one has seen the scheduled air services of Air Europe increasing on a daily flight with a 757, that's gone amiss. It also went amiss, as the Hon Member mentioned, Thomsons' partial withdrawal. Well, Mr Speaker, again I am not asking for medals or appreciation or bouquets or thanks or anything else, I never get it so why should I ask for it, but it was only because of our immediate intervention with Thomsons that what would have been a total withdrawal from Gibraltar has, for the time being, been able to be brought down to a partial withdrawal for 1988 and I hope, Mr Speaker, that if things went well or at least if things were to go normal as they do in most other holiday resorts, then Thomsons could well be encouraged to not only bring one extra flight but even to increase it and I think the Hon Member has been told that because I have certainly been told that by Thomsons. Thomsons is a major tour operator and very rightly so, as Mr Pilcher mentioned, what they really complain about is that the small number of people they send to Gibraltar give them more headaches than they do from Mallorca to which they send something like one and a half million people. But if we do understand what the major complaints are it is that famous word that I have been trying to preach to the uncovered for certainly my seven years in tourism, is the attitude towards tourism. We have the aptitude because Gibraltarians are known to be friendly. I have received letters, Mr Speaker, that are incredible of the performance of people in Gibraltar. I have had a letter of a taxi driver taking somebody on a Rock Tour and then inviting that person home for dinner and probably spending £40 in inviting him to dinner and having made only £12 on a Rock Tour. Where in the world would one find that? That friendship is more than known, it is the general attitude. We cannot have a situation that we have had to put up with for so long. Mr Speaker, I have a list here of the various industrial actions that have taken place but I do not want to bore the House because I think I have said that one cannot find a week where there isn't something but I have a list here of industrial action after action after action. We cannot expect people to come here and put up with this and that is where the Opposition because of their tremendous influence over the unions, might like to help. If they do believe in tourism, as they say, then for goodness sake let us not have a union threatening to deposit wood outside the Governor's Palace or all the stacks of wood up at Europa Lighthouse because of industrial action. I don't want to get involved in industrial unrest or industrial disputes but if there is industrial unrest please don't pick on the tourists because they are the people who are giving us, I wouldn't like to say the bread and butter, but they are contributing substantially to the economy. As I say, I think that through our attitude some people in Gibraltar are doing Gibraltar a disservice in selecting the kind of industrial action that has a bearing on people who want to come here and part with their money because of Gibraltar's

geographical position or because Gibraltar can offer them something that they would like to benefit from. It is a message I would very much like the Opposition to take. Mr Speaker, in conclusion, I cannot understand and I don't think anybody else can understand, the crisis. What is the touristic crisis? That three million people come over the frontier? That 100,000 people come by air? If the Hon Member was to say: 'The problem is that despite the twenty-seven flights that are coming into Gibraltar it is still difficult to find a seat', despite what the tour operators may have said to the Hon Member, because something like 70% of the seats are turning right and going into Spain and I am sure the Hon Mr Pilcher has gone around to the hotels and been told that they cannot get the SIGIT seats because obviously there is a greater viability in selling seat only than there is in selling an all-inclusive tour. Yes, those are things, I think, where there could be a joint effort in trying to rectify that situation. If the Hon Mr Pilcher was to say: "There are more flights but ..." No, there is nothing of that. There are increased flights and tour operators or not, is the fact that they are still finding difficulty in finding SIGIT seats on the aircraft. And with regard to what I call windfalls, again, no one seems to say: "Government well done". Sometimes we get tremendous coverage on issues very much beyond our making, the Ark Royal 'Rock Around the Rock' Concert with Bob Geldof and all the other people I had never heard of before but there it was. There was free publicity given at a time which would cost us thousands of pounds. 'The Living Daylights', the James Bond film, another great advertising for Gibraltar. Nothing has been mentioned of those things. Those things may I say, had one of my HEO's away from the office for almost three months. No credit at all is given for that kind of thing which all helps. We have participated in things we weren't participating before and I am saying that because the crisis seems to be from 1984 onwards. But, Mr Speaker, apart from our continued participation in trade promotions, in trying to keep up with the trade, we have taken the World Travel Market which is totally new to us, I think we have been there on three occasions, this is our third occasion now. We were in FITUR if you remember, Mr Speaker, a few days before the actual frontier opened, a few days before, in fact, I think the frontier opened on the day that FITUR opened and, of course, we go to fairs around Southern Spain. Mr Speaker, I do not live in cuckoo land as it has been alleged, I realise that if there is a £5m cake and if we were five Ministers I would be a fool not to try and get it but Gibraltar has been put through tremendous problems and we are slowly getting it. I am sure Mr Canepa in his intervention later on will be able to tell you, although I have it here, Mr Speaker, but I don't want to step on the tourist development there is this motion as a political gimmick to try and bring tourism to the fore in the dying days of a legislature as much as the political gimmick that is being made of promising Tom,

Dick and Harry everything that they will underwrite, pay for and contribute to should they come into power. It is a political gimmick, as much a political gimmick as it was in 1983 with the then Hon and Gallant Major Peliza. There has been no concern for tourism on that side and, as I said, I do not want to be boring but I have more than enough evidence in Hansard probably for a more appropriate time, probably the elections, to be able to demonstrate that there is no faith in tourism on that side and if there is no faith there is no hope. The Opposition as a whole, Mr Speaker, have been a failure on tourism but I will say this, they have been a failure in trying to project it because, and Mr Pilcher tried to cover himself up very beautifully, may I say, where their heart really lies lock, stock and barrel is in GSL. That is where the concerted efforts of my good friend Mr Pilcher, the Leader of the Opposition and other distinguished gentlemen opposite, that is where their hearts lie, GSL. Other hearts lie there too, let me tell Members. But on tourism it is wrong, it is false, it is ridiculous to bring a motion against the Government on its failure on tourism. I do not pretend that everything is alright with tourism. I think Gibraltar is like an old lady - beautiful, pretty but requiring a tremendous amount of cosmetics, but she is pretty and that is where I have placed my faith, I think the Government has placed its faith in tourism and slowly we are getting there but let the Opposition not try and take advantage because they can be ridiculed on their past performance. I will not bore the House, Mr Speaker, in quoting very many - I have only got two here but I think there are twenty Hansards, I was checking at home last night, twenty Hansards, Mr Speaker, where there is clear evidence that never mind supporting tourism, there are Members on that side of the House that have no belief or faith in it at all and let them not try and get into the tourist industry, all the trade or the whole spin-off that tourism provides which is massive, in saying that they will do a, b, c, d or x, y, z because their reputation and their failure and the record of their participation will place them in ridicule. Mr Speaker, I do have a liking for the Opposition and I would like to wish them well and I would like to see them back in Opposition next time. I would ask them not to make the same mistake as the DPBG did when they found that not even one member, not one of them was returned to this House. Mr Speaker, having said that I think it is lamentable that the Opposition should think at this time to bring a motion on the tourist crisis. I just cannot see the crisis. My Hon Friends, the Hon Brian Perez and the Hon George Mascarenhas were telling me the other day they were walking down Main Street without being able to say 'hello', they hadn't met one Gibraltarian, they were all tourists down Main Street so it cannot be all that bad. Had this motion come at any other meeting of the House, six months ago, a year ago, after the Pitaluga Report, then one would have seen, alright they believed in it but they haven't, they have been making fun of it. I don't know who 'El Tio del Capote' is, I have a very good idea. Mr Speaker, one of the things I mentioned was the fact that Air Europe was increasing. I omitted to

say that GB Airways are expanding. As we all know they are buying their own new aircraft and there are very encouraging moves for expansion. Of course, GB Airways is a company with a great Gibraltar commitment. On the development aspect I am sure my Hon Friend and Deputy Leader, Mr Canepa, will talk about very many aspects of the industry that have to be improved, as I mentioned earlier on. We are now looking at the airport, it is not just a patching up job or leaking roofs, we are looking at the expansion of probably an entirely new air terminal and probably in a different location. We are thinking of and we have already made provision for extending and widening the roads on the Upper Rock. I have mentioned in the House in the past things that occur which one doesn't really know where to put the finger on. For instance, we know that 10,000 people on average cross the frontier yet we find only 1,000 go to the Caves. I suppose shopping and other factors, the whole marketing of Gibraltar requires clarification. I think, of course, today there are great problems in the Upper Rock with traffic and I don't blame taxi drivers or coach operators not going to the Galleries, I know the difficulty of getting there and turning round. So the Gibraltar product is not being sold totally probably because we have to do a number of things. I am not saying that we have done everything right, I think there is an enormous amount that we have to get right and the time to do it in the not too distant future. We cannot dilly dally very, very long and I think that now we have a golden opportunity because we have seen the potential that Gibraltar has in the tourist market and its inevitable growth. There is an inevitable growth and if we get our act right and that requires, as I said before, a concerted effort, then I think there is a great future for Gibraltar. Mr Speaker, I thank you for your tolerance, Sir. I would just say, once again, that I think the Opposition have attempted to jump on the bandwagon at the end of the term of this House and, as I said before, I cannot understand the facts pointed out in the motion of censure against the Government. There is no crisis and I don't think the word crisis fits in any way. Therefore, Mr Speaker, I would say that in the last paragraph of the motion, they are most inconsistent. They say that Gibraltar is not a tourist resort of international repute even without the advantages conferred by the opening of the frontier. Well, Members opposite were saying the opening of the frontier was a fracas. How can they now say it was an advantage? Mr Feetham himself at the time said that we would not get the tourists, we would not get the coaches.

HON M A FEETHAM:

That is absolute nonsense, you show me where I said that.

MR SPEAKER:

Order, you will not speak across the House.

HON H J ZAMMITT:

I will certainly give him the Hansard. Mr Speaker, it is most improper for the Opposition to bring this motion at a time when there is no crisis because if there were a crisis then, of course, a motion would lose the value that a motion of censure against the Government would have in a real crisis and I think the choice of words is totally improper. There is no crisis and, if anything, Sir, we hope to go from strength to strength. Thank you, Sir.

MR SPEAKER:

We have about twelve minutes before lunch or would you rather that we recess now and continue at quarter past three?

HON J BOSSANO:

It will certainly take more than twelve minutes. The Hon Member has been at least half an hour talking about me and the Opposition and nothing about tourism. There is certainly a lot to be answered.

MR SPEAKER:

Then we will now recess until this afternoon at quarter past three when we will continue with the debate.

The House recessed at 12.50 pm.

The House resumed at 3.30 pm.

MR SPEAKER:

I will remind the House that we are on Private Members' Motions and we are debating the motion moved by the Hon Mr Joe Pilcher.

HON M A FEETHAM:

Mr Speaker, I have had at least two hours since the Hon Member responsible for tourism spoke, to digest the contents and the defence that he has put up against the motion presented by the Opposition. Quite frankly, Mr Speaker, I could spend the rest of the afternoon, tomorrow and most of next week, which I don't intend to, answering all the irrelevancies and all the red herrings that the Minister has brought up in order to respond to what appeared to be a constructive criticism of the lack of policy on the part of the Minister insofar as tourism is concerned. Of course, the Minister who I regard to be excellent when it comes to oratory insofar as to what I would term to be the 'patio' politics which also is very inherent in politicians and we all have a tendency to do that, I think the Hon Member opposite excels

himself when he dwells in 'patio' politics in order to defend his political point of view. But, of course, what he did do was not to defend his own policy, instead what he did was to spend at least 70% of his time in judging our policies on tourism. Well, I am sorry Mr Minister, we are not the Government, you are the Government and you have to respond to whatever criticism this side has to put over. And if they are not fair and constructive you have to come back with constructive arguments.....

MR SPEAKER:

Before we go any further, you will speak to the Chair and not across the floor.

HON M A FEETHAM:

I accept that, Mr Speaker. He has to answer constructively to the points put over by my colleague in moving the censure motion and, of course, he didn't do it. Instead he dwelt upon the difficulties that his Department and the Government were facing in pursuing a coherent policy on tourism and once again we have had the classic approach by a Government which is cornered, and the AACR Government are concerned at this point in time, in putting blame on everybody for their failings, Mr Speaker. Yesterday we had the same line taken by Ministers insofar as GSL was concerned, then we had a late, no doubt, calculated response by the Minister for Economic Development saying that we were anti-Finance Centre, that we were anti-GSL. Now we are anti-tourism. We also, Mr Speaker, happen to be Gibraltarians and we also want the best for Gibraltar and we have also got children to bring up in our beloved Gibraltar. So we have all got a vested interest, Mr Speaker, in doing the best we can for Gibraltar. The problem is, and this is where the Minister fails, is that there are ideological differences on both sides of the House in approach and in policies. Tourism, Mr Speaker, plays a part in our policy. How predominant or otherwise is a matter for us to judge and it is for the Members opposite when we are on that side of the House to come up with criticisms if we are failing in that policy. But, of course, the Minister in responding to my colleague, concentrated in putting over to the House and no doubt to the rest of Gibraltar because no doubt the media will give ample coverage to what the Hon Member has said which is only fair, it is up to the people to judge whether he is right or wrong, again the question of industrial relations comes up. Again he appeals to Members on this side who are influential in the Trade Union Movement to see whether we can influence the unions to be more cooperative. Mr Speaker, the Hon Member fails to understand that the problems inherent in industrial relations today which is an important facet in trying to pursue a policy is the relationship that the Government has had and the record that the Government has

had in support or otherwise of the Trade Union Movement in ensuring the goodwill and the cooperation in pursuing a particular policy of Government. Of course, what the Minister failed to put to the House was the story behind the situation today. I have in the past reminded and, of course, I need to do so again today because it would be unjust to the labour movement in Gibraltar if one didn't respond to what the Minister has said, to remind the Minister that since 1972 we have had industrial problems, we have had them since 1972 and before 1972, since 1970 and the problems were very clear. The AACR Government failed and the AACR Party failed in its historical mission which that party had in those days of its affiliation with the Trade Union Movement. What it did and that is reflected today in its policies, what it did was to part ways with the labour movement in Gibraltar and take an anti-trade union policy and fight the Trade Union Movement all the way and, of course, they have had to eat on a number of occasions humble pie and, in fact, recognise at the end of it that the Trade Union Movement were right in many of its policies and one, of course, was the question of parity. Mr Speaker, we cannot blame industrial relations if the tourist policy of the Government has failed. It is an inherent failure of the historical political participation of the AACR in our political structure that has helped to lead to that sort of situation. They must also take some blame in that respect, Mr Speaker. Having answered that particular point, we are criticising Government's tourist policy, we are not criticising Government's development projects. If we thought that Government's development projects had reached a stage where we considered it necessary to bring a motion of censure to the House against Government for that policy, certainly as the person responsible in that area, I would have brought one. But at the moment the development policy of the Government which has been explained on a number of occasions by the Minister responsible has not developed to an extent where we are able to judge although already we begin to differ in approach in that respect but it isn't the moment for us to take a particular line on that. But it certainly was on tourism so I don't understand the Minister saying that the Minister for Economic Development is going to put over what the Government has done in development, that is not the issue, we are talking about tourism policy and I will explain. Government's position prior to 1984 was a position of acute economic crisis, there is no doubt about it, the Government themselves have said so in the House. In fact, if we look at the statements which our colleague is so fond of looking in Hansard - incidentally I certainly have looked at lunch time at some of the quotations that the Minister sought to bring up and they certainly don't tally with the reading that I have had but I haven't had enough time to see whether I can find any evidence of what the Minister had said but I am going to follow it up and I shall be writing to him to pinpoint those things to me. In 1984 Government at Budget time came to the House with a deficit and, in fact, the reserves were down to £2m if you recall. Towards the end of 1984 Government came to the

House to borrow money to cover deficits for the first time in the history of Gibraltar. That set the scenario, Mr Speaker, for Government response and Government response was that as imminent discussions were taking place for the opening of the frontier, Government response to their economic crisis was that instead of standing firm on the wider questions of Gibraltar's future and on the question of the economic direction that the Government should have decided to take, instead of that what Government did was try to pull wool over the eyes of everybody else in Gibraltar and caved in on the Brussels Agreement and because their salvation economically as they saw it was that it was necessary to advance EEC rights to Spaniards in order to get the frontier to open before, they pursued that particular policy in the hope that the traffic generated by cross-frontier flows would help generate and get the Government out of the difficulty that they were in at that point in time. That is, in my view, in the view of the Opposition, the decision that Government took that set the scene for the difficulties that the Government are facing today. But there is plenty of evidence to show that far from us being wrong in 1984 we were right in 1984. There was a contraction in the tourist industry in 1984. And you cannot quote me now in 1987 and say we were wrong because people are coming across the frontier, that doesn't wear with me, it doesn't wear, Mr Speaker, with any intelligent person. It may sound good but it is wrong and you have made mistakes, Mr Minister. What happened was there was a change of circumstances, people were coming in, of course people were coming in, we said people would come in, it is obvious people would cross the frontier if the frontier opened. Plenty of things would happen if the frontier opened but what has been the effect of the frontier opening is what we have to look at. Before doing that, Mr Speaker, Government had no alternative but to say: "Things are happening, we have got to play our part in this", otherwise why would we have a Minister for Tourism, "we have to play a part in this, this is our policy". What was the policy that Government said would have to be pursued in order to strengthen Gibraltar's economic base insofar as tourism was concerned. As my colleague has said, they came up with the Pitaluga Report which was a collective view from all cross sections of the trade arising out of meetings he had had with everybody and he brought something concise which we could agree or disagree with but it was an effort and the Chief Minister came to this House, Mr Speaker, and said: "We accept the report, this is our policy", and he even went further because at the time with GSL not being sure which way it would go and with so many people crossing the frontier they said: "This is going to be our salvation". The Chief Minister then said that he would have close consultation with the Consultative Committee and with everybody else and that he would be looking for monthly reports of the progress. They were giving it a lot of importance at the time. The problem as we see it, was that having set up all these Committees, that having set up all these - I think somebody termed it - tourism planners at different levels, that would bring forth action at a consultative level, what happened then

was that we came up with a major problem and the major problem was as my colleague has said and I don't want to dwell any further on that, was Government's lack of commitment in giving financial support to the recommendations in order to have these projects and have this policy enhanced so that these policies could be put into action. But the other thing was, of course, that there was a lack of decisiveness on the part of the Government because Gibraltar has been geared to a defence economy and everybody in Gibraltar has defended a defence economy. It was our main livelihood and tourism took a very small part in that. But the radical change that it brought with the closure of the dockyard, Mr Speaker, which was fought tooth and nail by the Trade Union Movement, all of a sudden we had to adapt to one of making tourism a mainstay of the economy but, of course, the problem was that Gibraltarians from top to bottom are very conservative in their will to change and if there is a conservative view as to change, then the Government has to make decisions and say: "I have decided as the Government that what is needed for Gibraltar, taking into account everybody's view, is that we have got to do a, b, c, d, e and f". But what happened was that because there were so many different views Government got swamped, it became inactive, it became frustrated, Mr Speaker, and the result is that if you look at all these meetings very little of substance has been done and that is where the Minister for Tourism has failed in his tourist policy. Because it isn't the Tourist Office that brings tourists from UK, it is the private sector. What Government can do is support that infrastructure, and it is a matter of policy, (a) by substantially investing in that infrastructure (b) by helping to generate extra beds in Gibraltar, by even taking up the policy of saying: "If the private sector because they have a vested interest are not prepared to have more hotels, well, as a matter of Government policy we will begin to joint venture to construct hotels in Gibraltar, if that is what is needed". Because that did not happen we have a major problem that we have in Gibraltar only 1,400 beds. And when we talk about tourism and long stay we have to accept that we are in a very small league in Gibraltar, we have only got 1,400 beds although at one time the official figures showed 1,800, I think they were inaccurate and we are talking about 1,400 beds. When we talk about Thomsons and when we talk about Intasun and keeping them here it must on the basis that Gibraltar is going to expand at some time or other because 1,400 beds for Intasun and Thomsons is only a couple of small hotels up the Coast. If we are going to have that type of operation in Gibraltar we need loads of beds to keep them here otherwise their operation is not viable. The only reason that Thomsons and Intasun have stayed in Gibraltar up to now is that they are pushing more traffic across the border than they are keeping in Gibraltar and that is the vested interest that they have got at this point in time. The problem also, and I haven't heard the Minister say anything in that respect but it is perhaps something that I may know and, perhaps, the Minister knows or feels

he shouldn't say anything about it, Mr Speaker, and that is that because the overall political situation insofar as the Brussels Agreement is concerned has not improved, insofar as cooperation with Spain has not improved, that there is pressure politically that why should these people be coming to Gibraltar and helping Gibraltar out when there is so much vested interest on that side and so much pressure can be put on that side on these operators to move away from Gibraltar and it has happened. These are things that one has to look at and judge and the answers are not easy and the policies which need to be pursued are not easy. But what we cannot have, Mr Speaker, is the Government talking about having a tourist policy when, in fact, they have no tourist policy, none at all. In fact, it just came to mind when I was talking about people going across the frontier, that the situation is so ludicrous that the Hon Minister for Tourism just prior to the frontier opening was arguing at one time in favour of Air Europe getting its licence. Then when the Civil Aviation Authority refused the licence but did not refuse the licence to operate from Gibraltar to Manchester and because Air Europe were not able to make a viable proposition just travelling to Manchester at that point in time, when the application came up again the Minister was violently opposing that Air Europe should get it because they didn't put the Manchester operation into being. Just an example of the shifting and changing on the part of the Minister for Tourism. What has been so far, Mr Speaker, the response by Government to tourism in the last four years? They appointed a person who was described, Mr Speaker, as experience behind him, and appointed him Director of Tourism, Mr Colin Jones. We will never learn why Mr Jones left, the official release was for personal reasons but the fact is that no sooner had they appointed a Director of Tourism than that Director of Tourism leaves his job.

HON A J CANEPA:

He was useless.

HON M A FEETHAM:

He was useless, I am told. Well, if he was useless, Mr Speaker, they appointed him. Who is more useless, the appointee or the appointer? I don't know.

HON A J CANEPA:

If the Hon Member will give way. The Public Service Commission appointed him.

MR SPEAKER:

Order.

HON M A FEETHAM:

I am not giving way, Mr Speaker, he can sit there and he can answer me when he speaks later. The thing is, Mr Speaker, that that happened and his philosophy was and I never saw once the Minister for Tourism who cares so much about tourism and I have no doubt to believe he does, I am arguing about his policy, never once did I hear the Minister for Tourism object to the statements that that Director of Tourism was making during his short term in office. And his philosophy was Gibraltar needs the mass market tourism, that was his philosophy. We need to get as many beds filled up with mass market and for a short period of time that appeared to be the policy of the Government because that is what the Director of Tourism was saying, Mr Speaker, so one has to judge that if we have a top civil servant in office saying in meetings and in public that that is the philosophy that he is advising Government on, one would expect that unless he is contradicted that that is the policy of the Government. Of course, it was the wrong policy because there is no way, Mr Speaker, that Gibraltar can entertain at this point in time a mass market approach to its hotel problem with 1,400 beds. Whether that was the reason why the man had his service terminated or not, I don't know, but the fact was that at no time did the Minister at all say that that was not his policy neither did the Minister, in fairness to this House, give any indication of what his policy was. For the first time, Mr Speaker, we got an indication of what Government's policies were and I think despite all the criticisms aimed at this side of the House, Mr Speaker, about not giving credit where credit was due, I was one of those that stood up and welcomed the Minister's policy statement that he made at the time or gave some indication of policy when he started talking for the first time in this House about projections which is all that we are asking for, which is all that the people of Gibraltar can judge Government's on. It is not about coming here and attacking the Opposition, it is about saying 'We intend to have 100% bed occupancy in Gibraltar because we intend by year three having 3,000 beds in Gibraltar and that this will bring to Gibraltar £15m a year in expenditure from people staying in Gibraltar'. That is the sort of thing that one can judge upon whether Government policy has failed or otherwise, never ever have we had that. The first indication was in the 1986 Budget that Government were, in fact, thinking about that. I don't know whether it was as a consequence that we also had a change in the Director of Tourism or not because when the new Director of Tourism came into the scene he was projected as a man of action, a man of action was what the Chronicle said. The Chronicle is entitled to judge a person and that is what he was judged to be. He said that Government had to work on overall plans, overall plans he was talking about, something that one can begin to understand when we talk about overall planning because he is telling people 'This is what we feel politically and we will stand up and be judged, these are the plans that we want for tourism'. He started talking about overall plans and then we had the Minister coming to the House and talking about

projections. And he was talking about short-term and long-term policies and that such a plan must be worked out with the Consultative bodies, that is to say, with the trade. And that, contrary to what the previous Director of Tourism had said during the term of this present Government, he said we had to go for upgrade market not mass market and that we couldn't afford to be overrun by the Costa fashion tourism and that what was needed were decisions. And I thought to myself and I am sure my colleagues on this side of the House thought 'Here we are, we are beginning at long last to get somewhere, at least we are going to have a basis for discussion for the next two years'. But the reality is that everything that has been said by anybody on that side on tourism has not materialised and it is no good apportioning blame on everybody except the Government because the Government is the one that is supposed to be spearheading the revival of tourism on the Rock and what has been happening is that instead of the policy pre-1984 where the Government said that they were going to build tourism in itself and whatever happened after the frontier opening was a bonus, what has happened, in fact, is that they are living off excursionists and everything else, I am afraid, is not on target and is not likely to be on target until you get your act together and until you have a more coherent policy. Mr Speaker, the amazing thing about all this is, of course, that Government has spent quite a lot of money on consultancies and a lot of what is happening today, in fact, a lot of the targets which have been reached today have been forecast in the past and Government have not made any attempt at all to use them as part of their planning, as part of their projections. Admittedly, the Consultancy's Report which has had some bearing on tourism in itself over-estimated the impact of the frontier opening as far as Gibraltar was concerned. In fact, they were talking of the lower band projections insofar as expenditure was concerned, they were talking about £16m estimated to be spent in Gibraltar as a result of cross frontier flow excluding hotel occupancy. I am talking about excluding people coming in other than through the frontier, on the lower band, and £35m on the higher band. Of course, figures today show that we haven't even reached the lower band. But they had some projections there which would have allowed them to work and which would have allowed them to plan and they have made no use of them at all. Their approach and their philosophy, Mr Speaker, is to react to crises, to react to problems. It isn't one of leading and getting the problem by the scuff of the neck and trying to settle it, no, it is patching up, it always has been. It has been characteristic of the Hon the Chief Minister to patch up problems as he goes along and he has been very successful at it, he has been in office for a very long time. But it catches up with the Government, Mr Speaker, somewhere along the line and it has caught up with him at long last. The problem is that Gibraltar's economic situation today is very precarious because as the policy begins to fail and it is failing on tourism and the demand and the reliance is on cross frontier for shopping, and the other

side, the long stay, has gone down and it hasn't improved, the problem is that because with the continued development of the economy in Spain and with Spanish entry into the European Community, we are going to be less competitive and the appeal to shop in Gibraltar will dwindle. I am not saying it will dwindle tomorrow or next year but it will begin to dwindle in the near future, in the next two or three years and that, Mr Speaker, as I am reminded by my colleague and Leader, is what the consultants said would happen. What will happen then is that instead of having been aggressive in these four years and gaining the confidence of everybody and making decisions, you have failed to do so, so we are left with two legs of the tourist infrastructure in a very weak state. And one has to see now the development at Sotogrande which is a mere sign of things to come and already distributors and retailers in Gibraltar are seeing how their input will in future have to come from Spain into Gibraltar rather than from UK because they are appointing agents in Spain that will be responsible also for the outlets in Gibraltar, they are beginning to see that Gibraltar's aspiration as a shopping centre is beginning to be under threat. I would have thought that the Minister who is entitled, obviously, to defend himself, should have spent more time in defending his policies, in defending the impact of his policies on Gibraltar, in putting over to the House what impact it will also have on the rest of Gibraltar, on the consumers insofar as the infrastructure is concerned which we have to pay for as well and then say to my colleague, the Hon Mr Pilcher: "You have got it wrong because if we look and we add up all the pros of our tourist policies and all the disadvantages and all the cost to the people of Gibraltar, it shows that we are better off", then we have got no argument and the Government's tourist policy whether it has gone far enough or not at least it would have advanced. But he hasn't said anything like that, all he has done is criticising us and say that we have no love for tourism. Of course, that is a fallacy, Mr Speaker. I am going to finish by saying why it is a fallacy. People on this side of the House, Mr Speaker, have been very much involved in the struggles of the labour movement in Gibraltar and we have been very much involved in defending working class interests on the Rock. And there was no way this side of the House were going to pursue a policy of telling the British Government from 1979 or even prior to that, in 1972, that the people of Gibraltar were now prepared to have a Dockyard closure because tourism was the way ahead. At the time the Hon Minister for Tourism, Mr Serfaty, was saying 'we have got to pursue tourism'. It is like everything else. Mr Seruya was talking about regional cooperation in 1970/72 but he was out of touch with the realities at the time. Tourism for us has had to wait its moment, its had to wait a time. The Dockyard problem was much greater and the alternative economic problems to a Dockyard closure and the future of Gibraltar were more important and the tourist policy, as far as we are concerned, has a part to play and will have a part to play predominantly as has the Finance Centre which I just want to round up with. It is strange that the Minister for Economic Development....

MR SPEAKER:

With respect, we are not going to talk about the Finance Centre on a vote of censure against the Government on tourism.

HON M A FEETHAM:

It has an off-spin.

MR SPEAKER:

It may have an off-spin but not to the extent that you wish. We are on another subject.

HON M A FEETHAM:

Mr Speaker, having so ably cut me short by a couple of minutes, I don't think I have got anything more to say except that if an Opposition party feels that after four years a particular policy of Government has failed or hasn't materialised or hasn't produced the goods, I think it is about the right time at the end of the term of office of the Government to come up and say so and have an aggressive debate on it, it is nothing abnormal at all. I would remind the Minister that for the very short-term that they were in Opposition when we had an IWP Government, I looked through my scrap book because I am one of these people that likes to keep a scrap book of political activities in Gibraltar, I can get you something back from up to 1961. I can show you headlines page after page after page of the Gibraltar Post or of the Gibraltar Chronicle when that AACR Opposition sided continuously with the Trade Union Movement against the IWP and nobody said anything about it. It is nothing new. You still had some very strong working class roots at the time in the party. I am sorry to say you don't appear to have it any more, Mr Speaker.

HON A J CANEPA:

I think it is a pity, Mr Speaker, that my colleague, the Hon Mr Zammit, didn't conclude his contribution at 12.30 this morning when perhaps Mr Feetham, not having had the benefit of two hours in between to prepare himself for his speech this afternoon might have limited himself to, perhaps, half an hour and we would have been spared fifty minutes, most of it sheer arrant nonsense. There are some things that Mr Feetham really has to learn about, Mr Speaker, and perhaps the hard way. Some of the things that he has said about the opening of the frontier and the effect that that has had or the effect that he assumed it was going to have is really incredible. But before I turn to that, there are one or two factual things that I have to correct him about. The politicians in the Government of Gibraltar do not appoint civil servants and therefore those of us who are sitting

here today did not appoint Mr Colin Jones as Director of Tourism. Mr Colin Jones was appointed by the Public Service Commission following some members of the Public Service Commission going to London to interview applicants for the job.

HON J BOSSANO:

If the Hon Member will give way. For example, the Government had somebody that visited Gibraltar recently who had applied and had been more or less selected or offered the job of Hospital General Manager. Hasn't the political Government had any influence on the decision?

HON A J CANEPA:

No, none whatsoever. In fact, the constitutional position is that any officer in the senior grade when promoted, the only requirement is that the Governor before accepting the recommendation of the Public Service Commission should consult the Chief Minister about that appointment. The exercise of consultation, what it constitutes really, is a power of veto, not the exercise of selection but the Chief Minister in being consulted has the right to say whether he has got any objections to that appointment because he could, for a variety of reasons, that is all. The pity of it is, Mr Speaker, in my view, that it took eighteen months to get rid of Mr Colin Jones. We ought to have been able to get rid of him within six months because by then there were umpteen reasons, there wasn't one single reason why Mr Colin Jones was sacked there were reasons as long as your arm and I remember getting together with Mr Zammit and going over the material that we jointly passed on to the right quarters so that the matter would be considered about twelve months later and it run to seventeen or eighteen items, four or five of which were what I would term major items as to why Mr Colin Jones should be sacked including implementing administratively decisions against the Minister's policy. That is quite serious but it had to do with, you name it, and it was amongst the seventeen or eighteen items. But as I say, it ought to have happened twelve months previously and in all he was Director of Tourism for eighteen months, far too long a period and I think that it is bad that the administrative procedures should be so slow that it can take so long for someone to be sacked, particularly someone who has been appointed on a short-term contract because when somebody is promoted through the ranks, as it were, and has twenty or thirty years service that is not easy but in the case of somebody who is brought here on a two or three-year contract it should be much easier to terminate that appointment without having to go through the upheaval and the efforts that we had to go to secure the termination of employment. Mr Feetham said that we in the Government caved in to the Brussels Agreement. We entered a reservation on the discussion of sovereignty, certainly, of course, in keeping with reservations entered previously such as at the time of the Lisbon Agreement some

years previously. But we didn't cave in on anything and what advance implementation of EEC rights to the Spaniards did was to bring about an opening of the frontier on a sensible, reasonable basis and that after bellyaching for fifteen years that the frontier was closed because we never accepted, on grounds of common humanity and natural justice, that the frontier should have been closed or has the Hon Member forgotten all the campaigns that we carried out with the European Movement and so on, so we bellyached about it and at the time because of the damaging effect of the partial opening of the frontier, the business community in Gibraltar, the economy was on the point of collapse and the Government had to hurry and the Government had to have vision and foresight particularly with the hotel industry and the hotel industry today provides a product which is a vastly improved product because we nursed it during the difficult years when they were on the point of collapse when some hotels owed the Government hundreds of thousands of pounds in municipal charges and we nurtured them and carried them along in the hope that with normality at the frontier they would be able to turn their financial situation around in the way that they have and be able to get the loans from the banks that they have been able to get to be able to refurbish the hotels, in some cases, I would say, in the dramatic fashion in which it has been done and the policies of the Government have also assisted them in respect of development aid licence at the time when they were required. In fact, one of the amendments that I brought to the House to the Development Aid Ordinance meant that hotels were able to borrow on the medium term, get medium term loans between five and seven year loans from local banks which had not been the case previously. I think we were far-sighted and we were sensible at the time and had we not adopted that policy then the hotel industry would have collapsed, there would have been a major loss of confidence and hundreds of jobs directly and indirectly would have been lost. But the arrant nonsense I think Mr Feetham in respect to the opening of the frontier and the effects, I think is underlined by page 69 of Hansard of October, 1984, where Mr Feetham says: "The wholesale and retail trade figures reflect to a degree our view that the full opening of the frontier will cut even further into our job opportunities, particularly in the areas where it will not be possible to compete fairly with services coming in from across the frontier, primarily due to the two differently orientated economies from which we have obtained no derogation or special terms under the EEC particularly in the light of Spanish entry. Every indication we have, on this side" - on the Opposition side, the economic experts across the way there - "is that in fact, the situation is going to get worse and, at best, no better" - October, 1984. October, 1987, we see the publication of the Employment Survey for April 1987 and what Mr Feetham says is proved to be sheer unadulterated nonsense. Industrial action, Mr Speaker. Mr Feetham had a lot to say about the state of industrial relations and I agree with Mr Zammit in this sense, that this motion today is not an isolated occurrence, it is part of a pattern, of a campaign because we have had election mania for most of 1987.

HON J BOSSANO:

Since January the 1st.

HON A J CANEPA:

Since January, 1987, and the attack overtly, openly, has concentrated on the two pillars of the economy and more surreptitiously on the Finance Centre and we have been to town on Shiprepair, we are now going to town on tourism and if you will allow me, Mr Speaker, only to the extent that I am answering - and that is all I will have to say about the Finance Centre - a point made in his opening contribution by the Hon Mr Pilcher when he said that Government had done nothing at all to encourage the development of the Finance Centre. That is nonsense. When the Defence White Paper of November, 1981, announced the closure of the Dockyard we engaged a consultancy on the diversification of the economy and the emphasis that there was in this consultancy on the Finance Centre was of some significance. So in 1982 we saw the need to diversify the economy, we saw the need not to put all the eggs in one or two baskets and we could see the potential which the Finance Centre had. So already we were working in that direction, of course, what has happened is that since the frontier opened in February, 1985, the opportunities that have presented themselves have been beyond the expectations even of the experts in those days when they only thought, as Hon Members must have heard me say before, that this area of the economy would make a significant contribution. Today I think the figures prove that it is not making a significant contribution, it is the greatest growth area that there is in the economy and it is beginning to make a major contribution. Mr Peetham says that the blame for the state of affairs on industrial relations which has a detrimental effect unquestionably on the tourist product that we are trying to sell, lies in the Government's attitude to industrial relations since 1972. Of course, since 1972 the Government has had tens if not hundreds of industrial disputes but are we on this side, since we disaffiliated the TGWU and they campaigned for the IWP in 1972, have we become so anti-union - and we haven't yet got around to legislating, we haven't got around to introducing any Thatcherite measures - have we become so anti-union that we have deliberately sought one confrontation after another with the TGWU? And we are the worst employers that there are in Gibraltar and the Ministry of Defence who have been our partners for very many years in the Joint Industrial Council and the PSA, there is no problem there. And we have the telephone trunk operators off pay or as the Hon Members opposite will no doubt or as Mr Netto will put it, locked out for twelve months and two days over an issue of what, of cutting down on the number of people employed by natural wastage, even by redundancy if you like, of one or two people and yet the Blands Shiprepair Yard closes down and no demand for redundancy payments, the Mons Calpe closes down and nothing happens, the union seems to take it in its stride

but let the Gibraltar Government try to make one person redundant, my goodness, there is hell to pay. Or Gibraltar Shiprepair because the Government are the owners and, again, industrial action immediately. So is it just our political colouring, is it just our approach or is there perhaps more to it than that? In June, 1986, Mr Speaker, I led a joint delegation of the Government and people in the private sector working in the shipping industry to the Poseidonia Shipping Exhibition to project Gibraltar and one of the matters which the private sector were projecting was the question of attracting cruise liners to Gibraltar. Hardly had we returned when cruise liners were being turned away galore unnecessarily and yachts were being turned away. Yachts were approaching the Yacht Reporting Berth and they were being waved away and that had a damaging effect on the whole of the tourist industry, it affected the pockets of the taxi drivers, it affected business in Main Street, it affected the restaurants and here you have a group of people, I think it cost the Government £8,000 to get a team together to Poseidonia and the private sector contributed a vastly bigger sum than that, here you have people with goodwill making the effort of trying to attract business to Gibraltar and no sooner do they return that something like this happens. Is it necessary that it should happen like that? Was everything that could be done in the negotiating process seen to? No. The problem is that there is a far too rapid resort to industrial action and we know and the Hon Mr Bossano in his other capacity, as a matter of policy the TGWU are not particularly enamoured of arbitration, certainly not binding arbitration. And if the Government is to blame for the attitude that it has towards industrial relations and Mr Zammitt spared us a list of seventeen or eighteen instances that he has of industrial action that has affected the essential services and therefore affected the tourist industry. Can we say that the events of last Friday are, in what category are they? A deliberate provocation by an anti-trade union Government on the people in the Generating Station or was it that having heard in the news about the storms in the United Kingdom that morning with widespread power cuts, the storm troopers of the Generating Station out of a sense of solidarity, perhaps, or in sympathy with the poor suffering people in Britain decided to administer yet another dose of the same medicine on residents, visitors and tourists alike? It was only the latest in a long instalment, in a long tale of industrial action affecting the essential services and, therefore, the tourist industry and, therefore, the product that Mr Pilcher has spoken about and about which he has criticised the Government as not having tried to do enough. Insofar as last Friday is concerned, let me make it clear that management was not to blame and the Government was not to blame.

HON J BOSSANO:

Or the union.

HON A J CANEPA:

Blame should be put squarely on the shoulders of the men.
I read the minutes.....

MR SPEAKER:

Let us not get involved. One can refer to what has happened and how it affects the tourist industry.

HON A J CANEPA:

I won't get involved in the merits of the dispute, Sir, but I will say this, that what happened last Friday and what has happened on many other occasions.....

HON J BOSSANO:

Not true, it never happened before.

HON A J CANEPA:

In respect of industrial action affecting the essential services and the tourist industry often is due to the fact that the union appears to have lost control over the men. That the men take the initiative and then the union, after the event, nineteen times out of twenty and last Friday was the exception, it was the twentieth, endorses that and accepts that that action is official and if anybody thinks that matters are going to improve if Hon Members opposite come into power after the General Election, they had better think again. The GSLP will not be able to deliver in spite of all its sense of identity with the Trade Union Movement, yes, there will be a honeymoon period of six to nine months but after that the aspirations of the members of the TGWU which have been raised so high for so many years will come to the fore and they will tell Mr Bossano: "Well, now that you are Chief Minister we expect you to deliver. You are one of us, you are a socialist, you are one of the boys. You put on a blue overall and come down to the shopfloor".

HON J BOSSANO:

Blue is GSL, a green overall.

HON A J CANEPA:

"We expect you to deliver". And when they don't meet their demands because they won't be able to, then chaos will ensue and the chaos that will ensue will put the events of 1972, the events then will appear to be like a children's tea party compared to what we are going to see. In the medium and in the long-term there will be serious industrial strife. I wonder whether the kind of reaction which we would then get from Hon Members opposite will be.....

MR SPEAKER:

No, with respect, let us get back to the motion.

HON A J CANEPA:

Mr Speaker, we don't seem to be able to make sufficient progress in promoting Gibraltar as a tourist - to quote the words from the motion - "a tourist resort of international repute" because for the last four years, in particular, there has been a deliberate, an orchestrated campaign to thwart us and thereby to discredit us. This censure motion is the logical and final act to thwart us and to discredit us. It is the final act in a campaign just a few months before the General Election and it has all been the work of Hon Members opposite and if it hasn't, this campaign has been left either to their henchmen and/or henchwomen.

HON J BOSSANO:

Mr Speaker, if that is the view of the world not just of the Hon Member opposite and I am not surprised if it is because I have heard him say things like that since 1972. Shortly after the 1972 election, when the AACR took over the running of Gibraltar, regrettably for all of us who have had to suffer from it ever since, Gibraltar was plunged into a general strike and the Hon Member went like Krushchev in the United Nations, almost banging his shoe on the table on television and said the Government was not going to be brought down by the unions and that it was clearly a concerted campaign to bring them down. That was in 1972. In 1987 he is saying the same thing and they are all there banging the table around. There is no hope for them. How can he tell us one minute that the honeymoon period with us is going to last six months and that we are going to be facing the same problems as they do of people's aspirations exceeding what is possible, and he has hardly finished saying that and he turns round and says that we are the ones responsible for engineering the whole thing, in the same breath. What is it that when we are in Government and they are in Opposition he is going to go around organising trouble for the Government? I propose to answer, Mr Speaker, the points that he has made which deserve logical answers and I propose to leave the last bit which he has introduced which is, it is incredible but it is, in fact, regrettable that he should have made that last point because I think, on the whole, there are arguments that he put forward which were sensible arguments and where we disagree it is important to show him why we disagree. We have been told a number of conflicting things so far by the two speakers on the Government side. We have been told that there isn't a crisis in tourism, that tourism is being successful. How could we be responsible for thwarting something that is succeeding?

HON CHIEF MINISTER:

It could have been more successful.

HON J BOSSANO:

It could be even more successful than it is already, I see.

HON H J ZAMMITT:

Mr Speaker, if the Hon Member will give way I will clarify. If cruise liners plan against tremendous competition in the Mediterranean, years ahead, plan a cruise and Gibraltar is on it, they will think twice about coming to Gibraltar if, in fact, they have suspicion that on arrival they are going to be turned away. Let's be quite honest about that, Mr Speaker, and let's be quite reasonable about the expansion of what tourism, as I said this morning, of what it ought to be. The same thing happens with tour operators.

MR SPEAKER:

Fair enough, you have made the point. Please do not give way to anyone else, Mr Bossano.

HON J BOSSANO:

I don't like saying no, Mr Speaker. I was going to deal with the question of the liners and I am glad that the Hon Mr Canepa made the point that they went over to Poseidonia and no sooner were they back that there was a dispute. I have, of course, the press report of the situation to which he is referring and I am glad that he has brought it out, Mr Speaker. It says here that the industrial action was taken because the Government had rejected a claim from the Port Department for £522 allowance and made an offer of £520. The dispute was over £2 a year. Does the Hon Member honestly think that a GSIIP Government will be incapable of meeting the aspirations of the people of £2 a year?

HON CHIEF MINISTER:

That is about the only one you will be able to do.

HON J BOSSANO:

I suppose when I inherit the mess he has left and I discover the debts I am left with, he has possibly got privy knowledge that I don't have that I am going to find it impossible even to find £2. I have no doubt if he could take it home with him he would, Mr Speaker. But the point is that within the approach, if the approach is that the Government is beleaguered and alone and ill treated by the Trade Union Movement whereas everybody else gets very nice treatment

then, obviously, that colours their bunker mentality, they are paranoid about the thing and because they are paranoid they don't respond like intelligent people and that is part of their problem and it is not a problem that I think we will inherit from them because what we see is that there are situations of dispute in the Government which are avoidable and that the Government, for reasons we cannot explain, seems to spend hundreds of thousands of pounds in denying things when it would cost less to say yes. We don't know why they do it but they do it constantly, year after year. They started doing it in 1972 when they said there was no money to pay more than 40p and then when Mr Mackay had gone they blamed Mr Mackay and they said they had been ill advised by Mr Mackay. They fought parity for four years and then afterwards they recognised it had been a good thing. A couple of years after achieving parity they were saying that it brought in a period of industrial peace because we avoided strikes involving the whole of Gibraltar every year at biennial reviews. I have heard the Hon Member saying that on many occasions in many forums. He said it in the EEC when we went to see Signor Natali, he said: "We want to do something about controlling the flood of Spanish workers because we don't want to break with the system of good industrial relations we have got". That is what he told the President of the European Parliament or whoever it was, we saw Signor Natali, the Commissioner. Hon Members opposite seem to forget that we haven't been hustling them on the tourist field, we haven't changed our minds about tourism, we haven't become suddenly overnight converts that tourism is going to be as Mr Zammit has claimed on more than one occasion; the single most important pillar of the economy, we don't talk about pillars of the economy, we have never heard that kind of jargon anywhere except in the propaganda of the AACR. We think that there are sectors in the economy which ought to be inter-related but there has to be an approach to tourism which I was asking the Government to adopt in the early 1970's. When the Hon Mr Serfaty was in this House and Minister for Tourism, I asked him whether they had conducted a cost benefit analysis, he didn't know what I was talking about. One of the things that you do if you decide to support a particular sector is that you decide that if you devote resources to that sector you make more money that way than some other way. They don't seem to understand even that, that putting money in one area means not putting it in another area, there is an opportunity cost and therefore you decide that you want to promote tourism not because we like tourists but because we decide that is the most profitable thing to do with our land and with our labour which are the two resources we have got. The Government got themselves hooked on this business of tourism when the Hon and Learned the Chief Minister made that speech in the Institute of Economic Affairs in November, 1983, that was the first time they said: "We are going to give emphasis to tourism and the future for Gibraltar is that it is now moving out of being dependent on defence spending and it is going to be self sufficient on two pillars: repairing commercial ships" - which hasn't yet happened, they have been repairing RFA'S until now, and

now the RFA's are finished they are in trouble and everybody knows that that is true, it is not something we have invented and people were tell them that before they decided to go into it and the other pillar was that Gibraltar was going to be converted into a major international resort of international repute with a closed frontier. That is what the Chief Minister said in London in November, 1983. He said: "With a closed frontier we are going to do this". They fought the election on that ticket and they got elected on it and it is perfectly reasonable that when they are about to finish their term of office we should examine their record on what they claim they were going to do, on a commercial shipyard and on tourism. That is not thwarting the Government, being irresponsible or being nasty to them, that is doing our job. Independent of the importance we may attach to repairing commercial ships or to developing tourism, we are not elected in this House, Mr Speaker, to tell the Government what their policy should be on tourism. We are elected in this House to monitor their progress in doing what they claim they were going to do and we have waited until the very last minute, we have given them every chance to do it and now we are monitoring it and what do we find when we monitor it? That they come up with this, first of all, conflicting analysis, it is not true there isn't a crisis in tourism, the tourist industry is doing very well and it is the fault of the unions, the GSLP and Colin Jones that it is doing only as well as it is. If it wasn't for the combined plot of Colin Jones, the GSLP and the unions we would then instead of having three million day visitors a year we would have six million day visitors a year and then we would be totally incapable of moving in the place, obviously. But the Government never pretended in 1983 that the Gibraltar economy was going to take off because the frontier was going to open. In 1983 they went to an election without the Brussels Agreement, that came later. Therefore when we look at what was happening in 1984 it is the first time we are seeing what success they are having in implementing the Pitaluga Report before the impact of the open frontier and, presumably, Colin Jones was selected as part of the recommendations of the Pitaluga Report to bring somebody with expertise from UK for the UK tourist market. That is why the man was selected, he might have been completely useless for the Andalucian market but he wasn't being recruited for the Andalucian market, he was being recruited for the UK market and, apparently, he was failing in his job although he was being defended assiduously while he was doing it. We always find out how bad the people are after they have left. I often told Brian Traynor that we will discover how bad he was as the Financial Secretary after he has retired like we have done with every predecessor he has had. Britain Abbott the same, the Government defended Abbott publicly tooth and nail while he was here.

HON CHIEF MINISTER:

Nobody defended him.

HON J BOSSANO:

Publicly they did, privately they might have had quarrels with him but they didn't do it publicly. Publicly they were saying he wasn't being allowed to manage by the unions, that is what they were saying publicly. What happened in 1984? According to the Hon Member the only thing that happened in 1984 was the excursionists from Morocco, that is the explanation for 1984. Well, that is not what his survey says.

HON H J ZAMMITT:

It does.

HON J BOSSANO:

No, it doesn't. It says, visitor arrivals in hotels, expenditure down. It says that visitors from yachts, expenditure down. It says that visitors in supplementary accommodation, expenditure down. It says in-transit visitors, expenditure down. And it says excursionists from Spain, expenditure down. It says that every kind of visitor including the excursionists from Morocco, were down. The Moroccan expenditure was down from £3m to £1m, £1m, but the total expenditure was down by £2m so, in fact, there was still other expenditure down. It was not just that. The drop in guest nights sold in 1985 that the motion refers to has nothing to do with the Port industrial action over £2 a year and the liners not coming in because liners don't buy guest nights, they sleep on the ship so that is not the explanation for the drop in guest nights sold. The explanation can only be that if the number of people arriving in hotels is up and the number of beds sold is down, it must mean that people are staying less long in hotels. Since we assume that the package tours to some extent haven't changed all that much in their length of stay, it means that a bigger proportion of the people staying are the people who are overnighing in Gibraltar because they come in and instead of coming in and going out on the same day they stay overnight. That might make the hotels better off because they pay more money and they may want that kind of traffic rather than the package. But the point is that we are not judging the hotels, Mr Speaker, we are judging the success of the Government's policy which has been defended here. If the Government had come along in 1985 and said to us: "The Pitaluga Report and the statement we made before the election was made in different circumstances. The policy of the Government was this with a closed frontier but we are now changing the policy with an open frontier and we now think that it is a waste of money to carry on the thrust of bringing package tours to Gibraltar because that is not the best kind of tourism Gibraltar needs". We would then be looking at what their new policy was and judging that but they haven't announced a change of policy. As recently as this Budget the Minister for Tourism was still defending the policy of getting people to stay in Gibraltar as a resort and have it as a tourist destination where people come and stay.

HON H J RAMMITT:

Two-centre.

HON J BOSSANO:

Yes, alright, two-centre or whatever it is. That is the focus that we are looking at. Our information from the people in the trade is that that is not working. It is true to say, as the Hon Member has said, that an important part of the criticism of the people who come to visit Gibraltar is the state of the place and part of the state of the place may be linked with industrial disputes and that is what the people who are here complain about also. You don't have to ask the tourists to find that out. But what the Hon Member cannot say is why was there wood all over Gibraltar? Because his Government didn't let people take the wood to the refuse incinerator, doesn't he know that? Doesn't he know that people were prohibited by the Government in a Government official press release saying: "You cannot take wood to the incinerator". How can he mention a thing like that and not know what happened then and since? I will tell him, Mr Speaker, if you will allow me, I think you ought to because if a statement.....

MR SPEAKER:

With respect, I have allowed you to answer the point. He spoke about the wood and you have told him the reason why they had done it.

HON J BOSSANO:

Yes, but the reason why the Government didn't allow anybody to put it in the incinerator was because they had taken off pay the two men employed to burn it.

HON CHIEF MINISTER:

And why were they taken off pay?

HON J BOSSANO:

Because they were claiming Band A which the Government has agreed to give them retrospectively.

MR SPEAKER:

Order, you will continue your contribution on tourism.

HON J BOSSANO:

Mr Speaker, the Hon and Learned the Chief Minister says why? Does he know.....

MR SPEAKER:

I have called him to order.

HON J BOSSANO:

Yes, I know, but does he know that the Government had agreed to what the thing was in dispute and that they have given it backdated to February, 1986? The dispute was unnecessary.

MR SPEAKER:

Order, I will not allow any more reference.

HON J BOSSANO:

Here we have a situation, Mr Speaker, where we were talking about £500 a year which has now been met by the Government backdated. The other one was £2 a year.

HON CHIEF MINISTER:

And a £6m generator standing there for eighteen months.

MR SPEAKER:

Order.

HON J BOSSANO:

I will tell him about that too.

MR SPEAKER:

No, you will not, order. You will talk about tourism.

HON J BOSSANO:

Mr Speaker, I am quite happy, if that is what the Government wants, to have a debate on all these things any time they want. I am here to talk about tourism but it is that side that keeps on raising this as the reason why they are not successful except that they are successful. If they are successful and they are happy that there isn't a crisis and that tourism is performing satisfactorily and that the money is coming in, then why do they keep on trying to bring all these reasons into it? They should say 'the Opposition is wrong, we don't have a crisis, we reject the motion because there isn't a crisis'. If they are saying yes there is a crisis, that the crisis is because the liners don't come and the liners don't come because there was a dispute, then you have to find out that the dispute was about £2 a year. You cannot just say that and leave it in the air because then that is, in fact, given on a motion on tourism an.....

MR SPEAKER:

With respect, you can refer to industrial disputes as it affects tourism. We will not discuss the merits of the dispute, we cannot under any circumstances.

HON J BOSSANO:

Mr Speaker, if we cannot discuss the merits then, in fact, what will happen is that the Government will be allowed to get away with giving the impression to Gibraltar that there are no merits to be discussed because they are saying people are doing this and nobody is being allowed to say why people are doing it and I am quite happy to give them an explanation on any one that they want here or outside or any time. I think if the Hon and Learned the Chief Minister had the honesty to go through these things in detail then perhaps he might be convinced and we wouldn't have to argue about it here because I find their performance quite extraordinary, it really baffles me and the reason, if the Hon Mr Canepa wants to know why it doesn't happen in the MOD, because the MOD don't put people off pay at the drop of a hat, that is why it doesn't happen in the MOD.

HON CHIEF MINISTER:

Oh, come on.

HON J BOSSANO:

Well, I can provide the Hon and Learned Member with documented evidence of identical situations in the two employers. Doesn't the Hon Member remember that he had a confidential memo from Mr Joe Pitaluga telling him that he should go on the attack in February, 1985, of which I have got a copy?

MR SPEAKER:

Order, order, we will come back to the motion. That is the end of the matter, we will speak about tourism and nothing else and as it affects tourism.

HON J BOSSANO:

We'll see if the other side can keep to that as well, Mr Speaker. In 1985 and we are, of course, on this as on many other matters where we are seeking to carry out our job in the Opposition responsibly and monitoring the work of the Government which is what we said we would do when the House was declared open, there was a reference then to what the Opposition would do and I said, Mr Speaker, we wouldn't bring light matters here. We haven't brought censure motions every other House, we do it very rarely and we do it and we put questions that deal with facts. The facts are made available

to us by them. We have to assume that they are accurate or, at least, that they are not withholding information from us and therefore they are able to counter our arguments because they are privy to certain things that we don't have. We don't know what has happened in 1986 in tourism except what we hear people say in the industry because they haven't published what happened in 1986. They have published what has happened in 1985, I think it is scandalous that in October, 1987, we shouldn't know what tourists spent up to December, 1986, but we don't so we have to go by the last figures available to us and that shows eleven months of an open frontier and that shows the effect of that opening and the effect of the vehicular traffic, that is what that shows. To what extent that effect has been growing at the same rate in 1986 and in 1987 we cannot tell but the Hon Member invites us to look at the Employment Surveys, the Minister for Tourism. Has he looked at the Employment Surveys? If he wants us to look at it because he has looked at it because I have done what he told me. I asked the Usher to bring me a copy of the Employment Survey to find out what it was that the Minister wanted me to do and I look at it and according to his Employment Survey which he wants me to look at, employment in hotels and restaurants shows a decrease.

HON CHIEF MINISTER:

In 1985.

HON J BOSSANO:

The one that has been tabled in this House, yes. That is what it says, I hadn't looked at it until now but he has invited me to do it as evidence of the growth of tourism and I look at it and it says: "A number of industries showed a decrease in employment level. The most significant being shipbuilding" - which we all know about - "and hotels and restaurants".

HON H J ZAMMITT:

What about the spin-off, if I may, Mr Speaker, if he will give way. What about the spin-off of the distributive trade? Tourism cannot be looked at just as a hotel business, there is a vast number of spin-offs too.

HON J BOSSANO:

Yes, I accept that that is the case but this is not evidence of an expanding tourist sector, a decline in hotels and restaurants, I would submit to the Hon Member. If he didn't know that he should have looked at it before inviting anybody else to look at it. If he knew that then he has to be able to tell me that he knows the spin-off and he doesn't know the spin-off, Mr Speaker, because we have asked him what

the spin-offs are and he has told us that until Dr Fletcher completes the Input/Output Study they don't know. He says the data of 1979 to 1981 is now out-of-date so there is no way of judging that spin-off, it is impossible to do it until we have information but it is quite obvious that the Hon Member hasn't got a clue because he went on television and he argued, whether he likes it or not, originally, that for every pound a tourist spent Government revenues went up £1.60 and then he corrected that subsequently to say he hadn't been talking about Government revenues, he had been talking about national income and in Question Time in this House we have asked about national income and the Financial and Development Secretary cleverly tried to wriggle out of it by saying he wasn't talking about the contribution to national income which is the question we asked, but the effect of national income or whatever, a totally new concept. If we say what proportion of national income is contributed by tourism and we get told 22% then the answer, as far as we are concerned, is that of the income earned by Gibraltar, 22% is generated by the expenditure of tourism. We then asked: "How do you arrive at that figure?" And it is a complete mystery. We said: "Is it the £21.11m of 1985?" And we were told in Question No. 2 of 1987: "Yes, that is right, that is what it is". We then said: "Well, if that is what it is in 1985, why is it that in 1984 tourist expenditure is £11.65m and the contribution to national income is £16m?" "Ah, well, then it isn't that". Why is it that the contribution is below the 1983 figure, above the 1984 figure and the same as the 1985 figure? That would show multipliers fluctuating wildly from one year to the next when there has been no analysis of that situation because the Input/Output Study was in 1979/80. That is what it appeared to be in 1985. In 1985 it appeared to be £21.11m and therefore that being seen as £22m which is not an unreasonable rounding off but without, of course, any multiplier effect. The tourist expenditure being seen. In 1984, the year before, the figure is 50% higher, that is, the £16m given as a contribution is 50% higher than the figure for tourist expenditure. Admittedly, the frontier opened in February, there were six weeks but unless the Hon Member can tell us how he computed that we find it very difficult, for example, having looked at the imports for those months, the imports for those six weeks were not 50% of the imports of the whole year. The imports were up in February and March but if you are saying that people spent £12m in a year and then the following year people spent £16m because of six weeks of frontier opening, then you are saying that the equivalent of six months of expenditure was spent in six weeks. Where is the evidence for that? And we believe it and therefore all we are trying to do is to be fair to the Hon Member and I think he recognised from the beginning that we were not holding him personally responsible for the effect of the tourist industry, we say it is Government policy and therefore he is answerable to this House on behalf of the Government on tourism. Tomorrow he could be given a different Ministry like he was doing housing for a number of years and somebody else could be

doing that, or the boot. No, I don't think he will be given the boot because it is quite obvious that there isn't a crisis in Shiprepair, there isn't a crisis in tourism and there isn't a crisis in the AACR, that is manifest. And if there were it would be the fault of Colin Jones, the GSLP and the unions. The point made by the Hon Mr Canepa coincides with our analysis of the kind of pressures that they were under and that is the point my colleague Mr Feetham was making about the situation in which they took a decision on the Brussels Agreement. The degree to which the economy was on the point of collapse in 1984 we don't know from the outside except belatedly when statistics come out a year or a year and a half later. It may well be that in Government and with the situation as bad as the Hon Mr Canepa claims, with the possibility of a major loss of confidence, with the possibility of closures of hotels, with the possibility of redundancies left, right and centre in the tourist industry in 1984, it may well be that we might have been frightened out of our wits and decided to accept the Brussels Agreement, I don't know. But what I know is that if those were the grim parameters within which a decision was taken then their tourist policy had definitely failed in 1984, I need no further evidence. The Hon Mr Canepa has given me the argument and the evidence that I needed to prove conclusively that Gibraltar was on the point of collapse in 1984, the Government had won an election in 1984, they did paint a very gloomy picture in the post-election budget of 1984 saying reserves were very low, it proved to be overgloomy, they tend to be overgloomy just after elections and overoptimistic just before for reasons that I haven't yet been able to work out. When my colleague was saying in October, 1984, the negative effect that the opening of the frontier would have it wasn't as a result of GSLP research or as a result of my producing a study, it was as a result of a consultancy financed by the Government of Gibraltar, conducted by PEIDA, accepted by the Government who in November shared this rather pessimistic view of the effect to the extent that they brought legislation to this House to allow the Government, for the first time in its history, to raise loan finance to cover anticipated deficits brought about by the expected frontier opening and that was defended by the Hon and Learned Member here who said that the Foreign and Commonwealth Office had condescended to allow this as temporary bridging finance - yes, it is all in Hansard, I cannot remember the page but I remember the words. He said they had condescended. I think it was in the Committee Stage of the Bill, the Loans Empowering Ordinance, November, 1984, I cannot remember the time of the day either. And he said they had condescended to do this, it wasn't something the Government was particularly keen to do but it was in the nature of bridging finance to get us over the immediate deficits we were going to have in 1985 and in 1986 because the initial opening of the frontier would put a bigger burden on Government revenues in terms of infrastructural cost than it would bring in in terms of visitors and spending power. That analysis, which we shared, was based on what the expert had said was going

to happen. It wasn't based on any original research of mine so therefore what the Hon Mr Canepa scoffed about my colleague saying in October, he can now scoff about his leader saying in November, they both said the same thing. Of course, it didn't happen the way it was thought it was going to happen and, clearly, one cannot entirely blame the experts in this particular field for getting it so wrong because, after all, it was really a shot in the dark. That is to say, who could tell exactly what was going to happen with an open frontier, whether we were going to have 100 coaches or 1,000 coaches, whether people were going to spend a lot of money or too little money, there was really no way, it was guesswork more than genuine economic forecasting but guesswork by people who were looking at comparative prices and comparative markets. Those people also said that even if the situation of tourist expenditure eventually, on balance, they produced three scenarios I seem to remember - a medium, a low level and a high level depending on the numbers involved and made several projections as to what the results would be with one of those three. The low level one was the one where the Government would actually be in the red, the sort of middle scenario was the one where they would more or less break even and the high scenario was one where the Government would actually get more money in than was coming out. Part of the situation, of course, in 1985/86, and I don't know whether it is that the Government knows it, I can never be sure, Mr Speaker, even after all these years that I have been studying the performance of the Government, I can never be sure whether it is that they don't really understand the issue because they haven't really gone into it in depth or that they know it and they don't really care and they stand up and they say what they feel is going to be politically sufficient to get them out of the mess that they may be on a particular point, I am never entirely sure which of the two it is because sometimes I see them all attentively nodding at me while I am talking and then they stand up and they say the opposite. I think part of the situation in the last couple of years, surely, the Government must be aware, was due to the fact that they borrowed money and not spent it. They cannot be unaware of the fact that their Improvement and Development Fund predictions have constantly failed to materialise, they must know that. Of course, they can say: "Well, we didn't spend the money because we had a dispute", but they cannot say: "We are doing very well because we have got the money" and not saying that the money they have got is the one that they haven't spent because they had a dispute. If they didn't spend it because they had a dispute then they should say: "Thanks to the unions we have now got money in the kitty we would otherwise have spent", surely. They cannot blame the union for one thing and then take the credit for the consequences of that and I think in some areas, of course, that is true, they didn't spend the money. One particular area and I may be wrong, I think I disagreed slightly with my colleague's analysis of the kind of situation the Government got itself in with the Trade Union Movement because I think although that was true in 1972 and from March, 1974, to 1978, I think post-1978 there was a semi-honeymoon period for them as well. I think the post-parity era settled this.

HON A J CANEPA:

More than six or nine months.

HON J BOSSANO:

Longer than six or nine months. I think it started going particularly wrong and I believe from some evidence, I am not going to be able to prove it conclusively, but I believe that there was an element of this business of the implementation of the Pitaluga Report in January or February, 1985, which produced, if you like, if not an intolerance and impatience with the need to persuade people to do things which had been accepted for a number of years. If the Government had said for a number of years that you can take a horse to water and you cannot make it drink and that therefore if there were difficulties, well, then you had to talk and have meetings and do this and do the other. In 1985 and 1986 I honestly believe the Government changed its spots and took a tougher line which generated a tougher response. In fact, it started with the painting of Government buildings recommended by the Pitaluga Report when in January or February, 1985, they were put out to tender without union consultation, the buildings were blacked and people were taken off pay and that was really the first direct confrontation which has been carrying on almost intermittently but with the fairly same scenario ever since. Let me say that they didn't spend the money they had planned to spend on the painting of some Government buildings, one of them being the Command Education Centre. Luckily for them the union blacked the building, they didn't paint it and therefore it was knocked down unpainted. I don't know whether if we had actually let it be painted it might have stuck together and it might still be there, we never know. If that is the case then the Conservationists have got an even greater case against the union than the AACR has got but somehow I don't think a coat of paint would have saved it. But there is where it all started from my knowledge of it. I honestly believe that if the Government can persuade itself to try and work on the premise, for a little while, that there isn't a concerted plot to bring them down, then they might find it easier to take more rational decisions and overcome some of these problems if these problems have a negative effect on the tourist industry and the tourist industry is so important to them and I commend such an approach to them. I think that they will find that everybody is not out to get them like they seem to think. Of course the situation is that in all these things there are arguments for and against. I don't want to delve into all these things because I think, Mr Speaker, quite frankly, that is not the purpose of the motion. We get references to asphalt workers who in the end get what they were arguing for because they are found to be right. The people with the wood go to the JIC and the JIC says they are right. Does the Hon Member opposite think, for example, that if he thought the right and proper thing was to submit a report on the GUNAC tender situation and

the JPCS go on strike and that affects tourism he shouldn't make the report? He did what he thought was the right thing and if other people take objection, well, hard cheese. It is not that they have gone out because they want to hurt the tourist industry in that case. Why should anybody else be any different? Nobody accuses them of that. It isn't that the heart of the GSLP lies in GSL, our heart is very big, it encompasses the whole of Gibraltar, Mr Speaker. The thing is, of course, that we consider that the Government has got a special responsibility to GSL which it doesn't have in the tourist industry because.....

HON CHIEF MINISTER:

We are talking about tourists, we are not talking about GSL.

HON M A FEETHAM:

You brought it up.

HON J BOSSANO:

When the Hon Member accused me of having more feeling for GSL than for the tourist industry he said it was because my heart was not in the tourist industry, my heart was in GSL or our hearts, the GSLP hearts. If it is a question of our commitment to working people, there are people who work in both industries. But we cannot hold the Government directly responsible, for example, if there is a strike in the hotel industry for the industrial relations there because they don't own the hotels and therefore we accept that in the areas where they are providing support, which is what they are providing for the tourist industry, very little of the direct revenue other than the tourist sites comes to the Government so what the Government is really doing is encouraging that industry because it considers that it is necessary or desirable for Gibraltar. But the other one they own therefore we are tougher with them on the other one and we make them responsible for every decision because they are the owners. It is not that we are against them in the Telephone Department where, of course, the operator has now been employed and the one year and two days lock-out could have been avoided. It is not that we are against them there because of one redundancy, it is that, in fact, the Government.....

MR SPEAKER:

No, I will call you to order. Let us not go into that. You have made your point.

HON J BOSSANO:

But I am making a different point this time.

MR SPEAKER:

Which is not relevant to the issue.

HON J BOSSANO:

Well, if Mr Canepa says, 'why is it', he is asking a question: "Why is it that we don't object to redundancies in the private sector and we object to one redundancy in the Telephone Department?" That was the question, yes, I want to give him the answer. The reason why we don't have the same situation of fighting redundancies in the private sector is because for years the AACR has been rejecting a request from the Trade Union Movement for legislation, that is why. In 1986 or 1985, the Opposition brought the matter here and we were promised action on legislation in keeping with the EEC Directives on companies that are insolvent and if we had had that legislation on companies that are insolvent we might have been able to do something in the Bland situation but if they close shop and they put you out what do you do to somebody who is already bust? We have had situations where construction companies have gone bust because the owners have died with debts as long as their arm, with the workers' PAYE not having been paid to the Government. What can the workers in that situation do? Nothing much, there is no law to protect them, there is no muscle that they can exercise and whether people like it or not it is not that that is accepted because it is not the Government and it doesn't matter, of course it matters, it is wrong, but the Government must accept that it should be a model employer anyway and therefore it is not unreasonable that more demand should be made on it. I also need to explain my chuckle to the Hon Member opposite about the Heritage Trust. The Hon Member said I chuckled when he stood up and said, as proof of their commitment to tourism, that they had set up the Heritage Trust, one of the things they did, except that he was against it, of course, that is why I chuckled. When he stood up in this House on the Bill he spoke against it not in favour, that is why I chuckled, not because I am against it, because he is taking the credit for something he was opposed to.

HON H J ZAMMITT:

Mr Speaker, if the Hon Member will give way. The motion is not against me, it is against the Government. Therefore on the Heritage Trust whether I agree or disagree with it is really superfluous.

MR SPEAKER:

I would like to ask the Hon Leader of the Opposition whether he is going to take much longer because if he is we will break for tea.

HON J BOSSANO:

I have made notes of things that obviously Hon Members opposite require enlightening on, I don't think there are many left. I think I am reasonably close to bringing my contribution to an end. The point that I am making there is that I was not chuckling about the undesirability of the Trust, I was chuckling about the fact that the Hon Member says: "The Government set up the Trust". Well, we all set up the Trust in this House, it wasn't a purely Government thing. As I understand it we all agreed, some more enthusiastic than others and he happened to be one of the less enthusiastic because his argument was that they were going to take a lot of money which could then be spent in Iceland or Reykjavik to look after Vikings, I think it was. At the end of the day, Mr Speaker, it falls on the Hon Member's shoulders to defend the policy and the success of the Government, certainly, I think the policy enunciated by the Hon and Learned Chief Minister in November, 1983, in London, defended in the election campaign and projected as the answer in 1984 in the closed frontier, that is now a dead duck. They are trying to keep it afloat as best they can but it clearly failed in 1984 and is no longer operating. Today what we have is a situation where if the Hon Member stopped visiting UK tomorrow it wouldn't reduce by one the coaches coming across from the other side and that is what is putting the money in today. I think we need to know, at this stage perhaps it is too late, but certainly we need to know from the Government if circumstances change that their policy has changed and what he will find from us, Mr Speaker, if we are there in a few months time, that we will spell out in a fair amount of detail what our commitment would be to tourism, why it will be, that is, on what it is based and we will do it to give the House an opportunity, if we are making a mistake, to stop us and then we will be grateful to be stopped if we are making a mistake. And if we find that things are not working out the way we hoped or the way we intended, we won't need an Opposition to put in questions and try to discover the information, we will come back honestly and say: "Look, it is not working and we are going to have to think again". They could have been doing that, they haven't been doing that and that is why they find us calling the dust down, not because we are like the IWBP Opposition, the Hon Member knows very well that that is not the case.

MR SPEAKER:

We will now have a short recess for tea.

The House recessed at 5.20 pm.

The House resumed at 5.45 pm.

HON G MASCARRELLAS:

Mr Speaker, after having been involved close on twenty years in the field of tourism, I still haven't quite been able to define tourism exactly, I think it is virtually impossible to define as such, perhaps that is the difficulty that the Hon Leader of the Opposition has in that it is not a tangible thing which you can define exactly. I think the crux of the matter that certainly the Hon Mr Feetham raised earlier is the number of beds in relation to any particular market, he quoted 1,400 whereas statistics show that it is 1,850. I think we have to bear in mind from the tour operator's point of view and as far as the crisis which is in the minds of Hon Members opposite, it is the tour operators that have created the crisis and who have pointed out the errors or what is going wrong in Gibraltar. Yet we have to see from the point of view of the tour operator how they go about in planning a new product, a new destination and it is interesting that everything is inter-related in the sense that, for example, the big boys such as Thomsons, Intasun and Horizon, who do not come here, they will tell the chain of hotelier in any market: Spain, Greece, Yugoslavia, any of the big mass markets what they are prepared to pay for the bed and they follow suit and they accept that price or they move somewhere else and the poor hotelier is left either high and dry and this goes on year after year after year. And if they tell you: 'We are going to pay you £3 this year, this is what we can afford, this is what we budgeted for' they have to accept that price more often than not and it is a very brave independent hotelier who tells the tour operator: 'No, I am sorry, I won't have you' because he would have his hotel empty and since they all do the same their position remains the same for all the hoteliers and that is a reality. Here in Gibraltar, fortunately, since the number of beds are not there they cannot do likewise and therefore it is not a market with which they identify closely in that they have it because they feel that commercially it might produce profits for them and if they come here it is because it is in their commercial interest to come here and if they do not, however much we can do, the Government or Gibraltar generally, is very questionable because at the end of the day their decision will be determined on the profitability of that destination. Certainly if we do lose a tour operator and nobody wants to lose any tour operator, but I do recall in 1983 when we lost the Exchange Travel holidays which at the time were by far the largest tour operator operating to Gibraltar, the only charter at the time, certainly they pioneered the charters coming to Gibraltar and we lost them. And why did we lose them? Not because Gibraltar was dirty, not because the pricing was wrong, why? They were dedicating themselves to three destinations - Malta, Cyprus and Gibraltar. Gibraltar happened to be the only profitable destination but they felt that in order to produce the brochure, in order to go out to the market, they could not afford to have Gibraltar on its own and therefore when they scratched Malta and Cyprus they also scratched Gibraltar.

and that is the reason for it, it is a simple reason, not because Gibraltar was dirty, not because the pricing wasn't right but because it was a purely commercial decision, whatever reasons Mr McNully had at the time, I know he bought a village in Cornwall for the English tourists, for the domestic market and I think he had to invest in that and that is my view of what happened and therefore something had to be sacrificed and it was Gibraltar. Touching upon Exchange Travel because I lived it very, very closely at the time, I know a commercial decision, again, which had severe repercussions for Gibraltar, I think in 1976 or 1977, was when Exchange Travel dropped the Caleta Palace. A pure commercial decision between two, a hotelier and a tour operator and the Caleta Palace was dropped and the Exchange Travel operations in Gibraltar dropped from 11,000/12,000 to 7,000/8,000 in one year because the Caleta Palace had been the mainstream of the Exchange programme and the market that had been created for Gibraltar at the time was geared to that particular hotel. Therefore, coming back to the original point, if we had a market of 1,850 beds there is no way on earth that we will be able to entice tour operators unless, of course, that market were to develop substantially had we had 5,000 or 6,000 beds, it is a question of the chicken and the egg, what comes first? We must also be careful of certain tour operators who, through errors of judgement in their planning, make errors on the basis of the number of seats, the number of hotel rooms and the product that they put out to the market be it Gibraltar, be it anywhere else, they don't make the acquired sales and they have to lay the blame somewhere and this happens with the big operators and with the small operators more perhaps than with the big ones because the big ones can switch markets as they like and they have the buying power and that is the reality of the situation. When the frontier was closed I think that Gibraltar could claim to be a resort in its own right. I won't make comparisons with places outside Gibraltar but, in my view, in my experience, Gibraltar could be considered a resort on its own right. The description of a resort, I am not going to go into that, there are varying opinions, it is difficult defining what a resort is. I think that Gibraltar today is more than a resort in the sense that we have attributes like location, the weather and services, by services I mean a host of services. Therefore, today, although we like to call it the tourist industry, my own view is that it is more of a visitor industry where we have the visitors coming into Gibraltar and I am not talking about the coachloads that come in for the day, visitors generally, people who produce revenue in all sorts of things, who come for commercial reasons, for the finance centre, to visit families, etc, etc, there are many different categories and not perhaps on the pure touristic side. For example, my Hon Friend Mr Perez quoted a very good example yesterday to explain a point on the speedometer, I would like to do likewise and that is that, for example, New York and London are in themselves holiday destinations but yet one could hardly describe London as a holiday resort but yet they receive millions of visitors and tourists every year. Therefore Gibraltar, in my view, transcends the touristic value that

you attach to the holidaymaker who spends two weeks in Palma de Mallorca and the holidaymaker that will come to Gibraltar. We are a point because of our location, because of our history that attracts visitors of different sorts of ideas, they come here because Gibraltar has a lot to offer, much more than a resort, certainly, a base for them and a service area which we have always been throughout our long history and I think that is important and that we should harp on that and I think we have been doing that up to a certain extent. My Friend Mr Zammitt this morning went into what areas they are moving into and I think the amount of money that the Government is expending in the specialist areas I think is important. If we can attract, for example, the Royal British Legion for one, these are the areas that we have to move because we are talking about tourists and at the same time you are talking about visitors who are coming for a specialist idea. Mr Speaker, the Hon Leader of the Opposition this afternoon tried to explain certain facets of claims and I don't want to get into details of whether it is a £2 claim or a £500 claim, the merits or the demerits of such claims. I think the point has to be taken that it is these sorts of things that create industrial disputes which have a bearing on tourism at the end of the day. For example, the taxi strike had a bearing because if you have one tourist not being able to get a taxi at any given time he will get a bad impression of Gibraltar for whatever reason, and if something went wrong in the hotel at the same time, you add one and one together. For example, I remember recently in Torremolinos when the Torremolinos municipality was fighting the Malaga municipality because they want to break away, you had a situation where coachloads of tourists were left in the roadways for hours on end because they were blocked. Out of half a million people in Torremolinos on that day, I am sure that 50,000 won't return but, of course, they are a drop in the ocean as far as they are concerned because we are talking about large markets. Here I think it affects us much more directly and therefore it is important that for the purposes of having the repeat business which I think is important to Gibraltar and it has been proved over the years that it is the repeat business which is the important facet for our tourism. Mr Speaker, it is blatantly clear in which direction Members opposite have tried to steer this session of the House of Assembly. I don't know whether they were expecting the Chief Minister to dissolve the House, they put themselves on a war footing and therefore have taken us through Gibrepar where everybody was to blame except Mr Bossano's union, secondly, that the finance centre, again, we saw their true colours yesterday and, thirdly, tourism which is the matter at hand. My view is that it was a concerted effort to discredit us months before or weeks before because we still don't know when the Chief Minister will dissolve the House, but I think that in being offensive I think you have to be a bit defensive because I think the policies as regards tourism have succeeded. I don't think we can define one or two policies on their own, I think that the global attitude towards tourism in Gibraltar has to, certainly people here are very much a part of tourism, you cannot divorce the people

who actually work directly in tourism from the persons in the street who walks around and throws litter, etc. I think we need a certain pride in our own place. I think we have got the attributes that I mentioned before and I think it is important that everybody gets together in tourism. I think the Spaniards, to give credit where credit is due, do it marvellously and I think tourism is placed on a pedestal which we have still to reach but they have been doing it for years and, unfortunately we haven't got the market to compete with them and we shouldn't because we have other things which are much more valuable. Mr Speaker, I don't believe there is a crisis, I think it is wishful thinking on the part of Members opposite and I don't think it was necessary, I think it was probably an unprecedented political gimmick for two Members from the opposite side to go to England to try and resolve the tourism crisis. I think it was a political move, there is no doubt about it. I wouldn't accuse them of paying lip service to tourism over the four years, perhaps the Hon Member was right in his contribution when he said that he would have liked to have been more involved if he had had the opportunity, I don't think that is fair, it is up to him as a Member of the Opposition to chase or to help the Minister accordingly when he so thinks for the betterment of everyone. I think at the end of the day we have to place Gibraltar above our own party political lines. Thank you, Mr Speaker.

HON J C PEREZ:

Mr Speaker, the Hon Member might be twenty years in the business but he is certainly not aware of the reality of the hotel situation today in relation with the tour operators. He is saying that because we have very few beds in Gibraltar that the hotels in Gibraltar are not being put under pressure by the tour operators. This is total nonsense. The Hon Minister for Tourism was telling me privately during the lunch hour that one particular hotel in Gibraltar has to sell its English breakfast for £1.50 precisely because of the pressure they are getting from the tour operators. It is nonsense to suggest that because we have got very few beds in Gibraltar that the hotels here are not being pushed by the tour operators to get very low prices.

HON G MASCARENHAS:

If the Hon Member will give way, Mr Speaker.

HON J C PEREZ:

No, Mr Speaker, because I think that if we are going to give way we are going to involve ourselves in a longer debate and the debate is not going to finish. He made reference to the other tour operators having left the market for different reasons suggesting that the tour operators that are threatening or have left the Gibraltar market now is

for similar reasons. This, again, is not the case, Mr Speaker. The tour operators that have threatened to leave, like Thomsons, and the ones that are actually not featuring Gibraltar in next summer's brochure are leaving because they are disenchanted that all the things that the Government have promised them are not being delivered. The market that they hold, and the market is more or less the same that they used to hold before that decision, they are saying that their clients are going back and complaining more and more about Gibraltar. There are specific reasons which the Tourist Office well knows about, about why they are threatening to withdraw or why they have withdrawn and it has to do with the Government policy during the last four years. The Government knows that so let us not pretend that it is a financial decision, like Exchange Travel was a financial decision. It is all very well for the Minister for Tourism to say that there is a new operator coming in and to try and discard the impact of Sovereign Enterprise who have been here for many years selling Gibraltar. It is splendid if we have a new tour operator coming in but I think we have a responsibility to try and hold the people that have been committed to Gibraltar over the years of a closed frontier and to try and hold them and to try and keep them in the market and the more the merrier. I would like to refer to the last comment made by the Hon Mr Mascarenhas about our visit to London. We have not come back waving flags saying 'We have saved the tourist industry'. That visit to London was an exercise which was very useful for the Opposition because we wanted to learn at close hand the problems that were being encountered by the tour operators, we have not attempted at all to make political capital out of that visit and we have not come here saying we have got such a commitment or such a commitment if we entered Government and we have maintained the confidentiality of our conversations between the tour operators and ourselves as the Hon Mr Zammitt maintains the confidentiality that he had with the hotels in Gibraltar and with the tour operators, which is quite right. I don't think that the Government can accuse us of trying to make political capital out of a situation where we haven't and where it is evident that we haven't. It has been an exercise which, I dare say, was a very responsible one, we have got an election round the corner, we have to plan our own ideas on tourism and we wanted to see at close quarters what the real problem that the tour operators were facing was. We have heard the reasons that the Government give, now we have heard the tour operators and now we can make our own decision on what the real problem is and where we go from here. The point Mr Mascarenhas made and that every other Member of the Government seems to make, that the GSLP is coming here with a motion of censure because it is near an election and it is politically convenient. Well, Mr Speaker, this again is not the case. The Government four years ago made a specific statement because they didn't announce their policy, that tourism was going to be a pillar of the economy. At the end of the four years certain things have happened. The hotel occupancy figures show a decline;

tour operators threaten to go or leave the market and we are accused by the Government of trying to make political capital because of the timing of the censure motion. The timing of the censure motion has to do with the things that have been happening, the press reports from the tour operators and the pressure that is building up on the Government on tourism generally and the trade in Gibraltar which is also upset at what is going on. I am glad that the Hon Mr. Zammit did not make any derogatory remarks about the hotels like he did earlier during the year. In July I think it was, when he was trying to blame the hotels for this, that and the other because if the Government had put in the effort into the resort that the hotels have put in then we wouldn't be facing this problem and this crisis because it is a crisis, particularly against the background that Government decided that tourism was going to be a pillar of the economy. That is why it is a crisis. If you start your term of office and you do not make such rash statements then you could say that there is a problem in tourism which you have to face but it is a crisis on the basis of the expectations that the Government gave the people of Gibraltar generally about what tourism should be. As my Hon colleague, Mr. Feetham, said if and when we are in Government we shall decide what place tourism should have in the overall economic strategy of the GSLP. To accuse us of not having our heart in tourism is not true. One thing is to believe in a particular tourist policy or to believe that tourism is an element of a whole package and another thing is to say that tourism is the salvation of all, the pillar of the economy and what is going to expand and enhance and enrich our lives. That is all I have to say, Mr. Speaker.

HON CHIEF MINISTER:

I would just like to make a very small contribution. In the first place, reference has been made to the question of the electoral fever. I also present my most abject excuses for a slip of the tongue in my New Year Message to say that by January there would have been an election. It is still possible. It wasn't in my mind to have started the fever so quickly or perhaps people were susceptible to that kind of infection, anxious for the day to come. I think they will have to wait a little longer. I am sorry, I should not have said that but it was meant, really, historically of the year not of the next month or the next two months. The other thing is that I am not at all worried or impressed about the fact that we are dealing with a censure motion, I think that is what the House of Assembly is for and I am happy that these things can be brought by a mere five days notice for a motion. Many Parliaments, despite what people may think, other than Westminster, of course, require a very elaborate procedure before a motion of censure can be brought before the House, it happens in the Spanish Parliament, you have to get so many Members to sign and so on, they have difficulties. That is why they make such a song and dance about it. Anyhow, I am quite relaxed about that because I think that is what

the House is for. As naturally predicted, motions of censures are just one example on which to debate matters of public importance but everybody knows what the result is going to be and except for decoys in places where people are sick or something, I remember in the days of the Republic they used to bring people in stretchers to go and vote in Parliament because their majority was very small. Here we are small but we are all here and you know what the answer is going to be before you start. Just one point about this question of enthusiasm or not and this is the only criticism that I have of the motion and that is that whatever may be said now, the Opposition have never shown great enthusiasm for tourism. They live with it and, in fact, I think the point made by my Hon colleague about the trip to London was, perhaps, well-timed strategically for people to think that they could just walk into Thomsons and the others who would say: "You are the Opposition, you are going to be the Government, then it is alright, all we have said we forget and, of course, if you are going to be the next Minister for Tourism I will cancel all my arrangements of withdrawing from Gibraltar. You can rest assured that you can have all the tourists you want". Some diehards of the party may think so but they are mistaken. First of all, let me say something else about the question. We have always said here, particularly, at Budget time, we have always said here that the economy of Gibraltar is dependent on many factors outside its control. So many things happen outside that have an effect on Gibraltar, sometimes good, sometimes bad. We are not the masters of our destiny in many ways. In fact, nowadays even big nations are not masters of their own destiny overall let alone a little community like ours, we are not the masters of our own destiny. It is true that the whole concept of the Pitaluga Report and the whole input that was put in it and what I told I said at Chatham House about tourism which I don't remember but I am not prepared to deny it, it was true but what else was there to be done at that time? What else? What was the light at the end of the tunnel? It was inevitable and the whole thing was made on the concept of an on-going situation like we were having because by that time the new democracy had been in power for quite a number of years and there was no sign that there would be, not a removal of restrictions but a return to normality, which is a different thing. I always make a difference in that because Gibraltar, normally, had been able to make its own living. In fact, I remember in 1968 which was the first time we had to go and ask for some money to London, I was thoroughly ashamed, I had been in public life for a number of years and I would have to go begging for money to England. It was not the way I thought public life was and, in fact, I said I was most reluctant and I have always been reluctant. First of all, it is very difficult to get it and, secondly, when you ask for it you have to ask for it with a certain dignity because something else has happened over which you had no control. Therefore, there are matters which are beyond our control and it is true that the whole question of tourism and the strategy of tourism changed dramatically once we

had an idea that the frontier was going to open, of course, it is true. One of the things that I would like to say is that under no circumstances can it be said that my original consent which I obtained with the consent of my colleagues, to the Brussels Agreement, was a caving in or the result of our economic misfortune. Certainly, it was an important factor to get that frontier opened. Anything which was well within our - here is where judgement may differ - where we can keep our dignity and keep our rights, some have more faith in our Government than others. In Strasbourg we heard the Reverend Ian Paisley say: "Do not put trust on Tory princes". Well, they were there for blood because they thought that there was something against us which they could make capital out of. But the Brussels Agreement was an act of faith and it is true that we were with our backs to the wall economically, of course we were, and it is true that, again, when the question of the Dockyard closure was concerned, we might have reached a stage where Gibraltar would have reached a stage of grant aid which is something I have said very clearly all my life that I would not submit myself to grant aid because if you get grant aid, if you have a budget of £50m and they provide £5m they want to run the £60m for you and if you make some economies to be able to provide something, they say: "No, the first economy is towards the £5m that we are giving you". That is a state of affairs which I would never be prepared to preside over insofar as Gibraltar was concerned and we were reaching that stage in the time of the closure of the Dockyard. The decision then taken was either that we went into a grant aid situation or that there was a commercialised Dockyard and then came the negotiations and the package and the elections and so on. I think this is now a matter of history. But there is only one thing I must say and that is that the enthusiasm by the Opposition to tourism has not been very marked. I only have one quotation to make and to use and I will then show that what I am saying is perfectly true and consistent. What I made my statement on the Pitaluga Report on the 26th June, 1984, first of all, I said: "On the important question of finance, the Government has decided to commit an initial sum of £300,000 from local funds in pursuance of its policy on the expansion of tourism". Then I finished off by saying: "It is also our hope that the Opposition in this House will give their support. We shall certainly be ready to consider carefully any constructive suggestions they might wish to put forward". Mr Pilcher said: "I have heard the Hon and Learned the Chief Minister and I have not had time to digest the statement but I am correct in assuming that the Government will immediately pass on £300,000 from the I&D Fund. It will also try and get the ODA to approve £300,000 of what is left over from the 1981/86 programme and they are also trying to get the Committees which it has appointed to raise up more ideas in order to submit to ODA further projects for some more money from ODA for tourism". That was a question arising out of the statement and I said that that was right. But then when it came to the voting of the money on which Hon Members abstained I said, at the end: "I was somewhat disappointed that yesterday's statement on tourism did not

produce at least a word of encouragement from the Opposition". And the Hon Mr Pilcher said: "If the Hon Member will give way. I think the Hon and Learned Chief Minister is referring to the stand taken by the GSLP on the tourism side. I must remind the Hon and Learned Chief Minister that, in fact, we did give the Government the assurances in the last House of Assembly that we would do everything in our power not to stand in the way of tourism. What he did yesterday was give us a statement which we did not have time to digest and obviously once that stage passes then we cannot come back to the statement". Well, this is really almost a churlish statement, too negative to make one positive. "We would not stand in the way of tourism" that is all they were able to say and after that they abstained on the vote on the funds and then we know why, unfortunately, part of that money was not possible to be spent. That, really, was the beginning of the Pitaluga Report which did not have any enthusiasm or even support from the Opposition, they just did not stand in the way very much as occasionally when they dare not oppose a measure which we bring because they know it is right but they don't agree with it, they abstain. Mr Speaker, the motion is bound to be lost and rightly so. I think it is brought, certainly, at a time when as much heat is being generated in anticipation of the general election. We don't know whether we will still have another sally from the Leader of the Opposition to the United Nations on his own to see whether he can settle the question of colonialism and his friends in the Labour Party can help him and other Members may go to other parts of the world to try and project the Opposition side. I think eventually the people will decide who should govern our place for the next four years whenever the election is held. This motion has helped to highlight where people stand in this important matter of tourism.

MR SPEAKER:

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

HON J E PILCHER:

Mr Speaker, really there is very little to answer because there has been very little answered on the part of the Government. The motion which was brought by me to this House this morning had one clear motive. I explained in detail before I started the motion so that there could be no misinterpretation that, in fact, we were moving a censure motion on the Government because we thought our principles as far as democratic Governments are concerned are that they should be held responsible for their policies during the four year term of office. Of course, it has to come a couple of months prior to an election, in fact, if we knew that the election was going to run until January or February we would have brought it in the last House because it is our contention

that the policies which were expounded and which got them elected have failed and therefore it is our duty, as the Opposition party, to prove that what they are saying is not correct and we didn't bring a censure motion to this House on GSL because by noting the 1986 Accounts, that was enough to censure the Government on GSL, Mr Speaker. The motive was clear. Hon Members opposite don't seem to have heard me when I said that because they have been giving their own interpretations as to why we have brought the motion saying that this is electioneering. Well, it is, Mr Speaker, of course, it is an effort on the part of the Opposition to prove to the people of Gibraltar that as far as their two main pillars and during election time there were only two, the third one has grown in the meantime, the two pillars of the economy have failed. This I explained clearly this morning so it is not a question of asking why are they gallivanting around the world? We are preparing for a general election and that is the reason of the censure motion and I agree with the Hon and Learned Chief Minister, a censure motion in this House of Assembly is another motion because there is not the slightest possibility of the censure motion being passed, Mr Speaker, because there have been other issues where we know that personally the Members opposite agree with us and when it comes to voting they vote with the Government. The censure motion was nothing other than censuring the Government because they have not been able to accomplish what they set out to do as far as their policy on tourism is concerned. There is no concerted effort, it is just an effort on the part of the Opposition to show that. I must add that, again, they themselves and I think the Hon Members opposite should learn the lesson; we came back from our visit, my Hon colleague Juan Carlos Perez and myself, and didn't make any major song and dance about our trip. We thank Members opposite for having advertised the fact so much here in the House of Assembly but the reality was that what motivated that visit was an article in the Gibraltar Chronicle on the 21st September which talked of a tourism crisis. Whether the Hon Minister for Tourism believes that there is not and we are still in doubt on this side of the House because the Hon Mr Mascarenhas seems to believe that there is a crisis with tour operators, the Minister himself believes that there isn't and yet we know that Thomsons' partial withdrawal is affecting the market, we know that the pulling out of Sovereign Enterprise is also affecting the market and he quoted to me yesterday or Monday, I am not sure, figures of about sixty or seventy people per week that Sovereign Enterprise bring to Gibraltar. If you multiply that by 52 we get 3,120 if it is 60, 3,640 if it is 70. Those are substantial numbers given that we are talking about 43,000 tourist arrivals, it is a substantial percentage although a small percentage. He said to me in the last House of Assembly that if Thomsons pull out it is a disaster for Gibraltar therefore the crisis is there, the crisis is looming and it is because the AACR Government have failed to deliver the policy on tourism that they promised, Mr Speaker. I think the Hon Leader of the Opposition made quite a clear and categorical statement. If, when the Government came to this

House of Assembly they had said to the Opposition: "We have now scrapped our 1983 policy on tourism, Out 1984 or 1985 policy on tourism is that which has been expounded by the Hon Mr Mascarenhas this afternoon, a visitor industry and therefore we are scrapping our own policy and we are updating our policy". If the Hon and Learned the Chief Minister had done that a year ago, two years ago, at the opening of the frontier, then the Opposition would have looked at that policy and perhaps today we wouldn't have a censure motion because today the visitor industry has increased, the excursionist market has increased, the shopping centre element has increased but we are not looking at that, we are looking at the policy of the Government to make Gibraltar into a tourist resort for long stay tourists. Not very long ago, in the Budget, the Hon Minister for Tourism was still saying that that was the policy of the Government. Which is it, Mr Speaker? We are trying to do, believe it or not, a job from the Opposition which is to monitor Government policy. How can we monitor Government policy if different Ministers or different Members of the Government expound different policies? Obviously, the policy which I follow is the policy of the Hon Minister for Tourism and his policy continues to be an increase in the market in Gibraltar for long stay tourists, overnight stayers. That is why the censure motion is here in front of the House and there is a crisis and the Government, and I won't go into it again because we have looked at the statistics, we have looked at the figures; this year there was a decrease in guest nights sold and that shows the start, Mr Speaker, of the crisis which we are talking about. There is not a lot on what the Hon and Learned Chief Minister had to say which I have to comment on. I think, basically, he just added, perhaps with a bit less force, comments that had been made by other Members. Again, I was particularly worried about the reaction - and I am not trying to pick on him, I seem to be picking on him in this House but I am honestly not trying to pick on him - of the Hon Mr Canepa because, again, as far as I am concerned from this side of the House he is scaremongering. He is back on the 1984 scaremongering campaign similar to that expounded by the Hon Minister for Tourism at four o'clock in the morning of that famous day when he said: "There you have them, all these longhaired louts are going to rule Gibraltar and cause chaos". Well, I think we have got over that. The Hon the Minister for Tourism at four o'clock in the morning when the Government had thought that we had won, gave an interview on radio.....

HON CHIEF MINISTER:

You thought that you had won.

HON J E PILCHER:

NO, when you thought that we had won as well. But, of course, the Hon the Minister for Tourism has, in his own contribution, said that as an Opposition he is happy the way we have worked. Is the Hon Mr Canepa not happy and is he scaremongering again? Mr Speaker, I don't want to get into the industrial situation but I think if the Government, as the Hon the Leader of the Opposition has said to them, looked at the cause and effects of industrial action they would not have as much industrial action on their hands as they have at the moment, but be that as it may, Mr Speaker. I think there were also a couple of other comments made on the cruise liners. Well, I think, again, the Trade Union Movement is doing the Government a favour by stopping cruise liners coming to Gibraltar because if they come to Gibraltar and have to go to the North Mole and wade through the North Mole and get up to their knees in oil and have to jump over fork lifters and over containers because the Government promised and I know that there are difficulties, a beautification and a change in the North Mole and we cleared up the Icebox three or four years ago and it is still there. There is no faith in what they say they are going to do and this is what we have tried to highlight. In four years they have done nothing whatsoever, that is the reason for the censure motion, Mr Speaker. The same as when the Hon Minister said how can the cleaners clean if the cars are parked and they cannot clean underneath? Well, it is their responsibility. If the cleaners cannot clean because the cars are there then, as a Government, they must have a policy to get the cars out of there so that the cleaners can clean or provide car parks so that the people can park their cars. It is a circle, Mr Speaker, you cannot try and land the responsibility for what you are doing at somebody else's doorstep as an excuse because you cannot do it. The Government cannot do that, a commercial operator might but the Government have the responsibility to see their policies through and if there is something that is stopping their policies then they have to take a policy decision on that. It is as simple as that, Mr Speaker. It has to do with governmental responsibility which the Members opposite do not seem to understand after twenty years in Government. Mr Speaker, they seem to be politically immature.

MR SPEAKER:

No, we are not going to bring new matters into the debate.

HON J E PILCHER:

Fine. I will concentrate now on the comments made by the Hon Minister for Tourism because that is really what relates to the censure motion. The other Members have mentioned anything and everything from dirt to industrial relations and haven't really talked about tourism except for the Hon Mr Mascarenhas who gave us an insight on what is his profession, after all. The Hon Member attacked the GSLP various times

reading Hansard. I think it has been explained that every Hansard he is reading is pre-February, 1985, so obviously there was a change in 1985 where the Government should have changed their policies. The Government didn't, we continued our line but after 1985 he won't find any more comments from us relating to 1984 because the reality is that in 1984 tourists were 34% down in Gibraltar from the 1980 statistics. It is here, all arrivals in the Hotel Occupancy Survey, Mr Speaker. It was an all time low but, again, that has been admitted today here in the House. The Minister continues to tell us the difference between excursionsists and visitors and tourists so as far as we are concerned although there have been other contributions as far as the policy of the Hon Minister for Tourism, it continues to be one of long stay tourists with an increase of 2,000 to 3,000 beds in the Gibraltar market. Of course, as I said, I think, this morning, the difference is that that should have been given at the start of the four-year term not at the end of the four-year term because the Minister finished by saying that there was a potential in the tourist industry similar to the fact that, I think, the GSL motion finished yesterday that GSL was viable. Of course, GSL is viable, there is a potential in the tourist industry but at neither one or the other have the Government over the four years done either one or the other. There continues to be a viability and there continues to be a potential but the potential and the viability are the same now as they were four years ago, in the case of GSL much, much worse. The Minister never explained any single point that I had made, Mr Speaker. His answer to the censure motion was an attack on the GSLP for not thinking tourism was a great thing. Well, even if the Opposition didn't think that tourism was a great thing, so what? We were questioning his policies on tourism, his delivery on those policies, his commitments, not ours. Our commitments are not on the line, we are not the Government, we are the Opposition. It might be very easy for us but I hope that in three months time it will be more difficult and we have to explain them but we are not here to explain, to move a censure motion on Government and then end up explaining what is our position on tourism. No, what is their position, they were elected on tourism, they told the people of Gibraltar that in four years time they would do (a), (b), (c), (d) and (e), not us. On the Pitaluga Report, well, all that the Minister answered as far as that is concerned is that we thought it was funny, we had ridiculed it and we had attacked it. It is not true but even if it had been, so what? Did he explain why the Committees have taken so long, why the Consultative Committee hasn't met for two years, why the Consultative Committee wanted to break away because it hadn't met for a long time, why now there is a further Committee? He never explained anything at all, Mr Speaker. As far as the turnover is concerned he said: "That is a great turnover", but, of course, what he said is it is not enough to cover the turnover that we had last year so it is lower. Mr Speaker, nothing has been said in this House by that side of the House to convince us and I hope convince anybody outside this House, that anything that the Government has

done over the last four years for tourism is other than pay lip service to tourism. Mr Speaker, one thing that the Minister did do, however, is what he does normally, praise the private sector, praise the hotels, praise the airlines, praise the Tourist Office, obviously a public relations exercise. We also can praise them but we don't have to, we know, because they are producing results which the Government is not. The airlines are producing results, both GB Airways and Air Europe. The hotels are producing results. If the Government had only kept up with the refurbishment programme of the hotels we would have the tourist resort infrastructure in Gibraltar today in a much better position. The private sector, as far as the shops etc are concerned, have also done their bit, everybody has done their bit except the Government and the main criticism levied at the Government is that they promised to do things, they agreed to do things, they enter into agreements and at the end of the day they do not deliver, Mr Speaker, that is the criticism. It is a criticism not only locally but it is a criticism outside Gibraltar as well, it is all promises, Mr Speaker. I think time will tell whether there is a crisis or not. If the AACR Government stay there for another four years, which I hope they don't, we will find out what the crisis is. In fact, we will probably find out what the crisis is in a month's time when we get the Tourist Report which we haven't got in this House. As I said, Mr Speaker, I think and I am not trying to bring anything new into it, I think it is political immaturity not to take the responsibility for the actions and for the commitments and for the policy decisions. We will never hold the Government to answer if they come here and say: "This has failed because of (a), (b), (c) and (d) and we are changing our policy now and this will be our policy". But we will hold them, Mr Speaker, to be accountable for saying one thing four years ago and today finding excuses for not having done it. I would just like to remind the Hon and Learned the Chief Minister, I like to remind him of things that he says, to round off, Mr Speaker. At the Ceremonial Opening again because I think it is important for the people to know that everything that one says one has to be accountable for, this is why there is a censure motion here today. As I say, on GSL there would have been a censure motion but for the Accounts. He said: "I want to take this first opportunity", saying this in front of His Excellency and the people of Gibraltar because it was live, if I am remember correctly, on television. "I want to take this first opportunity in the House of Assembly to pledge to the people of Gibraltar as a whole that we will devote all our energies and endeavours as Ministers to work unsparingly to justify their confidence and support and to discharge our responsibility to the utmost". That, Mr Speaker, hasn't happened and I am, for the second time in this sitting of the House, asking the Government once and for all to resign and move over.

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

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

The following Hon Members voted against:

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

The motion was accordingly defeated.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I beg to move that this House adjourn until the 10th November when we shall be dealing with the Committee Stage and Third Reading of a number of Bills that were left behind during the course of this session.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday the 10th November, 1987, at 10.30 am.

The adjournment of the House to Tuesday the 10th November, 1987, at 10.30 am was taken at 6.45 pm on Thursday the 22nd October, 1987.

TUESDAY THE 10TH NOVEMBER, 1987

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, we had adjourned to deal with the end of one or two of the Bills that were left from the last meeting but in view of other rather pressing commitments I suggest we recess until tomorrow morning at 10.30 to proceed with the business.

MR SPEAKER:

I think the House is unanimous that this should be so and therefore we will now recess until tomorrow morning at 10.30 when we will carry on with the Committee Stage of the Bills.

WEDNESDAY THE 11TH NOVEMBER, 1987

The House resumed at 10.30 am.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I beg to move, Mr Speaker, that the House should resolve itself into Committee to consider the Companies (Amendment) Bill, 1987, clause by clause.

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

THE COMPANIES (AMENDMENT) BILL, 1987

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, in Clause 2, subsection (9)(iv) to delete the word "Ordinance" and substitute "section".

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

HON M A FEETHAM:

Mr Chairman, I submitted an amendment which I will introduce after new Clause 9 and if I was given some indication from the other side whether they were going to support this then we would be prepared to support the rest of the Bill.

HON A J CANEPA:

Sir, we are not prepared to support this amendment in its entirety as it stands because we think that the purpose behind this amendment can best be achieved through the legislation which is in draft to protect employees in cases of insolvency and that that legislation should be closely married with the overall amendments to the Companies Ordinance which will come to the House at a future date. What we are prepared to do is to move an amendment of our own that will update the situation, bring it closer in line with the UK whereby the amount of £200 would be raised to £800 as is the case in the United Kingdom and also whereby in paragraph (c) of section 241(1), to remove the period 'during two months' and insert instead 'during four months'. This, I think, is

a step forward and then the more general review can be undertaken and the more general purpose behind the amendment can be undertaken and that is in compliance with the Companies Act of 1985. If Hon Members opposite are agreeable with that I shall move that amendment, Mr Chairman.

HON M A FEETHAM:

We are prepared to accept that and we are prepared therefore to support the rest of the Bill.

Clauses 3 to 7 were agreed to and stood part of the Bill.

New Clause 8

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I move that after Clause 7 a further Clause, which I will describe as Clause 8, and which I have, in fact, given advance notice to yourself and to Hon Members so I hope that Hon Members will not expect me to read it out in toto. It is the Clause headed Clause 8 on my notice of the 3rd November and I move that this be inserted after Clause 7.

MR SPEAKER:

I am sure that the House does not wish the Hon the Financial and Development Secretary to read the full amendment, it has been circulated but, of course, we can entertain any debate on this.

HON J BOSSANO:

The only difficulty, Mr Chairman, is that we have just had this morning the explanatory memorandum telling us what it is all about.

MR SPEAKER:

Not this morning, I think it was distributed yesterday.

HON J BOSSANO:

It has been here before, has it?

MR SPEAKER:

Yes, it was distributed the day before yesterday.

HON M A FEETHAM:

We got it yesterday.

HON J BOSSANO:

I am not talking about the actual amendments, I am talking about the explanatory memorandum.

HON CHIEF MINISTER:

The explanatory memorandum not the amendments. I would like to make a point. I thought that in view of the fact that the amendments dealt with another subject which might have well been another Ordinance, that what is given normally in an Ordinance should be given for the benefit of Hon Members. In fact, I think we have gone a little further than that because it has been an in-house memorandum which had been explained to Ministers and had been slightly shortened for the purpose of convenience but I thought Members should have the gist of the thing explained to them in view of the fact that it isn't easy anyhow but the amendments, of course, were circulated on the 3rd November and this, to my mind, has been circulated some days ago.

HON J BOSSANO:

Could I ask, is it, in fact, that the Government has had an indication of somebody actually wanting to register unit trusts and is waiting for this legislation to go through?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, if I might perhaps say a few words on this. During the last couple of years the Finance Centre Group has been making representations to the Government that we ought to introduce the necessary legislation to allow for open-ended investment companies to be set up in Gibraltar. Unless steps are taken to amend the Companies Ordinance before the end of the year to enable such companies to be incorporated, Gibraltar will lose the opportunity which it has by virtue of its membership of the EEC to attract such companies many of which by then will have been set up or the sponsors will have decided to set up in other jurisdictions, particularly, Luxembourg. Luxembourg is, in fact, the only other territory within the EEC which offers fiscal advantages to corporate funds under the umbrella of the EEC Directive on undertakings for collective investment in transferable securities which are known as UCITS for short, there is an EEC Directive in English translation which comes out as UCITS. This Directive enables collective investment schemes authorised by a Member State to market their units throughout the Community without requiring authorisation from other Member States. I certainly have had enquiries, not applications because as the law now stands such an application could not be entertained because of the inhibitions which are built into our companies legislation and the Finance Centre Group or individual members of the Finance Centre Group have also had enquiries of a similar

nature. We understand that many fund managers would, in fact, prefer Gibraltar to Luxembourg because we are a common law jurisdiction rather than a civil law jurisdiction and the procedure for setting up open-ended investment companies would be less cumbersome than in other Member States. It is only rarely that an EEC Directive does, in fact, provide Gibraltar with an opportunity to expand its finance centre activities and in the view of the Finance Centre Group, Gibraltar is already missing the opportunity to a very large extent of participating in what could be an important growth area. The Government has considered the representations from the Finance Centre Group and believes that we ought to give some priority to providing for open-ended investment companies by amending the Companies Ordinance before the end of the year although I should say that the legislation will not be brought into operation until there is adequate regulation and control over collective investment schemes. In this respect the House will wish to know that work is in hand with the preparation of proposals for legislation to control all forms of collective investment schemes and financial intermediaries which will take account of the UCITS Directive which needs to be implemented before the 1st October, 1989. I think I could identify four main areas. This is a highly technical matter but I could identify four main areas in which our existing company law which, as Hon Members know, is in need of revision anyway, would not allow, as the law now stands, open-ended investment companies to be set up. I think the first point is the question of redeemable shares and this is essential to the whole feature of an open-ended investment company as, indeed, it would be for a unit trust which is on a slightly different basis. At the moment the Companies Ordinance does permit a company to issue redeemable preference shares, there is no problem about that but such shares can only be redeemed at the option of the company as the law now stands. In other words, the legislation doesn't allow for the redemption of shares at the option of the shareholder and that is quite an important feature of an investment trust. The second point is that, again, as the section 46 now stands, the redemption price including the premium payable on redemption, must be paid either out of profits or out of the proceeds of a fresh issue of shares and this doesn't permit the use of the share premium account for that purpose. Those two features in themselves make it impractical to establish an open-ended investment company in Gibraltar. Furthermore, the Ordinance doesn't provide for premiums received on the issue of shares to be transferred to a share premium account. In normal company law, as I am sure Mr Mor will know, if shares are issued at a premium then the price which is additional to the nominal value of the shares goes into a share premium account but historically restrictions have been placed on the use that can be made of the funds which are in the share premium account. With an open-ended investment company you wish to remove those restrictions so that the use can be made of the money in the share premium account for the issue and redemption of subsequent shares. It is a liberating measure in that respect. A fourth feature

is the question of prospectuses. Section 35(1) of the Ordinance provides that every prospectus issued by or on behalf of a company must state the matters specified in Part I of Schedule 3 and paragraph (6) in Part I of Schedule 3, in fact, requires particulars to be given as to the amount payable on application and allotment on each share and details of each previous allotment made within the preceding two years. An open-ended investment company will normally issue two prospectuses. The first will relate solely to the initial offer of shares during an initial subscription period and this is normal in company flotation. But after the initial subscription period is closed the company will issue a further prospectus relating to the continuous offering of its shares. There will be no difficulty in registering the initial prospectus in Gibraltar, as I say, that is common form, but in the case of the continuing prospectuses it will not be possible to comply with the requirements of paragraph (6) of Schedule 3 as the amount payable on application and allotment will clearly vary from one dealing day to the next because it is based on the net asset value of the company. With a publicly quoted company, of course, the value of the shares in the company will go up and down in much the same way as any other shares of any other publicly quoted company can go up or down. We are not necessarily here talking about a publicly quoted company but the same principle, in theory, would apply except that it wouldn't be the view of the market, the price would fluctuate depending on the underlying net asset value. In theory, of course, the two should be the same, the market view of the net asset value but it is never like that with a publicly quoted company. As I say, it would be impossible for the company to register what is called a compliant prospectus in Gibraltar and hence the need for legislative changes.

HON J BOSSANO:

Could I ask the Hon Member one question? Am I right in thinking that this would, in fact, be public companies and not private companies because it would be offering a prospectus inviting everybody to invest, is that correct?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir. The amendments proposed by what I think will be the new Clause 8 of the Bill are essentially as follows: to enable shares to be redeemed at the option of the shareholders; to require that the terms of redemption must provide for payment on redemption; to require that the amount of profits to be transferred to the capital redemption reserve fund must be equal to the nominal amount of the shares redeemed; to permit the premium payable on redemption of shares to be provided for either out of profits or out of the share premium account before the shares are redeemed; to require the cancellation of shares redeemed and to provide that the redemption of shares under the section shall not

be taken as reducing the company's authorised share capital. That is a fairly obvious proviso, I think, in the circumstances. Then, finally, to require premiums received on the issue of shares to be transferred to a share premium account and also to prescribe the use of such an account. We haven't actually come to Clause 9 of the Bill, Mr Chairman, because I have only moved Clause 8. Perhaps I should, en passant, that Clause 9 of the Bill will modify the requirements of paragraph (6) in Part I of Schedule 3 to the Ordinance in relation to open-ended investment companies regarding the matters to be stated in a prospectus relating to a second and subsequent offer of shares.

HON M A FEETHAM:

Mr Chairman, the Hon Financial Secretary has made reference to a Directive and I wonder whether he could make available to me a copy of the Directive he has referred to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, certainly.

Mr Speaker then put the question which was resolved in the affirmative and new Clause 8 was agreed to and stood part of the Bill.

New Clause 9

HON FINANCIAL AND DEVELOPMENT SECRETARY:

May I move that new Clause 9 as already circulated and to which I have referred, Mr Chairman, also be inserted in terms of the notice which I have already given to Members. This refers to the requirements in the prospectus.

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

New Clause 10

HON A J CANEPA:

Mr Chairman, I beg to move that the following Clause be now inserted after new Clause 9 of the Bill: "10. Section 241(1) of the principal Ordinance is amended as follows:- (a) by deleting the expression "£200" from paragraphs (b) and (c) of the section and inserting therefor the expression "£800"; and (b) by deleting from paragraph (c) of the section the words "during two months" and inserting therefor the words "during four months".

Mr Speaker then put the question which was resolved in the affirmative and new Clause 10 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:

Sir, I have the honour to report that the Companies (Amendment) Bill, 1987, with amendments, has been considered in Committee and agreed to and I now move that it be read a third time and passed.

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

SUSPENSION OF STANDING ORDERS

HON J BOSSANO:

I wish to move the suspension of Standing Orders to enable the House to consider a motion which I have circulated a few minutes ago. I regret the lack of notice but matters have been rather precipitate since the reasoning for the motion first arose. I consider that, in fact, the matter under question is one which cannot be debated effectively in December because of the timescale in which these things are being decided and, certainly, from the point of view of the Opposition, we have information available to us yesterday as a result of an hour long meeting with Mr Ratford which we didn't have prior to yesterday and which we have only discussed last night and consequently we ourselves have not been in a position to propose bringing the matter to the House with any prior consideration because, as far as we are concerned, there was nothing new to consider prior to yesterday. From our point of view, the meeting with Mr Ratford did bring new material which we feel we should be making public and we feel we should be making public in the House as the appropriate forum to do it and we think there are compelling reasons for not losing the opportunity that we are afforded by being here to debate this matter.

HON CHIEF MINISTER:

Mr Speaker, I heard about this about quarter to eleven from the Leader of the Opposition who was quickly drafting the motion. I would have thought that since this is so substantial there might have been a little more time given. I appreciate the question of the time element. I am not prepared to accede to the thing being suspended and be dealt with now because, first of all, I have got to look at the motion much more

carefully and having just glanced at it I see that historically there is an error in the first paragraph which I propose to correct. But, anyhow, I am not going to go into the merits of it but I appreciate that the matter is important and should be debated before certain events could take place but certainly not today. I am accordingly prepared to offer that the matter be discussed next Tuesday at 11 o'clock. That, first of all, gives us an opportunity to look at the implications. Having said that I don't mind it being discussed I think it is a bit of a cheek on the part of this House to say that we endorse what the people have endorsed that we have done so that after the whole of Gibraltar has been out making certain views, to say now that we agree with the demonstration seems a little naive, if I may say so, or perhaps politically convenient. But, be that as it may.....

HON J BOSSANO:

We are having a debate now, Mr Speaker.

HON CHIEF MINISTER:

No, we are not debating it now. If that is the attitude the Hon Member takes then, of course, the answer is we will say that it is out of order and we are not prepared to agree but I am trying to be accommodating and I want to make things clear, too. Therefore I am saying that I am prepared to allow the suspension of standing orders for the matter to be debated next Tuesday at 11 o'clock, for that purpose and that purpose only and we will adjourn after that. I hope that there won't be another suspension because this House has already been adjourned twice. I am quite prepared to do that and I appreciate that a denial of the suspension of Standing Orders would prevent the matter being debated until December by which time events will have already taken place and I do not want to prevent anything from being discussed in this House that is of importance to Gibraltar. Certainly, I would not do it and certainly not after yesterday's demonstration.

MR SPEAKER:

My only comment is that since we are going to adjourn until Tuesday there will be no need to suspend Standing Orders because five clear day's notice will have been given.

HON J BOSSANO:

Could I just make a point, Mr Speaker? The Hon Member, obviously, is better informed than I am of the timetable of these things. I am assuming that he knows that nothing is going to happen between now and Tuesday.

HON. CHIEF MINISTER:

I had in mind the Ministerial meeting at the end of the month. Whatever else happens is, to my mind, of little consequence after yesterday. This is just another aspect of the broader matter which has already been covered, it is a nicety that you want to add to it. I don't know anything more than the fact that it is well known that the Ministerial meeting is at the end of the month and I consider that that is the essence why anything to be debated on that matter should be done before then. I now move that the House adjourn to the 17th November at 11 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday the 17th November, 1987, at 11 am.

The adjournment of the House to Tuesday the 17th November, 1987, was taken at 11.15 am on Wednesday the 11th November, 1987.

TUESDAY THE 17TH NOVEMBER, 1987

The House resumed at 11.10 a.m.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move that:

"This House -

1. Endorses the demonstration of Tuesday 10th November, 1987, organised by the Gibraltar Trades Council and supported by all the representative bodies, the group known as "Action for Gibraltar" and overwhelmingly by the people of Gibraltar as a whole
2. Considers that the freely and democratically expressed wishes of the people of Gibraltar as endorsed by the same demonstration are:-
 - (a) that no concessions should be made to Spain on the airport
 - (b) that Her Majesty's Government should not conclude an agreement with the Government of the Kingdom of Spain for the joint use of the Gibraltar airport.
3. Fully supports the views and wishes of the people of Gibraltar and calls on Her Majesty's Government to make them and the text of this motion known to the Government of the Kingdom of Spain".

Mr Speaker, you will recall that I sought to suspend Standing Orders on Wednesday last week, the day after the demonstration and, in fact, the Hon and Learned Chief Minister instead proposed that we should meet today to give the Government time to consider their position to the motion and in the knowledge that nothing dramatic was going to happen in the intervening period. Of course, we all know that nothing dramatic has happened in the intervening period not even last night because, in fact, we do not know anything now that we didn't know a week ago. Perhaps it might have come as a surprise to some other people but certainly the position as put before the demonstration by Mr Ratford to the Opposition of which I gave a public explanation last Friday in an interview because I felt I should share the information I had with the people since it was a matter that was put to us without any restrictions on confidentiality, we were free to say, that position is the position of which Her Majesty's Government's representative in the negotiations tried to convince us about by reference to the supposed benefits that would derive from a deal sharing the use of our airport with Spain. Before I deal with that I think I

would like to place on record the position as we understand it in respect of paragraph No.1 although, quite frankly, I believe that we should not get drawn into a debate about paragraph No.1 because I believe that the people of Gibraltar want leadership from this House on paragraph No. 2 of the motion and not on paragraph No.1. Both the Hon and Learned the Chief Minister and myself have had correspondence addressed to us from both the Trades Council this morning and yesterday from Action for Gibraltar and I think all I would like to do is to share the information that I have with Members opposite of what I know took place. I think it is important to understand that, in fact, the six individuals that are publicly known to have been the driving force in setting up Action for Gibraltar are, of course, all members of the Trades Council. They are all Government civil servants, five of them are members of GGCA and one is a member of ACTSS. So it isn't that we are talking about two organisations which have got nothing to do with each other, we are talking about six individual trade unionists who decided that it looked as if nothing was going to happen and though that they should come out publicly, as it were, setting the ball rolling and I think that was their intention, I have no doubt knowing the persons concerned myself as I do, that they were acting from the best possible motives with no intention other than to ensure that the moment did not go by and there was no public expression from the people reflecting what we all know to be the mood of Gibraltar on this issue. It is also interesting, Mr Speaker, I think, to be aware of the fact that, as I said, not only were five out of the six members of the GGCA but, in fact, the GGCA was the proposer of the motion in the Annual General Meeting of the Gibraltar Trades Council on the airport issue. That is the source, the impetus has come from the same quarter both for Action for Gibraltar and for the Trades Council. That is, the initiators of the policy of the Trades Council on the use of the airfield were the GGCA. The motion was moved by the GGCA at the Annual General Meeting and was carried unanimously by the 39 delegates representing the seven unions that make up the Trades Council. The Trades Council met on the Thursday before the visit of Mr Ratford and at that meeting the group Action for Gibraltar approached the Trades Council and asked the Trades Council to give it support. That is to say, they were saying to the Trades Council: "Will you support a demonstration we are trying to organise?" But at that stage what Action for Gibraltar was planning to do or seeking support for was a demonstration to meet Mr Ratford on arrival at the airport. That was what was proposed to the Trades Council by Action for Gibraltar. The Trades Council told Action for Gibraltar that although they fully agreed with the sentiments they didn't think that that was the right way to do it because the Trades Council was already scheduled to meet Mr Ratford on Tuesday, the proposal from Action for Gibraltar was for a demonstration on Monday. The Trades Council told Action for Gibraltar that they were already planning to call out their own members in support of the policy passed at the Annual General Meeting

and with a view to giving a back-up to the memorandum that was going to be handed to Mr Ratford at 10.30 on Tuesday morning and that the idea was to convene a meeting outside The Convent to coincide with the handing of the memorandum. That was the position of the Thursday before and Action for Gibraltar was told that within the constitution of the Gibraltar Trades Council member unions could only be asked to instruct their members to leave their places of work in pursuance of a policy directive of the Trades Council. That is to say, that the Trades Council could not put itself in the difficult position of creating a precedent that today it might be Action for Gibraltar and tomorrow it might be Action for Housing who could come along and say to the Trades Council: "We think the Government isn't doing enough houses so we want the Trades Council to call everybody out on a demonstration to persuade the Government to build more houses", and that therefore the Trades Council considered that there was an identity of purpose between what Action for Gibraltar wanted and what the Trades Council was already planning and rather than do one demonstration on the Monday by Action for Gibraltar and one demonstration on the Tuesday by GTC, in fact, the two things should be brought together. Since Action for Gibraltar was concentrating on seeking public support by the collection of signatures and by appeal to all sectors of the community, since the Women's Association, both political parties represented in this House had come out in favour already and, in fact, at a later stage the Chamber of Commerce and the Indian Merchants Association also did, it was clear that there was a situation where the Trades Council could concentrate its efforts through its own union machinery at places of work and it was left to Action for Gibraltar to distribute leaflets to people, to collect signatures and to go round Housing Estates with equipment provided by the Gibraltar Trades Council. Clearly, there was no conflict of interest, conflict of purpose or people working at cross purposes although there were a number of changes of plans since the Trades Council met on the Friday, on the Saturday, on the Sunday and on the Monday updating the situation partly because the result of the response that was coming back clearly showed that original plans could not be carried through without a fairly chaotic situation developing. That is to say, what the Trades Council was finding as a result of the response over the weekend was that having originally planned for the demonstration to be consisting of two groups, for example, one coming up Main Street from the north area and the other one coming up from the south area via Referendum Gates, that such was the response from people even just from the Trade Union side, that that situation would have created a bottleneck with two massive demonstrations meeting head on at The Convent and then not being able to move in other directions. So the logistics, the planning and the movement of people was constantly being updated. At the end of the day it involved the provision of fifty buses to move people around. I think, clearly, the organisation was provided by the Gibraltar Trades Council but I think it is also correct to say that the size of the demonstration would not have been as great without,

in fact, the impetus given to it by Action for Gibraltar. I think if there had been two separate demonstrations then it would have been a less effective way of expressing the sentiments of the people. Again, I think it is clear that the petition on which the signatures were collected which simply said that there should be no concessions on the airport which is virtually the same as clause 2(a), clearly, are not in conflict with what GTC was saying although GTC's own memorandum was more specific. And the programme which, unfortunately, did not get fulfilled, for reasons that we all know, was that once the whole demonstration had filed past The Convent and Mr Ratford had seen for himself just how great the support for it was, it would have then been dispersed at Alameda Parade after the Gibraltar Trades Council President had addressed it, explained the policy of the GTC in the context of the memorandum and then gone off to The Convent to give the memorandum to Mr Ratford while the meeting at Alameda Parade continued where it was due to be addressed by Mr Mick Martin who is, in fact, the National Secretary for Airports in the United Kingdom and who has got a professional knowledge of the air liberalisation deal as such and was also coincidental in Gibraltar on a conference organised which the Tourist Office kindly gave a lot of assistance to, and stayed behind especially in order to be able to address that meeting and to say to them that on behalf of the National Executive of the Transport and General Workers Union the stand of the Gibraltar Trades Council and, indeed, of the people of Gibraltar as a whole was fully supported by Trade Unions in UK as we expect that we shall be finding out from other unions who are being approached by their own local branches here to support the stand that we want taken on this issue. Given the magnitude of the task I think the whole thing with retrospect can be seen to have been carried out remarkably well and there were very few hiccups really at the end of the day although it didn't go perfectly because it is very difficult to produce a plan and to carry it through to perfection. Therefore, I would say that at the end of the day we do not wish to be deviated from the main task before the House by any controversy as to who gets more or less credit in this thing and, secondly, I would endorse fully the last paragraph of the letter of Action for Gibraltar to the Chief Minister and myself that we must not do anything ourselves in this House, Mr Speaker, to destroy the feeling of unity. If I may quote from the last paragraph of the letter signed by the six people who organised the group initially, saying: "Finally, we would implore elected Members in the House of Assembly not to destroy the feeling of unity that today is alive in Gibraltar. It is the people who are to be congratulated for dispelling the previous air of apathy that engulfed our island and for supporting you" - that is us - "on that day". So I would say we endorse fully those sentiments and we do not want to say or do anything in moving this motion that can bring about the diminution of the strength of the position that we achieved last Tuesday. We believe that last Tuesday's response from the people of Gibraltar was historic. We believe that the people of Gibraltar came out last Tuesday as they came out in the 1967

Referendum with the same feeling. I think, perhaps, the regrettable thing is that not everybody outside Gibraltar is today as they were in 1967. The people of Gibraltar have not changed our spots in the twenty years that have gone by and I believe we won't change for a very long time to come if ever and I think that is the clear message that needs to go out. We can be wooed till the cows come home and we'll still be the same, Mr Speaker. I recall that in a previous motion on this subject the Hon Mr Canepa said that one of the disadvantages of being a political leader in a small community such as ours is that you cannot escape your constituents when there were problems but that one of the advantages was that you cannot be remote and distant and unaware of their feelings. I am sure Hon Members opposite have been stopped on the way here as many times as we have this morning by people who are already wanting reassuring that nothing has changed from last Tuesday. I don't think Members opposite need to be persuaded by us that whatever organisational element there was in the demonstration of last Tuesday if the feeling of the people had not been there the people would not have responded the way they did. You can ask people to come out of work and if people don't feel themselves in their own hearts a strong feeling on the issue then instead of going to the demonstration they disappear home, that is the reality of it. The organisational work was there but the feeling was genuine, spontaneous and a true reflection of what Gibraltar feels and we are Gibraltar's Parliament and because we are Gibraltar's Parliament we cannot speak a different voice, we can do nothing whether it pleases Her Majesty's Government or whether it pleases the Government of the Kingdom of Spain or whether it pleases the European Community or the United Nations, at the end of the day we are the organ that speaks for the people of Gibraltar and we must not, I believe, Mr Speaker, ourselves in this House give up that responsibility and let the fight be carried on by the Trade Union Movement or by anybody else. It will certainly be carried on by somebody else if it isn't carried on by us. I believe it is right that we should do it. I believe that the primary task of this House is not simply to pass legislation but on fundamental issues such as this, to show that we are totally united as our people are totally united above party differences, above trade union differences. If the Trade Union Movement spends most of the time quarrelling with each other about poaching each others members, can close ranks on this issue, surely we can do the same. Therefore, is it that we are being unreasonable in saying that there should be no concessions made to Spain on the airport? Are what is on offer concessions? Is it right to call them concessions or is it just practical things about people having their baggage taken over the other side of the frontier without going through customs and without going through immigration? Are these just peripheral minor details or are they concessions? Well, I think the answer is very simple. What we are being subjected to is sheer unadulterated blackmail, there is no other word for it because we have got a legal right to something, that is not in dispute, that

was defended by Her Majesty's Government in Luxembourg in July and in this House we applauded their stand, we congratulated Her Majesty's Government for being very clearcut and very firm and saying to the Government of the Kingdom of Spain and to the other Member States: "Gibraltar is a regional British airport like any other one and the air liberalisation must apply to Gibraltar like it applies anywhere else and nobody else is being asked to make any sort of special bilateral concessions to get it". So what we are saying is in order to get what is ours by right we have to pay a price so that we are not left out illegally. That is the real situation. Other people exercise EEC rights in Gibraltar which a lot of the population of Gibraltar are distinctly unhappy with. Spain came along and said on the 1st January, 1986: "I am entitled to the same pensions as you are paying local pensioners under EEC law" and we didn't say: "And what are you going to give us in exchange?" We said: "If that is what we are required to do by law that is what we are required to do by law". And we are constantly debating in this House the degree to which we implement or do not implement directives. We don't go round saying to other people: "Well, if I am going to implement the directive what concessions are you giving me for implementing the directive?" It is quite simple. If we are entitled to have flights from Frankfurt to Gibraltar then why should we do a bilateral deal on a second terminal, on joint use, on a Spanish air zone or on anything else to be allowed to have a flight from Frankfurt to Gibraltar and if it is good to have flights from Frankfurt to Gibraltar and it is going to enhance our position and be so good for the development of the Finance Centre then, clearly and manifestly, it is a greater good to have it without concessions than with concessions for the very simple reason that if we have a flight from Frankfurt to Gibraltar with 100 Germans on it and one gets out at the Gibraltar Terminal and 99 get out at the other one, then we stand to gain less than if the 100 get out on our side and then 99 of them are bused to the other side on our coaches by our companies with our workers paying our taxes and our insurance. Clearly, we are far better off by entering the air liberalisation deal without giving anything up which we are entitled legally to do and that must be the clear position that we must take whether we win at the end of the day or we don't win at the end of the day will depend on the degree to which we can persuade other people of our view or the muscle we are able to lever on the situation. But what we must not do is to make it an internal quarrel and fight each other because there is no need to do it. There is no need to do that and we must not allow ourselves to be put in that situation and I can assure the Government that if they can see their way to supporting this motion they will be able to count on the loyal Opposition, on this occasion without qualification, we will be loyal in act as well as in name, Mr Speaker. Thank you very much, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the motion as moved by the Hon J Bossano.

HON CHIEF MINISTER:

Mr Speaker, I am very glad and, indeed, that was our intention, to deal with this motion on the basis of our own views and on the basis of how we feel about it irrespective of what anybody else may say. And whilst it is true that there was a television appearance by the Secretary of State which when passed into script we will have to consider very carefully and react very carefully as to certain matters that have been said and perhaps welcome others, I am glad that there has only been a passing reference to that because, as far as we are concerned, we come here with a policy that was decided on Sunday night by Ministers and when we had no idea, in fact, I had no idea until about midday yesterday that there was going to be an appearance on television by the Secretary of State. The timing of it and the way it was done is a matter for those who have organised it, I would like to say that I have had nothing to do with it at all. If anybody thought it would help, it is anything but a help insofar as this debate is concerned. I would like to reiterate that therefore our reaction to this motion and the way in which we propose to deal with it was decided by Ministers from seven o'clock on Sunday evening irrespective of what anybody else may say. I am also glad that there has been a reference to the question of bickering that there has been because I think there has been criticism of the bickering, whoever may be at fault but I am not going to analyse that because that would be bickering itself. But there has been criticism from the people about the bickering that took place subsequent to the demonstration and I therefore feel and I would agree with the Leader of the Opposition that we should try and attempt to do what the last paragraph of the Action for Gibraltar letter says, that we should avoid that and certainly we will do nothing against that idea. But, of course, we have a duty because we were involved in this matter, we have a duty to state the facts regarding the demonstration, as the Leader of the Opposition has spoken at length, how we saw it. I think, with respect, it matters little that the six members were members of the Trades Council or not because, of course, they were people who were mainly workers or employed people, according to the union, but that, of course, did not make them representatives of the Trades Council and therefore, I think, that there is something there which has to be put right as I said the first time that I saw the motion. In a different context because it has a bearing on the results of the demonstration, I have to go into some detail of what I thought and I think and I think I was right, in demonstrating for and that is that when I was first approached on the question of the demonstration I was told that its objective was to support the stand previously taken by the elected Members of the House of Assembly on the question of the airport. In fact, I saw the draft letter that was going to be delivered by Action for Gibraltar - I was going to say AG but since the Attorney-General is not here I want to avoid confusion - by the Action for Gibraltar Group that this would be the message on the petition which they intended to organise. That was the way

it was presented to me by two of the members of the Group asking for my support and the support of my colleagues. And the idea as it was told to me was to impress upon Mr Ratford who is the leading British negotiator with the Spaniards at official level and who reports directly to the Secretary of State and who had come to Gibraltar precisely to assess public opinion for himself, that there was very strong feeling in Gibraltar on this issue and that virtually the whole population agreed with the resolutions on the airport adopted by the House of Assembly in the past. As we all know the objective was fully achieved and I have no doubt that whether it was sooner or later, Mr Ratford will have been impressed and will have reported accordingly and, in fact, we do know, as a matter of fact if it has derived any benefit out of the interview last night that the Secretary of State said, that he had studied the petition very carefully and he was conscious of what had happened. On Monday of last week I learned that the message on the petition for which the Action for Gibraltar Group was collecting signatures had been changed to one of no concessions. I contacted representatives of the Group and was told that by doing this they would be able to use on the banners in the demonstration a short and snappy slogan. In addition, there is, of course, a general feeling in Gibraltar that concessions should not, in fact, be made. I think we should consider exactly what that phrase means, in a way because I agree with it literally and absolutely insofar as we are all adamant in our view that no concessions on sovereignty should be made in respect of the airport or the isthmus or in any other matter. But we want to make quite clear and we make no apologies for it, that we want to pursue, if possible, the question of the practical use of the airport in our own terms in the way that will best benefit Gibraltar and if the question of no concessions means that there can be no agreement that would not impinge on the sovereignty or the joint control of the airport then we feel that that must be clarified and, as I say, that must be clarified in the result of the text, when it is considered, of the Secretary of State's interview yesterday. It is against this background, particularly on the issue of sovereignty or joint control that any agreement in respect of which would, in fact, clearly represent a concession that I was able to march in last week's demonstration behind the banner of 'No concessions' and it is on that basis that I am fully supporting that element of the motion before the House. I think that this is perfectly proper, in explanation of votes as is done in many places because it is important that people should know where people stand. My colleagues and I admire the motives which led a handful of our young men to organise a petition and demonstration, the skill and hard work with which they achieved their objectives and the manner in which virtually the whole population took part. I think these elements should also be included in the motion not as an endorsement, both sides endorsed the demonstration by attending it, but as an expression of appreciation. The talks on the airport have been going on for over two and a half years and during that period there has been extensive correspondence between London and Gibraltar and there have

been numerous meetings with senior FCO officials and with the Secretary of State. I will be able later on because of the disclosures that the Secretary of State has seen fit to make, on another occasion and precisely because we don't want any intervention in this House and we have to look at it on the merits of our own performance, that I am not going to deal with those but I can assure Members that when they see the on-going representations that we have made, I am not going to say that they will subscribe to everything that we have said but that they would not be unpleasantly surprised to put it at the lowest. That is to say, we have been fighting as much as possible within the context of our relationship with Britain, we have been fighting against what we consider to be matters that might impinge on sovereignty throughout. We have also to be careful that we have to ask Britain what we think is reasonable to expect ourselves and we expect them to do, not only the Government but the British/Gibraltar Group and whoever supports us, we have to make sure that our interests are safeguarded and that our representations are well-founded. We have the right to tell Britain what we feel and Britain has the duty to take this into account. Britain has the responsibility for the conduct of our foreign affairs and also the responsibility to advise us on possible consequences. Britain has to do this and if we think that the way it is being done is not to our liking we have to tell them. That is the way in which we can keep a dialogue going and defend our interests well. As to the motion, the first paragraph of the motion I said earlier that I thought it should be amended and I propose to move an amendment which covers the whole but Members should not be surprised, I think, they will find that in some respects I have strengthened the motion. I have not touched on the subject of the demonstration. I have left that untouched and I have added something which I think will be useful. Anyhow, in due course I will explain it and Members will know. But despite what has been said, first of all, I think that that should be amended to remove the sort of endorsement of what has been done to endorse what we do and I think the original thought behind the petition was itself to endorse the stand taken by the elected Members and we cannot go on endorsing each other for what we do. Secondly, the first paragraph of the motion as it stands refers to the Gibraltar Trades Council having organised the demonstration and being supported by all the representative bodies including the group known as 'Action for Gibraltar' and by the people of Gibraltar as a whole. Without in any way attempting to minimise the efforts made by the Trades Council I think, historically, the matter is slightly different as has been clearly explained in the letter from the group itself from which the Hon Member has quoted the last paragraph. But I do not want to go into that because I think that is the last thing that they would like us to do and that is to carry on the bickering. But facts are facts and we must put the information we have in its proper perspective in this House. My information, as I said before, borne out by the facts known to the whole community as is, in fact, reflected in the letter to which the Hon Member has referred, is that Action for Gibraltar Group not

only conceived the petition and the demonstration but, in fact, drew up the petition, organised the collection of signatures at the Piazza and in the Housing Estates and approached first the Gibraltar Trades Council very properly and then other representative bodies. I understand that the Gibraltar Trades Council had considered and it is confirmed by the letter we have received this morning, even requested meetings of the representative bodies but not to organise a demonstration. Let me say that the request which was made to me by the Chairman of the Trades Council when they sought out an interview was to call a meeting of the representative bodies. The question of the demonstration was not then mentioned as the minutes of the meeting will show. I don't want to be controversial but the facts I think should be made clear. I then said that the calling of representative bodies for nothing else than to write a letter and so on had to be carefully chosen in order to make sure that it was convened when there was some danger. That is really my response and that is something that my meeting with the Trades Council of which there are minutes will reflect. What the Group was seeking in approaching the Gibraltar Trades Council, as I understand it, and other bodies was for all of these to organise and stimulate the attendance of as many of their members as possible and therefore I will be moving an appropriate amendment to the first paragraph of the motion in this respect. As to the second paragraph of the motion I have already explained my interpretation of the word 'concession' in the present context and my use of this word in the amendment which I shall be moving to the second paragraph has to be seen against the background of what I might call, I have already described, as explanation of votes. With regard to the second paragraph, I don't think that the approach should be to interpret the wishes of the people of Gibraltar, I think that that has been done by the people themselves, but to state the views of the House as stated on previous occasions and as supported by the demonstration. My view on the third paragraph of the motion is similar, it is not for the House to support the views and wishes of the people of Gibraltar in a situation in which the people of Gibraltar are supporting the resolutions of the House. Mr Speaker, the amendments I propose are that all the words after the words "This House" be deleted and should be substituted for the following: "(1) applauds the initiative of the Action for Gibraltar Group in organising a petition and demonstration on the question of the airport in support of the stand taken by the House of Assembly and thanks the Gibraltar Trades Council, the representative bodies and the thousands of persons who signed the petition and participated in the demonstration". I think that these are not controversial words and this really is not bickering but purely, as I said the other day when I saw the motion for the first time, in my mind it was historically incorrect. "(2) reiterates the views expressed by this House in the resolutions adopted on 25 March and 16 December, 1986". That is a necessity if we are going to do justice to the people who conceived the demonstration. "(3) calls on Her Majesty's Government not to conclude an agreement with the Spanish

Government, on the question of the Gibraltar airport, which would involve any concessions being made to Spain or which would lead to, any form of joint control of the airport". The 'joint control of the airport' is to my mind much more fundamentally important than the question of the joint user which would not be joint user but could be cooperation in a way that is acceptable to us. I do not think that we should close the doors if resolutions of the House of Assembly are going to be properly respected and influence opinion we have to make sure that we are asking for what we can support and what derives quite clearly from the commitments which are contained in the Constitution. I move accordingly, Mr Speaker.

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

HON J BOSSANO:

Mr Speaker, it seems to me that the position of the Government which was decided on Sunday didn't just continue irrespective of what Sir Geoffrey Howe said last night, I think it has continued irrespective of what I have said this morning because I don't see any reflection in this of the argument that I have put in the House that when we are entitled to something if we agree to a bilateral agreement with Spain which gives them in exchange for being allowed to have what we are entitled to, a concession then that is a concession although it may not be a concession of sovereignty. It is still a concession because we are paying a price for something we are entitled to have for nothing. That argument which I have used this morning has been totally ignored by the Government, as if it had never been put and, in fact, what this amendment does, as far as I am concerned, is to reflect entirely the view put by Mr Ratford before the demonstration when he arrived as put to us. That is to say, as I explained on Friday Her Majesty's Government without any motion from this House has already decided that they are not prepared to concede control of the airport because the RAF is against it anyway so even if we passed a motion here saying "We agree to joint control" there would not be joint control, our colonial masters have already dictated otherwise, Mr Speaker. Either we are being serious about where we stand on this issue or we are playing silly games, one of the two. Obviously, we are not against the position of the Government to say 'we don't have any form of joint control'. We are in favour of not having any form of joint control except that it doesn't go far enough, that is as far as the British Government is prepared to go. The people of Gibraltar go further than that. The Hon and Learned the Chief Minister is mistaken in reading the signals of public opinion if he thinks that people in Gibraltar would be satisfied with having a situation where on the 7th December the price for being allowed to enter under the EEC liberalisation agreement is that we have flights from Madrid to Gibraltar which are not

under anybody's control but which land in Gibraltar and are treated as domestic flights, as I have explained on many motions before, the people of Gibraltar do not want that.

HON CHIEF MINISTER:

If the Hon Member will give way. I think that we can save time in the argument because I reserved the position on the modalities and I said that when the record was made public of the attitude that we had taken on matters of that nature they would be seen to be against that kind of arrangement completely and that is on record. What I didn't want was, precisely as I said at the beginning, to get involved in an argument on last night's performance. I think that we may have another motion here on that sometime but I think the answer may be different. The answer may be, as far as we are concerned and as I say, because the issue has been raised in public, we will no longer be bound to confidentiality on whatever advice we give on what has been said in public and therefore we will stand by our record and by what we do. Nothing in the motion that I have said in any way accepts any kind of deal. What we say as we are prepared to consider ways which having regard to the views of the people of Gibraltar, we are prepared to consider ways in which better and more profitable use can be made of the airport for the benefit of Gibraltar. I would like to say that that is not an endorsement of anything that they say about joint use. We would have to see that. I can say now that the Government of Gibraltar has not agreed so far to any kind of agreement at the airport different to what there is on now. I can say that firmly. On the other hand, I have said and I am not afraid to say that I will look at any agreement or the Government has to look at any proposed agreement on the merits of it, how it affects Gibraltar, how it affects our commitment, how it affects the airport, how it affects sovereignty and how it affects the people of Gibraltar. I would like to make that clear.

HON J BOSSANO:

I welcome that clarification from the Hon and Learned Member because, in fact, in his original contribution in moving this amendment by constantly referring to the question of sovereignty and to the question of the motion previously carried by this House in December, 1986, he was giving us the wrong impression, Mr Speaker, because in fact as I mentioned, I think publicly, when we met Mr Ratford - I am not referring to what Sir Geoffrey Howe said last night - when we met Mr Ratford we had a situation when we were with him one hour and twenty minutes and in the course of that hour and twenty minutes he mentioned about ten times joint control and joint use and then went on to say 'and the British Government will never agree to joint control'. And then he went on to say 'joint control and joint use' and then again 'and the British Government will not accept joint control'.

By implication he was saying they would accept joint use and then he said that the British Government fully supported and stood by my motion of December, 1986, upon which statement I said to him could he point out where I had gone wrong in December, 1986, if they were so enthusiastic about my motion of December, 1986, which he fished out of his file and obviously had at fingertips and he pointed out that there was the word control. Obviously in December, 1986, we said that the airport should remain under the sole control of the British Gibraltar authorities. What we cannot have is a situation where the British Government plays semantics with full stops and commas and individual words because whether we call it control or whether we call it use what the people of Gibraltar want is crystal clear. I accept that the position of the Government is that they will look at any proposals that are put in front of them. I am not saying to them they mustn't look at it, it is their prerogative to do that if they think that they shouldn't discard something without considering the merits of the thing. Fine, but my concern is that the message of this House should appear to be a less strong message than the one we sent a week ago. Although, I think, what the Hon Member has said just now, in fact, makes the content stronger than would have been obvious from reading it, what I don't want, Mr Speaker, is that we face a situation on the 30th November where we then have an agreement that has been concluded on the question of Gibraltar which in the opinion of those concluding it, and not necessarily in our opinion, that is, in the opinion of the Gibraltarians ...

HON CHIEF MINISTER:

Or of ours.

HON J BOSSANO:

Yes, of the Gibraltarians including the Members opposite who are also Gibraltarians. In the opinion of all of us ...

HON CHIEF MINISTER:

For a longer time, some of us.

HON J BOSSANO:

And I hope the Hon Member may be so for many, many more years. But it seems to me that it is conceivable because we have had this situation before on other aspects where there has been a situation where the advice of the Government of Gibraltar has not been accepted by Her Majesty's Government who, effectively, have said they knew better. It happened with the frontier guard where the Hon Member had to come out publicly saying his advice had, in fact, been disregarded in this respect. Are we saying in this motion that they must not conclude an agreement which will not involve concessions

being made to Spain with the qualification that concessions means concessions on sovereignty where it will be in their judgement whether there is concession of sovereignty or not. Are we talking about a situation where provided they retain control of the Gibraltar airfield which satisfies them there is no concession of sovereignty even if, in fact, what is allowed to come out of their control is then described not as control but as use and then by definition because it is use and not control it doesn't have any implication of sovereignty? I don't think the people that came out with placards and Union Jacks and Gibraltar flags where, in fact, saying they were supporting the motion of December like the Foreign Office does because it was about control but they wouldn't have come out if the motion had been about use. That is a complete misrepresentation of what the people of Gibraltar have said. What they said quite clearly is that they want the status quo to remain and they want greater use. There was a phone in on this by GBC and everybody that rang up and was asked by GBC: "Are you objecting to Spanish airlines using Gibraltar?" Everybody said "No, we are not objecting". We have said so on many occasions ourselves, they are welcome to come here any time, they want. They can all come here, Lufthansa, Sabena, Iberia, the lot, but they land in our country on our terms in our airport. Fine, and then if they need to have a situation where the passengers having landed in Gibraltar decide to go somewhere else, they go somewhere else and if we cannot have it on that basis we don't want it, it's quite simple. And in any case if they decide to leave us out of the liberalisation agreement we then challenge the legality of being left out because we have not been willing to make concessions which we have no need to make. It is important, Mr Speaker, that it has to be understood that if the Government is supporting the motion with their redraft on the basis that any concessions being made to Spain means any concessions on sovereignty and that the only thing that they are against is anything that would lead to any form of joint control, then that is open to subsequent interpretation and it then becomes a question of value judgement. In whose view is a concession being made on sovereignty? In whose view would it lead to joint control? In the view of the Government of the day or in the view of the House of Assembly or in the view of the British Foreign Office, in the view of whom?

HON CHIEF MINISTER:

Perhaps you might deal with paragraph (2).

HON J BOSSANO:

I think paragraph (2), Mr Speaker, first of all, the motion of the 16 December, 1986, to which I have already referred is the one which the Foreign Office is so enthusiastic about. Mr Ratford carries the thing around with him.

HON CHIEF MINISTER:

Well, alright, let him carry it, I don't mind.

HON J BOSSANO:

Obviously, it doesn't inhibit his room of manoeuvre in the least because he was for an hour and twenty minutes trying to persuade us of the bonanza that we were going to get by going along the road that he thought was necessary. The man was quite explicit, Mr Speaker, and he said, as we have always understood the case to be - 'There is not going to be a deal unless every side is prepared to make concessions. In any negotiation people must be prepared to give and the situation is that there could well not be a deal because what we are willing to give so far is insufficient to satisfy Spain'. Let us be clear. It is reassuring to learn from the Hon and Learned Member that the views that they have put to the British Government to date, in fact, in reference to immigration and customs control are consistent with what the public opinion of Gibraltar is demanding, that there should be no weakening of those controls at all and it is reassuring to know that he is doing that. But, in fact, what Mr Ratford was saying is that on that issue the British Government has already indicated to Spain that they are prepared to move independent of the views that the Hon and Learned Member may have put but Spain is not willing to settle for as little as that, that is the position. I agree with the Hon Member that we can be grateful to our colleagues across the road that they have stopped the deal so far but suppose they become more reasonable or suppose the British Government wants more. Where does that leave us? Are we then stuck high and dry and do we then have a row in Gibraltar with one side of the House defending the deal and the other side of the House attacking it? That is not the road we want to follow, we don't think that is good for Gibraltar and we don't think that we can afford the luxury, forget bickering, we cannot afford the luxury of being fundamentally divided on this issue because if we are divided we will be conquered. At the end of the day, Mr Speaker, let me make clear that the GSLP's position will be that they will pursue the course of action of opposing a deal together with all the rest or on their own. We have got a clear mandate ourselves from our own supporters of what is expected of us, we are very clear. Let me say as well and I am sure that I am not telling Members opposite something they don't know, that I have had reflected to me an equally strong feeling on that issue from rank and file members of the AACR, people that I have known all my life and people who feel equally strongly so it isn't that at grass roots level, as far as I can tell, the people who support the governing party and the people who support us feel differently and therefore it is important that we should not be appearing in this House to, in fact, be taking fundamentally different positions and I think the qualification of the Hon and Learned Member when he spoke just now in interrupting me, quite frankly,

is more important than the actual amendment itself because I don't think the amendment reflects that qualification even with the reference in clause (2) to the previous resolutions because the British Government clearly is able quite happily to live with the resolutions that we have passed before because perhaps the technical drafting of it has left one loophole which they as experts can pinpoint and slip through what they would like us to accept. Let's be clear, they are, in fact, and Mr Ratford came here undoubtedly to do an exercise of persuasion which he obviously failed to do. He certainly failed to convince us, I would have thought he failed to convince the Government, he manifestly failed to convince the people of Gibraltar, no question about that one. And the people of Gibraltar, I think, in looking to our reaction today in this House expect from us a reaction which will take us forward from where we were on Tuesday and not, in fact, leave us where we were on Tuesday or, even worse, take us back. Frankly, we would not vote against this, all that we can do with this is what we have done before when we have brought other motions which in our view start off saying one thing and finish off saying something else except that on this occasion the only thing that it started off saying that is still there is "This House". We can do one of two things on this matter, Mr Speaker, either we abstain or we can try and reach agreement with the Government on a joint position on this matter. If the Government is not prepared to take the line because for us the crucial deletion is the removal of 'joint use' from paragraph 2(b) of the original motion, Mr Speaker. Quite frankly, the rest of it, the motion doesn't say 'concessions on sovereignty'. The Hon Member in his opening paragraph said the concessions he understood to be made on the question of sovereignty and on the question of control but we are saying that joint use may, in the opinion of Her Majesty's Government according to Mr Ratford, not have implication for sovereignty, in the opinion of us and in the opinion of the people of Gibraltar it does. Therefore, if the Government itself so far has been resisting the definitions of 'joint use' that have been put in front of them it must be because they are more suspicious of it than the Foreign Office itself is or would like us to be. If the Government were able to accept any form of joint use or perhaps any form of joint use is perhaps too wide a definition so rather than have 'any form of joint control and the joint use of the airport'. I think we would much rather, Mr Speaker, have a situation where the motion is carried unanimously because it is strengthened if the Government is clear and fundamentals were in agreement, than that it should be carried by a Government vote and an abstention on our part. Obviously we are not going to vote against it because, as I say, if we are not even in favour of joint use by definition, ipso facto, we can hardly be in favour of any form of control, logically. Perhaps if we can have some indication from the Government otherwise we can ourselves move an amendment and debate the amendment.

HON CHIEF MINISTER:

I would like to make it quite clear that the Government has got a bigger responsibility than the Opposition in this matter because ultimately we finally have to give our advice on this matter. And whilst I have expressed my feelings quite clearly and how we feel about matters which are more or less the same as the others, I have said and I have to stand by that, that I will be prepared to look at any kind of arrangements, and I won't call it joint use, I think the joint use definition lends itself to quite a number of different interpretations, it has a bad meaning and it could not have a bad meaning. I say that it has a bad meaning but it need not necessarily have but I want to get away from that in order not to appear not to support the positive side of what we think or rather the side that we don't like about it but we cannot and, I think, it is not in the interest of this House, in fact, if the Hon Member says that in respect of the last resolution that they were appearing to living with it, well, I don't know how they can live with this in the eyes of what is happening if, in fact, they want to respect it. What we have to be sure about is that our resolutions are such that we don't put ourselves out of our own court in getting them to refuse them or to ignore them and that is why the strength of what we decide in this House, I agree, is greater if we can have unanimity and we would like to do that but we have to have, as far as we are concerned and I don't make any apologies for this, as far as we are concerned we have to have an open mind as to what might or might not be acceptable as to what could happen at that airport well knowing, well bound by this resolution and by all the statements that I have made both here and to the British Government. So there is no lessening of our stand but we have a responsibility to allow the British Government to put proposals to us that we might consider and might be of interest and perhaps even might be of interest to the other side. I have always said that any ideas, and this is sometimes misinterpreted in other respects, any ideas on this matter that would be of interest to Gibraltar and which will not impinge on any of the principles to which we hold ourselves so strongly, has to be considered. The Government, in our view, cannot bind or rather will not successfully bind, I will put it that way, and we would lose credibility, we cannot successfully bind the British Government from exercising its own judgement and putting it to us about matters in connection with the airport. What we do not want is to reach a stage where decisions are taken which are against what Hon Members opposite and we feel are not acceptable and are taken over our heads. That is what we have to be careful of and in being careful about that we have to make sure that we do not close all the doors to the possibility of coming to something that is acceptable and is good for Gibraltar. If it is good for the other side, just as well.

HON J BOSSANO:

I think, Mr Speaker, the position is clear. I think there would be little to be gained by redebating the whole issue by moving any further amendments and we shall be abstaining on the Hon Member's amendment.

HON A J CANEPA:

I am going to speak once, Mr Speaker. I would like at the outset of my contribution to express my heartfelt thanks and associate myself with the remarks of appreciation for the organisers of the demonstration of last Tuesday and the resounding success of the petition. I think that if there had been any hint of the demonstration and/or the petition being organised on a party political basis it would simply not have had the enormous success, in my view, that it actually achieved. What I am saying is that if we, the Government party, if we in the AACR had been behind that organisation or if we had been the instigators of the demonstration it would not have achieved the success that it did or for that matter if the Hon Members opposite, if their party, the GSLP, had been similarly involved again we would not have achieved the tremendous success which the people of Gibraltar as a whole achieved. I say that mindful, for instance, of the difficulty, and I am not making the point in a derogatory sense, but mindful of the difficulty which Hon Members opposite had in collecting signatures at the time of the Brussels Agreement, I don't know whether it was finally after a couple of weeks or so that they achieved a total of about nine or twelve thousand, I think it was of that order, as against the sixteen thousand signatures achieved over a very wet weekend and I think that success was indicative of the spontaneous and uninhibited fashion in which the people of Gibraltar as a whole were able to respond and rally to the call. Mr Speaker, the Hon Mr Bossano in his earlier contribution made a remark, I found that I could express my sympathetic response to virtually everything that he was saying but there was a phrase that he used near the end which I would like to turn somewhat. He said 'we can be wooed till the cows come home but it will not change our feelings'. Well, we are not being wooed until the cows come home, we are being antagonised until the cows come home except, of course, that the cows which used to be there on what is Spanish neutral ground many years ago when I was a child are no longer there, there is something else in its place. But perhaps it is just as well because our friends across the way seem to be incapable of wooing us and therefore if there were ever to be a countdown, as it were, it would not be reckoned from the start of restrictions in 1964 or from the end of restrictions in 1985 but, in fact, the clock is being put forward all the time and we are always reckoning from a current date and therefore the new generation that is growing up in Gibraltar today feels just as strongly as the generation that was growing up at the height of the restrictions about matters to do

with the stand that we are taking on Gibraltar and on our future. Mr Bossano in his second contribution, speaking on the amendment, said the amendment of the Chief Minister reflects entirely the view put to Hon Members opposite by Mr Ratford. I really don't see how it can do that, Mr Speaker, when the resolution adopted by the House on the 25th March, 1987, in the first paragraph, and I quote, says: "Should proposals be put forward in connection with greater civilian use of the Gibraltar airport which might, in the view of the Gibraltar House of Assembly, make it possible to represent or interpret such use as being an encroachment on British sovereignty over the isthmus, such proposals would be unacceptable to this House and to the people of Gibraltar". That is what the House, in my view, was saying on the 25th March about joint use. This is how we saw that, in fact, we didn't use the phrase 'joint use' we spoke about 'greater civilian use'. Then in the second motion of December, 1986, we went on to say: "That any flight from or to any foreign country should be governed by the rules applicable to international flights". In other words, we want to see flights arriving at Gibraltar from destination points from Spain being treated as any other international flight and perhaps all along the use of 'international use' would have been a far better phrase to use than 'joint use'. I don't see that if we keep in mind that we are reiterating these motions, that we are in any way reflecting the view of Mr Ratford, quite the contrary. But the crux of the matter perhaps might well be in whose view, whose interpretation? And, undoubtedly, and this is where perhaps it is rather sad though not entirely unexpected, undoubtedly, the ultimate view is that of the Foreign Office. It is their interpretation on whether there is any infringement of sovereignty and not the interpretation of Members of this House which appears to be the deciding factor. We, in the motion of March, 1986, spoke about 'such proposals being unacceptable to this House and to the people of Gibraltar' and the British Government may well turn round and say: "Well, ultimately it is British sovereignty that we are talking about, we have got sovereignty over Gibraltar and over the isthmus and if we are satisfied that that interpretation cannot be put on the arrangements, then we are perfectly satisfied and it is not for you to be the final arbiters on the matter". I deplore that view if that is the case. I think that we are the ones who are living here, ultimately Gibraltar is ours de facto regardless of what the de jure position might be but this is the difficulty that we have, I think this is what we are up against. I think that the Chief Minister's amendment covers the point about joint use that Mr Bossano is not very happy about because of the fact that the motion previously approved by the House is being reiterated and we laid down the constraints that we wanted to see on any greater civilian use as being in line with the normal rules applicable to international flights and that therefore there should be no special arrangements of what might be joint use. In other words, I think what the House had in mind was that if there were international flights to Gibraltar from other points, say, Frankfurt or Brussels or Zurich, is the British Government going to enter

into special arrangements for joint use with Brussels and with Germany and with Switzerland or is it that it only does so in the case of Spain because Spain happens to be next door? This, I think, really is the fundamental problem that we are faced with. Sir, I am not going to allow this opportunity today of not taking issue with Sir Geoffrey Howe on two points where I feel that I cannot wait, where I feel that I have a captive audience and I am entitled to express my disagreement with him at least with regard to two points that he made. And that is, in the first place, I disagree with the Secretary of State's interpretation as to who are passengers in transit. I have no doubt in my mind that passengers getting on a flight in Madrid that flies to Gibraltar and then those of them that were to then take a flight Gibraltar Airways on to Tangier then it would be in transit, I have no doubt about that. But what I do not think, I do not agree, are passengers who are in transit are those who were to get on in a flight in Madrid, alight at Gibraltar and go on to Sotogrande by land or go on to Sotogrande by sea, for that matter. Those people, in my view, are not in transit and I think that the argument is being stretched in an unacceptable manner. If you fly from Gibraltar to Gatwick and then two hours later you are going to get at Gatwick a flight that is going to take you to Strasbourg then arrangements will be made for your luggage, your luggage will not have to go through customs. But if you get off at Gatwick and go on to Heathrow in order to go to Geneva you are going to have to pass through immigration and customs at Gatwick and then after you go on to Heathrow you are going to have to pass through customs and immigration at Heathrow. Those passengers are not in transit therefore. So I quarrel with the Secretary of State about that and when he draws the parallel of Basle and Geneva where there are those arrangements, yes, at Geneva Air Terminal you can either get off in Switzerland or in France and I think the arrangements are similar about Basle but, of course, the essential difference is that the French and the Swiss and the French, and in the case of Basle the Germans, do not have on each other claims about the sovereignty of the land on which the airport at Basle or about the land on which the airport at Geneva is built. Again, that is a difficulty and I am saying that today because I have told Mr Ratford that I disagree with him, I told him twice last week. The Secretary of State then went on also, he made a remark very early on - I have the full text here of yesterday's interview, it was transcribed last night and this morning - he said: "I fully understand the strength of anxiety and feeling about this and I have studied, of course, the petition and I have studied the resolutions of the House there so I understand all the feelings that have been strongly expressed". With all due respect to the Secretary of State, I don't think he understands the strength of feeling in Gibraltar last week or today on the matter, he doesn't. And he talked about being cool, we have got to keep cool, it is very easy to keep cool in London, you have no choice but to keep cool in London but the situation is far different here in Gibraltar. Therefore, Mr Speaker, he doesn't understand the feelings

or the mood of the people that took part in the demonstration and I am not just talking about those whom one could describe as the more militant people because it is extraordinary the number of people and the kind of people that felt that they should form part of that demonstration. People of a quiet disposition who, perhaps, have never taken part in a demonstration of that nature before in their lives but who are very worried, very anxious and very concerned that nothing should be done at that airport that would undermine in any way the struggle of the last twenty years and the fight that we have been putting up with. Then the Secretary of State in answering the same question, went on to say: "And at the same time I think it is important to understand the prize that we are trying to work for Gibraltar" - prize with a 'z' - "which is moving into a future as a financial centre, as a tourist centre, where defence expenditure, where aid expenditure is running out". Of course we want to see expansion of Gibraltar as a financial centre and of course we want to see a development of the tourist industry but what we don't want, thank you, is that it should be at the expense of something else. That it should be at a price - with a 'c' and not with a 'z'. This is what the people of Gibraltar are not prepared to have and, again, I told Mr Ratford last week that if the people of Gibraltar were to be given a choice as between unacceptable concessions at the airport in order to have flights from all these far-off places and, undoubtedly, flights from Zurich and Frankfurt would be of great benefit to the financial centre and if we were to be able to have flights from Gibraltar to Madrid and other airports in Spain, again, it would be of great benefit to the tourist industry. But if the choice is between that which is going to bring about a better standard of living but an unacceptable sacrifice on our part, then I have no doubt that the answer of the people of Gibraltar is 'No, thank you, we don't want it, we are happy with the way that the financial centre is going' and if there is going to be retrogression in the economy, if there is going to be a lower standard of living it is a price that we have paid in the past and if it comes to the crunch I think the people of Gibraltar are prepared to pay that price again. During the twenty years of restrictions we paid the price in economic terms, undoubtedly we were taxing ourselves more heavily than what we had to, undoubtedly we didn't enjoy as high a standard of living as we could have enjoyed if the frontier had been open and we also paid a price in that the quality of life in Gibraltar within our confined area was not what it is today when people have the normal aspirations of any human being of the expansion for recreational and for touristic purposes of the Spanish hinterland. But that is where I quarrel with the Secretary of State in that there does not seem after all that we have said, after all that they were told last week and the message has been communicated, I don't think that anyone can be in any doubt that the Secretary of State on television last night was extremely well-briefed. He was absolutely up to the date. He knew about the programme on Spanish television the previous evening 'En Portada' when Señor Ordoñez had used the phrase

'active patience'. The Secretary of State was extremely well-briefed but there does not seem to be a full appreciation, a full understanding and a full response to the essential views and aspirations of the people of Gibraltar which are that our self respect, our dignity count above all and that we do not want to see concessions made which are going to be interpreted, which are the thin edge of the wedge, and which are going to be interpreted as concessions on the sovereignty of the isthmus on which the Spaniards take a very peculiar view as against the view that they take about Gibraltar generally under the Treaty of Utrecht. I support the amendment of the Chief Minister, Mr Speaker, because it is stronger in sum total, I think, because it includes and it reiterates the motions that have been passed in the House previously, in spite of my reservation about the interpretation that is put on them because the problem can arise again, it can happen again. I feel sincerely that the amendment in sum total is stronger than the original motion and if Hon Members opposite cannot see their way after that explanation to voting with the Government then I think that we will have gone back, the position generally would be weaker than what it was last Tuesday whereas if we were to be able to agree to pass the motion unanimously then, in spite of whatever interpretation is put on the motions that we pass in this House, seen from the point of view of the people of Gibraltar we at least within Gibraltar would feel that we have not gone a step back but that we have, indeed, maintained the position so I would appeal to the Hon Members opposite to try and give the matter every consideration.

HON M A FEETHAM:

Mr Speaker, certainly I would like to follow up from where the Hon Member has left it.

MR SPEAKER:

You are going to speak generally, are you?

HON M A FEETHAM:

I am going to speak on our motion. Let me say that it was clear from our meeting with Mr Ratford that the whole object of the exercise of Mr Ratford's visit was, as my colleague has already said, a very subtle form of intimidation of the people of Gibraltar through their elected representatives aimed at achieving a deal which the British Government feel, from their point of view, they can at the end of the day through their own manoeuvring make the Government of Gibraltar, the Opposition and the people accept as being mutually beneficial to the people of Gibraltar and the Campo of Gibraltar. Let me explain exactly what I mean by this viewpoint. First of all, it is a fact that the air liberalisation agreement has been under discussion for two years at least. It was a proposal which was initiated by

Britain and all along Britain have been maintaining the only view and the only position that they could maintain and that was that we in Gibraltar under the legal terms of our membership of the European Community are lawfully entitled to be in that air liberalisation agreement. Having therefore maintained that position and at no time Spain vetoed that position because they are not entitled and haven't got the power to veto that position because no Member State has got the right to veto anything which goes against the Treaty of Rome which makes up the European Community, legally we are entitled to form part of that agreement. If we look at that agreement in the context of Gibraltar today what will it achieve? It will achieve expansion and development for Gibraltar which will be unprecedented in the whole history of Gibraltar, and as a result of that development and expansion which will take place by liberalising air fares and introducing flights it will mean that Gibraltar will once again retain the position it had before the frontier closed where we were the servicing industry for the Costa del Sol and the result of that will be that we would benefit and the whole of the Campo de Gibraltar will benefit because we would be servicing the whole area and consequently the effect of that deal, Mr Speaker, is that we would be entitled to 100% of the effect in economic terms of being part of that liberalisation agreement. From a position of achieving maximum potential we are accepting by conceding any form of joint use or concessions whereby we are allowing transit traffic as defined by Sir Geoffrey Howe to enter Spain, we are putting ourselves in a position of lowering that maximum potential for Gibraltar from 100% to 20% or 30%. The message is that we are losing 70% of that air liberalisation agreement and that is what concessions mean for Spain. They are going to gain 70%, we are going to lose 70%. And it is very simple because whereas now we are providing services, those services would increase if we went ahead with the agreement but if we didn't go ahead with the agreement as envisaged, all these services would be provided by the other side. I have compiled a list from memory overnight and one could then be talking about fuel, aircraft handling, passenger taxes, duty free shops, restaurant facilities, aircraft catering, banking, car hire, taxis, coaches, travel agents, importers, tobacco importers, perfume importers, all those things, Mr Speaker, would be provided by the people of Gibraltar and all those things would be lost. Not only that but, of course, they would get also what they would get with us if we had that agreement, 100% benefit, they would still get the expansion because hotels will be built and it is only natural. If we are expanding the airport in Gibraltar that would be of mutual benefit to the people across the way. That is what we have to analyse in economic terms if we are not talking about the question of sovereignty. Should we or should we not give up maximum potential of the development of the area through Gibraltar? That is what we should be discussing. Therefore when we are faced with the attitude of Mr Ratford and the Foreign Office during the recent visit one gets the distinct impression that we are being put in a tight corner in Gibraltar strictly for appeasement of Spain because it is

a necessity to follow that policy because there are very large commercial social and political reasons in the national interest of Britain and Spain that not one side or the other should lose faith in this on-going process of discussion. Therefore the aim is to let one side or the other off the hook. In my opinion it is just to have a face-saver for Spain at our expense but when it comes to other considerations, Mr Speaker, when it comes to the consideration of the role of NATO and military aspects, Britain stands firm and it is only logical that they should stand firm. Spain is in the eyes of Western military considerations not a stable contributor, it is not a full member of NATO and so on so Britain will always stand firm on the military aspect but everything else is on play because the national interest of Britain is more important than the people of Gibraltar and that is what we have to stand firm on if we are going to stand firm once in our lifetime, together, both sides and the people of Gibraltar as expressed in that demonstration, that is what we have to do. Therefore the message that Howe gave to us yesterday which we weren't going to deal with but it has been raised by the Hon Member opposite, was that we have to toe the line because Britain knows what is best for us and since they are responsible for foreign affairs they are the ones who will not listen to our advice and discuss it with us and come to an agreement, they will tell us what is good for us. That is why there is a difference in approach between both sides of the House. We, on this side and this is, perhaps, characteristic of us, try to make sure that whatever we bring to the House is tightly knit because it is a fact that the British Foreign Office are experts in untying knots and coming out of sticky situations and putting the blame or the responsibility on others. One distinct message that we got was, for example, and the Hon Member was opposite when we had dinner with Mr Ratford at the Deputy Governor's residence where on being questioned by some members at dinner the first thing he said was: "I am surprised that there hasn't been enough dissemination of information for the people of Gibraltar. Why is all this a surprise?" Of course, the Hon Member opposite, Mr Canepa, said: "What do you mean, not enough information, you haven't even wanted to meet the press. You haven't given any information, how can we, the Government of Gibraltar, be informing the people if we are bound by confidentiality and you are not prepared to inform the people of Gibraltar". Therefore they will, when they are in a tight corner, ensure that somebody else takes the responsibility for it and that is why we will stand by our motion because the people of Gibraltar are quite clear. Concessions in any form, and it is a concession to lose a 70% or 60%. The Hon Member is witness to the fact that at that dinner I asked Mr Ratford: "You are trying to sell to the lawyers" - because there were mostly lawyers at that dinner - "that it is good for the Finance Centre" and, clearly, from the nods of one or two of them, our colleague there is a witness, they were agreeing that it was good for the Finance Centre. But what he couldn't answer, with respect, was the question that I asked him: "Well, if it is good for Gibraltar's tourism and Finance

Centre, can you as our negotiator quantify in real terms how good this deal is for the people of Gibraltar as a whole, if we are going to lose out on what we have got already?" And of course, as a negotiator and I would say a very poor one at that, he certainly didn't have any figures in real terms how much a worker in Gibraltar would benefit by this deal in the long term. He didn't, he was there to sell something to get Britain off the hook, to get Spain off the hook and to keep the negotiating process going which has been going round in circles for the last twelve months, that was his role here. Of course, we have to make it clear, we have to keep the impetus and we have to make it clear that nothing which we have a right to should be given up. Having said that, I say it with the greatest sincerity, it is my opinion and the opinion of my colleagues that if the air liberalisation agreement goes through and if the Gibraltar airport expands as it naturally will do, it would not only be of the greatest unprecedented benefit to Gibraltar but it will be of unprecedented benefit for the Campo de Gibraltar and further afield and therefore if that is so important, if Spain considers that the development of this area is so important to the 25% of unemployment there is on that side, they should agree if they have the interests of their people across the road at heart, the welfare and economic benefit that they will derive, they should agree to go along with the air liberalisation agreement, not veto Gibraltar and accept the realities of the situation and not try to make political capital out of a situation which will be of great consequence for their own people as well.

MR SPEAKER:

Are there any other contributors?

HON J E PILCHER:

Mr Speaker, I would like to intervene in the motion but seeing it is almost one o'clock.

MR SPEAKER:

You are going to be much longer?

HON J E PILCHER:

Certainly much more than five minutes, yes.

MR SPEAKER:

We will then recess until this afternoon at quarter past three.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

MR SPEAKER:

I believe that Mr Pilcher wanted to contribute to the debate.

HON J E PILCHER:

Mr Speaker, in contributing to the motion, I am speaking on the amendment to the motion. I think it will be my only contribution but I have to reserve my position in case I wish to speak later on.

MR SPEAKER:

You are entitled to and I will most certainly take note of what you say.

HON J E PILCHER:

Mr Speaker, first of all, I would like to comment on the amendment moved by the Hon and Learned the Chief Minister and in doing so I would like to analyse the reasons why the Gibraltar Socialist Labour Party brought our initial motion to this House. I don't want to go into any lengthy explanations of this because this has been covered, I think, to a point by the submission of the Leader of the Opposition and also by my colleague Mr Feetham, but I think I have to say quite clearly that the reason why the Opposition brought this motion to the House was as a clear result of our meeting with Mr Ratford at The Convent on Tuesday morning. Obviously, in doing so it also was as a direct result of the mass demonstration by the people of Gibraltar in response to both Action for Gibraltar and the Gibraltar Trades Council, something which I will seek to amend during my contribution, but as I say, precisely because there was an element in our discussion with Mr Ratford which we felt was quite clear and that was, Mr Speaker, that the British Government were looking at the joint use of the airport. It is also true that when the House was adjourned last week the Leader of the Opposition did ask the Hon and Learned the Chief Minister whether in his opinion there would be anything important that would happen between then and the discussion of the motion today. And we all know, Mr Speaker, that there was last night a television interview by Sir Geoffrey Howe, which one has to take into account. I do not believe, Mr Speaker, in political coincidences. There is no way that I am going to believe that the fact that last night some ten or twelve hours before this House was due to meet, the Foreign Minister of the United Kingdom Government gives an exclusive interview to Gibraltar Television without realising that he was doing so in advance of a motion that was going to be tabled in this House of Assembly today.

HON CHIEF MINISTER:

Will the Hon Member give way? I hope that he is not implying that when I said that nothing would happen between then and today that I knew that the Secretary of State was going to speak last night.

HON J E PILCHER:

That is certainly not my intention, Mr Speaker, and if that is the impression I want to clear it up. What has happened is that, obviously, Sir Geoffrey Howe wanted to ensure, after last night's interview, that he left us in the House of Assembly in no doubt as to what was going to be the United Kingdom's position on this. Mr Speaker, in so doing I think he echoed - well, he didn't echo because, in fact, Mr Ratford is supposedly his echo - but in so doing he echoed what Mr Ratford had been saying to us in The Convent a week previously. And there is no way that certainly the Opposition party and we consider we are a responsible Opposition, were going to come to today's House of Assembly meeting, Mr Speaker, without taking into account what Sir Geoffrey Howe had said and therefore it was to a point illogical to me that the Hon and Learned Chief Minister said in his initial contribution that what Sir Geoffrey Howe had said was a matter to be looked at in the future and perhaps there will even be motions in the future. I think that is what he said. We, Mr Speaker, called an emergency meeting of the GSLP Executive last night and we spent until about two o'clock in the morning analysing what Sir Geoffrey Howe had said and to us it was very, very important because Sir Geoffrey Howe made a lot of very important comments in his interview. He certainly made the comment which has been made at various intervals during the whole of the discussions over the Gibraltar question and that is his commitment to honour the wishes of the people of Gibraltar, particularly on the question of sovereignty, that is obviously to be expected and we agree and thank the British Government for continuing to honour our wishes. But after having said that he went on to make a lot of what we consider very important points and although he was evasive in some of his answers he certainly made a lot of clear comments to very clear questions. When he was asked: "Are you definitely looking for a deal?" His answer was: "Yes, we are definitely looking for a deal". The comments made and the transcript of the interview will certainly show that because I have just spent some half an hour checking again the video which I have at home, Mr Speaker, so it is, in fact, said so clearly there - "Are you definitely looking for a deal?" The answer was: "Yes". He also made a lot of important points, Mr Speaker, as regards hidden points which I think he threw out to the people of Gibraltar and to this House to make sure that we understood how the thing was being viewed by the British Government. Hence one of his comments which is a purely, I suppose, innocent comment but which certainly is a comment which highlights the situation we are today. He said: "aid expenditure and defence expenditure

is running out". I think that is a clear pointer that the defence expenditure and the aid expenditure will be very, very heavily scrutinised by the British Government if the people of Gibraltar don't do what it is that they have been asked to do. He also mentioned the famous words which are now being changed slightly and it gets changed depending on the mood and depending on the terminology, we are now calling it what the Spanish are now calling it "active patience". It was the wooing process, the process of osmosis, now it is being called "active patience". And he said quite clearly: "We want the people of Gibraltar and the people of Spain to be working for a future increasingly together". Again, Mr Speaker, quite a clear message to the people of Gibraltar and to the people of Spain that, as far as the British Government is concerned, the future of the people of Gibraltar lies increasingly with the future of the people of Spain, Mr Speaker. He also said quite clearly: "Our proposals are to seek a basis on which we can achieve joint use", a quote from what Sir Geoffrey Howe said. "Our proposals are to seek a basis on which we can achieve joint use" and he went on to explain what 'joint use' meant to him - management of air traffic control, management of the airfield, management of the people, that is where he used his famous 'in transit'. He spoke about all these things and he elaborated slightly on some of them like, for example, the in transit situation for passengers coming to Gibraltar and he said after all that: "It's perfectly reasonable to give it to them". In fact, he asked "Isn't it?" to Mr Golt. He said it is a perfectly reasonable thing. Then he said: "If we want to achieve what is good for Gibraltar" and this, Mr Speaker, I think I am to a point also mentioning what the Hon Mr Canepa said this morning, if we want to achieve what is good for Gibraltar, this is exactly the same as we said to Mr Ratford in The Convent, how do we define 'we', who is the 'we'? If we want to decide what is good for Gibraltar then this is the forum where we decide it. If 'we' meaning 'they' want to decide what is good for Gibraltar then 'we' meaning 'they' will decide it there. That is the difference, Mr Speaker. I think the British Government continues to treat us, Mr Speaker, as if we were young kids who cannot decide for ourselves where our benefits lie. He continued to talk about, and it was mentioned by the Leader of the Opposition this morning, the flights from Frankfurt for the financial centre, the flights from tourist resorts for a boom in tourism, and on the other hand, he mentioned the fact that being left out would mean, perhaps, not such a big boom for Gibraltar and his comments on the aid expenditure and defence expenditure. The point is it is up to us, Mr Speaker, to decide what is good for us. We will decide what is good for us. We told Mr Ratford "We will decide", the people of Gibraltar, by 'we' I am not talking obviously about we in the Opposition, I am talking about we in this House and the people of Gibraltar will have to decide what is good for them and not what happens to be good for Sir Geoffrey Howe or for any UK Government or Spanish Government, Mr Speaker. I think that is the point that we have to make in this House today. He also spoke for the first

time, at least for the first time that I have heard it, of their commitments to Spain. He mentioned it various times, their commitment, the commitment of the British Government to Spain. The commitment, I think he mentioned quite clearly, to negotiate and to him after two and a half years of negotiating on the airport it was time now for those negotiations to come to an end. Obviously, the end would be a deal. I am mentioning all these factors, Mr Speaker, because they are factors to be taken into account when we have to decide here today what position we are going to take on the motion in front of us and the amendments in front of us and what I hope will be an amendment which I am going to move at the end of my contribution, Mr Speaker. I want to pick up a point that the Hon Mr Canepa said because he spoke of the value of the prize - prize with a 'z' and in looking at the prize with a 'z', I immediately remembered the programme of the night before, on Sunday night, the programme "En Portada" in Spanish television which ended by saying "Whilst we are talking of sovereignty the Spanish Government will continue to talk". I think that is the prize that Spain is interested in, the prize being the sovereignty of Gibraltar and we are quite clear that to allow any deal to go through that will give an inch will eventually undermine the position of Gibraltar. This is what Sir Geoffrey Howe doesn't seem to understand and I think I voice what the Hon Mr Canepa said this morning because he sidestepped well the question asked by Clive Golt on the difference between the fact that there is no crisis between France, Switzerland and Germany in the bilateral agreements that they have at each airport but there would be a tremendous difference in Gibraltar because the airport which obviously they are talking about is an airport which is part of our little piece of the world which Spain wants to take over. I think that is an important point which Sir Geoffrey Howe does not understand and I think the British Government doesn't understand. The Spanish Government certainly understand it. Having said all this and having painted a very clear scenario last night, Sir Geoffrey Howe then mentioned that he understood the feeling and the mood of the Gibraltarians. I don't know how he could understand the feeling and the mood of the Gibraltarians after having said something which went totally contrary to what the 16,000 Gibraltarians were saying in the demonstration and what the fifteen elected leaders have been saying in the past and I hope will say so today here in this House of Assembly, Mr Speaker. But what was slightly more confusing, to me certainly, was that it appeared that the Hon Leader and Chief Minister of Gibraltar didn't understand it either. In his contribution this morning he said that as far as he was concerned, when he was holding on to the banner of 'No concessions' he meant no concessions on sovereignty. If that is what the Hon and Learned the Chief Minister thinks that the people that were coming behind him were saying, I dare say to him, Mr Speaker, today that he was wrong. The people of Gibraltar were saying 'No concessions, period'. The people of Gibraltar were saying 'No concessions at all, no Spanish aircraft entering into Gibraltar air space as if it was Spanish air space, no international flights to Gibraltar as if it was a Spanish

airport, no national flights from Spain, no customs control, no immigration control' and I can go into a list of things that the people walking behind Sir Joshua Hassan in that mass demonstration were saying and that is not that there should be no concessions on sovereignty, that was that there should be no concessions at all. If Sir Joshua believed that this was what he was doing in front of the demonstration, he should have made it clear to the people of Gibraltar there that his leadership in that demonstration meant that what he was saying was 'No concessions on sovereignty, the other matters could be discussed'. Mr Speaker, the Hon and Learned Chief Minister sometimes forgets that there was a sequence of events leading up to the demonstration which, in fact, negate the no concessions on sovereignty because the reaction to that mass demonstration by the GTC, by Action for Gibraltar, by whoever it was that organised it, was a reaction to the article in 'El Pais' which was afterwards agreed to by the British Government as an accurate report of what had happened in the negotiations. And it was that that the people of Gibraltar were saying 'No' to, it was those negotiating ploys, it was those proposals that the Spanish Government had put on the negotiating table that the people of Gibraltar were saying 'No' to and those, Mr Speaker, were not concessions on sovereignty, they were all those things that Sir Geoffrey Howe last night was saying on television that he was prepared to give the Spanish Government. There was, Mr Speaker, as far as we were concerned, a clear conflict between what the people of Gibraltar had said clearly in the demonstration which we hope we have captivated in our motion, to what the Hon and Learned Chief Minister was saying in his watered down motion. But, of course, whilst he was watering it down, he was saying to us that it was a stronger motion. It was this spontaneous rally behind the elected leaders of Gibraltar, Mr Speaker, that was the key for us to understand what really was happening in Gibraltar. I believe firmly, Mr Speaker, that what we say in Gibraltar last Tuesday was a reaffirmation of the referendum in Gibraltar. I honestly believe that if last Tuesday we would have had a referendum instead of a mass demonstration the result would have been the same last Tuesday as it was in 1967, twenty years after. And it will be the same, and this is the message clear to the British Government, in twenty-one years' time, in forty-two years' time, in sixty-three years' time and in as many multiples as they want because I know what I feel, I know what my children feel, I know what my father feels and it is exactly the same. The wooing or 'active patience' process does not work because the Spanish Government are incapable of patience, anyway. In fact, I was very moved, Mr Speaker, because sometimes when one is inside a demonstration it is difficult for one to assimilate the immensity of the thing. One is in one's sort of little particle and people are shouting around you but you cannot feel the immensity of the thing. When I watched it on television afterwards I was moved by the immensity and when people started saying 'We say no' the immensity of that was to me quite clear and particularly the phraseology used very

ably by the Gibraltar Broadcasting Corporation when they said "Gibraltar has spoken". Gibraltar spoke last Tuesday but a week later nobody seems to have paid the slightest bit of attention to it. The British Government certainly hasn't, the Spanish Government certainly hasn't and from what I, at that stage this morning after the intervention of the Hon and Learned the Chief Minister, I was afraid that the Government of Gibraltar hadn't heard the message either, that was my position up to that moment, Mr Speaker. When I looked at the amendment, Mr Speaker, you could - if I may use the phrase - you could drive a juggernaut through this amendment, Mr Speaker. What Mr Ratford was saying to us last Tuesday, what Sir Geoffrey Howe was saying to us yesterday clearly is not in conflict with this at all. It wasn't a week ago, it wasn't today and it won't be in ten day's time when the two Foreign Ministers meet. They can drive any agreement through this. Obviously, they will have to drive it through the Gibraltar Government but that is not the point. The point is if we pass this amendment or this motion, this is what the House of Assembly of Gibraltar will be saying and I think this, Mr Speaker, is clearly not what the people of Gibraltar said, as far as we are concerned, and therefore this is why we said this morning that there was no way, obviously we couldn't vote against this but we couldn't support this amendment either because we felt it was a weak amendment. I was thinking to myself this morning, Mr Speaker, sometimes a Spanish phrase which we use which was "Se le ve el plumero". That is what I was thinking when I was sitting here, "Se le ve el plumero". I honestly felt that this was another cosmetic exercise to allow a door to be kept open just in case we weren't able to convince the British Government that it wasn't in our best interest to strike a no deal over the airport and they forced it down our throats. I felt very hurt when he said that this was doing justice to the people of Gibraltar. This amendment, Mr Speaker, does not do justice to the people of Gibraltar, it does not do justice to the 16,000 people that demonstrated outside this House of Assembly waiting for us to leave and adjourn the House and, certainly, to the 16,000 people that walked down Main Street to The Convent. This amendment, Mr Speaker, what it does is clearly make it easier, leave a door open, it does justice but to the British and Spanish Governments to be able to concoct a deal which is not in direct contravention to this amended motion of the House of Assembly.

HON CHIEF MINISTER:

Will the Hon Member give way? Perhaps he might address himself to the second paragraph. Is he saying that the resolutions of the House of Assembly mean nothing at all on which we have been relying for so long?

HON J E PILCHER:

I will lead up to that, Mr Speaker, but obviously the clear answer to that is Sir Geoffrey Howe last night obviously felt that what he was doing was not in contravention of the motions of the 25th March and 16th December because if not there would have been a reaction immediately by the Government of Gibraltar or there should have been. I do not feel that what he is doing at this moment is in direct contravention to the motions passed on the 25th March and the 16th December nor does the GSLP and that is why we brought this motion to the House which sought to close the door on joint use, Mr Speaker. What seemed to worry the Hon and Learned the Chief Minister which is what has been worrying him now for a long, long time and I wish he would learn from his mistakes, is that he doesn't want to pass a motion in the House that will be - I think his words were - refused or ignored by the British Government. Mr Speaker, if that is what the people of Gibraltar ask for, if that is what this House should pass, it doesn't really matter whether it will be refused or ignored by the British Government because it will be the voice of Gibraltar, Mr Speaker, as exercised here in the House of Assembly of Gibraltar. Therefore, if that is what it takes then that is what we should do and then there will be a united Gibraltar on an issue. Even if the deal is sold off over our heads, we will have a united Gibraltar and we could fight united against one cause. If what we are going to do is open up at the end of it, after all that it took to bring that demonstration forward and bring Gibraltar to this unity which is reflected by the letters from Action for Gibraltar and, I think, a lot of letters in the press and in phone-ins, then this unity must be maintained and it cannot be maintained by keeping doors open and allowing people manoeuvrability because that is not what the House of Assembly is here for. I would like to take the Hon and Learned Chief Minister back to the motion that he so very much wishes us to remember. I would just like to remind the Hon and Learned Chief Minister that even on the 24th March, 1986, there were moves afoot to try and move the airport discussions into a political arena where Spain would and were looking at the sovereignty aspect. If I may, Mr Speaker, remind the Hon and Learned the Chief Minister: "The talks, of course, have their origins in the provisions of the Brussels Agreement which speaks about promoting cooperation on a mutually beneficial basis in a number of touristic matters", etc, etc. "At the suggestion of the British Government I agreed that the Administrative Secretary should attend on the August, 1985, and February, 1986, talks as part of the British delegation. As announced on both occasions the Administrative Secretary would, obviously, report to me on his return. He did not attend the talks held locally in March". The Chief Minister added: "When the Administrative Secretary reported to me on the talks held in Madrid on the 10th and 11th February, it seemed to me that there existed the possibility of political undertones creeping into the discussion". Clearly, Spain is saying what their position is clearly and realistically and it is about time that we, the elected leaders of the people of Gibraltar, did exactly the same

and told the British Government and the Spanish Government what we realistically believe and want. I think what the Government of Gibraltar is looking at, I think what the Government of Gibraltar is banking on is for Spain to stop that agreement not because it is too much but because it is too little. I think that is the way out for the Government of Gibraltar, certainly if one looks at this motion because this motion clearly says: "which would involve any concessions being made to Spain or which would in any way establish, or at any time in the future lead to, any form of joint control of the airport". Sir Geoffrey Howe clearly said 'joint control is out'. Mr Ratford clearly said 'joint control is out'. Therefore there is no possibility that joint control will appear not because the people of Gibraltar want it one way or the other but because the British Military Authorities will not accept joint control over a military airfield, that is the only reason. The key is 'joint use' it is not 'joint control'. Now that I have given quite a clear scenario, I would like to remind the Hon and Learned Chief Minister of a placard that appeared the first moment we saw the report of GBC on the demonstration which read "AACR says no deal" and I would just like to tell the Chief Minister that that was a placard taken by prominent people in his Executive and I would just like to remind him that last night Sir Geoffrey Howe clearly said that they were working towards a deal. Then, Mr Speaker, something happened which was in direct conflict with the mood which the Hon and Learned Chief Minister had, in my mind, brought about as a result of the movement of his motion. He had, I think, dampened certainly as far as I was concerned and on this side of the House, left the door open and dampened the aggressive mood of Gibraltar - and I use 'aggressive' in inverted commas - aggressive meaning certainly not in a violent way but in the way of wanting to take action and to stand up and be counted. And that was the intervention by the Hon Mr Canepa which was in direct conflict to the intervention of the Hon and Learned Chief Minister. Mr Canepa was aggressive and strong, his mood was much more clear and much more in keeping with our motion, Mr Speaker. Our motion that spoke of no concessions to be made to Spain, no concessions on joint use. It was a much more strong approach to the motion. He also went on to make what I consider to be an attack on certain aspects of what Sir Geoffrey Howe had said although the Leader of his party, the Chief Minister, had said in his contribution at the start that he would not look at what Sir Geoffrey Howe had said because that was to be looked at in the future. The Hon Mr Canepa reflected what the Opposition were saying - I'll rephrase that because I don't want to make it a party political thing - the Hon Mr Canepa was saying what was the mood of the people last Tuesday, not today, not after the intervention of the Hon and Learned Chief Minister. He was strong, aggressive and saying quite clearly 'Gibraltar is ours de facto. No joint use, maybe international use, but no joint use'. It was in direct conflict to what we had heard earlier on from the Hon and Learned Chief Minister. He said 'no' clearly to in transit

traffic and I think he mentioned various examples but I think he left one thing out which certainly to me is also illogical and that is the fact that Sir Geoffrey last night was talking about in transit traffic out of Gibraltar ie a Spanish airline comes into the airport and the passengers would go to a Spanish air terminal and exit from the Gibraltar airport in that way. What would happen to passengers coming into Gibraltar? Would they go to the Spanish air terminal and go to the Spanish aircraft? Who would then have security of the passengers, security of the airfield, security of knowing which passengers were there? Obviously, that would be the responsibility of an airport authority in which case the airport authority would have to be managed by Spanish officials as well because you couldn't guarantee security if we had the airport authority on this side and we didn't know who was getting into the aircraft on the other side. That is a point which Sir Geoffrey Howe certainly didn't answer. That was, I think, the mood reflected on this side of the House and the mood which reflected what the people of Gibraltar were saying last Tuesday. But, of course, again, it was illogical because after having gone down that path of aggressive mood and, to a point, patriotism and there is nothing wrong with that when everybody else does it, was to say at the end of all that that this motion was stronger than the motion that we had put and that he would support this amendment because it was a much stronger motion than the weak motion that we had produced. I dare say that if Mr Canepa looks at the two motions and takes heed of everything we have said on this side and although I accept and I do not put in doubt that when it comes to the crunch the Government will put the position of the people of Gibraltar clearly to the British Government, I think what has to emanate from this House is that that position is clear here so that it is clear to the people of Gibraltar which, after all, are the people who count as far as we are concerned. Therefore, Mr Speaker, what I would like to do is to take the Members on the other side of the House to what was, in fact, agreed in the motion on the 24th March, 1986. The version of the motion as it ended after certain amendments read: "This House affirms that, should proposals be put forward in connection with greater civilian use of the Gibraltar airport, which might in the view of the Gibraltar House of Assembly make it possible to represent or interpret such use as being an encroachment on British sovereignty over the isthmus, such proposals would be unacceptable to this House and to the people of Gibraltar". I feel that certainly we are now at that stage. We are now at the stage where proposals have been put to the British Government, where those proposals represent to us an encroachment on British sovereignty over the isthmus and therefore, I think as a follow-up to this motion, we should clearly spell out today that what we said in that motion is happening already today and that the people of Gibraltar now want to take this motion a step further. In so doing, Mr Speaker, I would like to move an amendment to the Chief Minister's amendment. Basically what I am dealing with at the moment is paragraph 3 in the

note I have just passed to them which is: the deletion of all the words after the word "involve" in the fourth line of the third paragraph and the substitution of the following - which would make the motion, as amended, amended again, to read: "calls on Her Majesty's Government....."

MR SPEAKER:

No, please read your amendment as you propose to move it.

HON J E PILCHER:

I amend therefore, the substitution of the following after the word "involve" - "(a) any concessions being made to Spain", obviously it has to be understood and that is why I was trying to read it, that the words previously said 'and not to enter into any agreement which would involve' - "(a) any concessions being made to Spain (b) in any way establish, or at any time in the future lead to, any form of joint control of the airport". And if Members opposite look at those two they are a direct quote of what is already there in the amendment. "(c) allowing passengers arriving at Gibraltar but with a Spanish destination to exit Gibraltar without passing through Gibraltarians customs and immigration controls, and (d) provision for the joint management of any airport facility now or at any time in the future". That, Mr Speaker, I think, reflects what the Hon Mr Canepa was saying this morning, I think, clearly, reflects the mood of the motion as was originally moved by us and certainly reflects the mood of the people of Gibraltar and is, if I may say so, Mr Speaker, a direct follow-up to the motion of the 24th March because now there have been proposals and this is the answer of this House of Assembly and of the people of Gibraltar to those proposals. And this is a way, Mr Speaker, of providing unity because, after all, all we are doing here is adding on to what was already there and taking into account our mood and the words of the Hon Mr Canepa this morning and put those on paper. That, Mr Speaker, can give us the unity that we are seeking. There is also another small amendment, Mr Speaker, and that is an amendment in paragraph (1) of the initial amendment by the Hon and Learned the Chief Minister and that is an amendment in trying to move away, Mr Speaker, from this situation of perhaps bickering which is what I think it was called this morning about who organised what. We feel that the demonstration as expounded by the Leader of the Opposition, was organised by the GTC. The Hon and Learned the Chief Minister continues to believe from his information that the demonstration was organised by Action for Gibraltar and I feel that a good compromise, seeing that what is important is not that but what is important is paragraphs (2) and (3) of the motion, I feel that perhaps by the deletion of the words "in organising a petition and" where they appear in the second line of the first paragraph and the inclusion of the words "and the Gibraltar Trades Council in organising a" therein

and with the deletion of the words "the Gibraltar Trades Council" wherein they appear in line five of the first paragraph, should do away with that. If I can remind the Hon and Learned Chief Minister of the contents of the letter sent to him and to the Leader of the Opposition by the Group calling themselves Action for Gibraltar who said: "organisationally, the Gibraltar Trades Council were the primary factor in ensuring its success". Taking that into account, taking the spirit of both the GTC and Action for Gibraltar, I feel that if we amend the motion to read: "applauds the initiative of the Action for Gibraltar Group and the Gibraltar Trades Council in organising a petition and demonstration on the question of the airport", that, Mr Speaker, should cater for both sides and I think should do away with the petty bickering over this minor item when we are really discussing the unity or otherwise of this House of Assembly over what is certainly to us and to the people of Gibraltar a primordial point of where we go from here for our future as far as any concessions and as far as our position clearly both in the eyes of the British Government and the Spanish Government. I would just like to remind the Hon and Learned Chief Minister that there are only ten days from now to the position where there will or there will not be a deal struck. I feel that unity on this is of the utmost importance, Mr Speaker, if not the Government will not get support from this side of the House and will be forced upon to abstain which will mean that if a deal or anything else is arrived at we certainly will not be there to sell it to the people of Gibraltar, Mr Speaker. I feel that having laid the policy down very clearly, that does not prohibit the Gibraltar Government from looking at any type of arrangements that they want to have looked at at the frontier. 'Technical arrangements' I think the Hon and Learned Chief Minister called it a year ago, there is nothing wrong with technical arrangements but the policy matter, the matter of principle is as laid down in my amendment, Mr Speaker, and I hope that the Government can support that so that we can have one united front on this matter.

HON A J CANEPA:

Before the Hon Member sits down, Mr Speaker. I would invite him to clarify the use of the word 'management' in paragraph 3(d). I say that because it is a new word and it is a word that was used by the Secretary of State last night when he spoke about management of the aeroplanes, management of the airfield, management of people and I wonder whether it is being used by the Hon Member opposite because of that. He might also look at earlier on in the interview where, in fact, by the use of another word I think it is clear, I hope it is clear, what the Secretary of State means by management of aeroplanes, management of the airfield, when he spoke earlier on about 'handling aeroplanes, handling people and handling the airfield'. I wonder whether that is what is meant and I would therefore like to invite the Hon Mover of the amendment to clarify in what context the word 'management' is being used and why.

HON J E PILCHER:

Mr Speaker, the point is quite clear. What we are trying to get is an agreement or a set of words by which both sides of the House can agree but what I think we mean by 'joint management' is, in fact, joint use. 'The provision for the joint use of any airport facility' is not acceptable to this side of the House and to the people of Gibraltar. The joint use and therefore joint management as it was intimated in the interview. Sir Geoffrey Howe spoke about management of air traffic control, management of the airfield which is what I was referring to a minute ago as an airport authority. Therefore if you are going to have a joint management of the airport you have to have a joint authority or airport authority. That is completely out of the question. So what I was trying to find was a word that would reflect that but would not tie completely the hands of the Government to any type of arrangement that did not go against a policy decision which is no joint use. Arrangements by all means like any arrangements for any other international flight from anywhere around the world to Gibraltar. But the joint use and the joint management, we put 'management' there to reflect the joint use without using the word 'use'. It is really exactly the same, what we mean is joint use or joint management. It is trying to find a word that will encompass the feeling that they cannot share in the responsibility of administering any facility whatsoever. Perhaps 'joint administration' if you like, it is finding a word and that was the essence of it, Mr Speaker.

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

HON CHIEF MINISTER:

I would like to speak on this amendment only subject to my right to reply. First of all, I am not going to reply to the Mover in respect of his general comments because I want to go back to that later on in a wider sense. Following on what he has read from Hansard it looks as if there are proposals to allow passengers arriving at Gibraltar with Spanish destination to exit Gibraltar without passing through Gibraltar customs. There are no such proposals, all that is mentioned in the thing is that that is the sort of thing that they would discuss. The only real proposals that there are known for the purposes of the airport are the Spanish proposals published in 'El Pais'. We are prepared to say that we oppose those proposals published in 'El Pais' quite clearly. Those are formal proposals, this is talk and we cannot start making amendments on formal motions in matters of what comments are made and the reason why, and I will not dwell on this more because I will go back to it, the reason why I say that we should leave, I didn't say we should ignore the Secretary of State, what I said was that that should be subject of something much more deeply than the

toting of it the morning after. That proposal was proposed apart from the top ones which are not acceptable because we stick to the story as we know it about the origins of this, are really unacceptable to us. I thought that there might have been an attempt at some consultation with a view to something that would be acceptable but this is less acceptable even than the present motion.

HON J BOSSANO:

I think, Mr Speaker, the Hon and Learned Member really has come up with the flimsiest excuse that I have ever heard him come up with in fifteen years for trying to make what is black look white. If the Hon Member finds that the amendment suggests that there are proposals allowing passengers arriving at Gibraltar to exit which he says is not true, does his amendment suggest that there are proposals about giving concessions to Spain which is (a) in my Hon colleague's amendment and is included in his?

HON CHIEF MINISTER:

There are the 'El Pais' proposals, yes.

HON J BOSSANO:

Mr Speaker, the Hon and Learned Member has said that the amendment that we are moving which has got four elements in it, two of which are his.

HON CHIEF MINISTER:

I accept that.

HON J BOSSANO:

But, surely, if (c) and (d) in his view would by implication mean that such proposals are being made by UK which it doesn't say here, it must follow logically that (a) and (b) by implication mean that such proposals are being made by UK and that has been said by him not by us. If his amendment calls on Her Majesty's Government not to conclude an agreement with Spain on the question of the airport which would involve any concessions being made to Spain, is he saying that he knows that Her Majesty's Government is intending to do it? No, he is not saying that. We don't impute that motive to him, we don't say 'we cannot accept your amendment because somebody might think that you are saying that this is what the British Government is thinking of doing or we might be putting it in their minds if it is not the idea'. Let me make absolutely clear what the situation is. The people of Gibraltar have come out with a clearcut position. That clearcut position is known to all of us and has been clearly reflected in the contribution of the Hon Mr Canepa. Sir Geoffrey Howe came out last night specifically to make sure

that we understood what the position of the British Government was. The position of the British Government was and is that they don't want us to pass a motion in this House of Assembly which will reflect what the people of Gibraltar were saying in the demonstration and what the people of Gibraltar have said to Ratford. That is the message from Sir Geoffrey Howe and we have got to send a message back to him, that we take orders from the 16,000 people that signed the petition, from the 12,000 people that took to the streets and not from him or the Foreign Office. That is the need for the motion today and it is one of the most important motions we have debated in this House because if we try and be all things to all men and wriggle out of this one we send back a message that dilutes the efforts of our people of last Tuesday and we will have no part of it. If that is what the Government wants to do they will have to defend it on their own because we are totally convinced that the people of Gibraltar are absolutely united on this matter, that Sir Geoffrey Howe, as the Hon Mr Canepa said, has studied very carefully everything, he studied the memorandum from the Gibraltar Trades Council, he studied the petition, he studied the motions of this House, he studied the programme on Spanish television on Sunday and, having studied everything, has made it a point of being interviewed - let's face it, nobody in Gibraltar is going to believe that GBC successfully twisted the arm of the Foreign Secretary of the United Kingdom to the extent that the programme was beamed by satellite here so that it would get in time yesterday rather than being put in the mail and get here today.

HON A J CANEPA:

We wouldn't be here now.

HON J BOSSANO:

Yes, precisely. Therefore it is not accidental, it is deliberate and clear and either we say because Sir Geoffrey Howe has expressed the views that he has expressed which we consider to be in complete conflict with the wishes of the people of Gibraltar and I regret that that part of the original motion has been eliminated because we think what we saw last Tuesday was a very clear manifestation of the freely and democratically expressed wishes of the people. If Sir Geoffrey Howe chooses to ignore those wishes the House of Assembly of Gibraltar will not ignore the wishes of the people who put us here. We do not have the right. We have got a right to pass a motion here if we have got a situation where the Government, the eight who sit on that side of the fence, have one interpretation of what has taken place and the seven have got a different one and then as a matter of judgement their judgement right or wrong will dominate the situation by a majority of one, the two ex-officio Members being notoriously absent on this occasion.

MR SPEAKER:

May I perhaps suggest that we have a short recess which might be helpful for consultation and come back in a quarter of an hour's time.

HON CHIEF MINISTER:

I suggested to the Leader of the Opposition before lunch that if he had any proposals that we could get together but obviously this has been produced without any consultation and I wouldn't mind having some attempt at trying to find some formula.

HON J BOSSANO:

Mr Speaker, can I just point out to the Hon and Learned Member that he had an opportunity of making proposals to us since last Tuesday seeking an amendment to the original motion instead of coming here and presenting us with something that removes everything after "This House". It could have been done that way.

MR SPEAKER:

Fair enough. We will have a short recess and then come back.

The House recessed at 4.25 pm.

The House resumed at 5.50 pm.

MR SPEAKER:

Gentlemen, I understand that there is a consensus on the manner in which we are to proceed and I understand that Mr Baldachino wishes to address the House.

HON J L BALDACHINO:

Mr Speaker, I would like to move a negotiated amendment to the amendment moved by the Hon Joe Pilcher to the amendment moved by the Hon and Learned the Chief Minister to the motion moved by the Hon the Leader of the Opposition. Delete paragraph 3 in its entirety and replace it with a new paragraph 3 to read as follows: "4. Rejects the following proposals made by the Spanish negotiators as published in El Pais on the 29th October, 1987, ie (a) Access for Spaniards to the airport without passing through British Customs and Immigration (b) Construction of another terminal (c) Spanish participation in the control of Gibraltar Air Space (d) Possible presence of Spanish Air Traffic Controllers in the Gibraltar Control Tower (e) Spain's eventual association with the management of the airport".

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

HON CHIEF MINISTER:

I want to reply to Mr Pilcher generally because I think now he has finished his contribution by putting his amendment and therefore we have a discussion on his amendment.

MR SPEAKER:

Mr Pilcher will have the right to reply on his amendment.

HON CHIEF MINISTER:

But then I have a right to reply.

HON J BOSSANO:

And I have the right to reply on the original motion.

HON CHIEF MINISTER:

I would like to reply to some general remarks made by Mr Pilcher.

MR SPEAKER:

You will have the right to reply to your amendment in due course.

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

MR SPEAKER:

Having voted on Mr Baldachino's amendment we now have an amendment which was moved by the Hon Mr Pilcher, as amended. That is the question before the House. Does any Member wish to debate that?

HON CHIEF MINISTER:

I am only going to speak now to the first amendment and I will speak generally on the debate on my amendment. I would like to say that we felt like resisting these amendments because I think it is stretching it too much, the two amendments, but in a gesture of goodwill because we have been able to get agreement on the other one, we will not oppose it.

Mr Speaker then put the question which was resolved in the affirmative and the Hon J E Pilcher's amendment, as amended, was accordingly passed.

MR SPEAKER:

Any Member who has not spoken to the amendment of the Chief Minister or to the general debate, for that matter, is still free to do so. Does any Member wish to speak? Then I will call on the Hon and Learned the Chief Minister to reply to his amendment.

HON CHIEF MINISTER:

Mr Speaker, I will not be very long. I am very glad that we have been able to find a consensus motion which I think safeguards everybody's interest in this matter and mine was no more than that we wanted not to close the door insofar as facilities and arrangements for the future were concerned to any further discussions on the matter which the original motion would appear to do. I don't propose to go into the matter which we have been discussing all day but the last speaker, that is, Mr Pilcher, made a few hard hitting remarks which I have to reply to. In the first place, the reason why I said that we should look at the transcript of the Secretary of State in the future, I didn't mean to avoid that but I was very glad, indeed, when the Leader of the Opposition opened the debate and only referred to it because my feeling was that we should run this debate taking into account what other people say as we have taken account even what a paper said but we should run the debate on our ground and in our way and we should not be dominated or overpowered by an interview which took place last night because then it would be a much more ostensible attempt at influencing the proceedings of the House. That was my intention, it was not an intention to avoid it, in fact, I have done nothing to do with it at all. I only heard about it half way through the day that there was going to be an interview in the evening. Again, I welcome the acceptance of Mr Pilcher that when I said that we should meet today and nothing major would happen I, of course, said there were no talks of importance that would happen. We know that there have been talks at coordinator level and, certainly, I had no idea that the Secretary of State would be preparing an interview the day before for the purpose, I didn't know that. Nor, perhaps, even if I had known, though I don't think these things are arranged in that way, would I have thought that that was something that had to be avoided because if he wants to talk he wants to talk and it is only fair that we should recognise that ultimately in the constitutional position we can express all our intentions and our desires and other than respecting the letter of the preamble to the Constitution on sovereignty, something which now is taken for granted but there were days when even that undertaking was questioned and people worried about it. Now the Secretary of State made a number of references to the commitment by the British Government to

the wishes of the people and we just take it for granted that that is so. That is, of course, progress but it is a fact that sometimes people have wondered whether that pledge would be honoured or not and now it is part of the scene and therefore we don't attach too much importance to it. But in the overall picture of the situation, we should take account of the number of references that the Secretary of State makes to that for our own sake, I am not saying for his sake, for our own sake. That and the fact that he said that there were certain things that were not acceptable to the British Government. Of course, we have to decide what we think is best but I think we have also to remember that we are not completely sovereign in our own sphere and that what we have to try to do and this is what my attempt has been, to go as far as we can without breaking off the links in proper ordinary terms with those who are responsible in the final analysis. Insofar as the remarks made by Mr Pilcher about the demonstration, I explained in great detail in my opening remarks how the matter was brought to me and how I understood it. Whether all the things that are attributed to what the demonstration was about was in the minds of everybody or not, that is another academic matter because the bulk of the people there, it is rather difficult to explain, we know what they wanted but we cannot attribute, in fact, there wasn't an opinion poll, we know that they didn't want anything to be given up but you can interpret the things according to where they come from and what you are thinking. I want to make it quite clear that I was not there under any false pretences, I was there fully understanding the basis of which the approach had been made to me and I am not turning back on anything that I did, I am just exercising my responsibilities in Government at any particular time in the way that in my estimation and with the support of my colleagues, I think, it is in the best interest of Gibraltar. That is a matter that has also permeated in the course of the debate that finally we should not and we do not attribute improper motives on this important matter. We may be mistaken or we may differ but I think that the motives behind our minds are the same and that is why, again, I am pleased that there has been a consensus on this matter which makes it unnecessary to put the matter to the test and it is not the kind of debate on which one would want to exercise the Government majority and impose it on anybody because we are dealing with matters of great import not only for ourselves but for those who come after us and we have to play it that way. Finally, after having said all that, I think that we can be proud of the way by any standards from the House of Commons downwards, by any standards, of the exemplary way in which the conduct of these proceedings are carried out and perhaps some Members of the House of Commons should come for a course here instead of our having a course on Parliamentary Practice at Westminster. Thank you, Mr Speaker.

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

MR SPEAKER:

Now we come back to the original motion which we started this morning, as amended, which we have been debating all day.

HON J C PEREZ:

Mr Speaker, I am only going to make a short contribution but I feel it is necessary because of the importance of the motion that we are debating and we are going to pass here today. I would like to refer to a suggestion by Sir Geoffrey Howe last night in his interview that we should perhaps look at these things coolly and departing from my characteristic temperamental attitude in such sensitive matters as this, I take the advice of the Foreign Secretary and remain cool because I think the affair is of sufficient importance so that it is not interpreted in Whitehall that the House of Assembly has taken a rash decision in the heat of the moment but has taken a cool decision in the full knowledge of what the Foreign Secretary said yesterday. I accept that the motion as the Hon and Learned the Chief Minister said, is about the sentiments expressed by the people last Tuesday and how to express them in the context of the motion that we have moved today and what happened last Tuesday but it would be unrealistic to forget what the British Foreign Secretary said yesterday. We are talking about moving a motion reaffirming the position of the demonstration when they were shouting outside The Convent 'We say no' last Tuesday and we are saying today, after having heard the British Foreign Secretary, 'We are still saying no'. I think, Mr Speaker, that we have done our duty as the elected representatives of the people of Gibraltar in reaffirming their position, in giving leadership to the 16,000 strong demonstration that came out last Tuesday and in making it quite clear that our primary job is to represent the views of the people of Gibraltar and not to represent the views of anyone else. I think we have achieved this and it is commendable that after all this toing and froing we have been able to achieve this. I think it is a historic occasion in the parliamentary history of Gibraltar in that we are quite clearly taking a firm stand, we are saying that regardless of the views of Sir Geoffrey Howe on the airport we are still completely sure of the stand we have adopted, we are still completely sure of the stand that the people of Gibraltar have adopted and we continue to stand firm on that line and we are still united on it notwithstanding the difference of opinion that might have arisen during the day. That is all I have to say.

MR SPEAKER:

Any other contributors? I will then call on the Hon Mr Bossano to reply to the motion.

HON J BOSSANO:

Mr Speaker, I won't take up much longer of the time of the House. Clearly, we have achieved a negotiated settlement on the airport issue in two hours which is more than the Spanish and the British Governments have been able to achieve in two years. Perhaps they ought to leave it to us to negotiate with each other instead. I think, Mr Speaker, the importance, from our point of view, of achieving a motion which was carried unanimously in the House and the fact that the Government of Gibraltar shares that sentiment, should be an indication to the rest of Gibraltar which I think they are entitled to expect from us that although in this House we have made no secret on the very many occasions since 1984 that there are many issues on which we may differ and where sometimes we get quite cross with each other, we both recognise that there is an underlying responsibility on specific occasions when Gibraltar is under threat that we should be capable of trying to accommodate each other's views and try and achieve something that both of us can defend and, consequently, although obviously our position on the question of no joint use of the airport is as indicated in the original motion, we have taken on board the difficulty that the Government has in expressing that in the particular way that we wanted and we consider that, in fact, the final version is as close as it is possible for the Government to move in the constraints that it is under which they know better than we do. However, the important thing is that the demonstration, we felt, was asking something of us as well as asking something of Mr Ratford. Mr Ratford was being asked to note the strength of feeling in Gibraltar and I think the House of Assembly was being asked to be able to do what it has done today and embrace that strength of feeling in a way that spans the different positions of the governing party and ourselves. Let me say that when we consider the position of the British Government and it is important to put that on record, so far Her Majesty's Government it appears from the discussions we held with Mr Ratford, had felt that nothing that they had done was in conflict with the motion of December, 1985, which referred to international flights being governed by the rules applicable to international flights and which referred to the airport remaining under the sole control of the British and Gibraltar authorities and that position is one which the British Government considers they are still defending notwithstanding the fact that there is a clear attempt by the British Government to find an accommodation with Spain on the airport issue. I don't think that I can entirely agree with the Hon and Learned the Chief Minister in the sense that no importance is now given and that it is taken for granted that Her Majesty's Government makes clear that the question of sovereignty is not under threat because, in fact, we disagreed with Mr Ratford when he seemed to be saying only in cases of joint

control would there be a threat of sovereignty but there wouldn't be a threat to sovereignty in cases of joint use or joint management or whatever. And I think, in fact, probably the most dramatic expression of that view that this House has produced was the March, 1986, motion which we also carried unanimously and which went through a similar but shorter process than the one we have gone in today with the Hon and Learned the Chief Minister saying, as he often does, that he agreed in spirit with everything that we had said but that he was amending everything after the words "This House". But, eventually, perhaps the most important statement, if you like, of Gibraltarian identity produced by this House was that there I eventually moved a motion saying that any proposals which were put forward for the greater civilian use of the airport - and we didn't mention from which nation they emanated - should not proceed if in the view of the Gibraltar House of Assembly, they constituted an encroachment on British sovereignty and the Hon and Learned the Chief Minister said he was delighted to accept that amendment. I think that was probably the most important statement this House has ever made in terms of saying 'We are the final arbiters of deciding what affects us'. I think if that is true in terms of the definition, the Hon and Learned Member said he was delighted to accept the statement and I am holding him to that so I am not giving way in case he changes his mind now.

HON CHIEF MINISTER:

No, I said final to ourselves.

HON J BOSSANO:

Final to ourselves, right, and I think that the important thing is that we ourselves have been taking a consistent stand on a number of motions in the House and I honestly believe that no British Government can, in fact, realistically in today's world not just ignore the preamble to the Constitution but ignore blatantly the unanimous views of this House of Assembly. I think that is why it is so important that we should try and achieve the kind of consensus that we have achieved even if it means giving way some way on what we both believe to be the correct way to proceed because it is important for our people in Gibraltar and it is important that we face Her Majesty's Government or the Spanish Government or whoever with a united stand to the extent that we can and the fact that we have been able to do it today, I think, is good. The Government is, I think, well aware that should they feel that they are in difficulties which requires that they should approach us then our doors are open, I have made that position clear to the Hon and Learned the Chief Minister and I don't think there is a need to emphasise it, he knows what the position is and we are ready to be counted when the time comes. I commend the motion to the House.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:

"This House -

- (1) applauds the initiative of the Action for Gibraltar Group and the Gibraltar Trades Council in organising a demonstration on the question of the airport in support of the stand taken by the House of Assembly and thanks the representative bodies and the thousands of persons who signed the petition and participated in the demonstration;
- (2) reiterates the views expressed by this House in the resolutions adopted on 25 March and 16 December, 1986;
- (3) calls on Her Majesty's Government not to conclude an agreement with the Spanish Government, on the question of the Gibraltar airport, which would involve any concessions being made to Spain or which would in any way establish, or at any time in the future lead to, any form of joint control of the airport; and
- (4) rejects the following proposals made by the Spanish negotiators as published in El Pais on the 29 October, 1987, ie:
 - (a) Access for Spaniards to the airport without passing through British Customs and Immigration
 - (b) Construction of another terminal
 - (c) Spanish participation in the control of Gibraltar Air Space
 - (d) Possible presence of Spanish Air Traffic Controllers in the Gibraltar Control Tower
 - (e) Spain's eventual association with the management of the airport".

The question was resolved in the affirmative and the motion, as amended, was unanimously passed.

The Hon the Attorney-General and the Hon the Financial and Development Secretary were absent from the Chamber.

ADJOURNMENT

HON CHIEF MINISTER:

I now move that this House do now 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 6.15 pm on Tuesday the 17th November, 1987.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

15TH DECEMBER, 1987

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Nineteenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Tuesday the 15th December, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 19th October, 1987, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

Gentlemen, before I proceed with the business of the House I would like to take this opportunity to bid farewell to Sir Joshua who has just resigned as Chief Minister and consequently as Leader of this House. Whilst recognising your wish, Sir Joshua, not to have long speeches, I cannot and, indeed, I must not allow this occasion to go unnoticed. You have been in this House since its inauguration as a Legislative Council way back in 1950, a record of Parliamentary service which will be very difficult to equal either in Gibraltar or, for that matter, elsewhere where democracy flourishes. During the eighteen years that I have had the privilege and honour to preside over this House I have always found you to be most courteous and helpful to the Chair. For making the Speaker's task, which is never an easy one, easier, I am most grateful to you. I feel sure that I am expressing the views and feelings of all Members on both sides of the House in wishing you and Marcelle a well earned, long and happy retirement. I have no doubt that as a Backbencher, even if only for the remainder of this Parliamentary term, you will still continue to make a worthy contribution to the work of the House and, indeed, in your full retirement in due course, I am sure you will always continue to have the closest interest in the affairs of Gibraltar. My very best wishes to you on your retirement and may it be a happy and long one, as I have already said.

HON SIR JOSHUA HASSAN:

Mr Speaker, I am very grateful for your kind remarks. There has been sufficient publicity about my leaving so I would rather say very little except to thank you for your kindness and to say that I will look back on my years in the House as very happy occasions in the interests of Gibraltar.

HON J BOSSANO:

Mr Speaker, may I say that I cannot quite express the same sentiments as you have done since my relationship with the Hon and Learned Member have not been quite the same as yours. I have been in this House for fifteen years and he has been the Chief Minister of Gibraltar for those fifteen years and I have agreed with 99% of his decisions in the fifteen years. However, the Hon Member knows that I have never borne any personal animosity towards him and I do, indeed, wish him a happy retirement and I am sure that he will continue to take a close interest in the way things develop in Gibraltar after his retirement. It is always a difficult thing, I think, to adjust to a less active role in all walks of life and I would imagine for somebody like himself who has been at the helm it will be quite a difficult job but I am sure that the Hon and Learned Member will be around for many, many

years and will no doubt remind those of us who follow him how much better he used to do things when he was there when the time comes. May I therefore wish him a very happy retirement and at the same time may I take the opportunity of congratulating Mr Canepa in being named by his Party, Leader, and in being appointed the new Chief Minister and to assure him that, in fact, the Opposition will continue to look to the performance of the Government in the months that are left with the same critical but constructive view and be willing to give its support and identify itself with the Government on matters on which we should be united and that I hope the fact that on previous occasions we have appeared to be closer ideologically than other Members of the House, may augur well for cooperation between the two sides irrespective of which side we each happen to be sitting on in the future.

MR SPEAKER:

I will now turn to you, Chief Minister. I would like to express my congratulations on your appointment. You are the third Chief Minister of this House during my time as Speaker. The burden of Government with its heavy responsibilities now falls squarely on your shoulders. I feel sure that your long Ministerial experience and your time as Deputy Chief Minister will now stand you in very good stead. May I extend to Julie and yourself my heartiest congratulations on your appointment and I feel sure that you will continue to guide and advise the House as you have done as a Minister. My best wishes to you both.

HON CHIEF MINISTER:

Mr Speaker, thank you very much for your kind remarks both at the official level and moreso, indeed, at a personal level. I would also like to thank the Leader of the Opposition for his kind words. I don't want at this stage to say anything about Sir Joshua's retirement, I don't want to steal your thunder, in particular, Mr Speaker, but it is my intention to say a few words to mark the occasion later on this week when I move the adjournment of the House. Thank you very much.

DOCUMENTS LAID

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

The Tourist Survey Report, 1986.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 10 of 1986/87).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 1 of 1987/88).
- (3) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 5 of 1986/87).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 6 of 1986/87).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 1 of 1987/88).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1987/88).
- (7) Schedule of Supplementary Estimates No. 3 of 1987/88.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.05 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MINISTERIAL STATEMENTS

MR SPEAKER:

The Hon the Minister for Labour and Social Security has given notice that he wishes to make a statement. I will therefore call on the Hon Minister to make his statement.

HON DR R G VALARINO:

Mr Speaker, prior to addressing myself to the three motions standing in my name, I would like to make a statement on the comprehensive review of the Supplementary Benefit Scheme and allied matters that was carried out by my Department and which I informed the House would be ready by the end of the year.

2. The matter has been given careful consideration and in Government's view the main problem groups are:-

A - those elderly persons over 65 who are in receipt of Supplementary Benefit because they are not entitled to a Social Insurance Pension, particularly those living alone;

B - those elderly persons over 65 who do not qualify for Old Age Pension or Supplementary Benefit and are therefore in receipt of Elderly Persons Allowance;

C - those persons who are seriously ill or permanently incapacitated who have no income of their own;

D - those non-Gibraltarian husbands of Gibraltarian women in receipt of Supplementary Benefit who are not eligible for benefit because they are foreign nationals;

E - those persons who are precluded from claiming benefit because they have some savings;

F - those single parents whose entitlement is affected by their taking up part-time work;

G - those families in receipt of benefit who may need assistance to cover one-off expenses to buy essential household items; and

H - those EEC nationals who have resided in Gibraltar for over three years who may find themselves unemployed.

Group A - Having regard to the special needs of the more elderly, it is proposed that the weekly rates of benefit of those beneficiaries in receipt of Supplementary Benefit who are over 65 should be increased in line with United Kingdom rates as follows:

	<u>1987 Rate</u>	<u>1988 Rate</u>
Married couple (Over 65)	£48.30	£53.60 (10.9%)
Married couple (over 65 after 1 year on SB instead of 2)	£52.25	£57.90 (10.8%) (includes long-term allowance)

Single person (Over 65)	£27.70	£34.30 (23.8%)
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Single person Over 65 after 1 year on SB instead of 2)	£29.70	£38.60 (29.9%) (includes long-term allowance)
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It is also recommended that the long-term allowance, which is now added to the weekly entitlement, should be payable after the beneficiary has been in receipt of benefit for one year instead of the present two years qualification period.

3. Group B - Taking into consideration the representations made by some of those in receipt of Elderly Persons Allowance, and the fact that it is proposed to increase the weekly rates of Supplementary Benefit for persons over 65 by more than 7%, which is the percentage increase approved for all other social insurance benefits, Government has decided that the present weekly allowance of £17.40 be increased to £20.40, ie an increase of 17%.

4. Group C - The scheme in its present form does not cater for persons who may be severely ill or permanently incapacitated due to accident or illness. However, there are provisions in the scheme for the payment of a weekly allowance of £18.10 to persons over 19 who are severely handicapped since birth. It is proposed that a similar allowance (£19 per week when increased by 7%) should be paid to those unfortunate people who may be seriously ill or permanently incapacitated who have no personal income. This allowance should cease to be payable if the claimant is entitled to a full Old Age Pension when he reaches pensionable age, ie 65 years. If entitled to a reduced pension only the amount which makes up the full pension should be payable.

5. Group D - At the moment the non-Gibraltarian husband of a Gibraltarian woman (unless he is a British Subject resident in Gibraltar for over three years) is not entitled to benefit. If he becomes unemployed and not entitled to Unemployment Benefit his wife may claim Supplementary Benefit for herself and the children but nothing is payable to him or on his behalf as a dependent adult. However, Gibraltarian men may claim benefit for their wives regardless of their nationality. It is evident that the scheme discriminates against non-Gibraltarian males and, therefore, in order to rectify this anomaly, benefit will be paid to male and female spouses of Gibraltarian applicants irrespective of their nationality.

6. Group E - Applicants who have some savings or have received a small gratuity are sometimes precluded from claiming benefit because the amount of their capital assets exceeds the present limit of £1,810 in the case of a married couple, or £1,145 in the case of a single person. In the

United Kingdom the amount of savings disregarded for the purpose of calculating benefit is £3,000. Considering that the amounts prescribed in our scheme are not, by today's standards very considerable amounts, the figure of £1,810 is being increased to the more realistic figure of £3,000. The figure of £1,145 is to be increased to £2,000.

6.(b) The present system of running down the regarded assets is also being modified to take account of family composition. At present the scheme makes no distinction between single persons and married couples with children.

7. Group F - It is the Government's view that single parents should be encouraged to take up employment. It is considered that many lone parents would at least take up part-time work if they were to be better off financially. It has therefore been agreed that when calculating future entitlement to benefit, instead of disregarding £14.40 of their weekly earnings as now prescribed in the Scheme, this should be increased to £25. This would enable some of those in part-time work to supplement their wages with Supplementary Benefit and automatically be eligible to the Single Parent Allowance. The amount of benefit payable will obviously depend on the level of their wages.

In addition to the foregoing, it is proposed that an amendment should be made to the Social Security (Insurance) Ordinance to enable a woman whose marriage has been terminated otherwise than by the death of her husband and who was under pensionable age on the date of that termination, to preserve the right to claim an Old Age Pension on her ex-husband's insurance record, based on the contributions paid by him before the date of termination of the marriage. Thus, a woman who has never been insured or does not qualify with her own contributions for a full pension, may be eligible to apply for a pension based on those contributions which were paid by her ex-husband up to the date of the dissolution of the marriage. It should be noted that similar provisions already exist in the United Kingdom which guarantee certain rights to divorced women.

Government has also decided that electricity and water charges of beneficiaries in receipt of Supplementary Benefit, including other Social Security Pensioners entitled to Rent Relief, should be subsidised in some way by my Department and necessary arrangements will be put in hand in the New Year so as to devise a formula in a manner consistent with accounting principles in relation to the operation of the funded services.

8. Group G - The Family Care Unit of the Department quite often receives enquiries for financial assistance from claimants already receiving Supplementary Benefit. At times, families with many children may need help to cover one-off expenses they may have to buy essential household items, eg a cooker, heater, pushchair, beds, mattresses, etc.

Sometimes elderly people living alone may not be able to afford the cost of a telephone connection or a basic plumbing job or any other essential repair. In the United Kingdom lump sum payments are made to cover such expenses. Government is satisfied that there are persons who may genuinely need this kind of extra assistance and therefore has decided to allocate a sum per annum for these purposes to the Family Care Unit.

9. Group H - As the House is aware, only registered Gibraltarians and British Subjects who have resided in Gibraltar for over three years are eligible to apply for Supplementary Benefit. The Department is of the opinion that Government is vulnerable to criticism and accusations from the European Commission in that our Scheme is discriminating against other EEC nationals, in favour of British nationals. In the circumstances, it is prudent to extend the scope of the scheme to all EEC nationals who satisfy the three year residence qualification.

10. The Government has also decided to increase Family Allowances from the present weekly rate of £5 to £7 as from the beginning of 1988. This will bring it more in line with the current rate of United Kingdom Child Benefit which is £7.25 per week.

Families on Supplementary Benefits would also be helped as they will get an extra allowance of £7 for the first child.

11. The extra cost of all these measures will be in the order of £1.25m per annum.

I would like to take this opportunity to thank the various members of my Department who have been closely involved in preparing this review.

MR SPEAKER:

Perhaps this will be a reasonable time to recess for tea.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

HON J BOSSANO:

Mr Speaker, are we going to get an opportunity to ask the Hon Member points of clarification on the statement?

MR SPEAKER:

Yes, I looked at you before I recessed for tea because I felt that you might wish to ask questions.

HON J BOSSANO:

I would like to ask the Hon Member, in the first group where he says 'particularly those living alone' in referring to people over 65 who are on supplementary benefit. What is the distinction between those living alone and those not living alone in terms of the benefits?

HON DR R G VALARINO:

It is simply because as supplementary benefits are means tested, those living alone will receive a lower amount than if they are living with some other members of the household in which case the amount of money they get from supplementary benefits at the end of the week will be higher than if they are on their own.

HON J BOSSANO:

The Hon Member in the statement he has made says that particularly those living alone are a group that is identified. Are we to understand that the rates that he specifies in group A are for those living alone and, if so, what is happening to those not living alone?

HON DR R G VALARINO:

Those living on their own are, in fact, if one turns over to page 2, we are increasing the benefits of beneficiaries in receipt of supplementary benefit who are over 65 in line with the UK and these, as far as I am aware, are people who are living alone and have got no extra dependents, that has gone up. The other thing I would like to say on that as well, is a comment which I made later on in my statement. There are two other things, first of all, the Family Care Unit which quite often receive requests for financial assistance from claimants also receiving supplementary benefit. Sometimes elderly people living alone may not be able to afford the cost of a telephone connection or a basic plumbing job or any essential repairs. The Family Care Unit would be allocated a sum of money to be able to help in this respect because obviously they are living alone and the water heater may go bust and then they could well.....

HON J BOSSANO:

I am asking about the ones who are not living alone, Mr Speaker, that is what I am saying to him. I am saying to him, are the figures that he has given on page 2 the amounts that are going to be paid to people living alone and, if so, what happens to people not living alone?

HON DR R G VALARINO:

I have been informed that the 1988 rate is irrespective of whether they are living alone or not.

HON J BOSSANO:

So this means, in fact, that everybody will be able to claim that as they do in UK now?

HON DR R G VALARINO:

Exactly.

HON J BOSSANO:

So, in fact, the implications of this are that many people who currently are deprived of supplementary benefits because they are elderly people living with their children will no longer be deprived, am I correct?

HON DR R G VALARINO:

Yes.

HON J E PILCHER:

Mr Speaker, in paragraph 11, it says: "The extra cost of all these measures will be in the order of £1.25m". I think it would be beneficial for us if he could give us what this particular measure will cost and I think, as well, in respect of the other measures. You said the supplementary rates are going to be upped, what is that going to cost in a year so we will need to know what that is going to cost in the three months that we have got of this financial year as we will need, I suppose, to appropriate more money for it so I think we will need that information as well.

HON DR R G VALARINO:

Mr Speaker, there are two things you may be asking. You may be asking what these considerations will cost in this quarter of the financial year or you could well ask for a breakdown of each and every single item.

MR SPEAKER:

With respect, at statement time the only questions that can be asked are questions on clarification.

HON J BOSSANO:

We want clarified how the £1.25m is arrived at.

MR SPEAKER:

No, with respect, I think this could well be the subject matter of a debate but the practice of this House has been that only the Leader of the Opposition or the Shadow is allowed to ask questions. I am liberal in these things but we must not debate the statement.

HON J BOSSANO:

We are asking for information, Mr Speaker. We are saying how much will the approved supplementary benefits for over 65 cost?

MR SPEAKER:

If you have not got the information you say you haven't got the information and then it will have to be given at a different time, it is as simple as that.

HON DR R G VALARINO:

Mr Speaker, I should have the information.

MR SPEAKER:

I am afraid we cannot stop the work of the House. Have you got the information?

HON J E PILCHER:

Am I correct, Mr Speaker, in saying that this will have to be included as an extension to the Appropriation Bill at which stage we will obviously be able to debate it? Will we get another opportunity when we discuss the Appropriation Bill or not?

HON DR R G VALARINO:

We don't need to appropriate the full amount, Mr Speaker, because we have got a certain amount of money to tide us over from January to March. Let me give you the additional cost per annum. On the supplementary benefits this is £97,890.

HON J BOSSANO:

I would also like to ask the Minister, he says on page 3: "The present system of running down the regarded assets is being modified to take account of family composition". Can he explain how it is being modified?

HON DR R G VALARINO:

The main thing is that it is the family composition which is going to decide on the running down of the regarded assets. In the paragraph above I gave you an example by saying that a couple would now have a maximum of £3000 whereas a single person would have £2000. At present the scheme makes no distinction between single persons and married persons with children. We are going to work around the factor where children also come into the picture in order to be able to increase the sum which we are going to run out over a period of time. Therefore, a married couple is £3000, a single person is £2000 but a married couple with children could well be over £3000 depending on the number of children. This has still got to be worked out by the Department and as soon as these figures are available I can let the Hon Member know. The main thing is that because the family composition is bigger, obviously, the running down must be a higher sum than just an ordinary married couple who get £3000.

HON J BOSSANO:

I get the distinct impression, Mr Speaker, that the Hon Member is confused.

HON DR R G VALARINO:

No.

HON J BOSSANO:

Surely the running down has nothing to do with the capital sum which is exempt and which is what paragraph 6 refers to, that is to say, the £3000 is not run down, the £3000 is disregarded. The running down is the value as if it were of notional income which is attached to the residual capital. How is that being changed?

HON DR R G VALARINO:

I would have thought it is very simple. What we are trying to do is we are increasing the figure up to £3000 if he has dependents.

HON J BOSSANO:

No, that is not what the statement says. I am seeking clarification on the statement, Mr Speaker, and the statement in paragraph 6(b) is talking about something different. If somebody has £10,000 my understanding of the statement made by the Minister is that at present if a married couple has got £10,000 saved up, the £1810 is disregarded and they are treated as if they had £7200. Now, under paragraph 6, £3000 is going to be disregarded out of the £10,000 and then the £7000 is run down and the system of running down the remainder of the regarded assets is what I am being told in 6(b) is going to be modified. I am asking how is it going to be modified.

HON CHIEF MINISTER:

No, that remains the same, it is 25p per week for every £15 in excess of the ceiling. If the ceiling instead of £2000 becomes £3000 when the beneficiary has got dependents, then he is being treated more generously because the rate of running down is less because there is £1000 more being disregarded.

HON J BOSSANO:

Then the way it is stated here is misleading. The present system of running down is not being modified, that is what I am being told, that in fact all that is happening now is that the floor has been raised and the system continues the same.

HON DR R G VALARINO:

Yes, the wrong wording may have been used in that respect.

HON J BOSSANO:

On page 4 the Government says that it has decided that the electricity and water charges of beneficiaries in receipt of supplementary benefits should be subsidised. How is that going to be done? Are we talking about a percentage of the bill or are we talking about a fixed sum for each individual depending on the level of consumption?

HON DR R G VALARINO:

Mr Speaker, Sir, the aim is that the beneficiaries in receipt of supplementary benefits should be entitled to rent relief and should be subsidised in some way. I am afraid it is too early to say now because what I went on to say was that the necessary arrangements would be put into effect in the New Year which will mean meetings between various Heads of Department to work out a formula which is consistent with accounting

principles and in relation to the operation of the funded services. They will work out the way in which we are going to do this. We cannot go into this part of it more than we have already said at the moment. The principle is there. What we want to find out is how senior members of two departments, say, the Accountant-General and the Director of Labour and Social Security, will be able to devise a scheme in which we can work and they can put forward ideas to the Government who will then decide which way they want this thing to work.

HON J BOSSANO:

I know what that says and I am not talking about the principles of the funded services. My question is very simple. Is it the intention to subsidise a proportion of the consumption or a fixed amount? Surely, that is a matter of principle, not a matter of accounting policy. The accounting policy is how the money is going to be actually fed into the funded accounts. In looking at what the person on supplementary benefits is going to get, is the thinking on the Government's part in terms of a fixed amount or in terms of a proportion of the bill?

HON DR R G VALARINO:

Mr Speaker, no decision can be taken as yet until we get this committee going and they report back to Government.

HON J BOSSANO:

Does the Minister have any idea of how much it will cost if he hasn't decided yet what he is going to provide and, if so, is any part of the £1.25m total cost a figure in relation to this?

HON DR R G VALARINO:

We haven't got an estimate on this one because we don't know what it is going to cost exactly. I have been passed a paper but I am afraid I cannot decipher the writing.

HON CHIEF MINISTER:

Being a former school teacher I can read bad handwriting. There are various options still to be costed. Could I go, Mr Speaker, back to 6(b) because I think we have given a misleading answer, this is the question of running down the system. It is being changed. The balance after disregarding £3000 will be run down by the rate of supplementary benefit that the applicant would have normally been entitled to if he had had no capital assets.

MR SPEAKER:

We will then go on to motions.

MOTIONS

HON DR R G VALARINO:

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

MR SPEAKER:

This is the motion in respect of the Social Security (Insurance) (Amendment of Contributions and Benefits) Order, 1987. Leave is granted.

HON DR R G VALARINO:

Mr Speaker, I am required by the Social Security Ordinance to review annually the rates of benefits and contributions under the Ordinance having regard to the general level of earnings and prices. In determining the standard rate of old age pension for a married couple, this must be fixed at not less than 50% of the average weekly earnings of weekly paid full-time employees in Gibraltar or 33½% for a single person. At the time of carrying out the review, the latest available unemployment survey for October, 1986, gave the average weekly earnings of £143.49. On this basis it is proposed that the standard rate of old age pension for 1988 be £71.70 instead of £67 for a married couple and £47.80 instead of £44.70 for a single person. These new rates represent increases of approximately 7%. All other benefits under the Ordinance will be increased by the same percentage approximately except once again for maternity and death grants which remain unchanged. The proposed increases in benefits are estimated to bring the total expenditure of the Social Insurance Fund for 1988 to £16.8m. This figure includes the cost of Spanish pensions at 1988 rates. I must make it perfectly clear, however, that in reviewing contributions no account has been taken of the Spanish pensioners' entitlement to current rates of benefits, this is a matter which is still under discussion with the UK Government. The value of the Social Insurance Fund stood at £15.66m in April, 1987. This year the increases of contributions have been kept as low as possible although it is still Government's intention to continue the policy of increasing contributions to an extent which will provide a surplus of income over expenditure. It is therefore proposed that the 1988 contributions should be increased by £1 a week for an adult, 50p by the employer and 50p from the employee. In percentage terms the increase represents 6.9% for all adults as against 9.2% last year. As I have previously mentioned in my statement to the House, it is also proposed that the Social Security Ordinance should be amended to enable a woman whose marriage has been terminated otherwise than by the death of her husband, as in the case of divorced women, to preserve the right to claim an old age pension on her ex-husband's insurance record based on the contributions paid by him before

the date of termination of the marriage. The amending legislation is not ready and I propose to introduce a Bill to give effect to this measure at the next meeting of the House. Sir, I commend the motion to the House.

Mr Speaker proposed the questions in the terms of the motion moved by the Hon Dr R G Valarino.

HON J BOSSANO:

Mr Speaker, what I would like is for the Government to clarify, given the answer that we were given during Question Time about the Spanish Sub-fund being exhausted by September, presumably the 1st October. Given the fact that the money comes in on a quarterly basis we were assuming from the answer that we got that what we were being told was that it would cost £2m to provide Spanish pensions for October, November and December. If we are talking about it costing £2m for November and December then we are talking about an annual cost of £10m and not an annual cost of £8m. Perhaps that can be cleared up but, certainly, given that we were told that the Fund was short of £2m for the remainder of 1988, we assumed it would be £2m for three months and not £2m for two months and that therefore when the Hon Member said October he meant the 1st October and not the 31st October. I wish to know whether that calculation has been done taking into account the increases that are being proposed now or whether the additional 7% has got to be added to that £2m?

MR SPEAKER:

Are there any other contributors to the debate?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, the Hon Member did ask a question which arose out of an answer I gave and with your permission I will reply to that before the Hon Minister replies. Certainly the calculations which I gave, the calculations underlying the answer I gave to the Hon Mr Mor earlier today, only took account of the increases which the Minister has announced. We are making up-to-date calculations about the increases next year.

MR SPEAKER:

Does the Hon Member wish to exercise his right of reply?

HON DR R G VALARINO:

No, Sir.

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

HON DR R G VALARINO:

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

MR SPEAKER:

I feel sure that the House will give the Minister leave not to have to read the motion.

HON DR R G VALARINO:

Sir, following on the previous motion I am now moving this one which is intended to increase benefits under the Employment Injuries Insurance Ordinance by about 7% as from the 1st January, 1988, in line with the increase in benefits under the Social Security Ordinance. Injury benefit for a man with a dependent wife goes up from £50.47 to £53.97 per week with additions for children. Gratuity on death due to an industrial accident, from £11,430 to £12,230 and likewise for 100% disability for a weekly pension of £43.40 instead of £40.60. The weekly contributions under this Ordinance currently stand at 26p, 13p each from employer and employee. Expenditure on benefits continue to increase and it is accordingly proposed to increase contributions for 1988 by 15%, ie 4p increase to be shared equally between employer and employee. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

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

HON DR R G VALARINO:

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

MR SPEAKER:

I feel sure that leave of the House is granted.

HON DR R G VALARINO:

Sir, this is the third and last motion in the annual series and deals with unemployment benefit which is in line with other increases in social security benefits which will also be increased by about 7%. The basic weekly rate of this benefit will go up from £33 to £35.40 a week with increases of £17.40 for wife and £6.90 per child. Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

HON J BOSSANO:

May I ask the Hon Member, how is the rate of unemployment benefit now compared to the rate for supplementary benefits for people who are under 65 and unemployed? Are we getting a situation where everybody who is unemployed will, in fact, qualify for supplementary benefits because of the increase in supplementary benefits being bigger than the increase in unemployment benefit?

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, Sir, in a case where supplementary benefits would be higher than unemployment benefit in this respect, if somebody was out of work and wanted unemployment benefit, if by any chance the social security benefit would be higher than unemployment benefit it would be made up to the social security benefit.

HON J BOSSANO:

My question is, is it going to happen with the changes that have been introduced? That is what I am asking because the figures that have been quoted are for over 65. I imagine that the under 65 are also getting increased supplementary benefits. Are we saying that people who are unemployed will in theory be getting this figure but in practice be getting the supplementary benefit figure because the supplementary benefit figure is higher? That is my question.

HON DR R G VALARINO:

The supplementary benefit figure and the unemployment figure are very similar so it is very unlikely that such a thing would occur but if it did occur then one would take over, presumably, over the other one. But it is very unlikely it would occur because they are very similar in nature.

HON J BOSSANO:

I am sorry, Mr Speaker. The figures that were given by the Minister in his statement when we sought clarification specifically mentions the case of the over 65. Obviously the over 65 do not get unemployment benefit. Are we being told then that, for example, if there is a man of 64 unemployed, he is not entitled to the £53.60 that a married couple over 65 is so what is, in fact, the difference between the two?

HON CHIEF MINISTER:

Mr Speaker, a married couple, assuming living on their own, naturally, a married couple under 65, under supplementary benefits will be getting £47.80. The rate of unemployment benefit is £52.80. The Hon Member should keep in mind that, of course, the supplementary benefit is totally tax free and then they are entitled to rent relief and so forth so I think it is pitched at pretty well the correct figure.

MR SPEAKER:

Has the Minister finished his reply?

HON DR R G VALARINO:

Yes, Sir.

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

BILLS

FIRST AND SECOND READINGS

THE GIBRALTAR BROADCASTING CORPORATION (AMENDMENT) ORDINANCE, 1987

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Broadcasting Corporation 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 CHIEF MINISTER:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, in moving the Second Reading of the Bill I am going to deal in very general terms and then the Hon Mr Perez who I think is the Chairman of the Standing Committee on GBC and has been more closely involved in this matter in recent months, will also be making a contribution and perhaps be dealing in more specific terms than I will. The Gibraltar Broadcasting Corporation have, for a number of years, been considering ways and means of increasing their sources of revenue. One way has been through increased advertising. Another method which the Corporation

has been looking at is the leasing of their transmitters during the time that GBC are not using them. The obstacle to pursuing this matter has been the fact that the GBC Ordinance precludes any other than GBC, with the sole exception of SSVC, from broadcasting from Gibraltar. This amendment to the GBC Ordinance will allow GBC to enter into contracts with organisations who may be willing to transmit within the area from Gibraltar. The Corporation has informed Government that they have received no concrete proposals although a number of organisations have shown an interest. The method of transmission is something for the Corporation to consider, it could be an open transmission or a coded transmission which only subscribers could receive. Any agreement entered into between the Corporation and other parties will be purely commercial and under the control of the Board of GBC. The Corporation would draw up their own guidelines within what is allowed under the Governor-in-Council's directions to the Board of GBC. The Corporation's intention is to obtain as much revenue as possible whilst maintaining the level of the Government subsidy at its present level in order to build up its reserves to undertake the necessary capital expenditure to update its facilities. The facilities provided by the amendment to the Ordinance apply to both radio and television. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, I would prefer the Hon Mr Perez to make his contribution first. It might be that after he makes his contribution I won't have any queries on the matter.

HON J B PEREZ:

I have no objection in making my contribution now except perhaps that I would have thought it better, for the better running of the House, if I would hear any queries that Hon Members opposite might have.

MR SPEAKER:

Do you wish to contribute or don't you wish to contribute?

HON J B PEREZ:

Yes.

MR SPEAKER:

Well, let us carry on.

HON J B PEREZ:

Mr Speaker, there is, in fact, very little that one can add to what the Hon the Chief Minister has already said except perhaps that I could possibly give a number of examples to illustrate what precisely is meant by the Bill at present before the House. The present position as Members all know is that under the Ordinance the Gibraltar Broadcasting Corporation enjoys a monopoly in Gibraltar for broadcasting. The only exception to that is SSVc or as most commonly referred to, BFBS. However, if, for example, hypothetically, let us say that the BBC were to wish to set up a relay station here in Gibraltar and they wanted to use a frequency which is owned by GBC but which is unused, which is lying dormant, under the present legislation GBC is unable to allow the BBC to use this particular frequency because under the law as it stands the monopoly is, what I would call, very personal and exclusive only to GBC. That, really, is the whole idea behind this amendment. Of course, by doing that it would enable GBC to be able to achieve a greater deal of what we call economic independence and be self-financing and therefore require less Government subvention. That, basically, is the basic principles of this particular Bill. Having said that, I ought to say a few words about why the word 'satellite' has actually been included. I have to say that I think the House, possibly, got the wrong end of the stick at Question Time this morning when we were dealing with the question of satellites because I think somebody mentioned that this actually had a bearing on what the Government had in mind. Well, that, in fact, is incorrect. The Bill at present before the House has really nothing to do with the questions that were asked this morning in connection with satellites. Why have we put in 'satellite'? Well, there is a very simple reason for that and that is that what we have found with GBC has been that throughout the years because of the long time we have had the GBC Ordinance, there have been a number of factors, sort of new technology, which requires amendment to the Ordinance and sometimes on a very minor point, for example, the question of satellite, to have to bring a Bill to the House to put in the word 'satellite' or perhaps in two or three year's time bring in something else, it was thought wiser to put in the word 'satellite' now so in the future if the Government of the day were to decide that, yes, GBC would be able to have satellite transmissions, then there is no need to start amending the law anymore. That is the only point. Really the use of the word 'satellite' in the amendment is basically to allow the Corporation to use this only for programme delivery. Another example, if let us say with the setting up of Gibtel, that Gibtel wanted to bring a particular, I think it is called 'oracle' which is a particular news service which is provided, say, for Finance Centre activities, this is allowed. It would be by

way of satellite, Gibtel or whichever other company is involved, would actually have to pay a fee to GBC, GBC would receive it and would actually broadcast to subscribers and, of course, the subscribers would have to pay a fee. That is the only reason why we are including satellite. But, as I say, the whole idea of this Bill is, in fact, to help GBC. It is something, in fairness to them, which they have been asking for quite some time but there are other matters which, I think, Hon Members opposite are aware that we have been looking at, it is a question of the publication of the Governor's directives. It is a bit of a package which GBC will be obtaining. I think this will help GBC, it will help their finances quite substantially. They have, I know, a number of firms who have shown an interest but, of course, for commercial reasons I don't think I should really disclose what these offers are but this will, of course, put them in a very good situation.

HON J C PEREZ:

Mr Speaker, after that explanation, in principle, we have no objection whatsoever to the Bill and we will be voting in favour. My reservation on it is that we are, in fact, extending the monopoly into these areas to GBC and although there is no question of GBC operating the satellite at the moment, they have a right to do so in the future if they so wish and my only reservation is that they should hold the monopoly for entering contracts with companies and relaying satellite programmes to clients whereas I think the Government knows that there are some firms already wishing to do this and who have approached, I think, certain Ministers on the matter. Other than that we support the Bill fully, we think GBC should be trying to become self sufficient and the more they go down that road the better for Gibraltar and the better for the Corporation itself.

HON J B PEREZ:

If the Hon Member will give way. We are not really extending the monopoly. The monopoly stays for broadcasting with GBC. All that we are doing is we are, in fact, allowing third parties who wish to bring programmes to Gibraltar and have to go through GBC because of the monopoly that exists, we are only allowing GBC to be able to say: "Yes, pay us and we put these programmes". The monopoly remains the same.

HON J C PEREZ:

If there is a station relaying satellite in the Costa del Sol, for example, and there are clients in Gibraltar wanting to receive that transmission, they are actually not broadcasting from Gibraltar, we are receiving in that situation so this would not debar individuals if the Government go down that road in considering satellite discs from entering into contracts with other firms which are broadcasting programmes from outside.

HON J B PEREZ:

But the broadcasting must be done by GBC.

HON J C PEREZ:

No, we are not talking about that. Those people who have satellite television are receiving programmes and some of those programmes can be acquired by paying a particular fee and then it is broadcast from a station nearby which is not necessarily in Gibraltar. It is the same as if you were asked to pay a fee for watching Television Española which you are not. Let us suppose that there is a station outside Gibraltar which has individuals who pay a fee for receiving the programme because the programme is controlled in a way that you can only receive it if you pay a fee. This is not debarred by this legislation as I understand it.

HON J B PEREZ:

It has got nothing to do with it.

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

HON CHIEF MINISTER:

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

This was agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Traffic 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the purpose of this Bill is four-fold. The first amendment, which is section 2, widens the number of reasons why the Police may stop traffic in any public

place or street and the main difference is the increase of the number of such happenings by the words 'entertainment or similar happening'. One example of this can be, for instance, the street market which we have in John Mackintosh Square where at the moment traffic could proceed along the north side when the street market is in operation the Police will now be able to close that to traffic. The second amendment, section 3, is to appoint people known as 'traffic wardens' and to give them the same powers to discharge their duty in aid of the Police as the Police have themselves with regard to such functions as are dealing with the movement of traffic etc. The third amendment, section 4, is to increase the number of offences for which a parking ticket or a fixed penalty ticket can be actually applied. At the moment a fixed penalty ticket can be applied to your vehicle if you are creating a parking offence but it is intended to widen the scope of the number of offences. Two offences, for example, would be parking on the pavement or parking at a wide distance from the actual kerb. If you park two feet six away from the kerb right in the middle of the road, that will also cause you to get a fixed penalty ticket. Also in that subsection it will be a defence to the registered owner of a vehicle who gets such a ticket to claim that the vehicle was in the charge of some other person at the time and that he took all practical reasons to stop the other person from creating or committing such an offence and he is given seven clear days before the hearing to assist in the identification of the person who has actually committed the offence. I commend the Bill to the House, Sir.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, there are two points. One of them is that section 2(b) seems to me to be saying that the Commissioner of Police in the past has not had the power to do a lot of things that he has been doing which is a very great deficiency, may I say, on the part of the Government if this is the case. I am sure that this is legislation which has been necessary since traffic in our roads became a problem. Secondly, the extension of the offences is something which in a normal situation where there are adequate facilities for parking, one might support and approve but, frankly speaking, Mr Speaker, even the Police today will tell you that on many occasions they are turning a blind eye because of the serious parking problem that there is and of the inadequacy of parking areas where people can park their cars at night. We are now in a situation where we are opening up the margin of offences and to date there has been no sufficient remedy being applied to the general problem of parking in Gibraltar and I think

this is wrong, both things must be in parallel. If you are going to say: "Parking offences are going to be widened because we want our streets to be in better order and traffic better regulated", I am afraid the Government has the responsibility to provide parking facilities first. Once those facilities are there, then in order to channel people to use those facilities one would agree with extending the offences in the Ordinance. As it is I am afraid that that section we cannot support, Mr Speaker, if I have understood it correctly.

HON H J ZAMMITT:

Mr Speaker, I think that I may be able to clarify one or two points that the Hon Member has raised. With reference to clause 2(b), let me assure the Hon Member that everything that he mentioned there was there before except, of course, entertainment, so the Police have always had the power to prohibit cars in Main Street, for instance, when there is a Ceremony of the Keys or a parade or any other thing of that nature so the only new thing that has been incorporated there is, in fact, entertainment. On the second issue, let me say that I tend to agree with what the Hon Member has said about parking tickets because of the lack of parking facilities. I think my colleague will accept that I have been a very strong advocate about not increasing the price of the parking ticket purely because there wasn't a place to park as opposed to just making it more difficult to park on a no parking area. In fairness, I think the Hon Member must admit that there have been certain openings in parking facilities. One looks at Queensway and one finds that outside the Camber there is provision for some cars which certainly weren't there before, certainly at the time the parking ticket came into being. Hopefully, with the removal of the coach park there will be another car park at the present tennis courts and slowly there are movements towards providing certain car parking facilities. Whilst I have sympathy with the general views of the Hon Member, I think that in the small area of Gibraltar there has been a small contribution in improving the parking lot which is a problem here and a problem wherever one goes.

HON J C PEREZ:

Will the Hon Member give way? In looking at the parking problem my own view is that the Government has looked at the parking problem in relation to the people coming across the border more than anything else and, therefore, the areas that the Hon Member has mentioned does provide relief to the parking problem during the day for people coming down town into offices and for people coming across the border but, basically, the two sites he has mentioned and the construction of the new car park which is going on, doesn't relieve the real parking problem of people in Gibraltar in housing estates and in habitable areas. I would suggest to

the Hon Member if he, in principle, agrees with what I have said, to delay implementation of this until one is satisfied that there is sufficient parking and one can actually then enforce the Ordinance with a greater degree of confidence that it is enforceable.

HON H J ZAMMITT:

Mr Speaker, again, one would tend to agree but I think that the Hon Member must realise that the parking problem is not a problem just in Gibraltar. I can say, because of my experience in my previous employment, that the Police take a very lenient view of parking in places like estates. I think what we are trying to do is to alleviate the flow of traffic in the main thoroughfares, Line Wall Road being a typical example today which because of the road system one sees that Line Wall Road has become a very important artery in the movement of vehicles. That area certainly needs clearing up. I think it was quite ridiculous to put a £2 ticket on a car because it was a cheap day's parking because once there was a ticket the Police does not end up putting sixteen tickets on the same car and that car almost had a blank cheque to be parked there all day for £2.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

I want to raise two points. It seems to me we are creating a principle where, in fact, an offence can be created by notice in the Gazette.

HON H J ZAMMITT:

Or regulations.

HON J BOSSANO:

The other thing that I want to raise is, I would like to have my mind put at rest about that because in terms of protecting people from the law, if you like, the fact that a breach of the law is something that gets debated in the House before it is made a breach of the law seems to me a good principle and therefore I am not too happy with the idea that people can suddenly be committing an offence and they may not have seen the Gazette and there has not been any public debate about it. That is what it seems to be doing. This seems to me to give the power that something which was not an offence today could be an offence once it is published by notice in the Gazette.

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HON ATTORNEY-GENERAL:

Mr Speaker, if the Hon Leader of the Opposition will give way. The parking ticket offence is, first of all: "The provisions of this section apply to any offence created by or under this Ordinance" - meaning the Traffic Ordinance - "being - (a) an offence punishable on summary conviction, and (b) declared by the Governor by notice in the Gazette to be an offence for the purposes of this section". All the offences were already there in the Ordinance but only certain of those offences under the existing legislation are fixed penalty ticket offences. All we are doing is saying, well, the Governor can say in the notice in the Gazette which of the offences already existing in the Ordinance are fixed penalty ticket offences. We are not creating new offences in the Gazette.

HON J BOSSANO:

So the range of offences is not changed?

MR SPEAKER:

No, the offences created by the Ordinance, it is punishable now by tickets if the Governor provides that it should be so.

HON J BOSSANO:

I thought the Hon Member had given me a different impression when I asked at first. The other point I wanted to ask was, am I right in thinking that without the passing of this Ordinance traffic wardens would not have been able to carry out their duties because it seems to me that we have been told in this House in previous questions that the reason why the traffic wardens were not already working was because it had not yet been decided which association represented them and negotiated for them. It seems to me that, in fact, there was no previous indication that legislation was required to enable them to carry out their duties. Does the fact that they come under this Ordinance and that they have to be authorised to carry out these duties in any way affect the question of the negotiating rights which we were told about in previous meetings of the House in answer to questions?

HON ATTORNEY-GENERAL:

If the Hon Member will give way as to the point on traffic wardens. The existing law is contained in section 87: "The Commissioner of Police may appoint and employ persons to be traffic wardens whose functions shall be to control and regulate traffic at or near school crossings". It was limited to school crossings, the lollipop men, and now it is being enlarged to do general traffic duties. As to the other point I cannot answer the question about negotiating rights.

MR SPEAKER:

Does the Mover wish to reply?

HON M K FEATHERSTONE:

Yes, Sir, just very simply to reiterate to the Hon Mr Bossano, the position is at the moment if you park your car on the pavement you are committing an offence but the only way you can be prosecuted for that offence is for the Policeman to wait there until you arrive and then he takes your name and address and he says 'You are prosecuted for the offence of parking on the pavement'. Now, if that is gazetted as an offence which can have a fixed parking ticket, the Policeman will come along, see that this car is parked on the pavement and will fix a ticket on the car saying 'You have been guilty of the offence of parking on the pavement, you must pay a fixed penalty or, if you wish, appear in Court', etc. The question of the traffic wardens, I think, has been adequately answered by my friend the Hon Attorney-General. Thank you, Sir.

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

HON M K FEATHERSTONE:

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

This was agreed to.

THE ANIMALS AND BIRDS (AMENDMENT) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I beg to move that a Bill for an Ordinance to amend the Animals and Birds 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 M K FEATHERSTONE:

Sir, I beg to move that the Bill be read a second time. Sir, this Bill is not a very complicated Bill. Clause 2 actually gives the definition of what is an authorised officer who may prosecute in cases of need to do so. Section 3 states that no licence shall be issued to a person under sixteen years of age and that once a licence is issued under the

Ordinance, then the person to whom the licence is issued shall be deemed to be the owner of the dog for all purposes. Section 5 brings in the fact that if a dog is found to be not on a lead then it will be treated as a stray dog and will be impounded. Section 6 and section 7 basically change the amounts of penalties for various offences but in section 25A under Clause 6, I will be moving an amendment that the person who wilfully obstructs an authorised officer in the execution of his duty under the Ordinance is guilty of an offence and is liable on summary conviction to imprisonment for 3 months and to a fine of £200. The intention of this amendment which I will be moving at the Committee Stage is that if you make the possibility of imprisonment six months then the person can opt for trial at the Supreme Court and we feel it would be better if it was dealt with at the lower Court and therefore three months would be the figure to place in its place. I commend the Bill to the House, Sir.

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 M K FEATHERSTONE:

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

This was agreed to.

MR SPEAKER:

I feel that perhaps this would be a very convenient time to recess until tomorrow morning at 10.30 when we will continue with Bills.

The House recessed at 7.00 pm.

WEDNESDAY THE 16TH DECEMBER, 1987

The House resumed at 10.50 am.

THE MEDICAL (GIBRALTAR HEALTH AUTHORITY) ORDINANCE, 1987

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to establish the Gibraltar Health Authority and to make provision for the transfer of Medical and Health Services from the Government to the Authority 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. Sir, this Bill seeks to set up a Gibraltar Health Authority which will be an autonomous authority to run the medical services in Gibraltar. It will free the medical services from the ramifications and exigencies of the present civil service set-up, some people might say from the shackles of the civil service and it will be an autonomous authority regulating its own procedure and working to its own rules and regulations subject, of course, to the ministerial guidance which will be given through the Health Authority Committee with the Minister as Chairman. Sir, Clause 2 of the Bill sets out the actual specifications of what is the Authority, the General Manager, the Medical Advisory Committee and the Minister. Clause 3 establishes the Health Authority which will be a body of persons with the Minister as Chairman, the Administrative Secretary, the General Manager, two registered medical practitioners, one person nominated by the Governor after consultation with the Gibraltar

Trades Council and three other independent persons. They will constitute the Authority and they will take the decisions of the way the Authority is to move. There are certain conditions under which a member will leave the Authority but under normal circumstances a person will be appointed to the Authority for a period of three years. Clause 4 says that the Authority will be a body corporate. That is that it will be able to sue and to be sued, it will have a common seal and will work as any body corporate. Clause 5 states what will be the quorum at all meetings of the Authority, it will be five persons, the Chairman shall preside and in his absence any other person that the meeting authorises. Clause 6 states that it is the duty of the Authority to provide a comprehensive preventive, diagnostic and treatment service in respect of physical and mental health and it also states who will be employed in the Authority specifically

and generally. Specifically, one of the new appointments will be a community physician who will liaise with the Environmental Health Department and work with the Authority very closely. He will be a specialist in community medicine. There will also be a Finance Officer, a Personnel Officer, a Director of Nursing Services, commonly known as the Matron, a Hospital Manager and a Primary Care Manager. They will also employ all other persons that are necessary to the Authority which obviously includes all the different persons who are today making up the Health Services such as nurses, cleaners, clerks and what have you. Under Clause 7, Sir, the Authority shall have the power to carry out its duties under this or any other Ordinance which applies to it and the Authority may acquire any freehold or leasehold property for the purpose of carrying out its functions. The Authority will be able to hold any property, dispose of any property, contract with persons for the supply of goods, services or personnel, erect or equip any buildings, plant, etc, in other words, do all the things necessary for the Authority to perform its functions properly. The Authority may arrange for the discharge of any of its functions by a committee or a sub-committee or an employee of the Authority or by any Government department or any other authority. This is Clause 8 of the Bill, Sir. Clause 9, the Authority will have the right to make its own standing orders and regulate its own procedure. Under Clause 10 a General Manager will be appointed and as is common knowledge now we have a General Manager designate, Mr Ralph Murray, who has been in Gibraltar, to my knowledge, on three occasions and is already doing sterling work with regard to the setting up of the Authority. The General Manager shall hold office for such period and on such terms as may be specified in the instrument appointing him and he shall be the executive officer to the Authority. In the event of his death, illness or retirement, suspension or removal from office, another person may be appointed to act as General Manager. Sir, Clause 11 states there shall be a Management Board which will consist of the General Manager, as Chairman, the Finance and Personnel Officers, the Director of Nursing Services, the Hospital Manager, the Primary Care Manager, the Specialist in Community Medicine, the Chairman and Vice-chairman of the Medical Advisory Committee and the Medical Officer-in-Charge of the Royal Naval Hospital. This will be the day-to-day instrument for running the work of the Authority subject to what is given to them as guidelines by the actual Health Authority itself. Under Clause 12 the Authority shall establish a Medical Advisory Committee, the membership will be comprised of all the medical and dental officers employed by the Authority. They may set up any other committee to give professional or technical advice that they feel is necessary. The Authority shall manage its financial affairs prudently and the intention is that it should live within its financial means, its financial means being provided by a sum of money voted by the House of Assembly for the purposes of the Authority; all revenue accruing from the Medical Group Practice Contributions Scheme; any sums received by the Authority

during that year, and all fees for services such as rooms in the private corridor, use of the laboratory, etc and any other monies which legitimately accrue to the Authority from any other source. The Authority shall establish a general fund into which all monies shall be put. It has the right to establish an overdraft if necessary and the Financial and Development Secretary may make advances for the purposes of meeting capital expenditure. Clause 15 says that proper books of account shall be kept and they will be subject to scrutiny and certification by the Principal Auditor as soon as practicable after the end of each year. The year will actually run from the 1st January to the 31st December. The Principal Auditor with reference to the accounts shall state that he has obtained all the information and knowledge that is required to certify the books as such. Within three months of any financial year the Authority shall prepare and submit to the Governor a written account of its operations for the year and the Minister will lay a copy of such annual report and the audited accounts on the table of the House of Assembly. Clause 16 gives the Authority the power to raise money by any means which are legitimately available to them, for example, they could hold a bazaar or a flag day or something like that if they wanted to buy any specialised piece of equipment which they feel such is the way to do so. The financial year will be from the 1st April to the 31st March, not the 1st January to the 31st December. Clause 18 says the Accountant-General may pay to the Authority all contributions received in each month from the Group Practice Medical Scheme. Clause 19 says that no personal liability shall attach to any member of the Authority. Clause 20 says that if the Authority has failed to comply with the provisions of this or any other Ordinance then it may be given instructions by the Governor to rectify such a fault within a very short time as such. Clause 21 states that no execution by attachment of property shall be issued against the Authority. Clause 22 says that the Authority may be a public purpose as far as the acquisition of land compulsorily. Clause 23 which is most important, Sir, the Authority shall be exempt from all taxes, duties, rates, levies or other charges whatsoever. Clause 24 says that at the commencement of the Ordinance there shall be by virtue of this subsection be transferred to the Authority all property which is at the moment held by the Government on behalf of health purposes. That is that the hospital will be transferred to the Authority, the part at Casemates where the doctors hold their clinics, etc. Clause 25 is a consequential clause which sets out a Schedule of all the various Ordinances which are affected by the setting up of the Authority where the names have to be changed, for example, instead of the Director of Medical and Health Services in certain places, it will become the Chief Environmental Health Officer, etc. All in all, Sir, the Bill is a relatively simple Bill. It has wide powers, it gives the opportunity for Gibraltar to move ahead in the medical field. 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 MISS M I MONTEGRIFFO:

Mr Speaker, we are in favour of this Bill but we would like to see a committee being formed to ensure the implementation of the nursing review. Under Clause 12 of this Bill there is provision for the establishment of advisory committees and therefore I would like to get a commitment from the Minister that such a committee will be formed because we think it is an important contribution to the Gibraltar Health Authority.

MR SPEAKER:

Are there any other contributors?

HON J BOSSANO:

Could I just ask one point of clarification from the Hon Member. I know that the accounts of the Authority eventually reach the House and therefore we have the benefit of hindsight of looking back on how the money has been spent. At the beginning of the financial year, for example, presumably the intention is that by April, 1988, the Health Authority will already be functioning with its own independent budget. What exactly is likely to happen in that situation, that we vote a block amount in the estimates of expenditure in the Government estimates but we don't have a breakdown as to what it is like we have today or is there, in fact, going to be something annexed to the accounts as it would be, for example, with the Funded Accounts, which will give an indication of where the expenditure is going. I take it we are not going to be able to vote things like personal emoluments, etc otherwise the whole exercise of setting an independent Health Authority would be meaningless, really, and I accept that, but I would still like to know what we can anticipate in terms of the control of expenditure by the House rather than of knowing how the money has been spent.

MR SPEAKER:

Any other contributor? I will then call on the Mover to reply.

HON M K FEATHERSTONE:

Yes, Sir. In answer to the Hon Mr Bossano I think the system will be that the Authority will apply to the House for a subvention of £X million etc and will attach an appendix to their application showing how the breakdown of this request for the subvention is made up. This will give the House an opportunity to know exactly in which areas the money is going to be spent. As far as the Hon Miss Montegriffo is concerned, I have no hesitation in saying we will be happy to set up a committee to look into the situation she has requested. May I just add one thing, Sir. It was the intention that the Authority should come into operation on the 1st April but I am informed that the 1st April is a two-fold day, it is both April Fool's Day and Good Friday so it is suggested that the operation of the Authority is started on the 31st March.

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

HON M K FEATHERSTONE:

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

This was agreed to.

SUSPENSION OF STANDING ORDERS

HON DR R G VALARINO:

Sir, I have the honour to move the suspension of Standing Order 30 in respect of the Social Security (Family Allowances) (Amendment) Ordinance, 1987.

This was agreed to and Standing Order 30 was accordingly suspended.

THE SOCIAL SECURITY (FAMILY ALLOWANCES) (AMENDMENT) ORDINANCE, 1987

HON DR R G VALARINO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Social Security (Family Allowances) 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. Sir, as I previously mentioned in my statement to the House, the Government proposes to increase the rate of Family Allowances. The Bill is therefore designed to give effect to this proposal by increasing the rate from £5 per week to £7 per week with effect from the 4th January, 1988. I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, the Minister mentioned the question of Family Allowances, of course, in the statement that he made regarding the review that had taken place of the social services. We are not clear whether the implications since we had the indication of the Bill to change Family Allowances and when we were looking at it in isolation rather than in the context of a review of the social security system and subsequently in the Ministerial statement that was made yesterday it was included in that. I think in looking at the social security review it would appear that the main area of need that was identified was that of specific groups, ie the elderly and people with either physical disabilities or problems of single parent families and that kind of thing. It seemed to me that what the Social Security Department had come up with which, in fact, is not unexpected, is that in looking at the social security system there are specific identifiable groups that are in particular need. I think the thing about Family Allowances which doesn't fit in with that strategy is that it is a blanket thing and therefore it was included in the statement the Minister made and yet it doesn't seem to be consistent with the philosophy of directing money to specific identified groups rather than spreading it over everybody. Obviously, there are two schools of thoughts in this, one is to say you either help everybody in the community and you give them £x or you concentrate your help on those who need it most and even if you are spending the same amount of public money you can afford to give more because you are giving it to less people. I think that approach is the approach that we were seeing reflected in the proposals to amend the Family Allowances Ordinance although there are other implications which my colleague will take up and that seemed to be to some extent negated by the argument made by the Minister yesterday in the other area. We would welcome an indication from the Government as to how they see the

position, whether they think one ought to be looking at spending the money in helping everybody, as it were, or in fact adopting an approach of saying, well, we can help the people who need it most more by making it more selective.

HON R MOR:

Mr Speaker, I think that this Bill can be referred to as an Ordinance to introduce the AACR electoral gimmick for the forthcoming elections. Mr Speaker, as far as I can recall I have not seen a single letter of complaint in the press or heard of any specific pressure group which has made a request for an increase in Family Allowances during the four years which I have been a Member of this House. I must also say, Mr Speaker, that I have not heard of a single parent who has made any representation whatsoever in this respect which leads me to ask, if no one has requested it why are we being so generous? The answer, I think, must be that the AACR feel it is a popular thing to do and it is a good gimmick for the elections. Mr Speaker, as always it is a clear sign that this Government never seems to realise what it is doing and this Bill is an example of the carelessness with which they deal with legislation. Mr Speaker, this Bill is allowing for an estimated increase of £291,360, that is, well over £1m to be added to the Family Allowances bill, a 40% increase. Yet as you no doubt will recall, we on this side of the House have been trying to encourage the Government to allow credit for social insurance contributions to all those unemployed persons between the ages of 60 and 65 and after numerous efforts on our part, we managed to get the Government to introduce a formula. But what this formula did, Mr Speaker, was to means test the applicants in such a manner that it produces a situation where very few people actually qualify for these credits. Yet if these credits were given to all those unemployed persons over 60 the amount could well be about £5,000 a year and it is therefore inconceivable how the Government could possibly have resisted our proposals for these credits on the grounds that they could not meet the burden of the cost and now we find that they are quite happy to meet the burden of over £1m without anyone having requested it. Another aspect which appears to have been overlooked by the Government, Mr Speaker, is the fact that we have over 1,000 Spaniards now working in Gibraltar, over 1,000 Spaniards who will be entitled to claim Family Allowances in 1989. As you know, Mr Speaker, the Spaniards have a three-year transitional period during which they are being paid Family Allowances in Spain but come 1989 they will also be entitled to claim Family Allowances here and this will increase the whole Family Allowances bill substantially. It is therefore a sad situation, Mr Speaker, to note that we are denying our own people certain benefits on the grounds that the Government says it is unable to afford the extra cost when they are being so generous in giving substantial increases all around to people who may not necessarily need it. Another problem which arises, Mr Speaker, is as regards our Moroccan labour force. As you know the

Moroccans working in Gibraltar have consistently been claiming Family Allowances and this has, again, been denied on the basis of the cost. I feel that in view of the substantial increase on Family Allowances which the Government is introducing in this Bill, it will now be very difficult to say that you cannot afford paying Family Allowances to them when we have been able to afford such a substantial increase. In conclusion, Mr Speaker, we on this side of the House feel that the Government has not given very careful consideration to the implications of this Bill and we believe that in their desire to offer people goodies because of the coming elections, they are acting irresponsibly. We will, however, be supporting the Bill because we believe our social benefits should not be inferior to those of the United Kingdom or, indeed, to any of the more advanced nations of the world.

HON SIR JOSHUA HASSAN:

Mr Speaker, I would like, first of all, to declare an interest in this Bill. I understand that my wife receives Family Allowances in respect of my daughters but what I am going to say is not directed to the extra £2 that will come into my household, fortunately, it doesn't make any difference. The Hon Member who has spoken is perfectly entitled to draw whatever conclusions he likes about electioneering and so on, that is a fair comment on the part of the other side because if you don't provide something you are stingy and if you provide something you do it because there is an election coming. That is fair comment. But for a member of the Gibraltar Socialist Labour Party to object to people receiving an increase in Family Allowances the principle of which has been allowed in this House and has not been reviewed since 1981 is absolutely ridiculous and then to finish up by saying that they will support the Bill after all the criticisms, more ridiculous still. Then to say a Spaniard will be getting it, but the Spaniard will be paying income tax like everybody else does. What is there about giving the Spaniards or anybody who comes to work in Gibraltar any benefits, as if benefits have got to go all the way from down to the lowest paid workers because the bulk of the people who are going to receive Family Allowances in all spheres of life are the less well-off who have the bigger families perhaps because they haven't got the money to pay for the pill or whatever it is, but the bigger families come always from the more modest families. For a Member of the Opposition to decry that because of the benefit that it will take eventually to Spaniards, first of all, insofar as the difference between the Spaniards and the Moroccans is concerned, they are members of the EEC and whether we like it or not it is a matter for which we have given our consent in this House as to the membership of the EEC until we decide otherwise if ever we do. But to take into consideration, I think is taking prejudice, perhaps it would be much better to concern ourselves as to how much money is spent in Spain and who has a house in Spain and who lives in Spain more

than that the Spaniards who come here to work and pay income tax should get an extra £2 after the first child. That would be a better consideration to look after our money. But to say that and then in the end to say 'We will support it', is just really absolutely ridiculous.

HON J E PILCHER:

Mr Speaker, I think the - I am so used to calling him the Hon and Learned Chief Minister - the Hon Backbencher, Sir Joshua, has missed the point. I think the point made by my Hon colleague Mr Mor and, in fact, by the Leader of my Party, is not that we are against the raising of Family Allowances from £5 to £7 or from £5 to whatever the Government thinks is an acceptable amount or a needed amount by the families in Gibraltar. The point that we were trying to make was that since it is now an accepted fact that by 1989 the Spanish workers will be entitled to full Family Allowance payments, the point that was being made was has the Government quantified how much that is going to mean extra to the people of Gibraltar? It is not a question of the Spaniards getting it, we are talking not of the Spaniards but of any EEC national working in Gibraltar. What the Opposition, Mr Speaker, is saying is, in fact, has the Government quantified what that is going to cost Gibraltar in the future and is it not going to present a problem to the next Government in 1989 which will have to find another £4m on top of the problems that we have already with paying pensions to Spaniards or pensions to EEC nationals. I think that was the point that was being made. I think one has to be very careful of the remarks that one makes on this side because it seems to us that every time we mention something about the EEC there is always a reaction from the other side, somebody jumps up and says: 'What you don't want is the Spaniards to get this or the Spaniards to get that'. That is totally contrary to what we have been saying on this side. We are talking about quantifying the amount of money payable out to EEC nationals as a result of this Bill, this is what we are talking about, Mr Speaker. Of course, because the EEC nationals mainly will be those nationals of our neighbour country because they have direct access into Gibraltar and the number of workers is increasing day-by-day, this is what is worrying us. That is as far as the effect on the amount of money that we are going to have to pay out from the fund. The other pressing point and it is a socialist point, Mr Speaker, is how can the Government defend that we are going to raise the allowances from £5 to £7, pay it to all EEC nationals as, in fact, the Hon Sir Joshua Hassan has said, because they will pay income tax and we have had Moroccan workers here for the past sixteen years who cannot claim Family Allowances although they pay income tax and they have been working in Gibraltar for the past sixteen years and complaining about it bitterly. Is the Government now saying to them: 'Yes, since you are now going to pay income tax like everybody else, we are now going to give it to the Moroccan workers as well' and, if not, what arguments are

they going to use when they get representations from the Moroccan workers, Mr Speaker? If they then give it to the Moroccan workers as indeed they should, if they were socialists as indeed they try and say from time to time, in inverted commas, what is that going to cost Gibraltar in general? That is the point that both the Leader of my Party and the Hon Mr Mor were trying to say. Of course, we will vote in favour of it because any measure that raises the allowances for the people of Gibraltar is an acceptable fact but, of course, I think every person in Gibraltar would want to know whether raising £2 of their own income is going to create a major problem for Gibraltar in two year's time. I think everybody in Gibraltar has a right to know that. Where is the money going to come from, Mr Speaker? We have already had yesterday at Question Time intimations as to our inability by October, 1988, to pay out pensions, etc and now we are saying 'We are going to raise Family Allowances by £2' and that is going to create, again, an enormous bill. Where is that money going to come from and why is it necessary at this juncture, which is the question that the Hon Mr Mor was asking the Government, why is it necessary at this juncture? Whether we believe it is electioneering or otherwise is not the point. The point is why now, where is the money going to come from and have the Government quantified the extent of the cost to Gibraltar in 1989 when we have to pay EEC nationals - and I am talking about EEC nationals - the full Family Allowances? Of course, the other question was, what are we going to do with the Moroccan workers? I think these are the three points that the Opposition want to know before we are satisfied ourselves as to the necessity of this. Of course we are going to vote in favour, it would be ludicrous not to vote in favour. But as a socialist party, Mr Speaker, if we are not convinced although we have to vote in favour I think the message is, if this is going to cost somewhere in the region of maybe £1m in the future, is it not or would the people of Gibraltar not prefer that £1m to be used for other more important priorities? I can mention many priorities - housing, education, many priorities. That is the question that the Opposition are asking, Mr Speaker, and that has not been answered by the passionate intervention of the Hon Sir Joshua Hassan. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, it isn't so much on the Government side that we object to being asked questions which we properly try to give answers to, it is the churlish manner in which Mr Mor raised the objection that is objectionable. It was the way that he did it, it is incredible, from somebody who doesn't say a great deal in the House, he is the Shadow Minister for Social Security and when he opens his mouth on a matter like this the way in which he said it was incredible. To try to answer some of the questions. The cost, well, if there are 1,000 Spanish workers or so now in Gibraltar and the total number of workers is 13,000, it is not very difficult to estimate that the cost eventually in

1989 of paying Family Allowances to the children of Spanish workers is going to be of the order of one-thirteenth of the total cost of paying Family Allowances now, projected to 1989. That is not a very difficult calculation.

HON J BOSSANO:

If the Hon Member will give way. That calculation, I am afraid, is wrong, Mr Speaker, because of the 13,000 workers there are already 4,000 who don't get paid Family Allowances who are the Moroccan workers and other nationalities so, in fact, it is now something like 5,000 male Gibraltarian workers and the fact that there are female workers doesn't mean that there are more children because they don't get Family Allowances as males and Family Allowances as females, there are 2,000 married women so, in fact, it is an extra 1,000 which is one-fifth more, a 20% increase.

HON CHIEF MINISTER:

Not necessarily because amongst the Spanish workers also there are women. But, anyhow, that is the way that you can assess the total cost. If the exercise has not been done it is not a very difficult exercise to carry out. Why do it now? Family Allowances have not been increased since 1981. Prior to 1981 we used to have Family Allowances payable to the second and subsequent children and also tax relief being given to all children under the Income Tax Ordinance. We abolished the tax relief other than for the first child and in 1981 we increased Family Allowances substantially as it was then to £5 in order that families would not be worse off always bearing in mind one thing, that to do what has now been done in two successive Budgets, namely, to increase income tax allowances appreciably as we have done in two successive Budgets, is of great interest to families who pay income tax but for the lowest income groups you can increase income tax allowances till kingdom come and if lower income families don't pay any income tax whatsoever because their income is so low, it does not improve their financial position, they get no benefit whatsoever. Therefore the only way that the lowest income groups are going to get a benefit is if every week they see an increased payment by the Department of Labour and Social Security in respect of Family Allowances. So the lowest income families are going to benefit now appreciably from this measure, something that they have not done for about six years. If the Government, and it is the community's money that we are talking about, can find the money to cut in 1986 income tax by about £3½m per year and in 1987 to cut income tax again by a similar amount, that is a total of about £7m in two years, if we can find earlier in the year £2m for GSL and now today another £2m for GSL, a total of £11m, why can't we find the kind of money that we are talking about for an increase in Family Allowances? Why not? It is electioneering. Is it not electioneering to vote in the House today, as we are going

to do, £2m for GSL to keep the yard going or do we allow them to close down? One argument can be used for one thing, it can be used for the other but no one is going to dare to stand up in the House today and say, you may object to the £2m but you are not going to stand up and say: "The Government is appropriating £2m to keep GSL going because it is electioneering", you are not going to say that, I am sure. That partly answers where is the money coming from, from the Consolidated Fund because the Consolidated Fund if it is reasonably healthy for one thing it can be reasonably healthy for the other. Then the question of the Spanish pensioners. The money for the Spanish pensioners is supposed to come from the Social Insurance Fund and if it were to be met from the Social Insurance Fund within a year or two, I think with £15m in the Fund, within two years the Fund would collapse and that is not a bill that we in Gibraltar think that we should pick up. We are going to argue the toss with Her Majesty's Government, we are going to argue the toss with the EEC, if necessary, but Family Allowances is a separate matter altogether. Family Allowances are paid from the Consolidated Fund. In our view it is sufficiently healthy, perhaps an increase is overdue and because the position of the Consolidated Fund has been maintained and has improved during the year, when carrying out this far-reaching review of social benefits that we have now carried out, we thought that we ought to give serious consideration to an increase in Family Allowances, we are able to afford that and hence we are bringing the measure to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, Sir, I totally agree with the sentiments expressed by the Chief Minister and his explanation which is totally accurate and pertinent. The only reason that this formula was added on to the last bit of the statement is because families who are on supplementary benefits get an allowance for the first child and this allowance has been therefore increased in advance. This is the only reason why I put it there and no other. I think that answers the Hon Mr Bossano's question. To answer the Hon Mr Mor's argument, I would suggest that this is not an electoral gimmick but I am afraid everything he has said in answer to my statement is an electoral gimmick and I am very sad at the way he has taken advantage of the situation and has made statements which have nothing to do with the Bill and has gone off, indeed, at a tangent. Thank you, Sir.

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

HON DR R G VALARINO:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill seeks to give effect to certain amendments to the Income Tax Ordinance. I think most of them will already be amendments the substance of which the House will be familiar with although they have only now been incorporated in legislation. The first matter in the Bill is concerned with, the first change, rather, concerns approved pension schemes and the Bill makes a number of provisions with respect to the return of contributions to employees who leave employment before their entitlement to a pension provided the rules of the pension scheme so allow and provided it is an approved scheme for the purposes of the Income Tax Ordinance and provided the employee joined the scheme prior to the 1st July, 1987, the return of contributions would not be liable to tax. Where all those conditions are met with the exception of one, namely, the employee joined the scheme after the 1st July, 1987, only 25% of the amount returned would be allowed tax free and the balance would be taxed at 20%. That formula, Mr Speaker, is consistent with the change which was introduced at the time of the Budget in respect of lump sum payments from pension schemes where, if the House will recall, the reason was that the 100% lump sum payment would be allowed for in respect of those schemes which were in existence and where people were already members of them but with effect from the 1st July, 1987, the excess over 25% would be taxed at a rate of 20%. The next major amendment relates to Home Ownership, the Bill will extend Income Tax Relief during the period of construction under a closed market development scheme. 20% of the deposit paid during the period of assessment which should not exceed the entirety of the sum of £2,000, will be allowable. However, if an individual or his wife were

to sell or dispose of the home within twelve months from the commencement of the period of agreement or of obtaining legal title in such a property then the relief allowed under section 26(a) would be withdrawn. The opportunity has also been taken, Mr Speaker, to include a number of minor amendments to the Bill, notably in connection with the circumstances where either spouse may claim the relief rather than simply restricting the relief to one or the other spouse, he or she being the taxpayer. Finally, clause 7 abolishes the existing deduction of £500 in respect of property licenced under the Development Aid Ordinance. This particular measure was overtaken by the changes which were introduced from 1984 onwards whereby a form of tax relief was given generally to home owners, this particular £500 has really been overtaken by both inflation and other legislation. I think that as the memorandum says, Mr Speaker, the remaining clauses of the Bill are, by and large, consequential on the main alterations and I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, there are some things we are in favour of and some things we are against in this Bill and one clause that we are unhappy with. Therefore we would not like this Bill to be taken in this meeting of the House, we would like the Committee Stage left for the January adjournment. It will give the Government more time to come up with answers and possibly be able to persuade us. On the provisions regarding the taxing of withdrawal of money from provident funds and from pension funds, we are completely against this. We said so at the Budget time when this was first introduced and we are, in fact, committed, Mr Speaker, to restoring the position. The amount of money involved is infinitesimal. We are talking about legislating for people who have taken up employment since July this year and giving them inferior treatment to all the people who are in employment then. We are talking that out of the 13,000 labour force those unfortunate few who change jobs in the last six months are going to have a new tax put on them against the background of apparent largesse in every other direction defended by the Chief Minister on the basis that if we can afford £2m for GSL, if we can afford this, well, surely we can afford £2m for family allowances and then I would say to him, well, surely we can afford £4,000 or £5,000 which is all they are going to collect in income tax by this amendment. Or is it that that £4,000 or £5,000 is crucial in a tax cake of £24m. Even the Government said this will stop the loss of revenue from increasing in the future, it will stop the loss of revenue from increasing in the future in respect of people who take up employment after July, 1987, and it will stop

it from people who would not pay tax if they lost their jobs and who got their contributions refunded, that is, this affects a very small body of taxpayers and even within the small body of taxpayers we are drawing a distinction between those previously employed and those newly employed. In terms of the amount of money involved it really is probably more expensive in the time we are going to take to discuss the Bill and what we get paid while we are in this House, that it means in terms of revenue for the Government. Let me remind you, Mr Speaker, that we put up a very strong case against this at Budget time and in fact the then Chief Minister accused me of making it an election gimmick because I said we would come in and restore the position retrospectively. He knows that my memory never lets me down when I quote him so if he goes back and checks what he said in Hansard he will see that I am right, Mr Speaker. It seems to me that the Government is proceeding along the road that they decided to take in March without, in my view, taking on board the arguments we have put and certainly without making any attempt to rebut those arguments, that is to say, the Financial and Development Secretary in introducing the Bill has at no stage said why it is that notwithstanding all the arguments we put against it they still think it is necessary. It would be one thing in the context of where you are saying: "Well, look, we are really penny pinching and looking at every source of Government revenue", but against the background where that does not seem to be happening where somehow there is a hidden pot of gold somewhere which we hope to discover after March, it makes even less sense. The important thing about the legislation is that there is this business and I think we cannot get away from the question of the principle of commutation, and therefore I feel, Mr Speaker, that I have to repeat the argument that I put before. It seems to me that when there was this reaction affecting the stevedores' pension scheme which is, frankly, where it all comes from and if the stevedores had not taken industrial action to defend their position, there would not be a two-tier system because it was only when they were successful in protecting themselves from the new legislation that the Government accepted that everybody else suddenly had reserved rights or acquired rights or whatever the terminology is and, clearly, here we have another example of acquired rights. The argument which we have put against this legislation is that if you have got a position..... (one minute not recorded due to fault in equipment) three over eighty for the lump sum. In the private sector you have got half a dozen schemes, no more than that, primarily in the banking sector and particularly good employers, people like Shell and Smith Imossi and Saccone and Speed which are bigish firms and Cable and Wireless, yes, and those half a dozen schemes, in fact, provide a similar pension fund to the civil service pension fund and there it is perfectly reasonable to say to those people: "You cannot have 100% commutation", because it is, in fact, a pension fund which is very fair, it compares favourably with the Government. In fact, in many of the schemes the multiplier is one over sixty so that somebody

gets two-thirds of their final salary for forty years service and they can get one-half of their final salary for thirty years service which is superior to what the Government industrial worker gets and superior to what the MOD gets. Now those people, fair enough, you can say it is not just a question of taxing you, it is a question of saying, if you have got a scheme that gives you that range of benefits and since the benefits are reasonably high, if you were to turn that benefit into a lump sum you would probably finish up with a very, very large capital sum which can then be invested outside Gibraltar and whereas you would be paying tax on your two-thirds of the salary you could quite easily find a way of circumventing that by getting investment advice and drawing in an income which effectively becomes tax free. In fact, you can put the sum into tax free Government debentures and collect a tax free pension and you would be better off by commuting. Not that people tend to do that because people tend to get what is put in front of them and very few of them take the advice. But in theory there is a loophole which says, fine, somebody can come along and collect their two-thirds of the salary, commute that into £100,000, buy £100,000 of tax free and estate duty free Government debentures and finish up with 100% of the salary tax free. I think the thinking originally in revising the question of authorising pension funds was taken into account, the theoretical loophole, and taking into account the proportions of the lump sum and pension that apply in the Civil Service. However, the legislation is not doing that, the legislation is saying to most people in the private sector that they cannot in fact have what amounts to an endowment policy funded wholly or partly by their employer because that is what most money purchase schemes really are. It is a misnomer to say that they are a pension because they bear no relation to the salary since what you are doing is putting money essentially into a savings account and getting tax relief or having it treated as a business expense, the amount of money that you get at the end is, in fact, a lump sum, it is not a guaranteed pension. You are not even guaranteeing a lump sum in many cases other than the contributions that you put in. But the money of that lump sum is the accrued interest on the fund. That is, for example, what happens in the Government owned commercial dockyard. In the Government owned commercial dockyard the scheme says that every year 4% of the salaries bill which will be about one-third of £1m goes into a bank account and that one-third of £1m is allocated proportionately to the eight hundred employees. The Government is going to have redundancies in January, they are legislating to tax the people who are made redundant in January. Do they know that? Do they know that the biggest single group that will be hurt by this new legislation is the group that they made redundant in January in GSL, are they aware of that because if they are not aware of that then they ought to be aware of that. They cannot be bringing one Bill here to say: "We are putting money in the Finance Bill because that is partly to finance the restructuring and the redundancy", and then when we give them the money to put into the pension fund which they will then be able

to get back as contribution, if they actually get it we tax them on 75% of what they get. That would be according to the law a refund of contributions so the Government provides GSL with the money so that GSL puts the money into the Pension Fund, GSL then allows people to get a refund of contribution because they are redundant and that is provided for in the trust fees of the Pension Fund and the Government then comes along: "Ah, but you are going to now hurt my revenue". That is, the Government having provided all the money in the first place say: "I am going to lose revenue so now I am going to have to tax 75% of what you get which is what I gave you". I couldn't think of a less appropriate time to do this than now and I cannot really believe that the Government is aware of what it is doing. If we forget that particular group then we are talking about half a dozen people a year who will be caught by this legislation and those people, frankly, are people who have got the most inferior schemes in Gibraltar. What the Government cannot come along in our judgement and do is to say: "Ah, but you see in the UK this is done". It is done, but it is not taxed a 20%. My understanding is that it is taxed a 10%. But in the UK it is also compulsory by law to provide pension schemes and in Gibraltar it isn't and therefore if you have got a statutory obligation, if the law says to you that you must provide pensions for your employees, then it is reasonable that the law should then go and say, and those pensions might meet this criteria, and those pensions will be tax treated in this way. But there is one single system for everybody because the law should be the same for everybody. You cannot have one law for the people in the public sector and one law for the people in the private sector and one law for the people in good employers and another one for the bad employers and on top of that the law is different whether you took your job on the 30th June or you took your job on the 1st July. That is bad legislating and this is why we are committed to redressing the position and putting it back and we are going to vote against this particular section of the Ordinance for all the reasons we have given today and all the reasons we gave at Budget time. And if we manage to persuade the Government in the light of the arguments we have put then, of course, they will not proceed with this. But I can tell them that they ought to think very carefully, particularly about the immediate impact of this on GSL employees, because it certainly will not endear them to people in the area who find themselves with a redundancy situation and a tax situation both emanating from the same quarter, as it were. Talking about the people who are affected outside, the minority that I am talking about, Mr Speaker, the position is that the individual that gets a refund of contributions, generally, is the individual that has been in the scheme for a short time. From my knowledge of most of these private sector schemes the position is that it is people who belong to a pension scheme or so-called pension scheme. As I say, this money purchase schemes, really, are no more than savings accounts and the amount at the end of the day is used to buy an annuity so you are not really converting a pension into a lump sum according to the rules of commutation. What

you have got is a lump sum in the first place which you can use to buy a pension, which would be an annuity, or you can, in fact, take as a lump sum. That has been the case until now. If we look at that situation, the people who are likely to be able to get a refund of the contributions are people with less than seven years service or five years service in most of the schemes that I am aware of. Most of the schemes provide that when you go past five years or seven years you are not allowed to withdraw the contributions and the thing is frozen. For example, Cable and Wireless is giving its employees the option of having their contributions refunded, in the current redundancy situation in Cable and Wireless. It is not one that they are going to take because it does not make sense to take it. The position is that the amount that they would get in having their contributions refunded is a very, very small fraction of the amount that they would get even by deciding to take a deferred pension in the year 2000. So, in fact, most people would not take back their contributions unless they need the money because it is a bad deal from the beneficiaries point of view. However, if you have got somebody that is taking the money because they need the money, you come along and you tax them on top of it. And if we look at the thing from the possibility of it being used as a tax loophole, let's face it, if we are going to have a situation where the persons that contribute to the fund get tax relief at their marginal rate and when they withdraw the money they get taxed at 20% then again I don't think it is going to happen because we are talking about small numbers and small money but if we are looking at it scientifically intent on closing loopholes, we are opening a loophole with this because if we are looking at it scientifically, clearly, the people who would stand to gain would be the people on a marginal rate of 50%, because you put in your £1,000 and you claim tax relief of 50% and you get £500 and then you take it out and you get taxed at 20%, and you pay £200. So, in fact, people paying tax rates of 20% or below who are the people in the lowest income groups are the people whom this proviso would hurt. If people wanted to use as a loophole to avoid paying tax, contributions to a scheme, let us say a company director in theory could be bothered to go through all this which I don't think they are, but let us suppose they did, he could say to himself: "Right, I am going to set up a pension scheme for company directors into which I will put a proportion of my salary, I get tax relief and even though I am going to be taxed when I take the money out, because I am being taxed at a fixed rate of 20% and I am putting the money in and deducting it at my top rate I will still make a profit, the difference between 20% and 50%". This does not close the loophole for those who are on high incomes and well off, it only closes the loophole for those at the bottom because if you are saving tax at 20% and being taxed at 20% there is nothing in it. I am not suggesting that the reason for being against it is that it creates a loophole for the high paid, I am pointing out that even on that count it can be faulted. What I am

saying to Members opposite is that even if we were looking at it from the point of view of closing loopholes, it doesn't even succeed in doing that and, therefore, I hope that in the light of the arguments the Government will not proceed with this and therefore I am also saying that we should take the Committee Stage in January to give them time to take on board the points that I have put. The other area in the Bill which we are not happy with but we are open to persuasion by the other side if they can convince us of the logic of what is being done, is the question of the allowances on residential property. Some parts of it we go along with 100%. For example, this business of improving and developing a property, I think the drafting of that now makes it much clearer whereas before it didn't and, clearly, we want to encourage people to improve and develop their property because it means that we are giving them tax relief for investing their money in Gibraltar rather than taking it out and we support that thinking. But I think on the question of the allowance for home ownership which is something that, Mr Speaker, we brought to the notice of the Government after we had received representations from people, in fact, at the time people who came to see us in the Opposition were people who had bought flats in Water Gardens, people from a sort of middle range of incomes, white collar workers and having done their calculations on the assumption that they were getting tax relief while they were paying down payments and the block was going up, they then found out that they could not get in until the thing was finished. As I understand it, what the Government is doing is they are meeting that point for so-called 'closed market development schemes'. We don't think that it should be for closed market development schemes, we think it should be available to everybody and we don't see why there should be a discrimination in terms of being able to do that for a so-called 'closed market development scheme' and not for another one. Certainly, the people who came to see us are not from closed market development schemes and in any case since the price is higher in the open market, the need to be given the relief is even greater so if you are looking at people's ability to pay and the tax relief is an important element in deciding the capacity of people to meet the payments, then it is going to be a more important element in areas where the price is not subject to a ceiling than in a situation where the price is subject to a ceiling. If we have understood that correctly then we are not happy with that and we would need to be told why it is that the relief can be given in a closed market scheme and not in an open market scheme. I am referring to clause 5 and subsection 2 of new section 26(a). If we have got it wrong then, fine, we are put at ease on that one but we are not happy with that and we will want to know why the Government thinks they can do it for one and not the other. We also are unhappy about the situation where we are now putting in our legislation the concepts of a closed market development scheme which is in subclause 5 of that same clause 26(a). There it says it provides a definition. The expression 'closed market development scheme' means a scheme

certified as such by the Director of Crown Lands. Right, but where does the Director of Crown Lands get this power to certify things as closed market development schemes? What are the criteria that the Director of Crown Lands has to apply to determine whether a scheme is closed market or open market? The first time the concept surfaces to our knowledge on this side of the House, I mean, the Government does not come along and say: "And now as part of Government policy we have got this new device which is closed market development schemes and this is what the Government proposes to do about it and we have had a debate". That has not happened. This is the first time it appears in any Gibraltar law, to our knowledge, and the first time we heard about it was in the City Plan. It may be a development of the 'Approach to Housing' leaflet which was tabled or circulated in the House but from our recollection of it it certainly was not expanded in that leaflet in the way it is now and in the way that it is explained in the City Plan, because in fact in the City Plan from what we can deduce it would appear that the origin of the concept is not the approach to housing and crown land. The origin of the concept is Jersey and Guernsey because in fact the City Plan talks about a two-tier system of housing existing in the Channel Islands which it does because they are outside the EEC and they can do it and we cannot, but it seems to be modelled on that concept and the idea is that you have two-tier housing. Free market housing which everybody can come and buy provided they can afford it, and protected housing which only residents can buy in order that they are not priced out of the market. There are, undoubtedly, attractions to that but what we question is whether we are able to do it within community law. We have got serious doubts about that and therefore we would need to be told categorically that it is possible under the existing terms of membership in Gibraltar to be able to say: "I will in fact put a price ceiling on a housing development and limit who can buy in that housing development to people who are either Government tenants or on the housing waiting list or entitled to be Government tenants or entitled to be on the housing waiting list and by definition we are excluding a range of people whom we understand under community law are entitled to buy any property in Gibraltar". That is our understanding of the law and it is our understanding of the position as it was explained in this House following the Brussels Agreement when we had to amend a number of our laws to allow Spanish nationals the right to own land and buy property and we were told that this was consistent with the rights, I think it is in the social chapter, where it talks about the right of residents and the right of establishment of workers, for example, and the right of workers to be joined by their families and there it talks specifically of the right to buy property. I think it is something that my colleague has, in fact, brought up previously in this connection. It is one thing as we see it to say: "Well, look, the concept that we are operating is this concept but there is nothing really black upon white and there is nothing in any law", and another thing is that we are going to legislate

now saying there is such a thing in the law of Gibraltar as a closed market development scheme which means a scheme certified as such by the Director of Crown Lands then I would say, right, in what law does it say which are the criteria that apply to such schemes and can the Government give us an undertaking that they have researched the thing and that they know that this cannot be challenged. I know my colleague, the Hon Mr Pilcher, mentioned before we sometimes get an adverse reaction from the Government benches, Mr Speaker, when we make these repeated references to complying with community law and apply community legislation. We feel quite strongly about it because we feel equally strongly about being discriminated against by the community. We feel that consistent with saying we are entitled to be in the EEC Air Liberalisation Package is saying, well, we have to comply with community directives and comply with community law. We think the strength of Gibraltar's case must be that we are in and we are good members of the community, taking our membership seriously, applying our obligations and fulfilling those obligations and insisting and demanding our rights, both, and we, think we cannot do to them what they cannot do to us. What they cannot do to us is to say: "Well, you are in for the bad things and not for the good and we cannot say the converse". This is the approach from this side of the House and we want reassurance on this point before we can support this. There is one element in this Bill which we think is very wise of the Government to introduce which is that people have to refund the rebate that they get if they sell the property within twelve months or they do not take occupation because really otherwise the purchase and sale of houses theoretically would become a method of tax avoidance and therefore if the thing is to encourage home ownership and the property is not occupied by the person that gets the tax relief, then it is right that the Commissioner should be able to recover that money and we support that 100%. But I think there is another element there not on the tax angle but on the closed market development angle which the Government seems to have left open and there is a parallel. Just like you don't want to have a situation and you are putting that right in this Bill where people use home ownership not as an end in itself but as a means to an end, that is, as a way of reducing their tax bill, you don't want to have a situation where you have closed market development schemes and that is used as a way of making capital gains and not as a way of promoting home ownership. And that is happening. There has been one so-called 'closed market development' which is the Vineyards project, nothing else to our knowledge has happened so far which is defined as such. We know of people, and one says good luck to them if they have been able to do it, we know of people who have already re-sold the property that they bought and made a profit of £10,000 and the building isn't finished. If they got tax relief and they have not taken up occupation the Commissioner can get the tax relief back but how can one argue that the land should be given away for £100 in order to make housing within the reach of people of more modest means because we want to give people an opportunity to own

their own home at different levels of income and not just the people who can afford to buy a penthouse for £4m, fine, and what happens is that the people who are given that opportunity at a cost to the public because, that is to say, the Government on behalf of the public as the owner of the land does not get the market price for that land and allows it to go below the market price and then what happens is that, the developer is not allowed to raise the price. That is my understanding. As we understood the lease originally, if the developer raised the prices beyond, then he would have to pay the Government more for the land, he has to pay a proportion of the extra price back to the Government for the land. So, in fact, the Government introduced a penalty in the lease of the land for the development by saying if the developer sells at higher prices, but if in fact all that happens next is that the people who buy from the developer are free to sell at whatever price they want then it ceases to become a closed market development. It is only a closed market development in respect of the developer and the first purchaser. That is the only closed market development in existence and that is the one we are legislating for. There may be or there may not be others in the future. There may be one in Montagu in a few years time or there may not be but we are legislating in 1987 and the only people who can claim this in 1987 and the only closed market development that we are aware of is this one. I know that the concept for example, in the City Plan has been used to span public and private. We think that public housing is a different kettle of fish. If the Government decides to sell Government flats as we have just discovered they are going to do in housing estates with vacant possession, that is not a closed market development. They are the owners of the property and they sell the property to whoever they want on whatever terms they want like any other property owner does. If the Government builds in Engineer House and decides to market those to people who are Government tenants, it is their prerogative because they are putting their money in that building and they are the owners of the building. The concept of the closed market development is not what the Government does with its own property which it is perfectly entitled to do without any special legislation but what the Government authorises developers to do in the private sector and if we are introducing a two-tier system then we certainly are not happy to go along with it without getting a much better explanation and a much better definition by the Government of what they mean by it and how they think it will operate and how they intend to overcome the kind of shortcomings that we can see with the limited information that has been available today and those really, Mr Speaker, are the two points that we would like the Government to give serious thought to between now and the Committee Stage because I don't expect they will be able to give me any kind of detailed explanation on this on the spot. Clearly, anything that they can answer will be welcome at this stage because it is something that we can think over between now and the Committee Stage as well but I understand that they may not be in a position to give me a detailed answer on these matters.

HON CHIEF MINISTER:

Mr Speaker, as I indicated to the Hon the Leader of the Opposition yesterday there is no difficulty about postponing the Committee Stage of this Bill to next month, to January and that will give us plenty of time to consider carefully the points that he has made. It would be useful, I think, Mr Speaker, if your office could make available a transcript long as the Leader of the Opposition's speech has been, if it could be done I think it would be of great assistance to the Government.

MR SPEAKER:

Oh, yes, most certainly.

HON CHIEF MINISTER:

I am not going to say a great deal about the question of provident funds, Mr Speaker, because I am not so well versed in this province but I did understand the distinction that he was trying to draw between the well established schemes of major employers and the others and, as I say, perhaps if we do get a copy of the proceedings I can more carefully read over the points that he is making. On the question of home ownership and the measures that are included in this Bill to try to promote that, there were two things, of course, that we really wanted to do. One was to give income tax relief to those people who are paying for their newly purchased home by instalments as distinct from those who may, say, pay a deposit of £10,000 or £15,000 and then pay for the rest by a mortgage. I think there are precedents in the case of North View Terrace and probably Vineyards where, in fact, people have been required to pay by instalments over a period of two or three years in order to meet the initial premium. I think that other schemes that are coming up probably at Catalan Bay and Montagu may be of a similar nature. We wanted to help those people and at the same time we wanted to have at least an initial penalty against the speculation that is already evident and has been evident in North View Terrace and now in Vineyards so at least through the Income Tax Ordinance we are going to withdraw the rebate if the property has been sold within a specified period of time. I am frankly concerned about this aspect of speculation and, of course, there is no doubt that if the Government foregoes a very large premium on behalf of the community and also puts penalties on the developer, that those who commit themselves to purchase even before they have occupied the property should not be able to speculate and make a bomb out of the whole thing. One shies away from the concept, perhaps, of a capital gains tax because it might frighten many people from investing in Gibraltar but if we are going to define, and we have defined for the first time in this piece of legislation, given some legal standing to the concept of a closed market development scheme, perhaps we ought to think whether some form of capital gains tax should not be introduced precisely

for a closed market development scheme, not for others but certainly for this one but the impression that we might give, I think, is one that we have to think about. Perhaps we shouldn't call it a capital gains tax, perhaps it should be something in the same way as provision is being made for the tax relief to be lost to be foregone in the case of a resale, perhaps there could be some way of meeting this problem. But only, and one must stress, for closed market development schemes which are not intended to be speculative, which are not intended to be for outsiders but are intended for people who have a serious housing problem and who want to continue to reside in Gibraltar. The concept of a closed market development scheme although referred to in the City Plan does pre-date as far as we are concerned in the City Plan because it has been talked about and discussed in the Crown Lands Department shortly after we set up the home ownership unit a couple of years ago. I am informed by the Attorney-General that it is sufficient to have the legislative provision that is being made in this Bill as the necessary statutory backing which is required for the concept, that we don't have to go any further in this respect. I am going to come to the guidelines in a moment, to the definition that the Department uses, but before I do that perhaps I should also say that we are drawing a distinction in respect of the tax relief because there is an element of control by the Crown Lands Department with regard to a closed market development scheme in that at least we are able to monitor what is happening whereas for other schemes, for open schemes, there is no monitoring that the Crown Lands Department can undertake and that is why we are drawing the distinction and giving the relief for instalments to one and not to the other and, as I say, the closed market scheme is designed for local residents and the others are not. Very many are purchased directly by people or by companies and so on and why should we give them any kind of relief. The definition that the home ownership unit is adopting in the case of the closed market scheme is that the Director will certify as a closed market housing development scheme those which are designed by their marketing limitations to benefit only the people eligible to apply for housing in Gibraltar. An application for the Director's certification must therefore include a developer's declaration to this effect and a complete list of all the units proposed in the development together with a list of committed purchasers must be provided to the Director of Crown Lands and a further undertaking which will have to be injected into the agreement to purchase and into the eventual demise. This must ensure that the Department is informed of all transactions involved in the transfer of title or benefit or any such demise. These clauses must be operational from the date of effect of the agreement to purchase to the end of the first year of the term of the lease granted on completion of the works. These are the guidelines which the Department is going to adopt, they are not enshrined in law, they are just guidelines, but the Attorney-General seems to be satisfied that that is sufficient and, perhaps, he can explain his own views on the matter.

HON J BOSSANO:

Did he say eligible for housing or eligible for Government housing?

HON CHIEF MINISTER:

Eligible to apply for housing in Gibraltar.

HON J BOSSANO:

Should that be for Government housing in Gibraltar?

HON CHIEF MINISTER:

For public housing, for Government housing. Yes, of course.

HON J BOSSANO:

And the other thing is does, in fact, that apply every time the house changes hands or only in the initial stage?

HON CHIEF MINISTER:

In the initial stage.

HON J BOSSANO:

Surely, if the Hon Member will give way, the point that I made was that if you have got a situation where you have got a two-tier market which is the difference between the scheme here, as I see it, and the model of Guernsey, in Guernsey, a Guernseyman that buys a restricted market property can only sell to another Guernseyman that can also buy a restricted market property, he cannot sell to an outsider otherwise he would make a fortune because the disparity is enormous. If you have got a situation where the Government says: "Because I am giving you the land free, the potential pool of purchasers is limited to the two thousand people on the waiting list", for example, to get a figure. That means that if independent of any physical limit on the price put by the Government, by the very nature of market forces you are more restricted in what you can ask because the potential number of people that can buy is only 2,000. That is the whole basis of the differential between an open market and a closed market. It is closed because it is closed as regards customers. If all that happens is that the 2,000 can buy and then sell to the 300,000,000 Europeans, what you are doing is you are giving people a printing press to make money.

HON CHIEF MINISTER:

I take the point. I think we have got to give further thought to this matter and we are in time to do something.

HON M A FEETHAM:

Could the Hon Member sent us a copy of the guidelines because I haven't had time to write them as he was speaking?

HON CHIEF MINISTER:

Well, they are recorded in Hansard.

HON M A FEETHAM:

Yes, but it will be some time before we get it.

HON CHIEF MINISTER:

No, I have asked that it be made available soon.

HON J L BALDACHINO:

I am referring to clause 5, Mr Speaker. Is this going to be backdated because if it is not going to be backdated it appears to me that what we are now legislating here is more in favour of the Vineyards project or for the Vineyards homeowners.

HON CHIEF MINISTER:

But it is, it is backdated.

HON J L BALDACHINO:

Is it backdated?

HON CHIEF MINISTER:

Yes. If he will turn over the page and look at the top of page 188, it comes into effect on the 1st July, 1987.

HON J L BALDACHINO:

So this will go back to the 1st July.

HON CHIEF MINISTER:

To the beginning of this tax year.

HON J L BALDACHINO:

The other point I would like to make is that even though we go to the closed market there have been purchases in Gibraltar like the North View Terrace which is completely different to the one of the Water Gardens. In the North View Terrace there were more Gibraltarian buyers and there were more working people who bought houses there. If we don't apply it to all then projects such as North View Terrace will not have the same advantage as closed market projects. The other point is that if we go back to the 1st January, 1987, does that mean that the people who bought houses in the Vineyards project will get backdated all the instalments they have been paying or will they only get part of it? I think that we should go back at least to when they started paying because they were the pioneers otherwise people coming after them will have the advantage of claiming while they won't be able to do that.

MR SPEAKER:

Any other contributors? I will then call on the Mover to reply if he so wishes.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I do not propose to say anything about the closed market development since the Hon the Chief Minister has offered to look into this further, I would simply say on the question of the changes dealing with return of contributions that, and I think the Leader of the Opposition would acknowledge this, the points he made reference of this particular measure were, in fact, the points he had already made, I think, substantially when we discussed the major change affecting pensions in the Budget. I can only acknowledge that he takes a different view although I think for the record I ought to say that whenever one has any change of this nature, inevitably there is a point like the 1st July which becomes perhaps it seems absurd to make distinction at the time when one is legislating for the future and the Government's view is that this is a matter of principle and the principle is that one should not allow tax advantages to affect the contributions, the investment of the money put into the Fund, whatever fund it may be, and also benefits. This is in keeping with the Government's view as to how the changes in legislation should be made. There is certainly nothing to stop any individual still taking advantage of the provisions of Income Tax Ordinance which affect endowment assurance. It is true, as the Hon Leader of the Opposition has said, that some of the extent schemes have strong similarity with endowment policies, they are of that nature, they are not final salary related, they are money purchase, I accept that, but I go back to my point that we are in fact legislating for the future in order to make a change which seems to the Government in keeping with modern conditions.

HON J BOSSANO:

We are voting against because even with what we have just heard from the Financial Secretary we cannot vote for the general principles of the Bill. When the time comes we will vote for some sections and not for others.

MR SPEAKER:

I would suggest then that the Chief Minister should call for a division because otherwise the Second Reading will not be carried.

HON CHIEF MINISTER:

Yes, Mr Speaker. May we have a division on this Bill?

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken on the 21st January, 1988, when the House will resume.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that the Bill be now read a second time and I do not propose to make a speech. It is as short a Bill as it has been my privilege to introduce to this House and I think the explanation given in the explanatory memorandum is all I need say on the matter. I commend the Bill to the House.

MR SPEAKER:

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

HON J C PEREZ:

Mr Speaker, the explanatory memorandum is quite clear but if that is the only reason why the Government is bringing legislation of this nature to the House then it doesn't satisfy us at all. The fact that Cable and Wireless was exempt from import duty does not justify that Gibraltar Telecommunications should also be exempt from import duty. One could not question what the situation was then unless there is a valid enough reason other than that, unless the Government have actually studied why they want to exempt Gibraltar Telecommunications from import duty and they give a different explanation in the House, at the moment we will reserve our position and abstain on the Bill.

MR SPEAKER:

Are there any other contributors?

HON SIR JOSHUA HASSAN:

Mr Speaker, I understand that throughout the negotiations with either side which was on the same basis as before, it was the understanding that equipment would not be subject to import duty. In this case, I imagine, unlike before, half

the import duty would be payable by the Government so that the Government would be paying import duty on goods which were going to be their own insofar as half of it was concerned. If before and on a non-competitive basis Cable and Wireless did not pay any import duty on their equipment, it is hardly fair to expect a company where the Government are 50% shareholders, that there should be any difference to what the practice was before, in fact, it should be all the more reason that it should be exempt from that and that would only tend to lower the cost of the equipment and reflect finally in the rates and the tariffs of the international communications that we will provide and make Gibraltar as competitive as possible.

HON J BOSSANO:

Let me just say, Mr Speaker, that the fact that something has been done for a long time is not a sufficiently compelling reason. If it is a new outfit it is time to take a new look and certainly we are keeping our options open on this.

MR SPEAKER:

If there are no other contributors I will then call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Really there isn't a great deal I can say, Mr Speaker, except that on the general principle, really endorsing what Sir Joshua has said, it certainly was part of the understanding throughout the negotiations with both parties, I might say, but certainly as far as the deal with British Telecom was concerned, that the existing privileges, if one likes to use that phrase, would be made available to the new company. There are other examples in the Imports and Exports Ordinance of exemptions, for example, there are import exemptions for equipment of a specialised highly technical nature in connection with what one can call Reuters equipment, perhaps it is the simplest way to describe it, data processing equipment which I think one could say if one makes exemptions for equipment of that nature then one ought to make exemptions for the import of equipment which is in connection with enhancing Gibraltar's telecommunications facilities. I must admit that to a certain extent I am making up general principles as I go along because I started from the assumption that it is a reasonable general principle but I would be quite prepared to give way at this stage if the Hon Mr Perez would wish to stand up and oppose the principle I have outlined.

HON J C PEREZ:

Mr Speaker, I think it has been made quite clear by the Hon Leader of the Opposition and myself that what we are doing is keeping our options open unless the Hon Financial and Development Secretary or any Member of the Government can give another reason other than the one in the explanatory note which does not satisfy us. The Hon and Learned the Back-bencher did say that it was import duty which was in part to be paid by the Gibraltar Government but that is in part. We have other Government owned companies which perhaps do not enjoy the same facility so there is no standard procedure in approaching this matter and we don't see why on this particular occasion because Cable and Wireless enjoyed it which I don't think they should have enjoyed, for a long time because they enjoyed a monopoly in telecommunications that we should grant it to Gibraltar Telecommunications and perhaps lose that 50% of the import duty which we might be able to get. But we are keeping our options open, it is not that we are totally opposed to it on a matter of principle or anything like that but we cannot see that the reason given for the introduction of this Bill is sufficient.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I will only pretend that I was standing up, Mr Speaker, and I have finished my speech. I can sit down.

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

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

The following Hon Members abstained:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1987/88) (NO. 3) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. It is much easier for me to speak in favour of Supplementary Appropriation Bills because as the House will know I object to them on principle as Financial Secretary. I see it as one of the main purposes of my job, of course, not to allow Government to spend any more money than they vote at the beginning of the year so the House will understand my concern at seeing a Bill coming forward with such an outrageous amount of money included for supplementary funds. Having said that, I think and I really am trying to agree, there is a clear distinction between the £2m which was included for GSL and the rest of the funds for which the Government is coming to the House for approval. I should mention one point here, namely, that it was thought that this might be the last opportunity for the Government to seek approval from the House for a Supplementary Appropriation both in connection with GSL and in connection with other Government expenditure before a general election. I don't know when the general election is going to be but there really was that possibility that we might not have another House until very late or, indeed, the end of the financial year which would have created difficulties. I mention that and that is all I am going to say on that particular subject, simply because the sums involved, as Members will see from the Schedules, are quite large in total. Excluding GSL we have a figure of over £1m and I think it is fair to say that the departments who have been asked to put forward requests for supplementary funds may have put in, to coin a phrase, the kitchen sink as well as everything

else on this occasion. Normally when the House approves the Supplementary Bill I issue a general warrant authorising the expenditure. On this occasion as a measure of control I don't propose to do that, I propose to issue specific warrants to individual spending departments, to the Controlling Officers, as and when the funds may be required. I say that because I would expect that there may be some considerable underspending compared with the sums which the House is now being asked to vote. I really have no alternative on this occasion because of the exigencies of the Parliamentary system, Mr Speaker. That is all I wish to say.

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 E PILCHER:

Mr Speaker, although normally when we come to Bills to appropriate further sums of money we tend to leave it for Committee Stage where, obviously, we are discussing particular aspects of that, we feel in this particular Bill, as will be evident in my contribution, I think, we feel it is necessary to do it on the general principles. However, Mr Speaker, I intend to take up certainly more than ten to fifteen minutes so you may prefer to recess at this stage.

MR SPEAKER:

Perhaps we should then recess until this afternoon at 3.30 when we will continue.

HON SIR JOSHUA HASSAN:

Mr Speaker, I am sorry, I didn't hear what was going on, I thought this was a perfunctory function that we normally deal in the Committee Stage with the supplementary votes. Insofar as I have an element of responsibility I would like to say that sometime before I decided to resign I did ask the Financial Secretary to make sure that any commitments that the Government was making were covered by Parliamentary authority before we left office as a result of the election. Naturally, we were in two difficulties. One was that people should not think that money was there for the giving to departments, on the other hand I did not want to leave a legacy to a future Government to be burdened with having to vote monies on matters on which we had decided to spend and a different Government could think differently. I thought we should assume responsibility and the idea was that all the supplementary requirements were enquired into and it was decided, if I remember rightly, that we should reserve

this vote and make the money available as and when justified in each particular case but that we should not leave, that was my intention, we should not leave this Legislature a legacy to any future Government to have to vote money on matters of which a decision to spend money was taken by this Legislature hence the reason why some were higher than would have normally been the case as they would have had to justify nearer the end of the financial year.

MR SPEAKER:

Nothing has been said on the general principles and merits of the Bill. What the Hon Mr Pilcher has said is that normally they make their contributions at the Committee Stage but that they would like to do so on this particular Bill on the general principles. He said that his contribution was going to take more than ten minutes so therefore he wanted to have an opportunity to address the House after the lunch recess.

HON J E PILCHER:

If I can just explain the point for the Hon Sir Joshua Hassan. In my contribution on the general principles we will be asking the Government to delay the Committee Stage until the meeting of the House adjourned to January and therefore we couldn't do that if we went into Committee and that is why we are going to make the point on the general principles of the Bill to try and convince the Government to leave the Committee Stage until January.

HON SIR JOSHUA HASSAN:

It may be possible in some cases but not possible in others. For example, the GSL money is required to be voted now before the end of the year and therefore we have to discuss that. I don't mind insofar as that aspect of the Schedule which was really produced as a result of the directive I gave before about making sure that the House gave authority for all the money, it is those aspects which are really anticipated, I didn't know then that there would be a meeting in January, I didn't know whether there would be a meeting in January or not. At the time that I required that, it was precisely because I did not want to leave a legacy of monies to be voted by policies decided by this Government. I think that is in the best Parliamentary tradition.

HON CHIEF MINISTER:

The other thing, of course, that should be added is we were trying to avoid bringing two Supplementary Appropriation Bills to the House, one at this meeting and then another one in January.

MR SPEAKER:

Let it be said that there is no reason why at the Committee Stage we should not deal with parts of the Supplementary Appropriation and then the rest of the Committee Stage can be taken in January.

The House recessed at 12.55 pm.

The House resumed at 3.40 pm.

MR SPEAKER:

I will remind the House that we are on the Second Reading of the Supplementary Appropriation (1987/88) Bill and anyone who wishes to contribute to the debate is free to do so.

HON J E PILCHER:

Mr Speaker, in speaking on the general principles of this Bill, I will be speaking directly to Head 25 - Treasury, that is, the vote of £2,036,000 which comes under the Treasury vote but which is clearly the subvention that the Government of Gibraltar intend to give Gibraltar Shiprepair. I think before talking about the point at issue, ie the £2m subsidy, I think there has to be a certain amount of history into the situation, certainly over the past year at Gibraltar Shiprepair Limited and to the different debates that we have had in the House as regards this particular issue. Also, I think, I have to refer to what the Hon Chief Minister said this morning in anticipation of the debate when he said that, surely, the Opposition party wouldn't call the £2m subsidy to GSLP electioneering. Obviously, Mr Speaker, given the Government's record particularly over this past year, there is no need to do any type of electioneering on this particular issue. Until early in this year, January/February of this year, the Government continued to maintain that there was a future for GSL under the present management and under the present conditions. It was only until the middle or late this year that the Government have now decided, in principle, that restructuring has to occur and that they are now taking steps to ensure that the restructuring happens. But I don't, as I say, have to remind the Government that over the past year £4m loan which they gave the company is still outstanding; that in the early part of this year £2m were made available through subscription for shares in GSL; that in October this year we gave GSL £4m of overdraft facilities and that in this House they are now seeking £2m as a subsidy for GSL. Doing rough calculations, Mr Speaker, that is nearly £5m in 1987 as a subsidy one way or another for GSL. As I said before, Mr Speaker, we have had three, maybe even four, main debates on GSL this year during the 1985 Accounts, during the 1986 Accounts, during the voting in February, I think it was, of the subscription for shares of £2m and I think, again, at Budget time. The position of the Opposition party

as regards GSL is more than clear and I dare say the position is one where the two sides differ in what has been the way ahead, certainly since 1984, the split, in fact, came during the elections of 1984 and throughout until the present day. I think it is more than clear that there are two different positions on the matter and even today, Mr Speaker, if we note the questions at Question Time in this particular House where we feel the Government is still distancing itself from the direct intervention or direct policies of GSL, during Question Time we heard that they are still dividing or creating a divisory line between GSL, the company, what Mr Michael Casey is doing, who approves that and, certainly, as far as the redundancies are concerned, again, we have a situation where we have a proposal by GSL which the Government is still studying. I think it is far from clear or, at least, it is more than clear that the position which the Government had maintained over the last four years is still the position to date and that that position runs contrary to the position adopted by the Opposition party, the GSLP, since inception of GSL in 1984, at least the inception of the idea during the elections of 1984. I think on the question of electioneering, on the question of passing goodies on to the people which is a point that was made by the Hon Chief Minister. I think what we need to do, Mr Speaker, is re-ask the question to the Hon Financial and Development Secretary after this House about the balancing of expenditure and revenue. I am sure that we might not get the same answer as we got during Question Time which was that the expenditure would be less than the revenue of the Government. I am not sure that that is still the case after all these bills and after all the goodies that have been given to the people of Gibraltar by the Hon Dr Valarino. That is a different subject. Getting back to the subject matter, Mr Speaker, the reality of speaking during the general principles of the Bill rather than what has been the norm in the past to speak during the Committee Stage is because I feel that the Opposition party finds itself in a dilemma. We are in a dilemma because in the past every time that we have got a decision to make on GSL, particularly on the financing side of GSL, we have had a situation where normally we have abstained, our abstention signifying that we did not agree with the way that the company was being handled by the Government and I think there is no need, as I said before, to go over all the ground as regards why we have objected at any particular point. Most of the times we have abstained because we couldn't vote yes because we didn't agree with the policies of the Government and we didn't vote no because a no would have been tantamount to an admission or a situation where if the no had been accepted by Government it would have meant the demise of the company and the shutdown of the company and therefore a lot of redundancies and a lot of economic problems. Therefore this is the reason that we have always abstained, I say always certainly during this year ever since the Government brought the first £2m for the subscription of shares, we have abstained in the knowledge

that an abstention meant or at least trying to explain that an abstention meant saying no to the way the Government was handling it but in no way saying no to the actual expenditure of the money. Having got to this stage, Mr Speaker, there is, in fact, a different analysis to be made this time because there are two different arguments encompassed in the same vote and there is an anomaly in the arguments being used. We are now at the end of 1987. During the debate on the 1986 Accounts we heard the Hon Financial and Development Secretary say that by the end of the year the operating cost of the company would be £3m in deficit. This, I think, he confirmed during Question Time on Tuesday. I therefore feel, Mr Speaker, that the £2m contains an element which is an element of balancing up the 1987 Accounts of the company. In fact, he intimated this during Question Time when he said that out of the £2m it might be possible to overcome or cancel the £3m overdraft that the company had been allowed in October. Therefore there are two different elements, one element which is part of the £2m goes towards cancelling the deficit and balancing the books at the end of 1987, ie the deficit in operating costs that the company has had even after the £2m subscription on shares even after the company has, to a point, been given a hidden subsidy by the taking over of the Training Centre and even after the £3m overdraft, the company cannot balance its 1987 Accounts and therefore part of the £2m will go towards this particular aspect. I think on this particular point we have to ask ourselves why has the company arrived at the end of 1987 with a deficit of £3m when the anticipated deficit given by the Hon Financial and Development Secretary at the start and, in fact, during the discussion of the 1985 Accounts, the anticipated loss was between £200,000 and £300,000. I think, Mr Speaker, even here the inefficiency of the Government control over the company has had a lot to do with the fact that the company arrives at the end of 1987 with a £3m deficit. If you cast your mind back, Mr Speaker, to the discussions in February or March of this year; if I am not mistaken, when the Government brought the £2m subscription for shares, you will remember that it was made quite clear by the then Hon and Learned the Chief Minister, Sir Joshua Hassan, that there was no question of any of this money being used for salary and wage purposes. He said clearly that these £2m were for operating costs of the company and that the way ahead for salaries and wages was for the company and the workforce to discuss this and to come to an agreement given the profit element that the company had and therefore giving to the workers the amount of money that the company could afford but that at no stage could these £2m be used for this. Mr Speaker, because of this we had industrial problems in the yard with the workforce who claimed a certain percentage of increases in salaries and wages and through June, July and August GSL was again thrown into a situation of industrial unrest because the company insisted, quite rightly, that they didn't have money to pay the cost of the salaries and wages bill which, if I am not mistaken, was somewhere in the region of £3m and therefore there was no way that the company could cede to

the claims being made on them by the Trade Union movement. Of course, after that, we are now in a situation, with hindsight, of knowing that the company did pay £1m, that the company ceded to the demands of the Trade Union movement, logical demands, Mr Speaker, because they were looking at a situation where they were worth an increase in salaries and wages as indeed we argued that in October, and at the end of it the Government paid for that £1m through the £2m subscription of shares, through their hidden subsidies for the Training Centre and, in fact, anything left over we are now going to vote £2m subsidy which if it hasn't been covered already, will be to cover the cost of salaries and wages which is part of the operating costs of the company. Mr Speaker, this is but one more example of how the Government in their inefficiency in running the company have again created another obstacle for the company because all that was needed was to have given the company back in February/March, 1987, the right to spend £1m to meet the salaries and wages bill and that would have happened and it wouldn't have been thrown into a situation of industrial unrest in the yard with all the repercussions that that has for the yard and which we all know about and which has been made very clear by people like Mr Torsten Andersson and we could have avoided all that if the Government at that juncture would have realised that the £1m for wage and salary increases was the right way of going about things. They decided not to, we were plunged into a situation of industrial chaos and at the end of it all, they had footed the bill anyway. That could have been avoided, Mr Speaker, in February/March and although the company would not be arriving at the end of 1987 with a surplus, with a profit and with anywhere near the £200,000 deficit that they said, certainly, the deficit would not be as much as £3m. The part of the £2m that appertains to the balancing of the books for 1987, Mr Speaker, we have no option but to agree with the Government that that has to be paid because if it is not paid then the company would not be able to close its accounts for 1987 and would have to close down and therefore, again, we are forced into a situation that because we don't want that to happen the Opposition party are unable to vote against because the money is needed and have to therefore abstain but in no way can we support a situation where due to Government inefficiency and maladministration, maladministration in two counts. One is because their policy directives have, in fact, in this particular juncture created an obstacle for the company but also the fact that they are still putting that divisory line between them and the company in order to try and get to an election unblemished and for people to think that the fault of the failure of the company falls on the managers or falls on the company but certainly doesn't fall on the Government. Certainly from this side of the House we put the blame squarely where it lies as far as we are concerned and that is on the shoulders of the Government of Gibraltar, Mr Speaker. On this aspect of the part of the £2m that appertains to the balancing of the accounts, we have no option but to abstain on this element. Of course, that is not the full

explanation that has been given to us when the £2m subsidy has been brought to the House. The explanation given, if I am not mistaken, by the Hon Financial and Development Secretary was that part of the £2m, as I explained, was for the balancing of the accounts and the bringing back of the company on its feet by the end of 1987 and clearing all the deficits but also to keep the company running through the restructuring which the Government have now accepted in principle and, obviously, to pay for the redundancies when those occur. However, the Government still are saying to us that they don't know how or when the renegotiation of the Management Contract is going to take place. All that we have heard in this House is that the lawyers of GSL together with the advice of Mr Michael Casey are still looking into the matter and we have only been told that a decision, in principle, is to restructure and to have redundancies in the yard but there is no final decision on the restructuring or on the redundancies. Certainly, nothing at all on the Price Waterhouse Report which we paid dearly for and which has been on the table now for a year and very, very little of it has been done since then. But yet we are asked to vote £2m without knowing what is the future, Mr Speaker, we don't know what is the new concept under which the Government want GSL to function, ie the new Management Contract, we don't know what type of restructuring they are talking about, how many redundancies are going to occur, what is the number of the workforce going to be made redundant, what percentage are going to be kept and certainly and the most important point, we don't know what timetable the Government is talking about. By voting the £2m we are virtually giving carte blanche to the Government to keep operating GSL, perhaps just ticking over without saying when they intend and without giving us a timetable as to when and how that restructuring is going to take place and that is very, very important, Mr Speaker, because every week that goes by it is costing the people of Gibraltar £x-thousands in order to keep the yard running because the yard at the moment is running at an extraordinary loss. We have now finished the RFA's and we have a workforce which we have to pay every week and every single week that the Government doesn't take a decision on the Management Contract and doesn't take a decision on the restructuring and the redundancies is an amount of thousands of pounds that is costing the people of Gibraltar, the taxpayer. Therefore I think, Mr Speaker, before the Government asks this House and therefore the people of Gibraltar, to vote another £2m subsidy for the company, I think that they have various questions to answer. The questions are, obviously, what is the type of restructuring; what is the economic impact of this restructuring; will the company after the restructuring operate at a loss, operate at ticking over, balance itself out, lose money, how much money is it going to lose? All these questions, Mr Speaker, are questions that have to be answered. I suppose at this point in time when they have done it now three or four times during the year it is now standard practice to come to this

House to ask for more money for GSL but I think when we are now on the fifth million, and that is £5m over and above what was given by the ODA both from the £28m and the extra £2.4m, we are now on the extra £5m being paid by the people of Gibraltar and all that we are being told is that the renegotiation is taking place and that the restructuring has been agreed in principle. Well, I feel, Mr Speaker, that that is not enough. I feel that it is not only not enough for the Opposition on this side of the House that has to either vote in favour of the money, vote against the money or abstain because how do we gauge which way to vote if we are not being given any reasons? I think we need to know the timetable of the Government, have the Government decided now that they are going to restructure the company in January? Have they decided to restructure the company in February? Is the money that we are being asked to vote to tide over the company until January/February, how many redundancies? I think, Mr Speaker, not wanting to repeat myself, I think the Government have a duty to come to this House with the answers to the questions that we are asking but, of course, they should have had that statement ready to give the House before they asked the House to vote the £2m. I feel, Mr Speaker, that on this particular aspect the Opposition party would be quite prepared to vote against this aspect of the money and I think it would be accepted and understood by the people of Gibraltar because, really, in voting the money without knowing what the Government intend to do and what the company intend to do with it, we still don't know what the £2m that we paid to the company in subscription for shares have been used for. We know that £1½m have been used for the pension fund which they should have had operating since 1984, we know that all the money that was supposed to be used for operating costs have been used for operating costs because the money that was there for operating costs was being used for other things. I think, Mr Speaker, we have now got to a juncture where the Government have to be more outright in their arguments and more outright in their explanation and presentation of things like that, for us to be able to vote one way or another. What I think we need, Mr Speaker, is for the Government to separate the vote. I think we need in this House to know how much of the £2m is going to close the accounts for 1987 and I think we need to know how much of the money is going to go towards helping the company through the restructuring period and, obviously, know what type of restructuring and what type of redundancies the company and the Government are aiming for and what that is going to cost. What I would want the Government to do if they are going to get our support at all on this one, Mr Speaker, is to separate the £2m that they have put under the Treasury vote, what they should do is put under the Treasury vote for this particular House the amount of money that they have to give the company for 1987 and the amount of money that they need to keep the company ticking over until the restructuring and give us the timetable and the date when that restructuring is going to take place. The rest of the money, Mr Speaker, should be left in abeyance

until the Government can come to this House and tell us and the people of Gibraltar the type of restructuring, how many redundancies, economic impact, etc, and I don't want to repeat myself, and at that stage we will decide whether we can vote in favour or against that money depending on whether we agree with the restructuring that the Government is proposing. But to come to this House and ask us to vote £2m, Mr Speaker, for things for 1987, for the overdraft facilities to be cancelled, for restructuring of the yard to keep the yard running over, to pay for redundancies, I think, Mr Speaker, that is just not on. The Government have to divide and separate those £2m so that we know what we are voting for, how much is for 1987, how much is just to keep the company running over until the end of January or mid-February when the restructuring happens. We find ourselves in that predicament, Mr Speaker, and there is no way that we can do other than abstain if the Government intend to continue with the voting of the £2m under Treasury as it is at the moment. The only way we could look at the thing from a position of being able to study it is if the Government gave us these breakdowns but there is no way, Mr Speaker, that we are going to vote any money in this House or, at least, the Opposition will not help the Government vote any money in this House that is for a restructuring or redundancies when we don't know in what form, shape or timetable that is going to happen. There is only one other matter and that is the matter of the problems related to the subsidy and the rules as laid down by the EEC but I will allow my colleague, the Hon Mr Feetham, who is more of an authority on the EEC than I am, to tackle that aspect, Mr Speaker. Thank you.

HON CHIEF MINISTER:

Mr Speaker, the intention on the Government side is to try to avoid having two debates. I do not propose to speak on the question of GSL at this stage but I will do so in Committee and address myself specifically to that.

HON J BOSSANO:

When are we having the Committee Stage, Mr Speaker?

MR SPEAKER:

It will be after we finish the First and Second Readings.

HON CHIEF MINISTER:

The money involved has got to be voted before the end of the financial year unless we want the yard to close down on the 31st. In other words, the leave that the workers have taken will be permanent.

HON J BOSSANO:

They then become entitled to six months pay which is a very big bill that will be pending for the Government. As far as we are concerned what we are saying is if the Government amends the figure there to what is needed now and removes what is needed for restructuring, we will look at the amount that is being invested in the restructuring when they come and tell us what it is for. It is not an unreasonable thing. In every other item in the Schedule of Supplementary Estimates we have a remarks column that tries to give us some details of why the money is needed and, in fact, we get an expansion of that when we ask for more information. If I were to ask the Government now how much is the restructuring costing and how much is the restructuring going to save so that I can decide whether it is a good or a bad thing to put money in that area, they cannot answer me. If they limit themselves at this stage to the money that is needed to keep the yard going until a decision is taken on the restructuring, we haven't got a quarrel. We may have a quarrel later on but we are not going to quarrel now.

MR SPEAKER:

I think this is, perhaps, anticipating what one is going to have to say at the Committee Stage.

HON J BOSSANO:

The point is, Mr Speaker, that if the Government takes cognizance of the argument and accepts its validity then we will not object to the Committee Stage being taken today and then they can go ahead with it and provide the money for the yard not to have to close and when we come back to the 21st January we can be told: "We are now coming with a Supplementary Bill purely for the restructuring" and they can then explain to us what the restructuring involves and what the yard is going to be and, presumably, demonstrate to us that we are investing money in something which is going to finish up viable, obviously. I am sure the Government will appreciate that when they come to put money to finance the restructuring they will have to demonstrate that they are not throwing good money after bad, that is what people not just in this House but outside will want to hear from them. If that is accepted that means we will then agree to the Committee Stage being taken today otherwise we are not going to give up.

HON SIR JOSHUA HASSAN:

With respect, Mr Speaker, I don't feel there is any question of requiring, if it is necessary, to come tomorrow and do it. I think we are perfectly entitled. I don't know whether the Standing Orders do not allow this Appropriation Bill to be dealt with in the same meeting because otherwise it will be very difficult to allow funds to be provided.

MR SPEAKER:

The Standing Orders are clear. If the House agrees, without exception, to have the Committee Stage on the same day then, of course, there is no problem. If there is abstention or there is opposition then the Committee Stage can be taken tomorrow, it is as simple as that.

HON SIR JOSHUA HASSAN:

I think that having regard to what was said this morning, it is quite obvious that we will need two Appropriation Bills because whatever is not dealt with because it's not urgent such as some of the areas where I mentioned this morning that had been done in anticipation in order to cover expenditure committed by the Government which could be left to the January meeting, we will have to have a completely separate Appropriation Bill because you cannot split the Bill. You have to pass a Bill through all its stages to authorise the expenditure of the money and then rehash another Bill in January with whatever remains. I am not speaking purely on the question of Gibreair, I meant regarding other matters which I explained this morning.

MR SPEAKER:

I understand that there will be no objection by the Opposition on any of the other matters other than GSL.

HON SIR JOSHUA HASSAN:

Yes, I appreciate that.

HON J BOSSANO:

It is a fairly simple thing, Mr Speaker, all we are saying is if in the Committee Stage the Government says: "Right, instead of it being £2m what we need as an on-going subvention as the yard is now is £1½m", then we come back and we look at the £½m when we know what the £½m is for.

HON SIR JOSHUA HASSAN:

I think we are putting the cart before the horse a bit now because, surely, the explanations will come at the time of the Committee Stage. If they are not satisfied with the explanations then they can either abstain for the reasons stated by Mr Pilcher or vote against. We have advanced the stage of the debate in the Second Reading in dealing with this matter and therefore they have chosen to do that, quite rightly, and I am not objecting to it, but you cannot have two bites at the same cherry. That is to say, if we are going to give details, whatever such details may be given will be given in Committee Stage.

MR SPEAKER:

What the Hon the Leader of the Opposition is saying is that their decision as to whether the Committee Stage of the Appropriation Bill will be held today is conditioned to the attitude that the Government is going to take on the GSL money.

HON J BOSSANO:

We are prepared to wait for the explanations until the 21st January, this is what we are saying. The Government then comes and says: "At this stage we will vote £1m or £1½m or £1¾m", whatever it is they need other than the restructuring then we are quite happy to take the vote on the restructuring when we see what the restructuring is but how can the Government ask for money for something that they haven't yet decided? I don't understand it. Or if they tell us that none of the £2m is for the restructuring, fine.

HON CHIEF MINISTER:

But he is quite correct, the Hon the Leader of the Opposition, we don't want to prejudge the cost of the restructuring at this stage, that is why we don't want to put a separate amount. But the fact of the matter is that we judge that £2m is what is required to keep the company going till, say, April and it is a prudent provision to make at this stage to keep it going until then.

MR SPEAKER:

In any event, let us not have a debate within a debate.

HON CHIEF MINISTER:

I would prefer not to rake the matter up. Why should we give the Hon the Leader of the Opposition who as Branch Officer is going to be negotiating on behalf of the Union, why should we give him an indication of the amount of money that is set aside for the restructuring? We don't have to, we needn't, we don't know exactly what it is yet because we haven't taken the necessary decision.

HON J BOSSANO:

I think that what the Hon Member has just said which hasn't been said until now, Mr Speaker, is that the £2m is what they consider is required to keep the yard going until April in its present size without any prior reductions, am I correct?

HON CHIEF MINISTER:

No, there is included an element for restructuring but in any case it is of the order of £2m to keep it going including some provision for the restructuring.

MR SPEAKER:

It is clear that the Government is not prepared to give an undertaking as required by the Leader of the Opposition. Are there any other contributors to the debate?

HON M A FEETHAM:

Mr Speaker, in October of this year I asked a series of questions in the House regarding the implications of certain EEC Directives insofar as shiprepair operations were concerned and why I raised the question was because in July of this year the Hon Financial and Development Secretary made a public statement to the effect that the wage claim which had been submitted by the employees of Gibraltar Shiprepair Limited could not be entertained because it was against EEC Directives. Of course, the purpose of the question in October was to seek information because in the view of the Opposition the EEC Directives which are referred to and you will recall, Mr Speaker, that I named them as EEC Directives No.81/336 and No.87/167, were Directives which derogated Member States from the responsibilities of certain Articles of the Treaty of Rome insofar as the rules of competition was concerned and commercial policy. But in drawing up these Directives the idea was to implement certain guidelines by which Member States could, in seeking derogation, operate in giving aid to shipbuilding and shiprepairing. The answer I got from the Hon Financial and Development Secretary was that the EEC Directives were being complied with by Gibraltar because the Board of Trade had informed him so and the Foreign Office, I think he said, the Foreign Office as well had informed him that we were complying. Of course, you will recall, Mr Speaker, I wasn't satisfied that the answer I was given by the Hon Member opposite met the questions that I was asking but, of course, within the parameters of questions and answers it is very difficult if a Member chooses to give a blank answer to be able to ascertain any more information. The reason why I have brought this again here today in the context of the latest request by the Government to seek funds to give a subvention to GSL is because not being satisfied with the answers that I was given, the latest position, in my view, continues to contravene the EEC Directives and consequently I want to place on record that we are questioning, if we are correct in our assumptions and the advice that we have been able to seek is that we are correct in the conclusions that we have reached, we are questioning that the whole operation of shiprepair in Gibraltar has gone against the whole legal basis of the European Community Directives. The response that I got from the Hon Member opposite was that he couldn't give anything more than say

that we were complying with the Directives because that was the advice given by the Foreign Office but that he could brief me, and any of my colleagues, privately about certain confidential aspects of the operation. Of course, having been given that and having got nowhere else in the questions and answers, obviously I had to accept at that point in time that I wasn't going to get anything else at that meeting and that I should then seek a meeting with the Hon Member opposite and see what other information I could obtain. In fact, the information that I have been able to obtain from the Member opposite in no way allays my fears that, in fact, we have been in contravention of the EEC Directives on.....

MR SPEAKER:

With respect, we are not going to talk about whether we are in contravention or not.

HON M A FEETHAM:

Yes, because we are in contravention. If we vote for this money, Mr Speaker,....

MR SPEAKER:

Precisely, let us talk about the voting of the money and the reason why we shouldn't.

HON M A FEETHAM:

If we vote this money, Mr Speaker, we will continue to be in contravention of the EEC Directives on aid to shiprepair yards. The reason I was given is not something that should be of a confidential nature because let me be quite clear, Mr Speaker, that we will be the next Government of Gibraltar and consequently we are not going to be tied to a situation where for.....

HON CHIEF MINISTER:

You may have to eat those words.

HON M A FEETHAM:

We are not going to be tied to a situation, Mr Speaker, where we are having cotton wool placed in front of our eyes so that crisis after crisis is pushed under the carpet and swept to one side hoping that at the end of the day something will happen that will resolve the problem because, Mr Speaker, the Dockyard was closed because it wasn't a defence requirement and consequently a commercial operation was set up for the reasons that we have all discussed and my colleagues have gone into this matter time and time in this House, to

assist the economy of Gibraltar. Now we are told that we are, in fact, not contravening the EEC Directive because all the money we have been putting into the shiprepair operation is possible because the shiprepair yard had a defence requirement and because it has a defence requirement Gibraltar is derogated from the derogations which means that we have to seek approval from the EEC Commission to do anything in respect of shiprepair. I say, Mr Speaker, that if we have got a defence requirement for the commercial yard then I think it must be made quite clear by the British Government that the shiprepair operations in Gibraltar is a defence requirement because if we are going to continue to subsidise the company because it was set up on the basis that the deal in itself was good and that it was in the interests of the people of Gibraltar and in the end we find that it is a total loss and we are going to continue to pay for it and we are told that the commitment is not as great because there is a defence requirement and consequently the bill that we have to meet is not in conflict with the EEC Directives, I think somebody somewhere had better come clean and come clean quick. It is no good coming to this House and seeking further subsidies which we seriously think is in conflict with the Directive and then us being the next Government finding ourselves that somebody somewhere argues a different line and we come in considering it an economic policy which takes account of the shiprepair and then finding that that policy for some reason, someone in the Foreign Office or the British Government changes its tune because it doesn't like Mr Joe Bossano, perhaps, and find that we have got a problem which they didn't have and they have been able to get rid of the crisis before we come in, Mr Speaker.

HON CHIEF MINISTER:

They are going to make use of us as EEC advisers.

HON M A FEETHAM:

It may well be because I challenge you now.....

MR SPEAKER:

Order, you will speak to the Chair, you will not speak across the House. I will not have any interruptions.

HON M A FEETHAM:

If the Hon Chief Minister spoke on these matters instead of allowing the Financial and Development Secretary then I could place the onus of responsibility on him as the elected representative and not on a civil servant to answer in this House. Therefore, Mr Speaker, if the wage increase in July couldn't be met because it was against the Directive how is it that today we are saying the opposite when it comes

to the £2m subvention? Because that is what we are saying, we are going ahead with it because it isn't in conflict with the Directive. What I would like to place on record and I would like the Financial and Development Secretary to reply to me and the Attorney-General if need be, and if they are not able to give me a reply in detail to the questions I am going to ask I am quite prepared to seek a meeting with them and representatives of the Board of Trade and the Foreign Office so that I can get answers from them if they are prepared to set up the meeting, and that; - should the scheme which set up GSL have been notified and approved in advance by the European Commission? No.2 - should the performance of GSL be reported to the European Commission every six months, on the 1st March and the 1st September? Should the £1m approved in this year's estimates have been approved by the European Commission? Will the £250,000 loan granted in 1986 as aid to meet a wage settlement have to be repaid? Is the refurbishing cost of investment intended to increase shiprepairing capacity in direct and specific conflict with the EEC Directive? Is the element of the £5.5m to cover operating loss in the first two years contrary to the EEC Directive? Does the granting of development aid also require the approval of the Commission? Does the non-payment of rates and the reduced payment of rates on fiscal possessions need to be notified to the European Commission? Is the £2m subsidy in the guaranteed RFA work over the normal commercial price contract related production aid which requires notification? Does the total aid package of £30.3m, which needs to be updated, UK development and £2m Gibraltar Government aid require the approval of the Commission? Does the renting of the facilities at a nominal peppercorn rate constitute a form of aid which distorts competitiveness between Member States and must be accounted for in arriving at the ceiling approved by the Commission? Is it as a matter of policy that this Directive automatically applies to Gibraltar and, if so, why is it different from other EEC Directives? If the Financial and Development Secretary and the Attorney-General are able to reply to them specifically, referring to the Articles in the Directive and are able to substantiate the argument that what we have done complies with the Directive because there is a defence requirement for the shiprepair yard which excludes us from complying with the Directive because there is no mention whatsoever in the Directive on the question of MOD requirement or defence requirement, if the Hon Member is able to reply to these questions satisfactorily in the light of the Directive then the Opposition would be able to rethink its policies but at the moment we will maintain the position from the EEC point of view that everything the Government has done up to now including the setting up of the operation is in conflict with the EEC Directive.

MR SPEAKER:

Are there any other contributors to the debate and the Second Reading of the Bill?

HON J BOSSANO:

Mr Speaker, I would just like to add one point to the question of the EEC Directive as we understand it which is very relevant. Let me say that, of course, to even suggest that I might wish to have information as to the amount that is required for the restructuring because that might be of some benefit in negotiations with the company for the union is complete nonsense because at the end of the day I can assure the Members opposite that the last of the considerations that the union will have in negotiating with the company is what it is going to cost, that will not enter into it at all so they needn't worry about that one bit. Whether it costs £1m or £20m the union will still look at it from the point of view of protecting its members' interests. I think in this House when we are voting public money we are entitled to be given an explanation and I don't think what we were asking for is unreasonable. But I think relating it to what has just been said about the EEC, in fact, the Directive which we had brought to our attention by the Government, it isn't that we went out searching for this Directive, it was the Government that came out with a public statement pointing out its existence and it is the Government that provided copies of it, is very specific. It says in the preamble, before it comes to matters of detail, and this is a Directive of January 1987 replacing a previous one. The previous one allowed subsidies to be given to shipbuilding yards in Europe. What this Directive does is it is proposed to treat ship conversion in the same way as shipbuilding, that is to say, to allow subsidies. It is not appropriate to permit aid to the shiprepair sector - which is what we are - in view of the continuing over-capacity in this sector except for closure and research and development aid. In fact, what is not in conflict with the Directive is money that is provided to the yard to meet redundancy costs or restructuring costs designed to reduce capacity. It is perfectly relevant if we are saying to the Government 'according to the information you have provided us with, you cannot give aid to a yard to meet operating losses, that is specifically prohibited, but you can give aid to the yard to meet restructuring costs, so how much of the £2m is restructuring cost and how much of the £2m is to meet operating losses?' We are certainly entitled because we have sought advice ourselves on whether, in fact, the application of the Directive to Gibraltar means that we have to do certain things and even where it is allowed, for example, even in the area where it is allowed, let us say that the Government came along and said: "We have got a business plan produced by the GSL Board which will reduce the capacity of the yard and in order to assist the yard to survive its over-capacity" - which is what other people are doing in Europe - "the Government is stepping in and giving it money to meet redundancy costs and so forth". Even if that were the explanation it requires the approval of the Commission and the Directive says that if that is what you are doing, if you want to put £1m in that yard to restructure it, you have

to submit your proposals to the Commission to do it. Let them tell us that they don't have to do that either, that they have checked the Directive and that because it used to do RFA work, which is in fact what we were told here, I think, by the Hon and Learned the Backbencher when he was the Hon and Learned the Chief Minister, the last time we were discussing the accounts he suddenly produced this reference to the fact that there was MOD work making it possible for the yard to get money and that that was the explanation. We have searched through this Directive and we can find no reference to it. All they need to do is to be able to give us reasonable answers that make sense and then we won't pursue the matter any further but they cannot just attempt to fob us off with excuses because it won't work and, in any case, as my colleague has said, if we have got a programme for that yard, obviously the programme is partly influenced by whether we need to limit what we do with the yard to what this Directive requires people to do. We certainly don't want to find ourselves in a situation, I think it would be very unfair if the Government knows different, to keep the knowledge to themselves as if it was something that belonged to the AACR, they cannot take it home with them when they go out of office, Mr Speaker, it belongs to the people of Gibraltar, these things.

HON SIR JOSHUA HASSAN:

If.

HON J BOSSANO:

Well, in the Hon and Learned the Backbencher's case no longer if, when. What I am saying is that in looking at the proposals that the Government has, we need to be told that those proposals are not in conflict with this Directive and we need to be told whether we are correct in thinking that what the Directive says needs to be done has to be done and will have to be done by them and will have to be done by anybody else that is there in the future because in looking at the situation we need to be sure that they are acting within Community law and that we would have to act within Community law and that if they are able to guarantee that this has been taken up through the proper channels which seems to be in conflict with the feedback we have had and that, in fact, we have got a blank cheque to do whatever we like which means de facto that the Directive does not apply then, obviously, our own position on that yard and our own response to their proposals of voting in favour or voting against or abstaining or whatever, will be influenced by that factor. We are entitled to be told the truth in this House.

MR SPEAKER:

Any other contributors? I will then call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I simply propose to deal with the question of the Directives, that is to say, the EEC Directive which has been raised by Hon Members. I did try and intervene when the Hon Mr Feetham was speaking, I don't think that I said - I may have been quoted as having said - but I certainly don't think that I said that the wage claims which were put forward by GSL workers in the middle of the year could not be allowed under the Directives or that they were inconsistent with the Directives. I think that is what I heard the Hon Member saying, maybe I misheard, if so, I misheard.

HON J BOSSANO:

If the Hon Member will give way. I think the position, as we understood it at the time, was that the company approached the Government about the possibility of financial assistance in the negotiations with the workforce and the Government said: (a) as a matter of policy the Government doesn't want to provide the money and (b) even if the Government wanted to provide the money it could not do it because it would be in conflict with the EEC Directive and a press release to that effect was issued by the Government and the Directive was then provided to demonstrate the validity of that argument. This happened in July, 1987, only five months ago, Mr Speaker. The press releases are there on file even if the Members on the other side are short. We are not saying that the Government was saying it would be in conflict with EEC Directives to raise the wages but it would be in conflict with the EEC Directive to provide a subsidy to finance a wage increase.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

What I do remember saying myself and was quoted as having said was that Gibraltar was covered by the EEC Directives on shiprepair and shipbuilding. That is the first thing to get quite clear because Gibraltar is, for the purposes of this particular Directive and, indeed, for the purposes of most things, regarded as a dependent territory of the United Kingdom and therefore is covered by Community law and any representations which are made about or on behalf of Gibraltar or any discussions with the Commission would be primarily the responsibility of HMG. Everything which we have done in this particular context, in the context of the EEC Directives on shiprepair and shipbuilding has been with the knowledge and the advice of the DTI, HMG DTI. I think I would like to make that quite clear, Mr Speaker. Certainly, Gibraltar is covered by the Directives. The point, I think, which the Hon Members have not, perhaps, fully taken on board as a result of the briefing which I did give a short while ago to the Hon Leader of the Opposition and Mr Feetham on this point, it may be that I didn't make the position clear, obviously, I didn't at the time say anything about confidentiality, it wasn't a confidential discussion. I simply

told him that we had discussed this with the DTI, we had told them what it was we were proposing to do and so what we did is with their full knowledge. The relevant piece of legislation is not the Directives in this particular instance, it is Article 223 of the Treaty itself which refers to defence interest and in the view of the DTI it was not necessary to notify the Commission of the various actions which had been taken in Gibraltar with respect to GSL while it was in their view covered by Article 223 which exempted them from the process of notification. That was really the point I wish to make and the point which I am now repeating and while Gibrepar was, in fact, of a capacity and a size with a workforce which could be related directly to the fact that Gibrepar was carrying out defence work and I think an examination of Gibrepar's activities would confirm that, they regarded the situation as being covered by Article 223. The Hon Member may shake his head at that, I can only pass on to this House the advice which we have been given by Her Majesty's Government.

HON J BOSSANO:

Will the Hon Member give way? Is he saying that he has also asked whether the £2m included in the supplementary vote which we are discussing at the moment is covered by that same criteria?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Speaker, I have already acquainted the DTI of that particular proposal which is before the House today. That is really all I wish to say on the general question, Mr Speaker. I commend the Bill to the House.

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

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

The following Hon Members abstained:

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

HON J BOSSANO:

I think the Hon Chief Minister said that he intended to give more explanation at the Committee Stage. Is he in a position to do that today if we take the Committee Stage today?

HON CHIEF MINISTER:

Yes.

HON J BOSSANO:

In that case, we remove our objection.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Gibraltar Broadcasting Corporation (Amendment) Bill, 1987; the Traffic (Amendment) Bill, 1987; the Animals and Birds (Amendment) Bill, 1987; the Medical (Gibraltar Health Authority) Bill, 1987; the Social Security (Family Allowances) (Amendment) Bill, 1987; the Imports and Exports (Amendment) Bill, 1987; and the Supplementary Appropriation (1987/88) (No.3) Bill, 1987.

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

THE GIBRALTAR BROADCASTING CORPORATION (AMENDMENT) BILL, 1987

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

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

THE TRAFFIC (AMENDMENT) BILL, 1987

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

THE ANIMALS AND BIRDS (AMENDMENT) BILL, 1987

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I have a very short amendment to make to Clause 2 in the definition of "authorized officer". I am afraid we have called him a 'revenue inspector' and it should be a 'customs officer'. It was drawn to my attention, of course it shouldn't be a revenue inspector, we did away with those, I think they are called customs officers.

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

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

Clause 5

HON MISS M I MONTEGRIFFO:

Mr Chairman, what would happen in the case of a dog owner whose dog is under his direct supervision but is not held by a leash?

HON ATTORNEY-GENERAL:

Mr Chairman, that is not covered by this particular Bill but immediately on the bringing into force of this Bill rules will be promulgated which will make it an offence to do this. Every owner and every other person having charge of a dog shall at all times cause the dog while in on any street or other public place, (a) to be kept under proper control and

effectively restrain from causing annoyance to any person; to be held by means of an effective lead and to have its registration badge and licence disc affixed to its collar, and any person who contravenes any of those things, Mr Chairman, is guilty of an offence and liable on summary conviction, in the case of the first conviction to a fine of £100 and in the case of a second or subsequent conviction to a fine of £200 and to imprisonment for three months. That will cover the question of the control of dogs. This particular Clause 5 only deals with the seizure of dogs which are strays.

Clause 5 was agreed to and stood part of the Bill.

Clause 6

HON M K FEATHERSTONE:

I beg to move an amendment, Mr Chairman, it is a very simple amendment, it is to remove the words "6 months" and to put instead "3 months", in Clause 6, section 25A, so the words "imprisonment for 6 months" to make it "imprisonment for 3 months".

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

Clause 7 was agreed to and stood part of the Bill.

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

THE MEDICAL (GIBRALTAR HEALTH AUTHORITY) BILL, 1987

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

Clause 17

HON ATTORNEY-GENERAL:

Mr Chairman, one very small amendment, it is really to correct a spelling error, it should be in the second line "prescribed" by section 2 and not "perscribed" by section 2.

Mr Speaker put the question which was resolved in the affirmative and Clause 17, as amended, was agreed to and stood part of the Bill.

Clauses 18 to 25 were agreed to and stood part of the Bill.

The Schedule

HON ATTORNEY-GENERAL:

Mr Chairman, I have a number of amendments to the Schedule. In paragraph 2 of the Schedule dealing with the Education Ordinance on page 174 the definition "Authority" means the Gibraltar Authority, of course, it should be the Gibraltar Health Authority. So it is to insert the word "Health" between the words "Gibraltar" and "Authority" in the definition of the word "Authority" in paragraph 2 of the Schedule.

MR SPEAKER:

Are there other amendments to the Schedule?

HON ATTORNEY-GENERAL:

There are other amendments to the Schedule, Mr Chairman. After paragraph 11 to insert three further paragraphs and this is the paragraph on page 175 dealing with the Medical and Health Ordinance. The three paragraphs are as given in my notice of the 11th December.

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

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

THE SOCIAL SECURITY (FAMILY ALLOWANCES) (AMENDMENT) BILL, 1987

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

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

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1987

Clauses 1 and 2

On a vote being taken on Clauses 1 and 2 the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Clauses 1 and 2 stood part of the Bill.

The Long Title

On a vote being taken on The Long Title the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

The Long Title stood part of the Bill.

THE SUPPLEMENTARY APPROPRIATION (1987/88) (NO. 3) BILL, 1987

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

Schedule

Part I - Consolidated Fund

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have given you notice of various amendments. I must confess I am always confused about when you want me to introduce these. They obviously do affect the totals in the various Heads and also the subhead.

MR SPEAKER:

First we will amend the Schedule.

Head 3 - Customs was agreed to.

Head 4 - Education was agreed to.

Head 8 - General Division was agreed to.

Head 9 - Governor's Office was agreed to.

Head 11 - Housing was agreed to.

Head 12 - Income Tax Office was agreed to.

Head 13 - Judicial, (1) Supreme Court was agreed to.

Head 14 - Labour and Social Security

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Head 14 - Labour and Social Security, Subhead 10 - Family Allowances, be amended by the deletion of the figures "£6,300" and the substitution thereof of the figures "£84,900".

Mr Speaker proposed the question in the terms of the Hon the Financial and Development Secretary's amendment.

HON J BOSSANO:

We assume this is the cost for three months of the year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is right.

HON J BOSSANO:

Well, we have already voted in favour of the Bill.

Mr Speaker then put the question which was resolved in the affirmative and Head 14 - Labour and Social Security, as amended, was agreed to.

Head 15 - Law Officers was agreed to.

Head 16 - Medical and Health Services was agreed to.

Head 17 - Police

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, this is another item of which I wish to move an amendment. It is Subhead 80, a new subhead under Police, Subhead 80 - Purchase of Security Equipment so there is therefore an addition of £33,700.

Mr Speaker put the question which was resolved in the affirmative and Head 17 - Police, as amended, was agreed to.

Head 19 - Post Office Savings Bank and Philatelic Bureau was agreed to.

Head 20 - Prison was agreed to.

Head 21 - Public Works

HON J C PEREZ:

There is just one point which I believe needs a bit of more explanation. Subhead 62 - Maintenance of Offices and Buildings, the explanation given for the £40,000 extra is redeployment of labour to meet commitments at Bayside. I would have thought that redeploying labour from one point in Gibraltar to another wouldn't cost anything at all unless the explanation is that in redeploying them they have done something extra which has increased the cost of their labour.

HON MAJOR F J DELLIPIANI:

Mr Chairman, as far as I am aware, most of the cost of the redeployment here is to do with very expensive material which has been used in the temporary repairs of the roofs plus a substantial amount of industrial overtime which has had to be carried out.

HON J C PEREZ:

With due respect, Mr Chairman, then it should say materials and overtime, not redeployment because the actual redeployment doesn't cost anything.

HON MAJOR F J DELLIPIANI:

I know that it sounds peculiar that if you take the same men from one place to the other it costs money but it does cost money in the sense that the materials are expensive and there was certainly a lot of urgency because we wanted to make it watertight for the coming winter but the reason might not be a logical one, I accept your criticism.

Head 21 - Public Works was agreed to.

Head 22 - Telephone Service was agreed to.

Head 23 - Tourism was agreed to.

Head 25 - Treasury

Subhead 23 - Rates Refund

HON J BOSSANO:

Can I ask, it says here that it is because of a higher incidence of people applying for the refund. Wasn't the amount of the refund worked on the basis of the people who would pay? Does it mean, in fact, that the collection of rates is higher than estimated if more people have obtained a refund and the refund was estimated on the number of people paying.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the original figure which was put in for the rates refund was an estimate, that is to say, we didn't assume 100% qualification and, in fact, more people have applied and more people have qualified, that is to say, more people have in fact paid their arrears and therefore have been eligible for the refund, that is one reason. I think that is the main reason, in fact, why the amount sought is more than was included at the Estimates stage.

HON J BOSSANO:

The point I am making is therefore am I right in assuming that the estimate for the collection of rates shown as £7½m will have to be revised upwards because, presumably, when they estimated the refund they estimated the collection, they did both at the same time. If the refund is higher it means the collection is higher, does it?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Sir.

Rates Refund was agreed to.

Subhead 37(N) - Subvention to Gibraltar Shiprepair Limited

HON CHIEF MINISTER:

Mr Chairman, I think the Hon the Leader of the Opposition is, perhaps, a bit disappointed if he thought that I would be providing for the House some earth shattering information. My intention at this stage was naturally to make a general

statement which would draw attention to the main points, to the considerations which the Government has taken into account in coming to the House for the appropriation of this sum of money. Although we have studied the company's proposals for restructuring, we haven't taken any final decision on the matter. We have, in fact, asked the company for a much more comprehensive analysis. We want this to include a more detailed appraisal of overheads and a review of the utilisation of space and buildings including the use of berths by the shipyard and how this could possibly be rationalised or reorganised. Therefore, Mr Chairman, we see restructuring as being not solely a question of redundancies, we think it should go beyond that. The detailed proposals for redundancies will have to be discussed with the Government in the first place so that we are satisfied that the scale and, indeed, the nature of redundancies is fully justified in terms of putting the yard on a sound footing. Then they will need to be discussed properly and fully with the unions involved. The Government, I can tell Hon Members, is particularly concerned about the possible impact on the employment of Gibraltarians in the yard. At the same time, Mr Chairman, restructuring will run parallel to a re-negotiation of the Management Agreement between GSL and Appledore. A new draft agreement has already been prepared and it incorporates major changes. Once Ministers have considered this draft agreement negotiations between GSL and Appledore should start early in the New Year. We see the additional £2m, Mr Chairman, as representing a further substantial commitment by the Government to the yard given the importance which we attach to the future of the company but it should be understood that whilst the Government is prepared to support the shiprepair yard in terms of providing reasonable scope for achieving viability, it isn't just simply and it should not be regarded as a blank cheque for sustaining losses year in year and year out. I would like, Mr Chairman, to ask and to appeal to all concerned to do their utmost to avoid industrial disputes moreso at this very critical juncture when the whole future of the company is under review, when structural adjustments are necessary, if we are to secure a firmer footing for the company and for the majority of its employees. I think that at this stage, Mr Chairman, it might also be worthwhile for me to make, if only a passing reference, to the future of Gun Wharf which is now settling well, which it is intended will be treated as a separate division of GSL and, possibly, and this is under consideration, as a separate company altogether. Gun Wharf has shown its promise and its relative stability in industrial relations terms. At this stage, Mr Chairman, I don't feel that I am in a position to give more details but, if necessary, and indeed if there has been enough movement between now and then, I would be prepared to make a statement on the 21st January, if it is possible and moreso if it is necessary, when the Government has a clearer picture on restructuring, on the redundancy situation and on the Management Agreement.

HON J E PILCHER:

First of all, Mr Chairman, I will be commenting on that statement but certainly that statement does not in any way answer any of the points that were made during the general principles of the Bill. Without trying to create any situation of discussion or trying to create, again, a situation of dispute on both sides of the House over GSL, it seems to me that that statement is only a blanket over everything that has happened without answering any single point that has been made in the contribution on the general principles. We know that the Government is starting the restructuring but the fact that no decision has been made yet means that every single week that goes by the company, the Government and the people of Gibraltar are losing £x thousands. There is no question that come January a statement will have to be made. What we want to know is what is the time-scale the Government is looking at. Is it going to be in January, in February, before the elections, after the elections? Are they committed to do it before the elections? One point that I was amazed for want of a better word because I think if the Hon Chief Minister looks back to the questions, particularly, in 1984/85 he will, certainly on two or three occasions, arguments in the House at Question Time as regards the use of berths by the company where we maintained that the use of the berths and the crediting of the fees for the use of berths should not go to the company because it was part of the assets owned by the Government and not by the company. This use of berths, again, is a red herring when the Government is now talking about better use of the buildings and the area. Mr Chairman, that does not convince us in any way. We want to know, certainly the time-scale I think is important and I think the Government should give us the information we required on how much money is going to be used for closing the deficits last year and how much money is going to be used to keep the company running until April which I think is what the Hon the Chief Minister said during the general principles of the Bill and what part of that £2m is being earmarked for restructuring and redundancies. This statement of appealing to the industrial workers, appealing to everybody to put the company on a sound footing. Mr Chairman, we have been appealing to the Government for the last four years for them to put the company on a sound footing. I think that statement does not convince us that this is being taken in seriously and the information that we have asked of the Government is the information that we have been provided, we hope, to convince us that it is going to be done within the next couple of months and it is going to be done in a way that will show us that at least something is being done at the moment. All that we have heard after that statement, after Question Time, is the Government renegeing again on their responsibilities as regards the Management Contract, the restructuring and everything and it seems to point to the fact since the Hon Chief Minister said that the £2m is money so that the company keeps running until April seems to suggest that they are going to let the

thing run on until April in the hope that they lose the next election and we will be saddled with what to do with the company. As far as I am concerned, I am not only not convinced but I am appalled by that statement at such an important juncture when we are being asked to vote £2m, Mr Chairman. Certainly, the question of Gun Wharf as a separate entity is something that we said before and that we have to look at in general, ie look at GSL in toto and we may come up, in fact, we have already said that Gun Wharf should be treated separately, as a separate company or as a separate entity of GSL but that is something that has got to be looked in the whole context of GSL and it is not enough to come here today and say: "We are starting the restructuring, we have looked at the draft agreement and we think that everybody should be very good now to bring the company to a sound footing and on top of that we are going to make Gun Wharf a separate entity". That statement goes no way to meeting what the Opposition asked during the general principles or, in fact, goes no way at all in satisfying us that what is happening today is what has been happening for the past four years in the Government benches as regards GSL, Mr Chairman.

On a vote being taken on Subhead 37(N) - Subvention to Gibraltar Shiprepair Ltd the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

Subhead 37(N) was accordingly passed.

Subhead 80 - Expansion of Computer Systems was agreed to.

Head 25 - Treasury was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the figure of "£3,360,672" appearing as the total of Part I of the Schedule be deleted and substituted by the figure of "£3,472,972".

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

Part II - Improvement and Development Fund was agreed to.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in Clause 2 the words "three million three hundred and sixty thousand, six hundred and seventytwo pounds" be deleted and the words "three million, four hundred and seventytwo thousand nine hundred and seventy-two pounds" be substituted therefor.

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

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that in Clause 4, subclause (1) the words "three million three hundred and sixty thousand, six hundred and seventytwo pounds" be deleted and the words "three million, four hundred and seventytwo thousand nine hundred and seventytwo pounds" be substituted therefor.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Gibraltar Broadcasting Corporation (Amendment) Bill, 1987; the Traffic (Amendment) Bill, 1987; the Animals and Birds (Amendment) Bill, 1987, with amendment; the Medical (Gibraltar Health Authority) Bill, 1987, with amendment; the Social Security (Family Allowances) (Amendment) Bill, 1987; the Imports and Exports (Amendment) Bill, 1987, and the Supplementary Appropriation (1987/88) (No.3) Bill, 1987, with amendment, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Gibraltar Broadcasting Corporation (Amendment) Bill, 1987; the Traffic (Amendment) Bill, 1987; the Animals and Birds (Amendment) Bill, 1987; the Medical (Gibraltar Health Authority) Bill, 1987, and the Social Security (Family Allowances) Bill, 1987, the question was resolved in the affirmative.

On a vote being taken on the Imports and Exports (Amendment) Bill, 1987, and the Supplementary Appropriation (1987/88) (No.3) Bill, 1987, the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

The Bills were read a third time and passed.

MR SPEAKER:

I think this would be an appropriate time to recess for tea.

The House recessed at 5.25 pm.

The House resumed at 6.00 pm.

HON J BOSSANO:

Mr Speaker, I beg to move: "This House: 1. Reiterates the view that the international use of Gibraltar's airfield should be on the basis that no special privileges are accorded to Spanish airlines, passengers with a Spanish destination or the Spanish aviation authorities; 2. Reiterates the views expressed in the resolutions adopted by this House in March, 1984; June, 1985; March, 1986; December, 1986; June, 1987, and November, 1987; 3. Reiterates the view that Gibraltar's right to be included in the air liberalisation package as a regional British airport without pre-conditions should be pursued; 4. Considers the concessions granted to Spain in the joint use of the airport in the proposed Anglo/Spanish agreement to be in conflict with the consistently expressed views of this House and the wishes of the people of Gibraltar; 5. Therefore rejects the terms of the proposed Anglo/Spanish agreement for the joint use of the Gibraltar airport". Let me say, Mr Speaker, first of all, that until the then Chief Minister, Sir Joshua Hassan, gave his interview on GBC we had not thought there was a need to bring a motion to the House because our reaction to the terms of the bilateral agreement between Her Majesty's Government and the Government of the Kingdom of Spain was that it was self-evidently not acceptable and that since it required positive action to implement, we needed to do nothing to stop it being implemented and, in fact, the reaction that I gave the press at one o'clock in the morning when the news reached me about it was that although the deal in itself was something that I would need to study when I got the text, the fact that it was not being imposed was an important step forward for Gibraltar because in other situations, for example, the question of the removal of the frontier guard which was the last previous occasion when the advice of the Government of Gibraltar was disregarded by Her Majesty's Government and we have to assume that on this occasion the advice of the Government of Gibraltar has also been disregarded because we were told in the last meeting of the House by the Hon Mr Canepa, the person who is now the Chief Minister of Gibraltar, that he had told Ratford repeatedly that this business of transit passengers and a terminal and not having to go through customs was not acceptable. So, clearly, Mr Ratford did not take the advice that he got from the Government of Gibraltar. Fine, we have had situations before where they don't take the advice and it seemed to us that by saying 'that is the agreement' and leaving it to us to implement or not implement, the British Government was going some way to recognising our insistence, the insistence certainly that we put to Mr Ratford when he came here, that at the end of the day even if they were saying to us it was in our interest to do A, we were old enough now to decide whether we wanted to do A or we wanted to do B and live with the consequence of a mature and adult decision. And our feeling in all the motions that we have taken in this House was that, indeed, there was a great deal of concurrence in the thoughts on this matter on both sides of the House and that independent of the fact that we feel very strongly

that it was a mistake to support the Brussels Agreement as the Government did and we might differ on that, we could still take a common stand on the question of the airport and have taken a common stand on the question of the airport on six occasions. I also would remind the House that on the first of these occasions, March 1984, it was the Hon Chief Minister, Mr Canepa, who appealed to us on this side not to vote against the amendment that the Government was proposing and we had a motion brought by the Opposition saying that Spain should have no say in the future use of the airport. The bilateral agreement gives them a say in the future use of the airport, there is no question about it because if you are consulting somebody then you are by definition accepting that he has some say. There might be an argument about the degree of say, one might say that this is just a symbolic consultation but the motion said that they should have no say and it went on to say that any proposals for the greater civilian use should be on the basis of mutual benefit and of reciprocity. We abstained on that motion rather than voting against it because Mr Canepa appealed to us about the importance of maintaining a united stand on this issue and it has been Mr Canepa who has said, when we passed the second motion in this House, that it was a red letter day for Gibraltar that we could keep this united stand on the airport in spite of our other differences and in spite of the fact that we were so far apart on the Brussels Agreement. If we come to the motions in subsequent years we have the same situation where the essence of the common position of the House of Assembly was that Gibraltar did not discriminate against Spain, against or for, that Gibraltar would treat Spain in exactly the same way as anybody else. One might say 'we feel resentment towards Spain, we feel that they have been nastier to us than France so we will give greater facilities to the French than to the Spanish airlines' but that was not what the people of Gibraltar were saying through their Parliament. The people of Gibraltar were saying 'we will treat them no better and no worse than anybody else and they are welcome to come any time they want but what they cannot do is come into my house and start laying down the price for me to open the door' which is what they have been trying to do since 1977 when the question of the airport was first raised in the Strasbourg process which the Hon and Learned Member started as Chief Minister with Dr Owen. As I say, Mr Speaker, the motion comes from a position and impression given to us by the Hon and Learned Member who is now a Backbencher when he had not yet become a Backbencher and where, we assume, he was speaking on the basis of not expressing a personal view but on the basis of a change of heart on that side of the House which we frankly took very badly and it was that which made us come to the conclusion that we needed to come here and we needed to put our cards on the table and we needed to say to the other side of the House 'This is too fundamental and too important an issue, you might wish to wriggle your way out of problems in GSI and that is understandable when you have got an election round the corner, but this is something that no Government in the world could ask for a better position. You have got the backing of the Opposition, you have got the backing of the Trade Union

Movement, you have got the backing of the people of Gibraltar. If you are still frightened to grasp the nettle of giving leadership in such circumstances then, frankly, you should not be there because that is what the people want you to do and what you cannot do is go back and confuse people by saying one thing one day and another thing another'. It appeared to us that what the Hon and Learned Member said in London after the interview which was to say he wasn't going to come back here to say to people that they should accept the deal, he knew what the people wanted. He told television in Madrid that he wasn't in Madrid to make concessions. We know that there are concessions and we know it from a very good source, we know it from his Foreign Affairs Adviser who was interviewed on GBC as leader of the new Independent Democratic Party and asked: 'Have concessions been made?' and he said: 'Oh, yes, concessions have been made'. So he might not have gone to Madrid to do that but he has come back from Madrid having done it if he is saying that the deal is a good one. Is he saying that or have we misunderstood him? Well, Mr Speaker, when you were bidding farewell to the Hon and Learned Member you were recalling all his years here and how long you have known him and I am sure that having known for longer than I have, but at least having known him as long as I have, you will know how many, many times he has said he has not said something until I have produced the Hansard of what he had said in which case he has then said that he did say that but that it didn't mean what I thought it meant. I am going to quote what he said and if I have misunderstood it then nobody will be happier than me in Gibraltar today to have misunderstood what he said and to be corrected about my misunderstanding and to find that he is still holding the 'no concessions' banner like he was when he walked out of this House of Assembly, nobody will be happier than me if I find him back behind the banner today. What he said and what gave me the impression that he was in favour is that he was asked specific things. He said that all that he had been asked to do was to consider the deal and he was asked on television what was his advice and he said: 'My advice is that they have a good deal, they have got nothing to worry about'. That is his advice to the people of Gibraltar 'we have got a good deal and we have got nothing to worry about'. Then we should be saying 'yes' to it, we don't need to study it. I can tell the Hon Member that if I am consulted closely on something and if I am flying off to Madrid and flying off to London, I don't need to come back here and wait for the text to study it, I can well understand that Major Dellipiani might still need to be studying it given how late in the day he got it but certainly not the Hon Member who helped to put it together. And when he was asked by GBC, having said that there was nothing offensive and nothing bad for Gibraltar and very much the opposite, why not go ahead? His reply was 'because the people are very sensitive and I don't want it if the people don't want it'. Well, I am afraid that the people don't want it not because they are sensitive and not because they are suffering from a psychosis but because what the people are saying today is what we have been saying here since 1984 and the people have not changed their mind and we haven't changed

our mind. The Hon Member is entitled to have a different view, any Member is entitled to have a different view and any Member of the public is entitled to have a different view and they are entitled to express those views, what they are not entitled to do is to try and make us all believe that black is white, that they are not entitled to do. And what they cannot do is what was done recently and we cannot be told, Mr Speaker, in 1983 'I have negotiated a wonderful package with Mrs Thatcher and if it hadn't been for me we wouldn't have got the RFA work and we wouldn't have got the land and we wouldn't have got the £28m and this is a very generous package and a good one in itself' and we go to an election and we hear what a wonderful piece of negotiation had been done and how well off we are all going to be. Three years down the road we are bust and what do we hear, that the situation is that they had no choice. They were told 'either take it or leave it. Either Appledore and £28m or no £28m if you don't accept Appledore'. That is not good enough, what we cannot have is a situation where we are told in January, 1986 'the deal with the British Government to pay for Spanish pensions is very satisfactory' and what we are told in 1987 is that the money runs out in September, 1988, we have got a £2m bill to meet because the £16½m have now run out and.....

MR SPEAKER:

With respect, shall we come back to the motion before the House.

HON J BOSSANO:

I am coming to the motion, Mr Speaker, because what I am saying to this House and saying to Members opposite is that we cannot have a repetition on the airport of what we had in GSL, on Spanish pensions, on the Brussels Agreement where with the benefit of hindsight, on this one we cannot afford hindsight, on this one we have to have foresight, once it's gone we are not going to be able to get it back. We might have a conflict over saying 'we will not pay the Spanish pensions', we may have to do a rescue operation to get the shipyard back on its feet but once we lose the airport we have lost our biggest bargaining card. We, the people of Gibraltar, not the AACR, not the retired Chief Minister, the people of Gibraltar. This is too important, too serious and too irretrievable and the position, fortunately and happily for all of us, has been that we have been very close on it all the time so why should we now have divisions and doubts when our people are united? It is difficult enough for politicians to agree on anything, on this one where we have been able to agree for four years, why should we start disagreeing now? I have no doubt in my mind that of the Members opposite, the present Chief Minister is the man who has most closely echoed our own feelings on this matter in the way that he has expressed himself in previous motions in this House and therefore it is for us important, not just in relation to the airport, Mr Speaker, but in relation to the respect we have for him as a man of

integrity, that we should be reassured that his feelings on the subject have not changed and that he stands where he has always stood because one hears all these things about mellowing in taking office, I don't now, there are echoes of the fruit that was supposed to ripen which Franco died and never saw ripe and it was still green hanging on the tree when he kicked the bucket and one hears about politicians mellowing when they get into office or when they become Chief Minister and we hope that since the Hon Member opposite has not been Chief Minister all that long he might not have mellowed yet sufficiently to have changed his views on the subject. When the Hon and Learned the Chief Minister as he was then, said in that interview that he was giving leadership, that it was good, that it was satisfactory and he was asked whether the matter would feature in the election and whether he would defend it, he said: 'I am defending it now, it's the best deal Gibraltar could get'. He also said a number of things which remain to be seen including that if we decide to stay out there would be no delays at the frontier which suggests that the Hon Member has got greater faith in the objectivity of Spanish frontier officials than I have, Mr Speaker, and that the maritime thing had nothing to do with the other one. So we have to assume that we are being given a free choice in this matter and that we are not going to be subjected to undue pressures by either Her Majesty's Government or the Government of the Kingdom of Spain and that we are free to choose which way we want to go. And what we say to the Government is: 'We have chosen. We chose in June this year'. Let me just say before I pass away from my comments on my misinterpretation, if that is what it was, of what the Hon and Learned Chief Minister's position was prior to his resignation. I saw the interview on Friday night on GBC television but on Friday morning, even before the interview came out, it seems that the editor of 'The Telegraph' and the editor of 'The Times' also misinterpreted his position because according to the editor of 'The Times', it said that the issue was highly political and that despite Sir Joshua Hassan's blessing for the agreement, the willingness of the Gibraltarians to acquiesce in it is far from certain. So 'The Times' thought he was blessing the agreement.

MR SPEAKER:

That is 'The Times' of what particular date?

HON J BOSSANO:

Of Friday the 4th which is the same day that the Hon Member appeared in the evening on television. And 'The Daily Telegraph' of the same day said: "The outstanding question is what the suspicious Gibraltarians will make of it" - that is us, Mr Speaker - "Sir Joshua decently gave his backing" - that is him, Mr Speaker. I don't necessarily consider myself to be in good company with 'The Telegraph' and 'The Times' given my political inclinations but nevertheless they obviously

misunderstood him as much as I did. Señor Ordoñez misunderstood him even more because he claimed that the implementation was agreed with London - 'pactado' was the word that the Spanish newspaper 'El Pais', also on Friday the 4th, was using quoting Señor Ordoñez and, of course, we saw that reflected in the programme in which Señor Moran participated in Gibraltar where Señor Moran was saying 'Well, this is an agreement between London and Madrid and if London has got a problem in carrying the Gibraltarians with them, well, that is London's problem, it is the village rebelling against the metropolis, nothing to do with us'. I have no doubt of what the statement of Sir Geoffrey Howe said and whether the Spaniards understand that or not, our allegiance and our loyalty to the British Crown and to the United Kingdom in no small measure, Mr Speaker, is based on a belief that they accept and respect the right of democratic choice that we as a people have got and we are proud of that and we are proud of being British because of it and therefore it may be the Spaniards don't understand it but we do and we understand that that is the message from London and we intend to hold London to it. When we applauded in this House in a motion that I brought in June of this year, when we applauded the stand being taken by Her Majesty's Government in Luxembourg and let's face it, most of us didn't know that this was going on. We only found out that we were going to either be left out or left in because the representative of Her Majesty's Government in Luxembourg came out with a press release of which we got a copy sent to us condemning the Spanish Government for using a veto and wrecking the air liberalisation package at the last stage, just when it was about to be concluded and clearly saying this was a complete negation of Community spirit and that the position of the British Government was that they did not consider that there was any legitimacy on the Spanish argument and that if it was a question of entering a reservation such as had been entered when Spain came into the Community in 1986 saying that this was without prejudice to the Spanish views on their claim over sovereignty, if they were afraid that us being included would prejudice their position on sovereignty, then that could be done. But, in fact, we all know that this is not the case. What is it that really happened in June and what is it that has really happened since? What we applauded here in June was a stand taken by the British Government defending our rights as Community nationals and that is what we still have to defend today because if we do something different today what we are demonstrating to Spain and to the Community and to the whole world is that we are not a real people at all, we are a lot of village idiots in Gibraltar who will dance to the tune of the British Government and when the British Government says 'we will not accept the veto, protest', we all come out here and say: 'yes, protest'. And when the British Government says: 'Right, put all your banners away under the table and now queue up to sign', we all queue up to sign like obedient colonial subjects. Well, the British Government, impressed, I believe, by the strength of feeling of the demonstration and I think in the last House we carried a motion which we are seeking to reiterate in this House, applauding the initiative of Action for Gibraltar and the

Trades Council and thanking the representative bodies and the thousands of people who signed the petition and participated in the demonstration. Let us not fool ourselves, those people weren't doing that because they wanted us to object to joint control. Mr Ratford before the demonstration had said the British Government was not happy with joint control. I have already come out publicly in an interview on television saying what Mr Ratford had said to me and saying that it was obvious to me that the reason why the British Government would not accept joint control was because the RAF would not accept joint control, nothing to do with us. It makes no more difference to them whether we want joint control than whether the apes want joint control, it is the fact that the RAF doesn't want it that matters and that is why there will not be joint control. If we had all come out with banners and 14,000 saying 'We want joint control' there would still not be joint control. We don't need the Chief Minister to come out saying, as he did, that he was happy with the deal because it didn't include joint control. It didn't include joint control not because of anything he did or anything we did, it is because the RAF says no and whether it impinges on sovereignty or not is a matter of judgement. Sir Geoffrey Howe may say it doesn't but we have said before in this House, in one of the motions to which I am referring, that it is whether in the view of this House it has implications for sovereignty and that amendment to make it in the view of this House came from the Government not from me. I had brought a motion here saying we didn't want any deal on the airport that impinged on sovereignty and the other side amended it to include 'in the view of this House' and I said 'you are quite right to be suspicious, your motion is stronger and tougher than what I intended, fantastic'. Can Members of this House say to me that one of the clauses is not worrying them in terms of its implications on sovereignty? Can they say to me that that will not be seen as strange by the rest of the European Community when I come to it and I spell it out to them? We have a situation where in June of this year the British Government says 'No, sorry, we will not leave Gibraltar out' and Spain exercises a veto. And we come to this House and we say what we have been saying since 1964 when the British Government issued a White Paper saying 'recent differences with Spain', and said 'we will not sit down and talk about sovereignty' and the people of Gibraltar said 'well done, UK, we will not sit down and talk about sovereignty'. And Spain then said 'right, we hold up your cars for two hours' and the British Government said 'well, we will stand by the people of Gibraltar' and the people of Gibraltar said 'right, the British Government stand by us'. And that has been the scenario and the frontier closes and we applaud their position and the frontier opens and we still applaud their position and in June, 1987, we are saying to ourselves 'we have not changed since 1964' and we are saying to ourselves 'the British Government has not changed since 1964', in June, can we say that in December in the light of this agreement? I submit to this House that we can say to ourselves and to our people whether we have changed but we cannot say any longer that the position of the British Government in this bilateral package is consistent with what

they said in the EEC in June. The thing is here black upon white, a child can understand this, Mr Speaker, it is quite obvious. What Britain found unacceptable in June is a fact today. There is an air liberalisation package from which Gibraltar is excluded. There was a veto in June because Britain would not accept the exclusion of Gibraltar. The Spanish position is 'if Gibraltar is in I use a veto, if Gibraltar is out I don't use a veto'. There is no veto today because Gibraltar is out. It is simple, straightforward and unavoidable. One can make certain allowances for the British position, one can say 'there was a lot of pressure on them, we know that the British Government was the keenest supporter of the air liberalisation package and the Spanish Government the most reluctant' a very unbalanced negotiating position. If you are sitting down with somebody and you have got a long list of claims then you cannot go wrong because if the other side has got nothing and we didn't go in with a list because what we decided was we didn't want to have joint use, period. Having decided that we didn't have a negotiating position. There have been people who have thought that argument was the wrong argument, people, for example, within the Chamber of Commerce were arguing that we should go in to negotiate and we should go in with a negotiating position and, frankly, if we were going to do a deal then we should because you always say 'no' to sitting down and negotiating a package if you have no intentions of accepting any package because it is a matter of principle which is the stand that we have been taking consistently. But if you are saying there are no principles at stake it is a question of weighing up then that is when the standing comes in but when you weigh up you weigh up against a target of what you want and if you go in with a shopping list and you finish up with a basket of groceries you look at the groceries and you look at the shopping list. We haven't got a shopping list, we refused to have a shopping list because when we discussed it we were clear that it was a matter of principle and that what we were talking about all the time was that the international use of the airfield should be on an equal footing for everybody and, therefore, it wasn't a question of saying 'okay, what do I give Spain to take the veto away?' I remember the Hon Minister for Tourism saying in the House that if it's a question of choice of giving them concessions or staying out we stay out and I agree entirely with him. I agreed with him when he said it in November and I agree with him today and I have agreed with him all the times that he has said it outside the House. But we need to be showing that we are still saying it because it is very, very, very dangerous that we should show any weakness at this stage and if we try and patch the issue let us not fool ourselves. We are not having the Spanish press and the British press watching the situation and the British Foreign Office and the Spanish Foreign Office watching the situation just because this is a motion in the House of Assembly and we are so important that we can, by a motion in this House, start World War Three or undo the Gorbachov/Reagan talks. They are watching whether, in fact, we are still under the pressure that we are being put and we are being put under pressure, we are still, in fact, maintaining the

same solid stand that we have until now. It is vitally important that we do not let Gibraltar down. I honestly appeal from the bottom of my heart to Members opposite to realise that this is not a short-term thing which affects either of our parties in the next election, this is not something of two days in an election nor is it something that we could say 'we leave it there and we are going to study it and we put the issue into the future and hope for better times'. Whether we like it or not, for better or for worse, we are the representatives of the people of Gibraltar, the fifteen elected Members now here. There may be in three month's time another fifteen elected Members and they may take a different position but we are here with a clear mandate from the people that have put us here and from the people that followed us in the demonstration and we have got to give the leadership that the people want us to give and if we are seen ourselves to be weakening the people will weaken. If somebody wants to give them a different leadership then let them try and give them one but what we are not entitled to do is when the pressure is on to be seen to be having second thoughts or getting jittery. Nor can we accept the kind of arguments that are floating around that if we don't do this they are going to get difficult with us at the frontier because if we accept that scenario we are abiding to nothing, every time they want something they will be difficult at the frontier. We might as well have done that in 1964 when they first started being difficult at the frontier, we might as well have said 'right, we will start negotiating on sovereignty'. That has been one of our fundamental arguments in relation to the opening of the frontier in 1985, Mr Speaker, twenty-one years later we said 'yes' to what we had been saying 'no' for twenty-one years, no getting away from it, let us not repeat the mistake now. I also feel that it is important in relation to the question of the air liberalisation, to remember that this is part of a process that was already in train before Spain came in. There were already measures adopted in pursuance of measures on the liberalisation to which we were entitled and which nobody vetoed. The fact that we didn't use it doesn't mean anything because, frankly we may not want to use this supposed cornucopia of goods that are going to come in flying from every corner of the globe. Certainly, unless the Chief Minister gets on with that tower in the City Plan, we are going to spend all our lives watching planes taking on and off without even being able to come in or out of Gibraltar if the figures that are paraded of the flights they were going to have from all over the world coming in. The reality is that Gibraltar needs a certain amount of access to the outside world in order to maintain a reasonable level of economic development in Gibraltar. The Campo Area needs our airport desperately, let's be clear about that and we have got the absurdity of the situation that the people who want what we have got are asking us to pay them to help have it, that is the absurdity of the situation we have got. We should have been in a position if we wanted to be nasty of saying 'well, wait a minute, you cannot just come along here and pretend to have use of my airport when you are going to have a situation where 99 flights out of 100 are going to be for

you and one is going to be for me and it is going to be your noise that is affecting my tenants in Glacis and Laguna. What am I getting out of it?' We have never said that, we have been quite happy to have as many flights as want to come in even if all the passengers go to the other side and we only get 1%. But the situation is that, in fact, it is the principle of being entitled to exercise a right whether we choose to exercise it or not, whether we need it or we don't need it because, as I have said before, we were already entitled by previous Directives to put on flights which we haven't put and Spain came into the situation where we were already in other Directives included as a British regional airport. This is why I am saying in the motion that we still need to pursue the matter of our legal rights because the British Government has got the right to keep us out of the liberalisation package, Mr Speaker. The Spanish Government has tried to keep out all its airports, it has kept out Barcelona because it is unsafe, Malaga because it is overcrowded, Valencia because it is economically not viable and so on and so on. If they had had their way the air liberalisation package would not have applied to them not even The Long Title, I don't think. They entered a reservation on fifth level agreements on virtually every cause that they could think of and on top of that, that they are the most reluctant partner who had to be dragged struggling and kicking into the liberalisation package, on top of that they veto it for everybody else and what do they do? They use it as a weapon to get the British Government to shift on us. Well, fine, Britain is our friend and at the end of the day, let us be clear, the people of Gibraltar and the Government of Gibraltar and the House of Assembly of Gibraltar is sufficiently loyal to the British Government - for want of a more inappropriate word - to say 'if it is an embarrassment and if it is a problem and if you are under a lot of pressure from the other ten and you need to leave me out', if Mr Ratford had come along and said, he tried unsuccessfully to convince us of the enormous value of being in and that it was impossible for the British Government to continue to defend the position of June of saying 'no agreement for 300 million people until Gibraltar comes in'. But if he had said to us 'it is not possible to maintain this position and, okay, if you won't do a deal with Spain will you at least agree that Gibraltar should stay out until such time as an agreement is done?' We would have gone along with it for the sake of helping Britain out because Britain has always been able to count on us when they have needed us and we would have been better because Spain was prepared to settle for that in June, that is what brought about the veto and we would have been left with a situation where we are where we are today, outside the air liberalisation package but without any agreement where the field would have been open and if any time in the future a Government wanted to be included in the agreement they would have come along to the United Kingdom and said: 'I am now interested in pursuing the possibility of going into the air liberalisation package and these are the conditions under which I would like to come in. Do you think it is possible for us to reach an agreement with Spain on these conditions?' But this would have been on the initiative of the Government

of Gibraltar looking after the interests of the people of Gibraltar having come to the conclusion that the package was worth having because they had seen it in operation and seen how it was affecting other people and thought that it wanted to come in. And then it would have gone into a negotiating position and if it found that its negotiating position was not compatible with Spanish demands would have said 'okay, then I stay out'. But the problem that we have got today is that even if we say, as I hope we will and as I am sure we should: "We, the House of Assembly, sitting in December, 1987, has to be consistent with everything it has said up to now and say no to this agreement", even after we said that regrettably the agreement is still in existence. I am not saying that regrettably because of people being able to apply or not apply because that doesn't really bother me but because of the inability to negotiate or not negotiate, to change or not change because, again, I am sure Members will realise that when it comes to negotiations at whatever level you negotiate there are certain ground rules that apply and once you have an offer even if it is withdrawn, there is no way that anybody is going to start talking other than on the basis of the last offer that was put on the table, that happens all the time. We have a situation where we have already conceded vital points in this bilateral agreement. I do not want to go into a discussion of the merits of the agreement in detail clause by clause. What I do want to say to the House is that, certainly, even if the point of principle did not exist, if I were to look at this agreement as a piece of negotiation I would say to myself 'Señor Ordoñez wiped the floor with Sir Geoffrey Howe, no question of who won, it wasn't won on points it was a knockout', looking at the merits of the agreement. But I don't need to look at the merits of the agreement because I didn't tell Mr Ratford 'try and do me a good agreement' and then look at what he brought back and say to myself 'well, at least the chap has done a decent job and got me the best possible deal'. I told him 'we don't want a deal, we want Spain to be told that if they want to land in Gibraltar they make an application to the Civil Aviation Authority like any other airline and that when the application comes to Gibraltar the Gibraltar Air Transport Advisory Board will say 'we welcome it', and that is the procedure. That is the procedure anybody else has to follow'. The first clause in the agreement which looks very innocent and when I saw it I didn't realise the immediate implications of it and I asked the Foreign Office what it was and what it implied and they said 'well, we don't understand why the Spanish have insisted on it being there', that was the reaction of the Foreign Office. Well, I understand it. Before the liberalisation package came into effect, Mr Speaker, the position in Europe and, indeed, the position today outside Europe was that there were bilateral agreements and those bilateral agreements provided for exchange of routes and capacity utilisation and those bilateral agreements were concluded by airlines through the Civil Aviation Authorities of the countries of destination. The air liberalisation package changes the system only to the degree that instead of there being bilateral deals

which can still exist as in all Community law provided they are more liberal than the Community system, what you cannot have is a bilateral agreement that is less liberal which I submit the Anglo/Spanish agreement on the Gibraltar airport is and I submit it is contrary to the Treaty of Rome and contrary to the Directive because what the whole purpose of the Community is is to liberalise. You can liberalise more and you can bring down barriers faster but what you cannot do is introduce more restrictive regimes than other people have got. If we look at the situation what do we have? We have a situation where the airline that wants to fly from one Member State to another Member State submits an application to the Authorities of the recipient State. Until the liberalisation package the recipient State could say 'no'. Under the liberalisation package the recipient State may not refuse permission, that is what the liberalisation package does. If they do refuse permission for any particular reason then the rejected applicant can challenge that in the European Court. We look at our bilateral and we find this innocent clause that says that Spanish airlines flying from Spanish airports to Gibraltar require only the permission of the Spanish Authorities which doesn't happen anywhere in the European Community at all. In Britain a plane going from London to Manchester only requires the permission of the Civil Aviation Authority and the liberalisation agreement specifically excludes internal flights. In Spain a plane flying from Madrid to Malaga only requires the permission of the Spanish Aviation Authority and that is excluded from the multilateral EEC agreement. However, if the plane was to go from Madrid to Manchester the Civil Aviation Authority has to give permission but if the plane comes from Madrid to Gibraltar the Spanish Civil Aviation Authority gives permission. That for me is a serious and dangerous implication of sovereignty and we said in this House that we should not agree to anything that in our view, in the view of the people here, in the view of the Gibraltarians, implies something about sovereignty. It may not imply it to the people in the Foreign Office in Britain or in the Community but I think the people in the Community will look at our bilateral and will look at the multilateral. If Britain was so generous, if they felt so great a need to open up why didn't they say to Senor Ordonez: 'Look, Iberia can go to any British airport without the permission of the Civil Aviation Authority. We agree with you that the Spanish Authorities should be able to authorise flights from Spanish airports to any British regional airport, including Gibraltar and then I would say: 'Fine, I am being treated the same as the rest, there are no problems'. But what I object to is that there should be one British regional airport which Spanish airlines can fly to on the authorisation of the Spanish Civil Aviation Authorities which other people do not have that facility. They cannot do it to any other Member State, they can only do it to the Gibraltar airport and that is one of the clauses there and the Foreign Office when I got in touch with them couldn't understand why the Spaniards had wanted to include it. I can only suppose that they wanted to include it because as far as they were concerned

Iberia will not be seen to be recognising that this is British when it flies to Gibraltar and that is why they wanted it there. It may be a symbolic thing, I don't know, but we all know how upset the people of Gibraltar were by the removal of the symbolic guard. How does the symbolic guard compare with the symbolic terminal, the symbolic flights and the symbolic flag on the frontier fence? The people of Gibraltar are clear on what they want and they are clear what they want of us and we have been clear until now on the stand we were taking and we have had a situation where in motion after motion Government Ministers have stood up and said 'the feelings of our people on this issue', and it is something I will remind Members opposite which they have fully accepted previously, that it runs across party lines and, if anything, some of the most vehement opponents of any concessions are amongst the more senior citizens in our community who traditionally have been AACR supporters. I remember when we had the last motion and I came here and I said I had been stopped by twenty people coming between Liptons and the House of Assembly and fifteen of them are your supporters and only five mine and they said to me 'make sure the motion is passed', and they were very happy with the result. When we passed the last motion we rejected, we almost came to a point of no agreement, Mr Speaker, when you in your wisdom intervened and suggested we should have a short break to clear our minds and the happy conclusion of that was that we rejected access for Spaniards to the airport without passing through British customs and immigration and we rejected the construction of another air terminal and we rejected participation in the control of Gibraltar air space. Do they have participation in the control of Gibraltar air space? If we want to find loopholes then we can say 'no'. Do we need to say that if they have to be consulted for flights from third countries to Gibraltar they certainly seem to have some kind of say that they didn't have before, what is it that we are giving them all these things for? To remove a veto which was illegal in the first place. Isn't it transparent what we are doing, giving in to unfair and unjustified pressure when the people are prepared to stand up and be counted and face that pressure? Can we have a situation where the people are prepared to put up a stand and their leaders fail them? I submit that that is not acceptable. And let me say that it isn't just this side of the House that puts these connotations and implications on the deal. Most of the Spanish and British press have seen it and described it in the kind of terms that I am doing. Lord Bethell, Mr Speaker, the Chairman of the British/Gibraltar Group in the European Parliament, wrote an article in 'The Telegraph' in which he said quite clearly that if we accepted joint use then joint management and joint control would inevitably follow. It is a matter of judgement but I believe that his judgement is not unsound because essentially once we take on that slippery slope it is only a matter of time before we get to the place where the Spanish Government wants to get us and when we get there it will not be possible to go back. I can say that Lord Bethell has written to me on the subject and I have spoken with him and with Alf Lomas,

the Labour Leader in the Gibraltar Representation Group in the European Parliament, and I have appraised them of our views and of the fact that we were bringing this motion to the House and they are in no doubt at all about the dangerous implications that these have and Lord Bethell in his letter to me has even without any prompting from me because, in fact, I got his letter before I actually rang him up to discuss it with him, has been acting on the assumption that the position of the House and the position of the people of Gibraltar will be that this is not going to be accepted by us. We have also had some indications from other quarters that it would seem as if the British Government is reconciled to the idea that Gibraltar will say no to this. I am not so sure that the Spanish Foreign Office will take it so lightly, there is no doubt that the British Government would prefer that we should say 'yes', it would be more comfortable but I think much though we love the United Kingdom and much though we would like to help them out of their discomfort there is a limit, I think, to how far we can go and the limit cannot be that we support a deal which manifestly is not wanted which even when the Hon and Learned Sir Joshua Hassan was apparently lending his weight to it, he himself was recognising that, in fact, the vast majority of the people would not want it. Of course, the position that Lord Bethell reflected in the article apart from the quote that I have already given you which says 'if joint use is conceded, joint management and control of airport and air space are only a step or two away', is that his assessment and I assume that he has reason to come to such conclusions by virtue of his contact with people in London, is that some British officials hoped that concessions today will pacify the Spaniards into a more co-operative attitude. 'Such optimism' - says Lord Bethell - 'is hard to justify'. I think all of us would echo that. If that is the optimism and that is the thinking of the Foreign Office, certainly, they might not know the probabilities of these things happening from a very long distance but we, who are on the spot, know that this is total nonsense, in fact, if anything, knowing our neighbours as we do, the more concessions we give them the greater the demands will get, the more confident that they will get of the success, the more they will crawl and that is something that we know because, in fact, we have been neighbours for a very long time. I would also like to turn to the question of the position of the business community which has been, of course, rather silent on the subject lately. It may be because the last time they were not silent they actually got a rather negative response from most sectors including us in this House, Government and Opposition. I find it very difficult that I should put a question in this House asking the Government whether the comments by Mr Seruya and his support for the airport deal were in conflict with the motions in the House and to be told categorically 'Yes, they are in conflict', Mr Seruya was arguing that they were not. He comes out saying that the Chamber supports a fair airport agreement and we all castigate him for it. I ask the Government whether they think the Chamber's fair agreement is in conflict with the

motions of the House and the Hon and Learned Member opposite as Chief Minister of Gibraltar, tells me 'Yes, Mr Seruya is wrong, he is in conflict with the House'. Well, then if he is in conflict with the House the deal done by Sir Geoffrey Howe is in conflict with the House. How can that be in our interest the best deal possible and all the other things? Surely, there is an inconsistency there, Mr Speaker. What did the Chamber say when they were castigated by public opinion, when they had this reaction to the news and, in fact, to some extent rather unfairly because he was saying it to the wrong man anyway, he was talking to somebody who had nothing to do with the deal and nothing to do with the airport, if he had told it to Mr Ratford but, in fact, he got totally the wrong end of the stick and he was talking to the commercial attache of the British Embassy in Madrid who had nothing to do with it. But when there was this reaction he was followed, the news broke out on October the 1st, by the Chamber support, and on October the 14th, trying to placate irate Chamber members, the Chamber came out saying that they stood by the policy adopted in the Annual General Meeting that there had to be a single terminal with all passengers passing through the Gibraltar terminal. We don't have a single terminal with all passengers passing through the Gibraltar terminal, we have got a deal which fails to meet the criteria of the people who were prepared to accept a deal and we have got a deal that fails to make the criteria of this House in its last expression of policy in the last House of Assembly because in the last House of Assembly we rejected the proposals of the Spanish negotiator published in 'El Pais' that there should be two terminals and that one terminal should be for Spanish nationals and one terminal for other nationals and now we have got two terminals, one terminal which is for all nationals on all airlines of all nationalities from all destinations going into Spain. Clearly, by definition if the narrower concept is not acceptable the much wider concept which includes the narrower one is also unacceptable. The deal is rejected because it is in conflict with things that we have said, it is in conflict with the stand taken by the Chamber of Commerce, it is in conflict with the motion signed by 16,000 people saying 'We want no concessions on the airport', it is in conflict with the position adopted by the demonstration and by the Government in its representations to Mr Ratford and by the Opposition in its representations to Mr Ratford and it is certainly in conflict with the position of the Gibraltar Trades Council who, in fact, contacted the Hon and Learned Member in October at the same time as the Chamber came out and he wrote to them on the 5th October saying 'I agree with you on this issue. You are voicing the feelings of the community as a whole. You may be assured that in discussions with the British Government and in making representations to them we have stated that we are representing the views not only of Gibraltar Ministers but of the people of Gibraltar as a whole. Your letter confirms our position'. So the Government of Gibraltar on the 5th October agreed entirely with the Trades Council. The Trades Council position has not changed and I submit the position of the Government of Gibraltar cannot change and whereas as individual citizens

they may have private views which they are free to hold, as representatives of the people they have to reflect what the people want. What the Government cannot do, in our judgement, Mr Speaker, is to say 'I think it is good for you but since you don't want it I am not going to do it'. That is not possible. If you are representing the people then if you think that it is good for somebody you really have to go all out to defend and implement and carry through what is good for them or then to say 'Look, if you want to commit suicide I don't, and you commit suicide by yourselves'. The people of Gibraltar are not intent on committing suicide, the people of Gibraltar are intent on survival and the people of Gibraltar are intent on not being led into a trap and the House of Assembly has got a sacred responsibility in this matter and it must not fail the people of Gibraltar on this occasion because we have been totally united on this stand until now because the sentiments that I have expressed have been echoed more than once by Members opposite and because we have got a special obligation and the Hon Chief Minister, Mr Canepa, has got a special responsibility in giving leadership in this matter with the new role that he has taken on and with the new responsibility that he has taken on and he has got a unique opportunity to demonstrate to us that we have never judged him wrongly in the admiration that we have had for his outspokenness and his integrity and therefore, Mr Speaker, it is to him, above anyone else, that we look for support on this motion. I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon J Bossano.

HON CHIEF MINISTER:

Mr Speaker, I want at the outset of my contribution to dispose of one matter which the Hon the Leader of the Opposition has raised though I will be coming back to it later on when I make reference to paragraph 3 of the motion, mainly the paragraph that deals with Gibraltar's exclusion from the liberalisation package. But the point that I want to deal with is the inconsistency as referred to by the Hon the Leader of the Opposition in Britain's position from the stand taken by Her Majesty's Government in Luxembourg last June to the situation today and in the words of the Leader of the Opposition, I think the way he put it was that what Britain found unacceptable then is a fact today. I want to dispose of this matter at the outset because I am not here to apologise for the British Government and I am not here to give explanations for the British Government. I can only tell the House what I understand as being the underlying reason for that change or for that apparent change in attitude and having disposed of that then I will certainly be speaking entirely on my own behalf. The problem that the United Kingdom had in June was how to ensure that the air liberalisation transport package was approved without the exclusion of Gibraltar and I have reason to believe that the soundings that the British delegation had carried out indicated, the indications were that if the matter went

to a vote by the European Community, the indications were that they would not have a sufficient majority which in the normal course of events would have been a two-thirds majority. In fact, the indications were even more adverse in that the Danish President of the Council of Ministers would have been reluctant to go on a majority vote. So if the President did not allow a majority vote then what effectively would have happened would have been that the threat of the Spanish veto could not be removed and in the context of that, against that scenario, Her Majesty's Government considered that the only course open to them was to negotiate the matter. As I say, that is my understanding of the situation and I am not putting this across in order to in any way nullify or undermine the points made by the Hon Mr Bossano about the change in attitude. Mr Speaker, invariably whenever the Hon the Leader of the Opposition speaks either here in the House or on television he puts across an aura of confidence, a man fully in control of himself, fully in control of what he is saying and totally confident about the rightness, about the correctness of his position and I admire him for this and I think that it is something that every politician should take note of because very often your arguments might be weak but the way that you put them across, if there is conviction behind that, you can strengthen your position immeasurably. This is what I think the Hon the Leader of the Opposition has done with regard to his interpretation of the agreement. But no matter how much confidence he exudes about the correctness of his position as he sees it, the fact of the matter is that the Hon the Leader of the Opposition is not always 100% right and, in my view, in the way in which he has interpreted a number of clauses in the agreement not just today but on television and in other public statements that he has made, he most certainly is not 100% correct. He mentioned that he had sought clarification from the Foreign Office about paragraph 1 of the agreement. I wonder whether he did also seek clarification about other paragraphs of the agreement. Recently we have heard that on a number of occasions he has approached the Governor for clarification on certain aspects of the airport deal and on other matters but I would commend to him, I would suggest to him that he ought to get clarification, if he hasn't done so, not just about paragraph 1 of the agreement but, indeed, about every paragraph in the agreement. And instead of doing that, apparently what he does is a day later or that evening the agreement, I think, was released in Gibraltar the morning of the Thursday when I finished up with Sir Joshua Hassan in Faro, and that evening on television in 'Open Forum' he made a number of statements about the agreement which bear close analysis. For instance, that the agreement already gives Spain a say in the administration and that future use was not only just with respect to flights from within the EEC but from anywhere in the world and that that had to go to a Consultative Committee where Spain will appoint half the members. I think that if he were actually to try to find out what the true facts are he might learn that the real story is somewhat different but then it probably doesn't suit him at this stage to get to the bottom of the true story, he may not want to know. We don't intend, at this stage, to defend the agreement, we don't

intend to reject it at this stage because, very simply, we don't know yet enough about it. But he who is in even greater ignorance than we are, has already flatly rejected it. Let us come on now to this aspect of consultation which the agreement allows for. The agreement allows for consultation over matters involving air services to and from Gibraltar. This is quite necessary, in any event, to avoid the airfield being congested. I stress that this has to do with consultation and consultation is surely about the exchange of information and this has got nothing to do with the exercise of any veto by Spain. The coordination and cooperation arrangements which are envisaged under paragraphs 4 and 5 of the agreement and in the annex, are designed solely to find the best solution to the practical problems of dealing, for example, with such matters as how to process passengers for the same civil aircraft who check in at separate terminals. It has to do with the question of how civil flights would fit in with use by the RAF of the airfield and it also has to do with security. It is intended that the Committee would coordinate the local civil views on these matters. If it were to be necessary and difficulties were to arise, then they would be referred to the higher level Committee, at the level of the coordinators which is mentioned in paragraph 4(2) and it must be stressed that the airfield will continue to be a military airfield and that it will be under RAF control. Neither of these arrangements for consultation gives Spain any control whatsoever over the decisions reached. Let me turn now, Mr Speaker, to the question of the waiving of customs and immigration controls. Hon Members know perfectly well that I took issue on this matter with the statements made by the Secretary of State on television prior to the debate which took place in this House and I have not changed my attitude on this matter. I would much prefer that any passengers landing at Gibraltar airport should be required to go through customs and immigration controls. But I should also inform the House that it is an objective in the development of the European Community internal market that customs and immigration controls at European Community internal frontiers be removed or at any rate be substantially reduced by 1992.

HON J C PEREZ:

Will the Hon Member give way?

HON CHIEF MINISTER:

Well, he has an opportunity later on to speak.

HON J C PEREZ:

Yes, but did the Hon Member know this in November?

MR SPEAKER:

Order, the Hon Member has not given way and that is the end of the matter.

HON CHIEF MINISTER:

The intention is that they be substantially reduced by 1992 and there is a new situation that is going to arise and it is a new situation that we are going to have to contend with and grapple with. The Hon Mr Bossano made reference to paragraph 1 of the agreement and there is in this paragraph a reference to the European Economic decision. This relates only to flights by Spanish airlines originating in Spain and landing in Gibraltar and vice versa. There would be a matching right for British airlines to fly on the same route if they are licensed by the British Authorities and this is set out in the European Economic decision referred to in paragraph 1. There is nothing in the agreement which adds to or which detracts from the routes which are opened up by the decision and this is the information that has been conveyed to me at my request. The question of sovereignty, Mr Speaker. Some people, including the Leader of the Opposition, have said that sovereignty is infringed or that, in the words of the Hon the Leader of the Opposition, it takes away Gibraltar's birthright. The Opposition, I think needs to show very carefully why they believe it to be the case and in the absence of a reasoned argument and I don't think the Leader of the Opposition has addressed himself sufficiently to this aspect of the matter, to the need to give a reasoned argument, he has been quite emotional about it but unless he does so on the basis of a reasoned argument, then I am afraid that such assertions do not necessarily have any basis in fact. It was, in fact, as a result of the British initiative that the no prejudice clauses contained no reference to Spanish rights over the isthmus and these clauses in addition to the substantive elements which there are already in the agreement, fully protect the British position on sovereignty. Sir Geoffrey Howe asserted that in his statement in the Foreign Office when the two Ministers met the press on the night when the agreement was signed in Carlton Gardens and it is, I think, interesting to keep in mind, to remember more so having regard to the remark of the Hon the Leader of the Opposition that Señor Fernandez Ordoñez wiped the floor with Sir Geoffrey, that there was Fernandez Ordoñez next to Sir Geoffrey Howe when Sir Geoffrey Howe was making this statement and, effectively, he had to lump that statement, he did not demur in any way. I haven't heard that he has done so since, I am not aware of any statements made by the Spanish Government challenging that view of the Foreign Secretary and what is more, we only have to recall that, in fact, Señor Fernando Moran said quite the opposite. He agreed with the view of the Secretary of State and he pointed out how unwavering the Secretary of State had been over the years in the need to safeguard and what a champion he was about the rights of the Gibraltarians and British sovereignty over Gibraltar and the isthmus. The House of Assembly resolutions, the petition and the demonstration. We naturally have no difficulty on the Government side in supporting the first three paragraphs of the motion. The only thing is that we have to bear in mind that in historical

terms it is a fact that all these resolutions were passed in the House before the agreement was reached, that signatures were collected before the agreement was reached, that the demonstration was a spontaneous reaction and, indeed, the petition to the six points published in 'El Pais'; that in fact Spain has made definite and major concessions from that position to the one reached in the agreement and that we are in fact, whether we like it or not, in a new situation with a specific agreement to be considered. And what should we do? The first thing to keep in mind is that we are not really required to do anything about it at this stage. We are under no pressure to move in any direction. There is no time limit - we do not have to take a view before the end of the year, before the general election or before the life of this House expires on the 14th February, 1988, which is the latest date by which the House can be dissolved. We don't have to take a view before the general election.

MR SPEAKER:

May I, perhaps, correct you. The latest date by which the House has to be dissolved is the 22nd February which is the fourth anniversary of the first meeting of the House.

HON CHIEF MINISTER:

Even better, the 22nd February, we have another eight days. We don't have to take a view, as I said, before the general election or immediately afterwards. There seems to be a mistaken notion in town, Mr Speaker, that we only have a year within which to decide and I want authoritatively today to say that that is wrong, we are under no time constraint and because we have plenty of time in hand, Mr Speaker, let us therefore use that time. So in the first place, we should use that time in order to get all the information that everyone, not just Members of the Government, not just Members opposite but the general public need to have information in order to arrive at a mature decision after there has been informed debate on the matter. Secondly, and here I come to paragraph 3 of the motion, the question of our being excluded from the air liberalisation package, let us challenge the fact that we have been excluded from the package immediately and in this connection we have already decided to take preliminary advice from a specialist EEC lawyer based in Brussels whose advice we have taken on previous occasions and I have already given instructions and have today approved the draft of a letter explaining to him what has transpired and asking for a preliminary opinion with a view to testing the legality or otherwise of Gibraltar's exclusion, if necessary, in the European Court. Therefore in this connection I will be moving a minor amendment to paragraph 3 that will strengthen that paragraph slightly. If we are entitled to be included and, as we have said, Britain herself took this view in June, then nothing else need arise. In any event, we need to know more about the air liberalisation transport package and how it is going to work. It is being implemented

as from the 1st January, 1988, but in practical terms the effects will not begin to be seen until the summer of 1988. We need to see how it is going to work in practice, we have plenty information on paper as to its main features, I think there was an article in yesterday's Gibraltar Chronicle about some of the aspects of this package but what does it all mean in practice? We on the Government side certainly want time to see its practical effects and so because we have also been given a right to veto the agreement and Spain has had to accept this, by not passing in this House of Assembly the necessary legislation or, indeed, it being a requirement that the new House of Assembly should pass the necessary legislation and for me, personally, this is a course for great satisfaction, I think it shows that our wishes are being respected, it shows that we are being treated as adults, indeed, this is what I consider to be some of the attributes of a situation in which we would be freely associated with the United Kingdom and not a dependent territory. And, secondly, because we want to challenge our exclusion from the air liberalisation transport package, let us keep our options open pending further assessment, pending debate and pending a study of where Gibraltar's interests lie. By all means let us regret the position that the European Economic Community and Spain have forced on Britain and Gibraltar but the whole matter is really too important to rush. I would therefore ask Hon Members opposite to accept that in the same way as the Government would not exercise its majority in favour of the agreement even if it were to dream of accepting it at this stage because it has no right to attempt to bind hand and foot a future Government or the next House of Assembly, the Opposition has no right to try to force through a decision against the agreement at this juncture. Whilst, I would say, that at present there is probably a majority against the agreement, this is certainly my personal impression, what the Hon Member is really trying to do to the minority is to ride roughshod over their views whilst asserting, as he has done, that if at any time in the future there were to be a majority in favour then the minority that he would be a part of would have a responsibility and a right, and I quote his own words as published in the Chronicle 'to fight that sellout every inch of the way'. The Gibraltar Trades Council, too, has already threatened to take industrial action against employers on this matter. I wonder what they would say if there were to be a majority view in favour and if the majority were to be in a position to force their own views by similar militancy. Would they complain that we were living in a Fascist dictatorship? No, Mr Speaker, the minority certainly has a right to have their say but the majority, undoubtedly, has a right to have its way and anything else is today, in four year's time, in ten year's time, a negation of democracy. Anything else is totally undemocratic and therefore to be condemned. In conclusion, Mr Speaker, I want to stress that perhaps the essential difference between Hon Members opposite and us is that they want to lock and bolt every door, bar every window and then brick them all the way up so that there is no way in or out. As with the Brussels

Agreement, as with the closure of the Dockyard, the Leader of the Opposition is once again trying to achieve a ticket to election victory by trying to gain instant popularity through following what he gauges to be majority public opinion. Our view, Mr Speaker, what we are trying to do is that whilst there is probably now only a minority in favour of the agreement, at least that minority has a right to have a small window left open and therefore we on the Government side are going to use our majority to amend paragraphs 4 and 5 to ensure precisely that, for in our view, Mr Speaker, there is no need to rush to say 'no', we just wait to give a considered answer if and when it suits us. I therefore, Mr Speaker, beg to move that the motion moved by the Hon the Leader of the Opposition be amended: (a) by the addition of the words "as a matter of urgency" at the end of paragraph 3, and (b) by the deletion of paragraphs 4 and 5 and the substitution of a new paragraph 4 as follows:- "4. Takes note of the proposed Anglo/Spanish agreement and considers that once the course of action proposed in paragraph 3 above is known and the practical effects of the Air Liberalisation Transport Package can be assessed, a decision should be taken whether the agreement ought to be implemented". Mr Speaker, I have the honour to so move.

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

MR SPEAKER:

I must warn Members that they can either take the choice of speaking exclusively to the amendment or generally on the motion but most certainly not to have two bites at the cherry. Of course, the Hon the Leader of the Opposition is quite free to speak on the amendment. It is now 7.30 and I think this is an appropriate time to recess. It will give Members time to study the amendment and reflect on what they wish to say tomorrow. We will now recess until tomorrow morning at 10.30 when the debate will continue.

The House recessed at 7.35 pm.

THURSDAY THE 17TH DECEMBER, 1987

The House resumed at 10.50 am.

MR SPEAKER:

I will remind the House that yesterday evening when we recessed the Hon the Chief Minister, Mr Canepa, contributed to the debate on the motion moved by the Hon the Leader of the Opposition and proposed an amendment. I therefore now invite Members who wish to speak on the amendment to do so. I will give the warning that I gave yesterday evening. You

will not have two bites at the cherry, you either speak on the amendment exclusively or to the motion before the House, you can take a choice, but I will not countenance any repetition. I understand, Mr Pilcher, that you wish to make a contribution.

HON J E PILCHER:

Mr Speaker, I will try, although it is a very thin line between speaking to the amendment and speaking to the motion, but I will try to keep to the amendment and reserve my right to speak on the motion at a later stage. In so doing, Mr Speaker, I have to make certain points which were raised by the Hon the Chief Minister in moving his amendment. I would like to start the same way that he did, Mr Speaker. When Mr Canepa started his intervention he said that he wanted to explain not from a personal point of view because that he did later but from a sort of excuse point of view of how it was that the British position had changed between June of this year and December of this year. Obviously, trying to excuse the logical argument put forward by the Hon the Leader of the Opposition when he said that there had been a drastic change between the position of the British Government in June and the position of the British Government in December. Although we accept his exposé of how the position had changed, nevertheless, Mr Speaker, I think that the British Government did us a disservice inasmuch as, I think they went against what I consider is an unwritten international law. There is an international law which is used in many spheres and that is that you do not negotiate under blackmail conditions. That applies, particularly, in the United Kingdom and, as I say, in all spheres and walks of life because the Iron Lady, the Iron Maiden, has got a reputation, is renowned in having a situation where she will not, whether it's with the Trade Union Movement, with terrorists or even internationally in the EEC, she has never ever negotiated under blackmail and every time that she has been in any situation of blackmail she has always stood her ground. I think, Mr Speaker, it has to be put on record that although we accept the point that was made by the Hon the Chief Minister yesterday that it was a question of the British delegation maybe losing the vote or maybe the air liberalisation not going through because Spain would continue to exercise her veto, that was tantamount to an admission that Spain can blackmail the United Kingdom any time she so wishes over anything that she feels she can force the United Kingdom into conceding over Gibraltar. I am sure that the British Government would not have ceded to that blackmail other than in a situation of a discussion over the Gibraltar question and I think it was quite clear from the interview by Sir Geoffrey Howe, obviously, because that is a normal follow-up of the Brussels Agreement. Having made that point which I think he made himself at the start of his contribution I would like now to take various aspects of Mr Canepa's contribution. I found Mr Canepa's contribution disappointing insofar as the moving of the amendment.

MR SPEAKER:

Which came at the end of his contribution.

HON J E PILCHER:

Well, Mr Speaker, it doesn't really matter since I will be moving an amendment at the end of my intervention and I have the right to speak at the end of that.

MR SPEAKER:

It certainly matters, that is why I told you at the beginning, it most certainly matters whether you are going to speak to the general motion or to the amendment. You said you were going to speak to the amendment. If you are going to speak to the amendment, it is your choice, most certainly, but I would like to warn you.

HON J E PILCHER:

Mr Speaker, I will bow to your judgement at the end of it and if you believe at the end of it that I have spoken to the general motion I will accept that.

MR SPEAKER:

Fair enough. I will allow, most certainly, a fair amount of latitude.

HON J E PILCHER:

In referring to Mr Canepa's contribution, as I was saying, I found it rather disappointing on various aspects. Normally Mr Canepa is renowned for speaking from the heart and, certainly, with no prepared text. It seemed to us yesterday that although from this side of the House the Hon Leader of the Opposition made many points, it seemed to us that in his contribution most of those points were left out because he already had a prepared text and a prepared speech and no account was taken of many points that were made by the Leader of the Opposition in moving the motion. I think the contribution of the Hon Mr Canepa was divided into three parts, as far as I can gauge, Mr Speaker. One was a subtle defence of the deal. Secondly, it was again another subtle political attack on the GSLP, and thirdly, I think what is known as playing to the gallery, he was playing to the public and I think in so doing confused slightly the people of Gibraltar who, I think at this juncture do not require that confusion. I think they require leadership and I think he said that the Hon Leader of the Opposition was very aggressive in moving his motion and very aggressive in explaining the motion and being very logical in so doing and he said, I think, if I am not mistaken, other politicians should learn

from him. Well, I think, Mr Speaker, he should learn from the Hon Leader of the Opposition because his exposé was weak in the defence of his contribution. If I can tackle the third point first, that is, playing to the public. I think he missed two vital points which I think were mentioned ad nauseam by the Hon Leader of the Opposition. Perhaps he didn't miss them, perhaps what he did was slightly twist them. When Mr Canepa was still in London with Sir Joshua Hassan, Mr Speaker, the GSLP in Gibraltar immediately after the deal made two very important statements. The first statement was we welcomed the safeguard that Her Majesty's Government had put in the Anglo/Spanish Agreement giving the right to the people of Gibraltar to veto the agreement. Personally I was very, very satisfied with that and the party was very satisfied and if we cast our minds back to the programme discussion when I was in the programme 'Open Forum' with the Hon Mr Canepa, I am sure he will remember that I said it would be a black day if the preamble to the Constitution only meant that we had to say 'yes' or 'no' when it suited Her Majesty's Government. And on that count, I think, we are very happy that the preamble to the Constitution is now being extended to give us the right to say 'yes' or 'no' at particular points in the history of Gibraltar. I think this was a very important point and one that certainly the Opposition welcomed and welcomed publicly immediately after the signing of the agreement. The second point, Mr Speaker, was one that we made, again, quite clear although we were satisfied with the decision that we had been given the right to veto, we were dissatisfied with the choice that we were given, ie stay in the agreement by signing the deal or stay out of the agreement and out of the air liberalisation package. And we said immediately at one o'clock in the morning of the 5th December when the Hon Leader of my party was interviewed, I think, by one of the Spanish news broadcasts, we said to them we did not accept the legality of leaving Gibraltar out of the air liberalisation package and that we wanted to test that legality in whatever court there was, even if that was the highest court in the international sphere. I think those two points were made very clear by the Hon Leader of the Opposition when moving the motion and I think, to a point, disregarded by the Hon the Chief Minister, Mr Canepa, who seemed to be saying that all that we were saying was 'no' to the deal. If those two points were accepted, I think one question that obviously a lot of people are asking themselves or should be asking themselves certainly at this moment is if the GSLP were satisfied with the veto situation, were satisfied that we could test the legality of the situation in a court before doing anything else, why the motion? Obviously, a lot of people must be asking themselves that. What a lot of people do not know, certainly outside this House, is that we have to give notice for motions and therefore at the same time as we put in our five days notice for questions, we put in the motion. We put in the motion, Mr Speaker, last Tuesday when it was still unclear what the position was as far as the former Chief Minister was concerned and at that stage it was rumoured very strongly that Sir

Joshua was leaving and that the Hon Mr Canepa was taking over. That is the reason why we brought the motion to the House. The reason was that on Friday night, on Friday the 5th of December, Sir Joshua Hassan came on television clearly defending the deal that had been struck between Britain and Spain and the only way that we could react to that was to bring a motion to this House so that the people of Gibraltar clearly understood where both sides stood and I think this was the reason but, of course, it is a bit of a confusing situation because it is as if, and I will try and give an example, it is as if the lion - which I think Sir Joshua Hassan was considered to a point a lion because of the situation of Gibraltar, Gibraltar from a distance looks a lion, if the lion had roared the GSLP had taken up that roar and had gone into the arena with him only to find a week later that the lion was no longer there and now we find ourselves in the arena having pushed the motion forward saying quite clearly we still are against the deal but, of course, Sir Joshua is no longer there and now we get criticised by the Hon the new Chief Minister for saying 'we don't want anything to do with the deal' and for going forward very quickly to try and stop the deal. This would not have happened, this motion would not be here in the House today had it not been for the television interview that Sir Joshua Hassan gave GBC on Friday night because we were very happy on Friday morning to have left the situation lie as it was, ie we were happy and satisfied with the veto and we were happy that what we had to do was take the matter to an international court and, first of all, see what was our legal position and that would have continued to be our position but for the famous television interview on Friday night which made the whole of Gibraltar doubt what was happening to the leadership of Gibraltar and that is why we put a motion here in this House. But, of course, having put a motion and not knowing what was the position of the new Chief Minister we, I think, proceeded with the motion in the knowledge that it was a situation that the whole of Gibraltar needed and wanted cleared up. This was why we proceeded with the motion in the knowledge that perhaps the Hon Sir Joshua Hassan had resigned because of the pressures on him because of his interview on Friday night. I know he said publicly that it wasn't but, certainly, from this side of the House it appears that that was clear. And, of course, it was even clearer given the statement by Sir Joshua Hassan that when he was asked would he and his party defend this at the elections, he said 'well, we are defending it now' and obviously by interpretation if nothing else, if he was defending it now he would defend it at an election. I think that is the reason why we brought the motion to the House. The whole of Gibraltar, Mr Speaker, was shocked and then confused by the interview on GBC. We presented the motion and I want to make this absolutely clear, we presented the motion to get the position of this House clear so that the people of Gibraltar knew what the position of the House was so that, if nothing else, the confusion would end at that stage and at least the different parties would designate their different positions. Having made that point, Mr Speaker, I would like

to turn to what I think was a subtle defence of the deal by the Hon the new Chief Minister, Mr Canepa. We have ourselves studied the deal because another thing that we said in the various broadcasts that we did on Friday was to say that we could not comment on the deal at that stage - this was on Friday the 5th of December - because it was too early and we had just received the text of the deal and therefore on Friday the 5th December we could not gauge what the Anglo/Spanish agreement was all about because like in everything else we take a lot of time and a lot of care to analyse things before we make public announcements. And in so doing we sought certain clarification on certain clauses of the agreement. I will not repeat what was said yesterday by the Hon Leader of the Opposition because that was already said and I feel that that would only be repeating ourselves but it is not as the Hon the new Chief Minister said yesterday that it is a question of looking at the agreement, reading into it what we want to read into it and then aggressively defending it. No, what we will refuse to do, Mr Speaker, is to read the agreement and where it has got white accept that it is black. We might accept that it is not as white as we thought it was, it might be greyish but certainly it is not white or black and I think that is the difference that the Hon the Chief Minister yesterday was trying to, again, play with words and make one thing mean another. We looked at the merits of the deal but when we decided to come to this House we did not want to fall into the error of discussing the merits of the deal because I think most of us on this side of the House, Mr Speaker, are negotiators in one form or another in our walks of life and we know that the moment we start negotiating on the merits or demerits of anything then you are admitting that the principle is that the deal is there and you have to accept it and that is why we felt that it was better, we felt that the people of Gibraltar had already said no and we felt that no way was this deal going anywhere that the people of Gibraltar had not said themselves what they would do. The banner was of 'no concessions' and the subtle defence now is that because our attack was on the interpretation they tried to implant in the minds of the people of Gibraltar that no concessions are no concessions on sovereignty and control. Mr Speaker, no concessions, as far as the majority of the Gibraltarians are concerned, means no concessions at all because if we start playing with words about sovereignty and control what is therefore a concession on sovereignty? Where is the concession on sovereignty? When they take over the airport, when they take over the Port, when they take over other areas or when the Spanish flag is flying from Gibraltar? And even at that stage we can still defend that the sovereignty issue hasn't been ceded because we still have autonomy within Gibraltar. Mr Speaker, it is clear that that is just a play on words, it is the same as control. How can you not have control if you have a say in what happens in the place? I challenge the Government to say to us here and to the people of Gibraltar today that this deal means no concessions whatsoever. Not no concessions on sovereignty, not no concessions on control, to say here that this deal means no concessions.

As I say, I don't want to go into the deal itself but I think by way of explanation to the public, I think certainly the way that the Opposition party sees this is, first of all, the deal tramples on our right as Community nationals, that is the first thing. We have a right as Community nationals and that agreement tramples on our rights. Let us look at the agreement and, as I say, I don't want to get bogged down nor do I want to discuss it because as far as I am concerned the deal is bad. We talk of a joint committee to discuss matters like aircraft handling, services, passengers and, obviously, that is giving Spaniards a say in how we run our services in the airport. We talk of in transit immigration and customs controls. Clearly, totally against the motion that was passed here in the House and, clearly, against the demonstration because if Hon Members opposite cast their hands back, the in transit arrangements, ie the customs and immigration controls were mentioned prior to the meeting and, in fact, I remember walking past the Piazza the previous Sunday when the members of Action for Gibraltar were collecting signatures from the people of Gibraltar and there was one person with a loudspeaker - I don't think it is necessary to mention his name - who was quite ably shouting over that loudspeaker that there was no way that we were going to allow customs and immigration controls other than through the normal method that is being handled at the moment. As far as I am concerned the people of Gibraltar said no to that. They also have a say, whether direct or indirect, on flights coming from a third country, whether they have the right to advise, whether they have the right to veto is not important, they have a right which they have nowhere else in Europe. They have the right to put internal flights with Spanish authority only de facto making Gibraltar a Spanish regional airport under that clause. And if that were not enough, any problems related to the Spanish deal would be referred to the coordinators. Obviously, at one stage referred to the Transport Ministers who were tantamount to signing the deal. If there is any problem in the Coordinating Committee it would go, obviously, to a higher authority. As I say again, I challenge the Government to say that none of those things are clear concessions to the Kingdom of Spain. I think Government are confusing the issue by giving different interpretations. I was flabbergasted yesterday when I heard the Hon Chief Minister say here in the House 'Spain have also made concessions'. Spain have also made concessions where? They have taken the veto away, perhaps that could be the only concession that they have given us. And he was defending the deal, to a point, as I say, very subtly, he was defending the deal by quoting from Señor Ordoñez and we have got to a stage now that we have to defend things that the Spaniards do by using them as saying that there is no right on the sovereignty issue. Perhaps Señor Ordoñez is now changing his position and is saying 'better say that there isn't so that they accept it and then they are going to find out'. But what were the excuses used? One, the committee was there for exchange of information, for processing passengers to the terminal. Is there a need for two Foreign Ministers of two major countries to sit down

and negotiate a deal for exchange of information? If the Hon Chief Minister plays back, because I heard it last night and I had it taped, plays back his contribution, he will find that he said that the committee were there basically to exchange information and for processing passengers to the second terminal. He can go back and listen to the tape or he can read the transcript. He also said, Mr Speaker, in direct contradiction to what he had said in the last House, he used the words this time as regards in transit arrangements that he prefers there not to be any arrangements as far as in transit arrangements ie the customs and immigration controls being kept inside the Gibraltar zone. But he used the word 'prefer' because he said and he was quoting Mr Ratford, he said that by 1992 the European Community would be eliminating or the objective was by 1992 to eliminate customs and immigration controls. Our answer to that, Mr Speaker, is the same answer as we have given on many occasions. We believe in a united Europe, we believe that we are in Europe for better or for worse and we believe that if in Europe there is legislation passed that we might not like, we have to accept that legislation because we accept the good with the bad. But what we are not going to do, Mr Speaker, and we have said this before, no matter how great a Utopian idea the united Europe is, we are not going to allow the united Europe to start in Gibraltar four or five years before it starts anywhere else. That was, I think, the same argument used in the Brussels Agreement, if it is going to be done in January 1986, why not do it in February 1985, but that was ten months. Now we are saying 'it is going to be done in 1992, why not do it in 1987?' I think, Mr Speaker, that argument certainly does not convince us. We have got to look at the merits.....

HON CHIEF MINISTER:

If the Hon Member will give way.

HON J E PILCHER:

No.

MR SPEAKER:

Order.

HON J E PILCHER:

Okay, I will give way, Mr Speaker, because I always do.

HON CHIEF MINISTER:

I said that we had to take account of that. I did not say or imply that because it has to happen in 1992 it might as well happen now. That is twisting my words.

HON J E PILCHER:

Mr Speaker, whether he said it or he implied it, the Hon Chief Minister has to accept that when we are sitting on this side we listen to what he says and we make our own minds up on what we think he said. What he cannot accept is that we think that he said what he wants us to think that he said. I think in the same way that I heard that and in the same way as I interpreted that, I am sure most people in Gibraltar interpreted it in the same way. And he also said something about putting flights into Spain, if I am not mistaken, when he said about Spain having the right to bring aircraft into Gibraltar, he was saying 'well, we also have the right to fly our own aircraft to Spain' the difference being if we want to fly our own aircraft to Spain we have to seek permission from the Spanish authority. He said, Mr Speaker, that the no prejudice clauses at the end of that agreement fully protected Gibraltar's position. I suppose like our reservations on sovereignty protected Gibraltar on the Brussels Agreement. We all know that the reservation on sovereignty didn't protect anything, the Brussels Agreement continues down its path and the deal, if accepted, will continue down this path with or without prejudice clauses. I think the last thing the people of Gibraltar need, Mr Speaker, is this kind of confusion. I think what the people of Gibraltar need is a solid stand on a matter of principle. We might have different feelings or different interpretations of things but I honestly feel that on that side of the House they are as clear as on this side of the House that that agreement concedes concessions. I think the people of Gibraltar need a solid stand on a matter of principle. It is a question, as the Leader of the Opposition said, it is a question of foresight and leadership, not of hindsight, it will be too late if we do not take into account the pressures that can be put on us. We agree, Mr Speaker, that we don't have to do anything now, we agreed on the 5th December, we agree today and we will agree in a month's time or in six month's time that Gibraltar doesn't have anything to do at the moment other than not pass the legislation. But I think the mature decision has to be let us stop selling the deal, let us stop confusing the people of Gibraltar. I think there is one fundamental mistake made by the Government and by the people of Gibraltar that the Hon Chief Minister referred to yesterday as a minority. I think the point was also made by the Hon Leader of the Opposition and that is that a lot of people confuse the airport package with the kind of problems Gibraltar can suffer if they start putting pressure on that frontier. I think that is what is worrying a lot of people but I think the message must be clear that by signing the airport agreement or otherwise that does not prohibit Spain from putting pressure on that frontier whenever it suits them. One thing has nothing to do with the other and I think the message has to go out clearly to those Gibraltarians who feel that if we sign the airport package that means that we are now going to be able to go freely past the frontier in and out, as many times as we feel like it without any obstruction whatsoever and

that couldn't be further away from the truth because having ceded to blackmail, having ceded to pressure, that will be put back on every time it suits the Kingdom of Spain. And another thing which I think is of fundamental importance is that the longer we leave the decision the more problems we will force on ourselves because the longer it is in the air the longer that people will try to pressurise us into accepting it. The other point, Mr Speaker, was that there was a subtle attack on the GSLP as well during the contribution of the Hon Chief Minister. Well, subtle in some areas, direct in others. Subtle because sometimes it was by association of ideas and sometimes direct because he said things like bricking ourselves and barring the windows. I think he played on words, Mr Speaker, particularly on this majority and minority thing that has been going round Gibraltar now for a couple of days following an interview given by the Hon Leader of the Opposition to GBC. Let me quite clearly say for public record, as Chairman of the GSLP and as Deputy Leader of a Parliamentary delegation, that the GSLP, Mr Speaker, accepts fully the democratic principle of the majority accepting or saying what they want and for the people of Gibraltar to have to accept the majority. I will explain the position. The position is that even if the GSLP finds itself in a minority as, indeed, we have found ourselves in a minority during the issue of the White Paper on the closure of the Dockyard when we were saying to people 'the Dockyard will close' and the Hon Chief Minister was saying whilst there are ships floating about it won't close, we were in a minority then. We were in a minority on the Brussels Agreement, we still fought it. We were in a minority on the question of GSL, we still fought. And if we were a minority in this we will still fight it and if that meant losing the elections or losing our position in the House of Assembly it wouldn't matter because we believe in democracy and democracy also means the right of a minority to speak their minds and that is the position which wasn't understood. What we were saying was not that if we are in Government and the majority want something we, the minority, will implement it. What we were saying was that as a minority we have a right to say what we mean. The play on words is that the Hon Chief Minister himself said yesterday that there is a majority of people now who don't want the deal. Of course, leaving it in abeyance means that slowly he can work on the minority to convince the majority and become a majority. If we go today we say 'no' to the deal, if we go in six month's time, in a year's time, in a year and a half, the situation depends on how we play it. It was, and I am sorry to say it, but it was tactical moves on scaremongering, Mr Speaker, which we hadn't seen in the House for a long time but, of course, over the last couple of weeks we have been seeing this tactic of scaremongering. The Hon Chief Minister talked about closing all the doors, barring all the windows, not even allowing ourselves a small window to see through. The Hon ex-Chief Minister in a television interview said as well by association of ideas very clearly 'of course, unless the people of Gibraltar want to commit

suicide', obviously, again a situation where he was clearly leading the people to one school of thought. Many UK newspapers, some associated with the Foreign Office, have been saying that Gibraltar under the leadership of Mr Joe Bossano would be isolating itself from Spain, isolating itself from Britain, and if that were not enough we also have the famous ex-Foreign Affairs Adviser of the Chief Minister saying that we are all a load of Marxists. Mr Speaker, it will no longer work, the GSLP have been here for four years, people now know us, there is no way that anybody is going to be scaremongered into anything and the sooner that is accepted by the other side of the House the better. We, Mr Speaker, respect democracy, we have created our own House of Assembly and our own democracy on the principles of the Westminster system where democracy and the rights of people are respected. We have moulded our system on that so why, Mr Speaker, should we be afraid to speak our own minds? We have to bank on, as the Leader of the Opposition said yesterday, we have to bank on Britain's respect for democracy and if we have to say to Britain 'we, 25,000 Gibraltarians don't want that', I am sure that Britain will respect that. Spain will also have to learn to respect that which she is not doing at the moment. We will have to teach Spain to respect the right of democratic people to determine their future but we won't be able to do it whilst we continue to give them false hopes. If we continue to sign Lisbon Agreements, Brussels Agreements, Anglo/Spanish deals, we will not convince the Kingdom of Spain that we want to defend our own interests because every time we sign a new agreement they see themselves closer to getting their goal which is Gibraltar's sovereignty. But I feel, Mr Speaker, having said all that which I think needed to be said, I am now going to prove to the Members opposite that we are as democratic as they are if not more, Mr Speaker. We believe totally in democracy but we also believe in something else. We believe fervently that Gibraltar under the face of external adversity needs unity, the unity we gave them in June, the unity we gave them in November. The Opposition, Mr Speaker, I am talking about the unity we offered them, us to them. We are going to offer that same unity today because I think our people deserve that. Mr Speaker, I would like to move an amendment to the amendment moved by the Hon Mr Canepa. I will just give some time for Members opposite to read it, this amendment goes a long way to meeting the message that was clear from the benches opposite yesterday, Mr Speaker. The message was one of don't be too hasty, don't say 'no' to the deal because let us give ourselves time. Those sentiments were the same sentiments, as I have explained and as the Leader of the Opposition explained yesterday, are the same sentiments that we issued on the 5th December. Gibraltar has time, we don't have to pass the legislation. Therefore he also asked us to keep all our options open and he also asked us to respect the minority of people who were asking for an assessment of the situation to be made. And all that we have done in this motion is we have added one other safeguard. We have now got the safeguard of keeping our options open, we have now got the

safeguard of being able to assess the situation, we have now got the safeguard of safeguarding the minority and this, Mr Speaker, also safeguards the position of the majority. I would like to move an amendment to the amendment moved by the Hon Mr Canepa to the motion moved by the Hon Leader of the Opposition. The amendment is the deletion of new paragraph 4 and the substitution therefor of new paragraphs 4 and 5 as follows: "4. Considers that no immediate action should be taken on the proposed Anglo/Spanish Agreement and that the results of the course of action in paragraph 3 above and the practical effects of the Air Liberalisation Package should be assessed, and 5. Recommends that if at some time in the future, this House should wish to reconsider the matter, it would establish the views of the people of Gibraltar as a whole by holding a Referendum before taking a decision".

MR SPEAKER:

Order, order. May I only once and I will not do it again, inform the Public Gallery that they are entitled to come to this Chamber to listen to the proceedings of the House. They are here on sufferance, they are not under any circumstances entitled to express any view either by clapping or in any other manner which will entail interference with the proceedings of the House. They are here to listen and nothing else. Members of this House must be entitled to express their views without being inhibited or menaced or threatened directly or indirectly and I will not, under any circumstances, and I will say it once only, have any interference from the Public Gallery. I would not like to clear the Gallery but if I am forced I will not hesitate to do so. I am sure that the spontaneous clapping from the Public Gallery has been a completely emotional reaction and done without thinking but it is a principle of democracy that Members must not be inhibited by anything that happens outside the Chamber, or in the Public Gallery. I feel sure that it has been done unintentionally but I must make clear to the Public Gallery the conditions under which they are allowed to listen to the proceedings of the House. Will you now continue.

HON J E PILCHER:

Thank you, Mr Speaker. As I was explaining, I honestly feel that this and I urge the Government, Mr Speaker, in all honesty and in the hope of being able to come back to a situation of unity, the Government benches said what they felt they had to say yesterday and we on our side have said what we felt we had to say in answer to that but I think at the end of the day, Mr Speaker, as indeed we said in the last House, I think the people of Gibraltar deserve unity from this House and I think this amendment gives what the Government were seeking yesterday which is keeping all our options open but doing it in such a way that we protect all

and every single one of the desires and wishes of the Gibraltarians. The motion would therefore have the old paragraphs 1 and 2 which restates the position of the House of Assembly and of Gibraltar back in November, it has paragraph 3 which we accepted yesterday by the addition of the words 'as a matter of urgency' so we now have that in paragraph 3.....

MR SPEAKER:

May I perhaps suggest that in your amendment 'the deletion of new paragraph 4', would you please withdraw the word 'new'. It is 'the deletion of paragraph 4' as it appears in the amendment.

HON J E PILCHER:

Fine, Mr Speaker, we will delete the word 'new'.

MR SPEAKER:

There is no need to have the words 'new paragraph 4' because it is amending the amendment, it is 'the deletion of paragraph 4'.

HON J E PILCHER:

Thank you, Mr Speaker. We have the same paragraph 3 which is 'Reiterates the view that Gibraltar's right to be included in the air liberalisation package as a regional British airport without pre-conditions should be pursued as a matter of urgency' and we feel that 'as a matter of urgency' only strengthens paragraph 3 and we accept that fully but then we are looking, Mr Speaker, as I was saying, but obviously I hadn't read the amendment so they didn't really know what I was referring to, we have a situation now, Mr Speaker, where it was expressed yesterday and accepted on this side of the House because we also have contact with the people of Gibraltar and there is a minority of people, I think a minority of people, who want to assess the situation first and I think new paragraph 4 all it does is it changes slightly the old paragraph 4 to say 'Considers that no immediate action should be taken' - which both sides of the House have already agreed on - 'on the proposed Anglo/Spanish Agreement and that the results of' - taking the matter up illegally and of assessing the impact which the Hon Chief Minister said we won't find until probably summer 1988 - 'should be assessed'. So that takes care of the worries of the minority. The majority also need to be protected, Mr Speaker, and therefore this is the reason for new paragraph 5. Paragraph 5 says 'Recommends that if at some time in the future this House' - whether it is this Government or a future Government - 'should wish to reconsider the matter' - then it can only do so or it should only do so by going to a Referendum. I

think this gives the majority the protection that they need because I think there is a school of thought which is a valid argument that what we cannot allow to happen is that the issue is clouded either by (a) mixing it up with an election, or (b) by having a future Government saying, and it is not illogical for a Government to be able to say it, that they have now a mandate from the people and that they are going to use that mandate. For example, without wanting to bring back any animosity, the Government did that early in 1984 with the Brussels Agreement. They did not have a mandate to accept the Brussels Agreement but they came here and said 'We have a majority, we are here to govern and we are passing the Brussels Agreement'. And it is not illogical to think that a future Government of Gibraltar could take the same policy with this. I think this gives a safeguard to the majority of people who are still saying 'no', that if there is a change of Government or there is not a change of Government, any decision on this primordial matter will be taken to the people of Gibraltar and the final say on this issue and this issue alone should be put to the people of Gibraltar. I think, Mr Speaker, it is an amendment which gives all the options, accepts all the positions whether majority or minority and is one which will meet the Government's plea to us not to go ahead and cripple everything. Well, the only reason why we went ahead is because we honestly thought that the Government after the interview of Sir Joshua was going to go down that path. But since we now see that it is not, we can come to terms with this, Mr Speaker, and accept clauses 1, 2 and 3 with the small amendment and clauses 4 and 5 gives the minority and the majority the right, Mr Speaker, to be safeguarded for the future. I think the people of Gibraltar, if we pass this amendment, will sigh with relief because at least they will know that whatever happens they will have the last say and they are clear that both sides of the House accept that at this stage nothing has to be done. I think it will also push a message out, Mr Speaker, that the people of Gibraltar will not be pressurised into doing anything that doesn't meet with their acceptance. Active patience, Mr Speaker, is a word that from today, if this amendment is passed, will take on another meaning, a Gibraltarian meaning. The meaning will be "we will actively get on with our affairs and continue to be patient until Spain accepts our right to determine our future and the future of our territory". Thank you, Mr Speaker.

Mr Speaker proposed the question in the terms of the Hon J E Pilcher's amendment to the amendment.

HON CHIEF MINISTER:

Mr Speaker, I am, of course, going to speak purely on the amendment and therefore I will narrow the ambit of what I am going to say. When I exercise my right to reply on the amendment that I moved yesterday evening I will reply to many of the points which Mr Pilcher has raised this morning.

In spite of the assertions which Mr Feetham made yesterday so boldly that the GSLP was going to form the next Government, the indications this morning are that Hon Members opposite are by no means sure that that is going to be the case because if they were really sure that they are going to win the election they would not today be trying to bind the next House of Assembly as to the course of action to be taken because they being in Government and being totally against the deal they would know that they would reject it, so inform the people of Gibraltar, there is no need to hold a Referendum, there is no need to hold anything, you just set your face against the agreement and that is the end of the matter. But the fact is that they are in doubt as to their ability to win the election. They may be afraid that we are, in fact, going to win the election ourselves and then what might we get up to, Mr Speaker, in that situation? So, with two months of this House to go, we pass this amendment and we bind the future AACR Government hand and foot today into the course of action which it has got to follow then. I think they are also prejudging the composition of the next House of Assembly in another way. They are assuming that it is the GSLP and the AACR which is either going to form Government or Opposition and by analogy be the main Opposition party. The fact is that the indications are that there are likely to be other permutations, other parties contesting the election and life is very strange. In the same way as Hon Members opposite wiped the floor with the DPBG who had six seats between 1980 and 1984 and now none of them are here, we don't know what the election is going to throw up, we don't know what the composition of the next House is going to be and what the position and the representation of other parties not in the House today might, in fact, be and what right do we therefore have to talk in an amendment about recommending that if at some time in the future this House should wish to reconsider the matter - this House has two months in which to reconsider the matter, that is all. I am going to reconsider the matter between now and February the 22nd but the next House is the next House, it is the next House of Assembly and it is the next House of Assembly that has got a perfect right to pass whatever motions they want to and when you talk about this House you mean the House that ends its life on the 22nd February. That is what we mean in a motion by 'This House'. Every time there is a general election there is a new House of Assembly, it is not a continuation of the same House of Assembly, it is a new legislature which is entitled to act in whatever manner it considers fit so let us establish that democratic principle at the outset. Our amendment, Mr Speaker, refers to the fact that a decision should be taken whether the agreement ought to be implemented. It doesn't prejudge the nature of that decision, how it should be taken. Hon Members opposite want to bind a future legislature to holding a Referendum. My amendment doesn't rule out a Referendum, my amendment leaves the situation open, it is flexible. A decision can be taken through that mechanism of a Referendum, a decision can be taken through a general election on that specific issue,

it is another mechanism, but I know that the Hon the Leader of the Opposition in one of his earlier interventions said the general election should be about other matters. Yes, I agree, it is about a party programme, of course it is, but if he thinks that the airport agreement is not going to figure prominently in the next election campaign I think he is living in a fool's paradise, in the same way as four year's ago there were other issues that came up during the election campaign but the fundamental issue that decided the election was the Dockyard and on this occasion it could well be that the airport agreement is going to figure as prominently or nearly as prominently, together with the Brussels Agreement, as the Dockyard issue did four year's ago. I know that practically it may not suit the Hon Leader of the Opposition that that should happen because then he may not feel that he is going to on as strong ground as he would otherwise. So we dispose of the matter, we agree, we take a decision, it is all going to be set aside, we leave it to a Referendum and let's get on with the general election campaign on other matters. That can be a bit too convenient. Mr Speaker, I would like to point out one other thing. In Gibraltar I do not think that it is possible to hold, that's my own personal view I may be wrong and I am likely to change my mind and there are no subtleties involved here, I don't think that it is possible to hold a Referendum on the airport deal alone. The Referendum would, in fact, be a Referendum as to whether you are pro-Britain or pro-Spain, that is the way that it would be interpreted by the people. It would be a choice between Britain and Spain because in any matters to do that affect our interest vis-a-vis Spain the choice ultimately for the people of Gibraltar is that. The fear that the people have is that of being drawn closer to Spain, they don't want that so the choice would be that and therefore the real issue will be clouded. Because, Mr Speaker, our amendment does not prejudice the issue, it doesn't rule out the possibility of holding a Referendum on the matter and because of the constitutional position that this House has no right beyond the two months of its term of office, we cannot accept this amendment and we are going to defeat it, Mr Speaker.

MR SPEAKER:

Any other contributors on the amendment to the amendment?

HON M A FEETHAM:

Mr Speaker, I want to speak on our motion but Mr Juan Carlos Perez will speak on the amendment.

MR SPEAKER:

Most certainly, anyone who wishes to speak on the amendment to the amendment should do so now.

HON J C PEREZ:

Mr Speaker, I am going to limit myself to speaking on the amendment because I might have to intervene at a later stage in the proceedings depending what is said on the other side. I find it rather ridiculous on the part of the Government that they should always try and interpret what the people of Gibraltar interpret things to be. We are being told by the former Chief Minister that the people of Gibraltar cannot take a decision because they are in a state of psychosis. Now we are being told by the new Chief Minister that if he holds a Referendum this will be misinterpreted by the people of Gibraltar. Don't they trust the electorate that put them in Government for the last fifteen years? Is it that they do not consider that the people of Gibraltar have the intelligence of looking at things objectively? Do they think that they have the prerogative to look at things objectively? Mr Speaker, they have the cheek to try and label us as dictatorial, they have the cheek to call us undemocratic and then when we come to this House, when we say 'alright, if what Mr Canepa said yesterday the minority have a say and the majority have their way is true and he is true to his word, let us give the ultimate right to the people of Gibraltar and to the people of Gibraltar alone to take a decision on this fundamental issue where a wrong decision could put at risk the whole of the future of Gibraltar' and Mr Canepa says 'no'. Mr Canepa says that the people of Gibraltar might misinterpret the situation, that the Referendum might not be the suitable way and he tries to narrow the situation to try and make it out to be an electoral gimmick on the part of this side of the House. Well, Mr Speaker, I am afraid that Mr Canepa is certainly looking at it from the wrong perspective completely. If he thinks that what we are trying to do is take the matter of the airport out of the forthcoming elections. We have no fear whatsoever, if the Hon the Chief Minister so desires, to go to the election on this issue any time he wants to. What we are saying is what the Hon Leader of the Opposition said and what he has agreed to in public that it is not convenient - the word 'convenient' is not the right one - that other issues come to play in a general election and that it is right that the people of Gibraltar should have the choice of looking at the performance of the Government and all the other issues that are at stake in a general election. It is certainly not something which we are looking at electorally at all. We told the Hon Member this morning that we are prepared to continue being united and that is why we have preferred to bring a new amendment to this House to try not to divide the House on this fundamental issue of the airport and he comes up and he looks at it all from the narrow point of view of the electoral gain or otherwise that he and his party might have at the next general elections. Mr Speaker, the motion and the issue has nothing to do with that. I am afraid that if we come down to the technicality of the Hon Member of saying that the words 'This House' is something which we cannot put because 'This House' means this House

until the 22nd February and after that it is a new House, then he can change the words if he so wishes and put 'a new House' because we are not forcing or committing anyone with this amendment. We are only recommending to a future House that they should have a Referendum. Obviously, if we recommend it and you recommend it and we are both here in a subsequent House then we are committed by having recommended it already. Is the Hon Mr Canepa afraid of committing himself to a Referendum? Doesn't he believe in what he said yesterday that the majority should have their way? And in any case if he admits already that the majority are against, why should he be so fearful of a Referendum particularly considering everything he said on this subject in this House in the last six or seven motions. He is the one that seems to stand up every so often and accuse the Opposition of being wolves in sheep's clothing. I think that we have seen the real Mr Canepa now that he is Chief Minister, he is a wolf in sheep's clothing, he hasn't meant anything that he said before. It's quite clear from his contribution yesterday and from the refusal to accept this amendment which puts the full decision-making on the people of Gibraltar who are ultimately the ones that need to decide this matter, Mr Speaker.

HON J BOSSANO:

Mr Speaker, the Government have said that they are accepting reiterating all the previous motions in the House. They then bring an amendment which by including the word 'implemented' will clearly signal to everybody in and out of Gibraltar their willingness to implement that agreement and that is how it will be interpreted, whether they intended that or not. We have had today the first example of a new leadership of the AACR under the Hon Mr Canepa and regrettably our expectations that we might see an improvement for the better have been totally shattered because, in fact, it seems to me that he is trying to do the same kind of balancing act as his predecessor has done for so long, without any of the finesse or ability for maintaining a balance that Sir Joshua has always been able to keep and what do we have? We have on an issue on which in spite of our fundamental differences the House has always been able to find a way of reconciling the differences and where we have made an effort between yesterday and today. The Government knows that we are against the deal. The Government knows that we said from the moment it was announced 'We are not taking any action'. When the media interviewed me on this issue, the Spanish and the British media, I said 'No, the House is not going to pass any motion because there is no need to reject something because it requires positive action to implement and since everybody is against it nobody is going to introduce legislation in the House and we, the Opposition, are certainly not going to be asking for it. The deal, as far as we are concerned, is non-existent'. It only became necessary because it appeared to us that the Government, having said they would not implement it, were still recommending its acceptance.

We wanted to clear that position, that is the first and the opening remarks that I made in my motion and which were echoed by my colleague in moving this amendment and we have said to the Government 'okay, we have taken note of your objections to 'rejects' at this stage, we can go along with 'rejects' because as far as we are concerned it is axiomatic, if you reiterate all the previous motions you are rejecting the agreement but you don't want to use the word 'rejects' the agreement, fine. In order to meet your arguments we will come back with an alternative which will not talk about implementing just like we are not talking about rejecting, we are not talking about implementing and we are saying 'reconsidering the matter' and leaving it open to whoever in the future may want to do it'. That was one of the phrases that Sir Joshua used in an interview in the Chronicle - 'whether at some time in the future the people as a whole might think it would be in their interest to accept it'. That is the scenario of a very long-term thing. The Hon Mr Canepa was saying 'people think we have got a year, it is not true, there is no time limit, it might be a year, it might be five years, it might be ten years'. So we are not talking about doing it between now and the 22nd February, we are not even talking about doing it in the next four years. What we are saying is we, the present Members of the House, have got a right to express a view. Does the Hon Member think that the next House of Assembly is bound by the Brussels Agreement? Apparently not. Every House of Assembly is free to do what they like. I would like to see whether he takes that same line in the election campaign because I suspect he is quite likely to come along and say in the election campaign 'We are not going to be able if we get into Government to change the Brussels Agreement'. Well, I will then remind him of what he said in this House that we haven't got the right in this House to make a recommendation to future Members but we have got a right in this House to bind people, even less then. So I will remind him of that when the time comes. What we are seeking to do is not bind unknown future Members of the House but state where we stand ourselves. We, the GSLP, say we are completely convinced that by definition the deal is in conflict with the views of the House and the wishes of the people but if there is a doubt then if somebody were to try and make out that there is a doubt and we need to establish whether the majority agrees with the GSLP or not, then the GSLP is prepared to commit itself to holding a Referendum which the AACR is not prepared to do presumably. Since the AACR is not prepared itself to do it, clearly, it is not prepared to recommend it to anybody else, that is why. It isn't because they might find themselves with a situation where a new House with none of us in it would be bound. The new House with none of us in it would not be bound by anything. The new House would come here and say 'Well, I don't care what those idiots recommended in the last House. The proof that they don't reflect public opinion is the fact that none of them have got re-elected so it doesn't matter what they recommended'. The real reason for opposing that is that it is not that we want to close too many doors, it is that the Hon Mr Canepa wants to leave

himself all possible doors open. When we were discussing the previous motion of this House in November it was the former Chief Minister who was saying that they had to leave a door open and we had a speech from the Chief Minister then saying one thing and from the Deputy saying something else which we all applauded on this side of the House, which we thought reflected the feeling of a lot of people in Gibraltar and we thought that, in fact, the Chief Minister appeared to be slightly out of tune. We now find ourselves where, in fact, the position may be occupied by somebody else but the views that we are hearing are the views of the former occupant, not the views that the occupant had in his former position. So it is, in fact, a very disappointing thing and it will be the first time that the House does not come out with a united stand on the airport and the person that will have failed to rise to the occasion and respond to the wishes for that united stand will have been the Hon Mr Canepa and I would remind him that in the first motion of March, 1984, he was the one that appealed to us for unity and we stood up and said because of his appeal we would not vote against the motion. He has lost that right now.

MR SPEAKER:

Any other contributors to the amendment to the amendment? I will then call on the Mover, Mr Pilcher, to reply.

HON J E PILCHER:

Mr Speaker, there is not much more to be said since the arguments put by the Government benches in saying that they will oppose this amendment are not understood by this side of the House as has been said by my Hon colleague Mr Perez and by the Leader of my party, Mr Joe Bossano. I feel that the intention is one of having a united front and I reiterate that all that the motion is asking for is for this House to recommend that if at some time in the future anybody else felt that the minority and majority was not the same as it is today and was not the same as on that 17,000 or 16,000 strong demonstration, then, Mr Speaker, the only way to test that is not by how many votes they get at an election, is not by how many people express their views to individual Members but by putting it to a test, by calling on the people of Gibraltar to say 'yea' or 'nay'. There is one very important point that was made by Hon colleague Mr Perez which I would like to reiterate. If we, Mr Speaker, feel that we are mature enough and by we I mean the people of Gibraltar, to have a say in our future, then I feel and I believe that the people themselves are mature enough to be able to decide 'yes' or 'no' on any particular aspect. The Hon Chief Minister has always been saying, certainly he has been saying it to me in private, that he feels that we are now mature enough, he talks about free association, self determination, whatever, it requires maturity. What he is saying is that he feels he is mature enough but he is leading a people who are all children. Mr Speaker, of course he said it, he said it by

saying that people couldn't go to a Referendum and decide something on the grounds of what they were being presented, that they would vote for Britain or for Spain. If that is the case how would they vote if Britain publicly and Spain publicly decided that they both want to accept it? I would like the Government to think hard before they vote against this amendment because it does what they asked us to do, leave all the options open, remove the word 'rejects' which they didn't want to have there and produce leadership and a firm stand for the people of Gibraltar which I think they and they alone deserve, particularly after twenty years of fighting off a situation of pressure, Mr Speaker. I am not sure if I have a right to do that or the Leader of the Opposition has to do it but if it is going to be put to the vote I would like a division, Mr Speaker.

MR SPEAKER:

Any Member can ask for a division.

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon E Thistlethwaite
The Hon B Traynor

The Hon J E Pilcher's amendment to the amendment was accordingly defeated.

MR SPEAKER:

We now have before the House the question as moved by the Hon the Chief Minister amending the motion moved by the Hon the Leader of the Opposition.

HON SIR JOSHUA HASSAN:

Mr Speaker, I would like to speak on my colleague's amendment and reserve the right to speak in the general debate. I will try to keep the matter separately and not to duplicate and I am asking for your forbearance on my approach to the matter in order that I can later on deal with the matter in a much wider aspect which is the first two clauses of the motion. I am very disappointed at the turn things have taken because by its nature the matter is complicated. The whole question of the agreement over the airport and so on is complicated by its own nature and I had thought that we might make some contribution today and I shall try to do that myself to try and simplify the matters because I find that a lot of people are confused and really cannot understand the issues clearly. I am not surprised and I will try to see whether I can at least elucidate one or two matters on my own. In the first place, I would like to refer to the mention made by the Leader of the Opposition regarding my TV broadcast on the Friday night which has been mentioned and to refer it to what he has said in the course of the amendment that has just been defeated because it seems to me that he has interpreted one in one way and the other in another way and it is the second one that counts. By saying that it was the best deal we could get in the circumstances I did not mean that it was a deal that we should go on and vote in favour, in fact, I said in London I would not use the majority of the House to impose the deal but the deal was good because it had the element of choice. That is what I said and I have said nothing different to that. Having regard to the exchanges that took place and which the Hon Mr Pilcher has accepted or acknowledged, as explained by the Chief Minister, it is in that context that I was saying that and in no other. What I did say was that every town, every city, every person is entitled to commit suicide. I wasn't saying that as meaning that if you don't do that you are committing suicide, what I was trying to attempt to explain and I have done it on other occasions, is the right of the people to determine their future. Whether they do it rightly or wrongly that is a matter for them and that is why I chose that phrase. The reason why I support the amendment, naturally, is because otherwise the action that is recommended to the House could be precipitous, lacking in political maturity and irresponsible. Precipitous because Gibraltar has always been asking for self determination and a bigger say in its own affairs and here, as explained by Mr Canepa yesterday, here we have an opportunity or a departure from that principle which was limited to the preamble to the Constitution to an area which is different and that is the question of the package and I don't think it is any secret that Britain found

itself for the first time in its struggle with defending Gibraltar, with a third dimension which was not there before. Now, you will say, 'Yes, in the United Nations we had quite a number of nations against us'. Yes, but in the United Nations all that happened, even when there was a very vast majority in favour of Spain, was the recommendation of a committee, the Committee of 24, the Fourth Committee and, ultimately, the General Assembly by which the British Government wasn't bound, it just didn't take any notice. It said 'No, we stand by the wishes of the people of Gibraltar, you can decide what you like'. In fact, though it has happened many times subsequently, mainly through the Falklands issue, it is in respect of that kind of thing where the British Government has mainly rejected resolutions of the General Assembly. After the time they refused to accept the first resolution I think the British Government has never, except on one occasion which has nothing to do with Gibraltar, disregarded a recommendation of the General Assembly and we must remember that these resolutions took place at a time when the Labour Government was in office and the Labour Government was a much more, in general terms at the time, a much more committed member of the United Nations than the Conservative Government was, in fact, so much so that they appointed a Minister instead of a permanent representative and that was held by the distinguished Lord Caradon whose voice and whose views, despite the attacks under which he was during those days in the United Nations, was heard with great attention and respect. But on this occasion the third dimension affects the interests of Britain both in its internal affairs and in its international commitment and that is the attempt on the part of Spain to veto the package agreement applied to Gibraltar. It is quite clear that the conflict between Britain and Spain over the air package was not agreed completely because, in fact, it is within the Community that the difference between two Members arose and therefore, of course, in due course defending and I am proud of saying it because it is mentioned so often that it looks as if it is something bad, I am saying and I confirm that I am proud of having agreed to the Brussels Agreement and I think Gibraltar should think and think quite clearly that a lot of benefits have been derived to Gibraltar without losing anything. There was only one action that had to be taken to subscribe to the Brussels Agreement and that was faith in the British Government. The rest was really a process which benefited and has benefited Gibraltar enormously and all the prosperity and all the advantages that Gibraltar is today deriving as a result of normal relations arise out of the Lisbon Agreement first which led to the Brussels Agreement. On both those occasions, on the first occasion jointly with the then Leader of the Opposition and on the second occasion entirely on my own because there was no bipartisan approach to foreign affairs, reservations were made on behalf of the people of Gibraltar about the question of sovereignty. But the agreement itself provides that safeguard and as we heard, from no less than the co-author of the Brussels Agreement the other night on television, Britain has given nothing in respect of sovereignty. I support the

amendment because we have to go into the matter before a choice can be made. On the question of whether there is a majority or a minority, my view and that is only what we can do now, I don't agree with my colleague Mr Canepa that there is such a big majority against the agreement. I think there are quite a number of people who, if satisfied that we are losing nothing by it, are prepared to support the agreement and I know that quite a number of people are confused and haven't made up their minds yet. We can only express our own views and we can all be wrong in our views but ultimately we all express views at election time and until the last voting paper has been counted you don't know what the result is going to be. That is really a matter of judgement and assessment and it is all very well for the Leader of the Opposition to say that on his way to the House of Assembly he was stopped by twenty people of which fifteen are AACR members and they tell him something different to what I am advocating. I doubt that and if it happened to me I would do the same because I have to exercise that element of judgement if I was to express a point of view. But I am not, at this stage, going further than to support the amendment that requires, first of all, to establish our legal rights in this respect and, secondly, to leave the matter until other ingredients of the agreement and matters surrounding the agreement are well established. There is one point that the Hon Mr Bossano said in moving the motion of which I am supporting the amendment on which I think I have to take issue because it is fundamental. He said whether any action at the airport or anywhere, for that matter, impinges on sovereignty, it is a matter of judgement, yes, those are exactly the words the Hon Member used. I have to completely disagree with him. It is not a matter of judgement, it is a matter of law, absolute law, there is no question of judgement on that. It is a judgement of the law but it is not a matter of each person thinking what is an impingement on sovereignty, it is established that it is a matter of law and in that respect I believe firmly and I will say that without any hesitation at this stage, that whether we accept the deal or we don't accept the deal, the deal itself if it were accepted does not impinge on sovereignty. If it had impinged on sovereignty I would have disassociated myself even from the discussions on the matter. As the Hon Chief Minister said yesterday, the statement read by the Secretary of State in the presence of the Spanish Foreign Minister, he said: "Taken together, this agreement will make Gibraltar significantly more attractive to tourists, to businessmen and to airline operators. It should give a further major boost to the prosperity of Gibraltar and the Campo. They clear the way to agreeing cheaper air fares for 300 million Europeans. That is good for Gibraltar, for Spain, for Britain, for the European Community as a whole. These agreements, of course, do not impair British sovereignty over Gibraltar which is fully preserved. I have asked the Chief Minister of Gibraltar, Sir Joshua Hassan, to take this agreement back to Gibraltar so that his Government and people have the opportunity to reflect carefully on it". That was an invitation for us to do what I am suggesting we should do

because I think it is the only fair way of doing it. But then he went on to say: "I hope that Gibraltarians will see the significant advantages of these agreements. Britain is, of course, not in the business of imposing them on Gibraltar. It is for the people of Gibraltar to make their democratic choice and to decide whether or not they wish to benefit from the aviation agreement as well as from the air transport directive". And that, as my colleague said yesterday, was stated publicly before the press at the bottom of the steps of Carlton Gardens on the night in question and there was no defence at all from the Spanish Foreign Minister who was standing next to him. We need more information and we need debate on the matter in due course. The second point which I said was that the proposal was lacking in political maturity, that is why I support the amendment, and that has been, to some extent, already echoed by my colleague Mr Canepa in opposing the other amendment and that is that we are on the eve of a general election and it is no use attempting to prejudge the outcome of a proper exercise of the democratic process. But the extent to which Mr Pilcher went to try and apologise for what created a great concern in Gibraltar about opposing the agreement whether the majority wanted it or not is rather childish. He attempted to maintain that in the process minorities have rights, of course they have rights, they have the democratic right that the Opposition is having now of debating this matter but they haven't got the democratic right to fight inch by inch against a Government that has been elected to do something because they don't like it. That is what my colleague described yesterday, a way towards dictatorship, fascism, communism, whatever you like, but certainly a denial of the democratic process. The Labour Party has been in Opposition now for a long time and is trying to get in but it is not trying to undermine the Government's actions by force, it is going to do so in Parliament. Fighting it inch by inch, as the Hon Member well knows, has created a considerable amount of concern in Gibraltar.

HON J BOSSANO:

Promoted by you.

HON SIR JOSHUA HASSAN:

Promoted by me, no.

MR SPEAKER:

Order, I will not have interruptions.

HON SIR JOSHUA HASSAN:

Mr Speaker, we wait and put up with the tirade from the other side without interruption, they don't like argument, they just talk to each other or interfere, that is not the democratic process, for the benefit of those opposite. I

think the extent to which Mr Pilcher went to explain that shows the extent of the damage that it has done to Gibraltar, the fear that has got into the Gibraltar body politic or, generally, this threat of saying 'we won't even take no for an answer'. Whether as a trade unionist, whether as a politician or whatever it is, it was Mr Bossano who was saying it, it wasn't anybody else. On this occasion I find myself in the comfortable position that having relinquished the leadership of this House, most of the matters that I would have mentioned have already been mentioned by Mr Canepa and therefore I do not want to repeat what he has said but just to emphasise in respect of, in fact, the matter that I had a note of before even the amendment that arose this morning, that all matters connected with Spain create pent-up emotions and it is important for us whilst taking that into account and that is why I have said that people must think with their heads and not with their hearts, that we must take very great care not to pent-up feelings because that is the easiest thing to do. That is not leadership, that is going with the masses where the masses want you to go. Leadership is telling them what you think is right and let them decide. In this respect I would like to disregard the suggestions made by the Leader of the Opposition about treachery and blackmail and all that as complete nonsense, electioneering and cheap demagoguery, all to create fears like all the references to the Brussels Agreement, like all the references to everything that the Government has done well in order to create an aura that what is good is really bad in their eyes in order that they can gain political support. Mr Speaker, I have, I think, done what I attempted to do at the beginning and that is confine myself to the amendment and say that I support it and I would like then later on to take part in the general debate.

HON J BOSSANO:

I am going, Mr Speaker, to speak on the Hon Mr Canepa's amendment, having spoken previously on the amendment of my colleague, Mr Pilcher, and like the former Chief Minister, I am going to confine myself to what Mr Canepa's amendment is about which means I will be able to talk about the Brussels Agreement, demagoguery, blackmail, dictatorial tactics, the elections, all of which.....

MR SPEAKER:

You can speak to what you feel is relevant to the amendment. Should I feel that it is not I will call your attention.

HON J BOSSANO:

But having just had the opportunity of listening.....

MR SPEAKER:

May I, with respect, we are liberal in this House and I will give you the same latitude that I give any other Member.

HON J BOSSANO:

I agree with you, Mr Speaker, because you have always done that and, in fact, I want to answer what the Chief Minister has just said and I am confining myself in answering to the remarks that he has made, presumably in support of Mr Canepa's amendment, so I am going to expose, which is not a difficult thing to do in this House, except that normally the rest of Gibraltar do not get to hear about it and on this occasion they will. It is not difficult in this House, it has never been difficult in this House to expose the total inconsistencies in the delivery of Sir Joshua Hassan because in the area of demagoguery, in the area of innuendo and in the area of scaring people, he is the past master and nobody could ever reach his peak in any of those areas. The statements that I made to which he has just referred where I accused him in attempting to sell the deal and in saying not that it was a good thing because it gave us a choice, it was a very good thing in all respects and he has repeated it several times and I have gone carefully through all the answers he gave and jotted them down and I repeated them in my opening motion. He was selling the deal and in selling the deal he was selling out on all the people that marched behind him up Main Street and if he thinks that leadership means standing up and saying what one feels, which I agree with him it is, then he should have stuck to his guns in the last motion in the last House where he was saying one thing and Mr Canepa was saying something else and he changed position and he was persuaded to go along with the demonstration and he was persuaded to go along with a stand of saying 'no deal' and 'no concessions' and what he has tried to do subsequently.....

HON SIR JOSHUA HASSAN:

On a point of order, Mr Speaker. We are now talking about the first part of the motion and not the amendment.

HON J BOSSANO:

It is not a point of order, Mr Speaker, I haven't given way to the Hon Member, it is not a point of order. I am replying to his contribution which he has just made and he has made in that contribution a reference to what I said on television about him and that is what I am answering. If he hadn't introduced it I wouldn't be answering it and I am telling him that, in fact, if he is willing to go down the road of defending and supporting the deal as he appeared to be doing then and I gave him the benefit of the doubt that perhaps I had misunderstood him, he certainly appears to be repeating

it now when he has just stood up, then he is betraying all the previous motions of the House which we are reiterating today and betraying Action for Gibraltar and the 16,000 and I am telling him to his face not when he is not around. He knows that I have no difficulty in doing that and, certainly, he will find that the GSLP will canvas against that sell-out and that we will do it using every democratic instrument and the Hon Member, let me remind him, did not have a mandate to implement the Brussels Agreement because he withheld information from the electorate in January, 1984, having already given the green light for discussions on advance EEC rights, he withheld that information. In March, 1984, when we had a motion here on the airport the Hon Member amended it to take the words 'Lisbon Agreement' out and put 'Lisbon or any other agreement', in March, 1984, although the agreement didn't come until November. And in November when we voted against it and we asked for a Referendum he denied the people of Gibraltar the right to a Referendum on the Brussels Agreement and when we held a public meeting and held a demonstration he accused us of being undemocratic and extra Parliamentary. We weren't putting any bombs but I can promise him that the democratic process will not be altered by the exercise of a majority which is produced by confusing people, by misleading people and by a propaganda exercise where one day the headline in the Chronicle is 'Mrs Thatcher is in favour of the deal', the next day 'Moran is in favour of the deal', the third day 'Sir Joshua Hassan is in favour of the deal' and eventually, presumably, somebody will get a say who is against the deal. That does not deprive the minority from carrying out legitimate political activity and every inch of the way opposing the implementation of a deal which goes to the very roots of our future by propaganda, by meetings, by demonstrations, by the collection of signatures and the GSLP is committed to that course of action. If the Hon Member thinks that is dictatorial, well, I am surprised that he should think that but I accept that he is the expert on what is a dictator after forty years in Government.

MR SPEAKER:

Let us come back to the debate.

HON SIR JOSHUA HASSAN:

The people must be very foolish.

HON J BOSSANO:

Presumably. Let me say something else about what the Hon Member has said because he comes out with statements with an air of authority. He has said 'it is not a matter of judgement whether sovereignty is infringed or not, it is a matter of law' and who do we have saying this? We have a person who is now a backbencher, who still has difficulties

in adjusting to that new role in the House, who was the former Chief Minister of Gibraltar, who is a QC and who is an eminent expert on law and therefore since I do not have any of those qualifications it might be thought that he is right and I am wrong. Well, all I can tell him is that if it is not a matter of judgement and it is a matter of law, he should have told that to Mr Canepa in the last meeting of the House because before I said it it was Mr Canepa who stood up in this House and said that when it came to the crunch we might have a difference of opinion with the United Kingdom as to whether sovereignty was infringed or was not infringed because it was a matter of judgement and in our judgement it might be infringed and in theirs it might not be infringed and then the British Government would turn round to us and say 'Well, it is British sovereignty that we are talking about not Gibraltarian sovereignty and therefore it is our judgement that matters'. Well, then it is a matter of judgement and not a matter of law. Let me remind him that he voted in favour of a motion in this House which is being reiterated today which said that we should not accept a deal which in the judgement of this House could have implications for sovereignty. One of the motions that we are quoting in this motion, Mr Speaker, actually was amended by the Government, I mentioned that earlier, to include where I said that we should not have any deal that has implications on sovereignty, it was amended to say 'in the judgement of this House'. So, in fact, it is not a matter of law or it may be both, a matter of law and a matter of judgement and there may be a situation where there is a clearcut legal infringement of sovereignty and there may be a situation where one lawyer might think it is and one lawyer might think it isn't, so it isn't that the law is clearcut on that subject because we already know that there are people who argue that free association is an infringement of the Treaty of Utrecht which is a matter of law and there are other lawyers who argue that free association is not an infringement of the Treaty of Utrecht. Judgement enters very much and who the lawyer is does make a difference as to the interpretation of the law. I am just putting that straight because it does show that to dismiss things that other people say is not a very good thing unless you happen to have a good memory and you can remember what you did the last time which is the only problem the Hon and Learned Member opposite has. In every other respect he is a past master but in the one thing that he has never been able to get away with is in remembering what he said the last time but, however, he has said so many things in forty-five years that he can always produce something else which, in fact, puts the record straight whenever he wants it and the Hon Mr Canepa is not in that easy position. Disappointed as we are, having moved between yesterday and today, Mr Speaker, to try and accommodate the views of the Government or the assumption that they are not just concerned about electioneering and that they are not just concerned about whether they wish to jump on the bandwagon of the airport deal or against it depending on how they see the mood when they decide to call an election and that is, I think, the point that we find incomprehensible, we don't see how there

can be an election issue on the airport unless some people in the election are advocating acceptance and some people in the election are advocating rejection. If everybody in the election campaign is against it then it will not be an election issue any more than a Spanish Gibraltar would be an election issue or anything else. We don't think it ought to be made one but we also have made clear and that was my reply to the Hon Member's interview on Friday when I appeared on Monday, we also made clear that if they wanted to make it an election issue let them dissolve the House now, not wait until the 22nd February, tomorrow we go to an election on it if they want, we are not afraid of it. We don't think that is the responsible way to behave and we believe the responsible way to behave is to try and maintain the unity that we have been able to maintain in spite of the fact that we have great reservations about whether they mean what they say in this House judging by their subsequent actions. In a further effort to retain the unity of the preceding six motions, Mr Speaker, I am moving an amendment to the Hon Mr Canepa's amendment and the amendment that I wish to move, which does not go, obviously, as far as recommending a Referendum since they do not wish to recommend a Referendum because they do not want to be held themselves to it and for no other reason, nevertheless seeks to salvage something from the Hon Mr Canepa's amendment which we consider to be extremely dangerous because of the way it will be interpreted. I have made that point before and they have made no attempt to answer it, Mr Speaker, and we said the fact that we are using the word 'implemented' there would be seen outside Gibraltar when reported by the media as, in fact, an amber light if not a green light from the Government benches that implementation is not, in fact, unacceptable to them deep down and that would be consistent with what the Hon and Learned the backbencher has just said that he thinks that there aren't all that many people against it as his colleague seems to think. Independent of how many people are against it outside the House, what we are not able to find out is whether the people on the Government side in this House are against it. My proposal therefore is that Clause 4 should be amended by the removal of the word "once" in line 2 and the substitution of the word "until", and the removal of the word "a" in line 5 and the substitution of the word "no", and then the deletion of all the words after the word "taken". The effect of this would be that Clause 4, as amended, would then read: "Takes note of the proposed Anglo/Spanish agreement and considers that until the course of action proposed in paragraph 3 above is known" - which is the question of testing the legality of the position - "and the practical effects of the Air Liberalisation Transport Package can be assessed" - which is when we have seen it in operation elsewhere - "no decision should be taken". That doesn't commit anybody to implementation or to rejection, it doesn't use the word 'rejection' and it doesn't use the word 'implementation', it doesn't say whether it should be by a majority in the House and it doesn't say whether it should be by a Referendum so it meets all the objections that they have raised so far.

If they don't even accept this, Mr Speaker, then it really means that they are not prepared to come out clean and they are not prepared to say that they really want to implement the deal but they haven't got the guts to do it and if that is the real situation then I think the least they should have the decency to do is to come out and say 'This is where we stand, we may not have majority support, we are prepared to hang back until we think the majority support is there'. But this, in fact, we feel is something they should seriously consider because having passed, since 1984, so many motions unanimously in the House, at this particular critical juncture we would not be serving Gibraltar's interests, Mr Speaker, if we fail to come out with a stand that encompasses the points of view of both sides.

MR SPEAKER:

Do Members wish to have time to consider the amendment?

HON CHIEF MINISTER:

We have had a brief word, Mr Speaker, and we can accept the amendment so we will vote in favour.

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

HON SIR JOSHUA HASSAN:

It means the same thing that is why we accept it but if Members are happier then we will accept it.

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

MR SPEAKER:

Any Member who has not spoken to the amendment moved by the Hon the Chief Minister is free to do so. We are now on the amendment of the Chief Minister amending the motion of the Leader of the Opposition. Are there any other contributors?

HON MAJOR F J DELLIPIANI:

Mr Speaker, I am only going to speak once so it doesn't really matter, I am not clever enough to distinguish. Mr Speaker, I always think that I try to speak as honestly as is possible for me to do so. I believe that I am absolutely confused by the Agreement and I don't share the views of the Hon Juan Carlos Perez when he says that he believes that everybody in Gibraltar can decide things objectively. If that is the case he should include me out like somebody said. I am still

confused, I really don't know what to decide and this is why where normally I am very hawkish I am not being hawkish, I am trying to think it through, how does it affect Gibraltar? I don't know, there are so many unknown questions. I must mention a bit of background, Sir, as to why I am thinking this way and why I have not been as hawkish as I usually am. I will start, Sir, with the Brussels Agreement. There is one fundamental reason why I supported the Government of which I am a Member on the Brussels Agreement and that is because I took into account the attitude that Spain has adopted, certainly since 1954, towards Gibraltar. I said to myself and I thought it out, if we depend on Spain opening the frontier because she has become a full Member or was becoming a full Member of the EEC, what attitude would Spain take towards us? And I thought to myself, if we force Spain because of the EEC connection, to open that frontier then the regime they introduce in that frontier would not be helpful to us. If on the other hand we gave them this advance implementation then they would open that frontier with a regime which would be more gracious towards us and that was the fundamental reason why I agreed to the implementation of the Brussels Agreement. The main reason I did not want to force Spain through the EEC, if it was in my power, to open that frontier ungraciously because I took into account the attitude of Spain towards us. And it saddens me to think that even Señor Moran whom we all admire and he was so gentle and kind on the programme on television, that despite his humanity he still thinks that Gibraltar should be Spanish. He has taken no account or very little account of our desire for our own sovereignty because in my mind people might say 'legally it is British or Spanish', I have always believed that sovereignty belongs to the people who live in the territory. It really saddens that a man of that stature has so little regard for us. I am convinced that sovereignty belongs to us and if they, for their pride, and I acknowledge and I accept the Spanish pride, cannot say or cannot accept that this is British, why don't they accept that the sovereignty is Gibraltarian? Surely, that could be a way out to their pride, 'Alright, we have lost Gibraltar, we have fought valiantly to try and get it back, let us accept the realities of this world and give the sovereignty to the people of Gibraltar', if that is the way out for them. It has been mentioned, Mr Speaker, the fact that Britain did not take account of our wishes with regard to the frontier guard because we, as Gibraltarians, regarded it as a symbol of Britain's determination to defend Gibraltar. Needless to say, in my usual hawkish way, I was more disappointed than most people but looking back at the situation that now exists in that frontier where we as Members of the EEC do not have an armed sentry and they on the other side have a full guard of soldiers, it really helps us because it shows the difference of attitude between a Spain which still shows aggressive attitudes towards us and ourselves who have accepted the fact that they are Members of the EEC. I think it is a sad thing for them to have a military guard on the other side, it shows the difference, it accentuates the difference of approach so I am very grateful to the British

Government for not taking account of my wishes. A lot of things have been said on the practicalities of the Agreement and I read with interest a letter from a lady who lives in the same district as I do, in Glacis, where we are affected by the noise of aircraft and it is obvious to me that the more aircraft that fly into Gibraltar the more uncomfortable it will be to live in that area. It so happens that La Linea is also beside the frontier and life would not be very comfortable for the inhabitants of La Linea. I don't know much about flight agreements but I know a little bit about aircraft and there is a move worldwide for aircraft to be developed which are called 'quiet aircraft'. I don't know if we, as Gibraltarians and residents of a town which is so near an airport, will have any say in saying 'well, you can operate as many aircraft as you want from Spain from any airport in Spain to Gibraltar as long as they are quiet, as long as they meet, for example, the noise regulations of the advanced countries of the world'. I certainly wouldn't like to see an increase of aircraft at all hours of the day making life uncomfortable for me. I would be very happy for every aircraft in Spain to be flying to Gibraltar as long as it produces some things but not at the expense of the way I live. I am always surprised at the attitude we Gibraltarians adopt at news from Spain. Everything that is said on Spanish television, Spanish radio, if it's printed by the press, a lot of us seem to accept that as the gospel truth. We give more credence to what Spain says through their news media than what the UK and our own local press give out. Why should it be like that? If the UK Government says one thing and not the Spanish Government, the Spanish press says another, we immediately believe the Spanish press. I find that incomprehensible. It seems to me we like hearing bad news even though they might not be true. I remember the Chief Minister when he came from the United Kingdom, that two journalists came up to him with the views of the Spanish Foreign Office on the Agreement and they had not been made aware by the Spanish Foreign Office that the ultimate decision lay with this House of Assembly whether we implemented the necessary legislation for that Agreement. And Sir Joshua told them that this was a fact, that we had been put in the position to decide on the necessary legislation. The Spaniards didn't believe him so they went back to the Spanish Foreign Office and later on during the course of the night or early morning, they actually telephoned Sir Joshua to apologise for not believing him. It just shows you how even the Spanish Foreign Ministry didn't like the idea that we were being given this power. I just mention it to emphasise that we must be calm, we must not believe everything that Spain says. Spain is trying to sell the product to their own people, obviously, maybe the UK is trying to sell the product to us. I would like to mention, Sir, the question of the Referendum and why I have been trying to think of ways and means of gauging how the people really feel after a period of reflection and I find it almost impossible to put things in a Referendum which makes it that clear, maybe it is because I am confused but I cannot see what kind of wording will

go into a Referendum which the people of Gibraltar will clearly understand what the final result is. I am not clever enough to be able to think of it. What I do say is, and it is obvious to all of us, that Spain has been using blackmail tactics right through. This is a reality. When one goes to the frontier if there are talks there is trouble so there is no question of blackmail. What I want to know from the British Government is if after a period of reflection we decide to go for the agreement, what is Britain going to do to stop that nonsense at the frontier and I don't just mean by protesting and going to the Spanish Ambassador and saying 'You are being naughty boys'. What practical steps will Britain take to stop any future nonsense in that frontier, that is one of the things that will make me decide as a citizen because by then I will only be a citizen of this territory, whether I agree to that agreement or not. Will that be the end? Will she go on blackmailing or will she stop? To me that is important to know because it means that if we give in on this, if we think this is good and Spain thinks it is good, well, next year she will try more blackmailing. When is there going to be an end to this blackmailing and I will only agree if Spain says 'if they blackmail you that way we will take positive steps, not just protesting, positive steps'. I am trying to speak as I feel, I might not be contributing to this House much but I want people to know that I am trying to speak as sincerely as possible.

HON J BOSSANO:

If the Hon Member will give way. He means if we get the guarantee from Britain, I think he said Spain by mistake, obviously Spain is not going to give us a guarantee, it is Britain he means.

HON MAJOR F J DELLIPIANI:

I mean, of course, a guarantee from Britain, guarantees from Spain at the moment don't mean much. In a way it sounds as if I am baring my soul in public which is something very embarrassing for me.

HON J BOSSANO:

You always do, Major.

HON MAJOR F J DELLIPIANI:

I am trying to convey why where normally I am so hawkish I am not so hawkish now, I am mature. It could be that I fear that blackmail will continue and then whether we like it or not, it is my opinion that the standard of living of Gibraltar will go down and because I won't be a Minister come February or March and I am 52 years old and I will find it difficult to find a job and I might even find it more

difficult if the situation in Gibraltar deteriorates, it might be that, I don't know, I hope it is not, I hope that I am trying to speak as objectively as possible. What I am asking this House and the people of Gibraltar is that the decision we take, whatever decision, whether it is yes or no, that the consequential events must be fully realised, whether the consequential events are good or bad, we must not go blindly into anything that we say or do. Let us look at it as rationally as possible. Of course, we don't like the idea of giving in to Spain, we don't like it. If Spain dropped all the claims and her attitude towards us, we would give them more than what they are asking, of that I am sure because they are our neighbours and it is in our interest that La Linea prospers at the same time as us. It is absolutely necessary for two communities so close to each other to prosper at the same time. Mr Speaker, in conclusion, I would like to register and I know I am going to be called anti-trade unionist and capitalist, I cannot comprehend the statement made by the Transport and General Workers Union when they said it doesn't matter what is going to happen, what we decide, they are going to be against it and they will fight against it. That kind of attitude from a trade union I cannot accept and I hope that its members will realise that that kind of statement does not do the union any good. Thank you, Mr Speaker.

MR SPEAKER:

We will now recess until this afternoon at quarter past three when we will continue the debate.

The House recessed at 1.00 pm.

The House resumed at 3.25 pm.

MR SPEAKER:

I will remind the House that we are still on Mr Bossano's motion.

HON M A FEETHAM:

Mr Speaker, I listened very carefully to what the Hon Member, Major Dellipiani, said because the Hon Member always speaks, as he says, from the heart and I think he tends to symbolise the average person in Gibraltar who at times, be it with emotion and, perhaps, without the full knowledge of what is happening and I think he himself said that he was confused, that is what the Hon Major Dellipiani said. I go a long way with the sentiments in general that the Hon Member expressed but I have to differ with him that as far as I am concerned, I am not in the slightest bit confused about the issues that we are discussing here today. I am, of course, very disappointed at the developments since yesterday because having gone against our motion on rejecting the deal, the Government has also gone against our compromise offer of recommending

the matter being put to a Referendum. I think I ought to make it quite clear that their final acceptance of an amendment to their amendment to our motion may have avoided disunity in the House but I think also it is quite clear to the outside world that we are already compromising on the situation. I think that that is the difference in the approach of the Government and the Opposition. Last night somebody called me at home and said that he had listened to the debate very carefully and that my colleague the Leader of the Opposition, Joe Bossano, had defended very ably the consistent views of the Opposition. But he also said that the Hon Chief Minister, Mr Canepa, had defended the soft approach to the problem equally well. I say this because up to that point in time I thought that was a fair comment to make but the emphasis on the comment, of course, is that the comment in differentiating between the Leader of the Opposition and the Hon Chief Minister, is made on the wrong premise. The difference between both of them is, Mr Speaker, that the Hon Chief Minister's approach will lead to Gibraltar losing the initiative once again. Of course, Mr Speaker, we will have to take legal action for having been deprived of our legal rights, of course the people of Gibraltar may or may not, through an election or through a Referendum, decide on the issue finally. The Hon Leader of the Opposition said that on the very night that the deal was made known in Gibraltar. But those are not the issues that we are supposed to be discussing here today. What we the elected representatives are supposed to be discussing here today is whether what we have in front of us is what we have previously said in the last five years was not acceptable to the people of Gibraltar and this House. That is what we are supposed to be discussing here today because if it is not and we leave it in abeyance by not rejecting the deal then what will be interpreted outside Gibraltar is that we are defending it and that is what divides the Government and the Opposition and that is the difference in approach, Mr Speaker, by both sides of the House. Of course, it is not possible, in the context of the airport issue that the Brussels process, the Lisbon process, should not come into the fore because it is an extension of that process. I believe, Mr Speaker, that we need to regain the initiative which we lost with the Brussels process. We need to call it a day because the process pushed us into negotiations with the rules drawn up by Spain and Britain whose national and inter-related interests are different to ours, Mr Speaker, and in some cases in conflict with our interests. The vital recognition which emanates from the airport deal, in my view, is not just that the choice option is a recognition that we have the right to reject or accept but that Britain has learnt, Mr Speaker, that the negation to the people of Gibraltar of the right to accept Brussels and as the result of the process since, has produced an increasing hostility to the whole process as the demonstration clearly showed recently. And to have imposed another Agreement on the people of Gibraltar would have meant, I say it with all sincerity, that there would have been public disorder in Gibraltar because enough, Mr Speaker, is enough and I think the right

of choice also symbolises that situation for the people of Gibraltar. We now have to call a spade a spade and take the initiative and do so from a position of principle based on legal rights not on pre-suppositions but on legal rights. To do so is not, as the Hon Chief Minister has said, to lock up our doors, brick up our windows and live in a cocoon, but to tell the European Community that we will not be the instrument of blackmail, that our rights are not to be sacrificed, that we wish to continue to meet our obligations to Europe, to NATO through Britain and that far from desiring to live in a cocoon we were forced to do so for eleven of the fourteen years that we were members of the European Community because we were defending ourselves against fascism. For eleven years of our fourteen years under siege we were European Community members, Mr Speaker. Far from wanting to live in isolation, we want to live as partners in the Community with Spain in a spirit of cooperation and goodwill, contributing with each other's assets to the development of each other's economy, not because we are forced to, not because we are being undermined to doing it, but because it is the only way that civilised nations can act. That is why I believe we will only take the initiative and place it back in the hands of the people of Gibraltar when we reject the deal, Mr Speaker, and proceed with the necessary safeguards to defend our legal interests. I do not intend to go into the details of the bilateral agreement or the deal as it is commonly known, I do not intend to do that because I do not recognise it because to me it is an instrument, the deal is an instrument of a negation of my legal rights, of my democratic rights afforded to me as a European citizen and I will stand on that basis and that is the position that I will defend from now on, Mr Speaker. Incidentally, a right and obligation which we accepted on the 1st January, 1973, and a particular right on aviation which we have had since July, 1983, when the European Community under Directive 83/416 of the 25th July, 1983, was introduced regarding the procedure concerning the authorisation of scheduled inter-regional air services for the transport of passengers, mail and cargo between Member States. Under this Directive we obtained the right to apply for authorisation to put flights to regions of other Member States excluding Spain who was not a member. This gave air carriers greater scope to develop markets and could thus contribute to the evolution of inter-Community network. That, Mr Speaker, was the first step towards liberalisation and Spain accepted it on accession on the 1st January, 1986. As civil aviation was not expressly excluded, Community legislation in that field, both past and future, automatically applied to Gibraltar. In my opinion, Mr Speaker, Spain had already recognised that the Gibraltar airport was a British regional airport since it did not object to the Directive in force at the time of accession nor entered a reservation. That is why this House welcomed the stand of Her Majesty's Government in June of this year because our position was watertight. In my view, therefore, the issue with regard to the airport being built on the isthmus had already at that stage been technically conceded by Spain.

So watertight, in fact, Mr Speaker, that Her Majesty's Government was saying it could not accept the application of the aviation package to Gibraltar if it was to be subject to the successful outcome of the bilateral talks with Spain on Gibraltar/Spain air services. The British Government were saying 'we will not accept that the air package should be linked to a successful conclusion on the discussions between Britain and Spain on air services'. Spain, on the other hand, Mr Speaker, were insisting, the House will recall, that the package could only apply if those bilateral talks were successful and if the EEC took a further decision to apply the package to Gibraltar. That is why Spain applied the veto, because Britain defended our legal right. The Community legal advisers, Mr Speaker, had already said at that point in time that Community law on civil aviation did extend to Gibraltar. That is why we welcomed Her Majesty's Government's position, that is why the people of Gibraltar were right in demanding no concessions. It is now a matter of fact that if these were the respective positions, Mr Speaker, then Spain has clearly come out on top. I believe it is our obligation to the people of Gibraltar to recognise the mistakes that have been made since the Lisbon/Brussels process began otherwise we will continue to be sacrificed to Anglo/Spanish national interests. The indications for those who wish to see them are there in our recent history clearly showing that since Brussels Britain although our best friend is doing its best to appease Spain whilst protecting British vital interests in the area of trade and military considerations. It may be defensible, Mr Speaker, for Britain to be doing that but it cannot be done at the expense of fundamental and legal rights which as far as we are concerned is the essence of democracy and on which the force of law is a major consideration in that democratic process, Mr Speaker. It is not enough to draw comfort, as some Members opposite appear to be doing, in repeating that Britain is not accepting joint control of the airport because I believe sincerely that it is also doing it because they are protecting their own interests because in my view there cannot be joint control whilst there are military interests involved with regard to the airport and whilst Spain is not fully integrated into the military structure of NATO. If it will happen later, Mr Speaker, when circumstances change, time will only tell. Having therefore put the point of our legal rights, Mr Speaker, and should Britain have not negotiated a bilateral deal above our heads in the context of giving Brussels a fresh impetus, it would have been perfectly feasible and, indeed, very desirable to have entered into discussions on the development of the services of our airport for the benefit of Gibraltar and the Campo Area because it would be irresponsible for any politician worth his salt not to accept that where there can be mutually beneficial agreements that will result in economic growth, that it would be nonsensical and therefore against the interests of the community not to take and accept that sort of process. Nobody more than us accept that it is vital that we defend our interests effectively because if we do not defend our economic interests

effectively we will never be economically independent, Mr Speaker. That is the approach to have followed and I believe the approach which will have to follow once the deal is rejected and it will also permit negotiations from a position of equality and from a position of strength and trust, that is the atmosphere that has to be built. That is why we will always maintain from this side of the House that the Brussels Agreement was a shortsighted policy insofar as the interests of the Gibraltarians are concerned because it pre-supposed certain things and above all, Mr Speaker, because it gave Spain an edge it did not have before. Mr Canepa in the last meeting of the House said, when we were able to agree on a united front, that we had all saved our election deposits at the next elections. I shared that sentiment at the time but I am afraid, Mr Speaker, that having seen his response since yesterday I no longer share that sentiment and Mr Canepa and I are beginning to drift further and further away from each other.

MR SPEAKER:

For the purpose of good order, I will remind the House that we are still on the amendment as moved by the Hon the Chief Minister. Would it perhaps be preferable to get that one out of the way and get down to the main motion or would you rather speak generally now?

HON CHIEF MINISTER:

Mr Speaker, I prefer to get rid of any element of acrimony right at the beginning and therefore I will deal with the last comments of the Hon Mr Feetham. First of all, I have never in this House and I hope that I will never in this House use anything that is said to me in private behind those doors, here in the Chamber. What we say, views that we exchange, comments that we exchange in private are private and they are not within the realm of public debate. The remarks that I made after the last meeting of the House about saving our deposits, I made that remark in private and if it is in private, if it is not here, it remains private. I think that in the same way as with journalists one expects journalists to keep a certain code of ethics, likewise Members in the House here when we are in public we quarrel with each other, we debate with each other with a greater or lesser extent of acrimony, but when we are speaking to each other usually as friends because we can still remain friends, we may go in what we say a little bit further than what we would say in public and we expect such confidence to be reserved and that comment that I made to the Hon Mr Feetham was a private comment. I didn't say that here, publicly, in the House.

HON M A FEETHAM:

You said it here.

HON CHIEF MINISTER:

No, I didn't say it in the course of the debate, check the Hansard and see if it is there, it was a private remark. That we are drifting further and further apart, I said the other day in 'Panorama', in an interview, that Mr Bossano and I, the differences such as they are were naturally likely to be sharpened by the struggle for power, this is natural. I will remind Mr Feetham that the people who elected him to be on that side did not vote for me, they voted for him and our loyalties lie to a different group of people. My loyalties since I was ten years old when I couldn't vote but since 1963 since I have been a member of the AACR, my loyalties have been to the AACR and to the people who vote for me. If in the exercise of my responsibility towards them I have to drift further apart from Mr Feetham, well, I think it is just too bad, it is just indicative of the fact that we do sit on opposite sides of the House and not on the same side. And, at the end of the day, each of us has got to follow the course of action and take the decisions that we consider to be in the best interests of the people that we represent and of Gibraltar but at the same time respecting each other for having different points of view. Beyond that, I don't think we can go. I was a little bit surprised, Mr Speaker, and in exercising my right to reply I am going to be dealing mainly with a number of points made by Mr Pilcher because he did direct himself quite directly to my contribution yesterday evening and I am going to answer a number of the points that he made, but I was somewhat surprised that he should have felt that he needed to spend at least ten minutes almost apologising for bringing the motion to the House. Well, he doesn't have to, I think there is no need for that, it is perfectly right and proper. I think that it is a very useful exercise, in any case, that this House should have debated the airport agreement as we are doing now less than two weeks after the Agreement was signed. I think if it had otherwise gone by default people might have felt that we were failing in our responsibilities to the electorate in not debating the matter so he doesn't have to apologise. I don't have to reply to all the points made by the Leader of the Opposition, I replied to some of them because other people on this side of the House are going to take part in the debate and because some of the points were not directed exactly at me, in fact, they were going further back to the time when Sir Joshua was responsible and I knew that because they were directed at Sir Joshua and although he has stepped down as Chief Minister he has not been struck dumb as you have seen already today and when we revert to the full motion he intends to take part and make a contribution there and no doubt Sir Joshua himself will be answering many of the points which the Leader of the Opposition raised. Mr Pilcher said that I had made a subtle defence of the deal. In fact, he described virtually everything that I said yesterday as being underlined by subtlety. I don't know how many times he used the word, quite a few, I think it run into double figures, and I honestly never dreamt that I was capable of such subtlety. He said that Spain can blackmail the United

Kingdom at any time. Surely not, I prefer to go along with the way that Major Dellipiani put it. Major Dellipiani said that Spain would use such tactics, yes, I have no doubt that Spain is going to use those tactics in the European forum whenever she can. Not that she is always going to succeed and, indeed, we saw how in the European Parliament a few weeks ago they did not succeed, they failed, they were defeated and I would attribute that defeat in the European Parliament to the fact that we had been to Strasbourg in September, that our visit had caused such a fuss, we had had so much publicity and the British Members of the European Parliament having been alerted in September to the kind of tactics and the lobbying that the Spanish MEP's undertook then, were prepared this time round and they themselves lobbied support and were successful in blocking the Spaniards. So let us not imagine that the Spaniards are always going to succeed in blackmailing Britain, they will use those tactics but they can also be thwarted. I don't have to make any defence of the deal be it subtle or otherwise. I think I made my position quite clear yesterday evening and I am going to repeat what I said. I don't intend to defend or to reject the Agreement at this stage. It would be pointless if I were to do so, I would then be pre-empting the motion that we are debating today and the result of the exercise, the course of action that we are proposing for ourselves. I don't agree that there is necessarily any pitfall in discussing the merits of the Agreement in this House as Mr Pilcher seemed to think. I think it is better that it should be discussed in the House when we can reply to each other and debate the matter than to do what the Hon the Leader of the Opposition did and he did precisely that on television within a few hours, he made bold assertions as to his interpretation of the Agreement. I think that it is ridiculous, Mr Speaker, to think as the Hon Mr Pilcher seems to think, that matters to do with the practical arrangements involving the movement of passengers at the airport, that those matters are going to be referred to the Secretary of State and to the Spanish Foreign Minister as if they had nothing else to do, just to sit around and wait until they are referred from the local committee up to the coordinators and on to them. I am sure that the work of that coordinating committee at local level would not have to go beyond the level of the coordinators. Good heavens, what are we on about to think that the two Foreign Ministers, it is bad enough on one occasion that I remember one of them having raised the matter of the importation of Bimbo bread into Gibraltar at the level of the Secretary of State, but that they should have to deal with such practical arrangements, I think, is sheer nonsense. Mr Pilcher then went on to say that in respect of flights from Gibraltar to Spanish airports the difference was that approval was required from the Spanish authorities. Well, so what? So would any Spanish airline wanting to fly to Gibraltar require approval from the British authorities. The fact of the matter is that Governmental authorities have to be consulted, they don't have the right of veto because ultimately it is the CAA that grants the licence, but the

Governmental authorities have got to be consulted. We, in Gibraltar, are consulted even though air communications is not a defined domestic matter, nevertheless we are consulted. There has been a recent application from British Airways to fly London/Gibraltar/Casablanca and the Government of Gibraltar has been asked for its views, it has been consulted by the CAA on the matter. What are we going to do, get Yogi Bear to fly all the way from Gib to Madrid and when they are 10,000 feet above say 'Hello, Madrid Air Traffic Control, we are here, may we land please?' Of course, there has got to be consultation with the Spanish authorities but that is all that it means. It doesn't mean that there is a right to a veto. Then, finally, Mr Speaker, the point that Mr Pilcher made, his insistence that we were scaremongering. If we are scaremongering what has the Gibraltar Trades Council and the TGWU been doing? What do their threats amount to? What do the remarks of the Hon Mr Bossano amount to, remarks without any underlying subtlety? If what we do is scaremongering, I don't know how what they do, how it can be described. In conclusion, Mr Speaker, there are two points that I want to stress. Firstly, to repeat what I said yesterday about the fact that there is no time limit. There is a letter in the Chronicle this morning in which the view which seems to be generally widespread in Gibraltar is expressed once again that all we have is a year. That is wrong and I should like to explain what the relevant paragraph of the Agreement, in fact, means. The last paragraph of the Agreement, paragraph (8) says: "The above arrangements will come into operation when the British authorities have notified the Spanish authorities that the legislation necessary to give effect to paragraph 3(3) above is in force or on completion of the construction of the Spanish terminal, whichever is the later, but in any event not more than one year after the notification referred to above". As far as the Spanish air terminal is concerned, I cannot conceive the Spaniards building an air terminal before they are notified that the legislation has been passed otherwise they are going to have a white elephant there for many years to come. So the operative thing is a year after the British Government notifies the Spanish Government that the necessary legislation has been passed and everything is now in force for the arrangements to be implemented. So it is a year after that and if this House doesn't take any action over a period of time for that to happen, if the legislation is not passed in this House then the year doesn't come into effect and therefore the period in reality is an unlimited period. It is up to us in Gibraltar to determine how long that period is going to be. Finally, Mr Speaker, in view of the fact that our having accepted the minor amendments of the Leader of the Opposition and the fact that he moved them were indicative of the fact that they are going to accept our amendment, I would like to say that the message that at least should go out from this House in adopting the motion is that it is a positive approach, it is not a negative approach nor is it a defensive approach, it is a positive move on the matter and one that need not disquiet in any way people in Gibraltar. Mr Speaker, I commend the amendment to the House.

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

MR SPEAKER:

We now have before us the Hon the Leader of the Opposition's motion, as amended. I will remind the House that the only Member who has spoken directly to that motion is the Hon the Chief Minister, other than Mr Bossano moving it who has got the right of reply. I invite any Member who wishes to contribute to the debate to do so.

HON M K FEATHERSTONE:

Mr Speaker, one aspect of the airport deal, one facet which I think is of great import is that the decision has been left to the people of Gibraltar and this we must accept and we must proclaim at every opportunity is a great victory for our status. We have reached adulthood, that we were to be the arbiters has been accepted by Britain and by Spain and that is something that is really worthy of great rejoicing, that Spain has accepted that Gibraltar has the final say in this matter. It is very interesting to see there is no truth in those Jeremiahs who said that the deal would be imposed on us by a Governor's decree. That was a lot of newspaper talk and it goes to show that you cannot believe all that you read in newspapers. Sir, it is up to us, we can say yea or nay but a decision of such import cannot be made lightly, we need to know all the facts, all the ramifications which can ensue from a rejection of the deal or its acceptance. Rejection may bring difficulties to Gibraltar, may mean we are the isolated man of Europe, on the other hand it may not. An acceptance of the deal, some people say, would bring a wider atmosphere to Gibraltar's commercial life that we would have to see and consider very carefully. First, we need to know the legal position and until this is established we should make no move. Time is on our side. We do not have to make up our minds today, we do not have to make them up tomorrow or even next week or next month. We can wait six months if we like or even six years, time is entirely in our hands. If the legal position goes in our favour and Spain and Britain will comply with it because we all know that sometimes legal decisions are made and the European countries do not follow them to the letter, they interpret it often the way they like, but if Spain and Britain will comply with it, there may be no need of a deal at all, we will have achieved what we want by legal means. If we lose the legal battle then we will need to weigh the advantages and disadvantages of the deal and make our choice. The amendment has given us time, we will need to reflect long and deeply before we decide. Let us trust that we or our successors will eventually make the best decision in the interests of Gibraltar and its future.

HON J C PEREZ:

Mr Speaker, there is no doubt at all that what the Hon Mr Featherstone has said about the choice element in the deal is one which satisfies all Members of this House, in fact, the first reaction from any political party came from the Leader of the Opposition himself on the night that it was announced. The fact that we have the choice element in front of us is good if we are not afraid to use it. The reluctance of Members opposite to clearly define themselves on this issue is one where for once the British Government says 'alright, you are mature enough to take a decision', and you are afraid to take it.

HON CHIEF MINISTER:

What decision?

HON J C PEREZ:

What decision, whether you implement the airport deal or you don't. Mr Speaker, there is no doubt that there is a reason for this. The Hon Major Dellipiani himself said that he was confused about the whole issue and I am not surprised that he is confused. With all the swings and roundabouts that Members opposite have been doing, particularly the former Chief Minister, on this subject, I am not surprised that he might be confused. In fact, perhaps the statement by the Hon Sir Joshua Hassan that the people of Gibraltar were in a state of psychosis reflected the view of the state of his party and not the people of Gibraltar as a whole because the contradictions are present even today. Mr Speaker, in reiterating the first two parts of the motion which we support completely, they are rejecting the deal today because they are saying the same thing that they were saying in November when we rejected the parts that are contained in the deal today. Yes, Mr Speaker, the situation is every time more confusing because Members opposite don't know exactly where they stand on this matter. We have got a situation where we have to water down the motion so that Members opposite are happy to have a unanimous motion and it is the best we can do and we shall have to be satisfied with that. But let us not come and say that we are neither defending or rejecting the deal like the Hon Mr Canepa says and then he goes on to say 'well, your interpretation of that part of the deal is not how you say it, it is how I say it', and he goes on and defends the clause as a good one instead of the interpretation that we were given. He doesn't need time to think to say that we are wrong but he says that everybody else needs time to say whether other clauses are given one interpretation or another. The contradictions have been surfacing over and over again in this debate, Mr Speaker, and it is regrettable that people looking at us from outside should say 'well, once they have been given a choice of taking a clearcut decision, once the British Government has accepted

the maturity of the people of Gibraltar to take a decision', that we should be making so many excuses for delaying the day when we take the decision and how we take it and looking at things which we were not even prepared to look at in November. Mr Speaker, when the Hon Mr Canepa stood up in this House and talked about his disagreement with the Secretary of State about his interpretation of transit passengers, he was not saying that he would prefer not to have it like he said this morning. He was saying that he was totally opposed to it, yesterday, I think it was. He said 'I would prefer not to have it' suggesting that we might be able to live with it today whereas three weeks ago he wasn't prepared to live with it. What has changed so dramatically, Mr Speaker? The logical consequence of going and fighting our legal case would have been to come here rejecting the deal and fighting it because we do not accept the position which was described by Major Dellipiani himself as one of blackmail and putting us under pressure and everything else. In fact, Major Dellipiani's contribution left much to be desired because he even got himself into the position of saying 'if I could get some assurance that they won't bother me at the frontier', well, without looking at the deal, without looking at the consequences which is what the rest of the Government is saying, 'let us look at it', he said 'I might be prepared to say yes to the deal even if it means granting concessions'. That is creating a very dangerous precedent. The message going to Spain is 'Look, if you put pressure we will succumb so put on more pressure and we shall succumb more and more'. That is the message, it is a sign of weakness, Mr Speaker. But given everything that has happened here, given the negative attitude of the Referendum and everything else, it is the best we can do and, regrettably, although it is the best we can do, this side of the House would have been much more satisfied with a more clearcut position which is the one that this same House has been taking for the past four years in the seven motions passed. Thank you.

HON G MASCARENHAS:

Mr Speaker, without doubt the airport Agreement has become the most important issue to face Gibraltar, certainly, in recent years. Once again the people of Gibraltar are having to walk what I like to think of as the psychological tightrope that we have been having to walk for so many years, certainly since 1954 when the eternal Spanish claim took on a turn very much for the worse. But we are certainly talking about many developments, long developments, protracted developments and no developments throughout a span of very nearly thirty years and we don't appear to be able to see the end of it and sometimes the people of Gibraltar don't know whether they are coming or going. But can we be blamed in any way for this? I don't think we can be blamed for being suspicious, for being apprehensive or for being downright distrustful whenever anything concerning the Spanish claim to the Rock surfaces and therefore we cannot be blamed for anything that

we feel might or might not have a bearing on the future of Gibraltar. We have lived through the experience and through the incidence and through the vicissitudes, the ups and downs of the situation and I think only the people of Gibraltar are in a position to be the best judges of our destiny. Of that there is no doubt in my mind, for better or for worse it is a marriage of our emotional selves and our thinking selves. For these reasons I think that it is easy to say no to the Agreement, very easy. I don't find it difficult at all as a Gibraltarian. But having regard to the wider issue, I think that Mr Bossano said yesterday that Señor Ordoñez had wiped the floor. The Agreement cannot be totally black or totally bad in that respect. If it was a victory for British diplomacy having regard to what the Spanish Government wanted, I think there is no doubt about that. Mr Bossano also hit the nail on the head when he said that the British Government were in a position of desperately wanting the Agreement whereas the Spanish Government were in a very comfortable position of not wishing to have the Agreement throughout Europe for their own reasons and I think those reasons are very clear. I don't have to tell the Hon Leader of the Opposition how difficult it is to be in a difficult negotiating position, he knows all about that but it explains the reasons for the Agreement in itself. I won't go into the details of why the British Government are so keen which I would say are very obvious to the majority of people, Britain is a nation which exports passengers, let me put it that way, and Spain is a receiving nation and therefore, obviously, it is in the interest of the British Government who are going to carry the passengers and it is not in the interest of the Spanish nation who are going to receive the passengers, that trend has been reversed in recent years or attempts have been made at that. It has to be seen in the light of that context and whether we like it or not the important thing to have come out of that Agreement is that we have the right of veto and we have that choice and it explains the necessity of the Agreement. What a pity that our population is not more numerous, that our territory is not larger or that our resources are not greater and perhaps the situation would be completely different. But perhaps because of that, because we are very small, it is more equitable therefore that we should have that choice at the end of the day and we exercise that choice as we wish to exercise it and as we consider it to be in the best interests of Gibraltar. Therefore, Mr Speaker, at this moment in time I do not consider it to be a matter for this House of Assembly, for a decision to be made whether we accept the Agreement or we don't accept the Agreement. I think the Hon Mr Juan Carlos Perez has missed the point, speakers on this side have tried to maintain a consistent line, we believe very, very firmly that the time is for reflection, that we have the time available and therefore we should reflect on the Agreement and not say no for the sake of saying no because we feel that we should say no because we are Gibraltarians first and foremost. If we say no to the Agreement right away we might be entering a situation whereby we ourselves are taking the clock back to 1969 and my own view is if it is

Gibraltar's will that that should be so, so be it, but let us reflect. The Hon the Chief Minister said yesterday that it was an approximation to free association. Well, I like to think of it in that way as well, the age of maturity and a relationship which is based freely between two States, one big, the Mother Country as some people call it, and the colony. Mr Speaker, I must stress that this is a time for reflection for all of us and we should take advantage of that fact to our benefit and take the initiative when we choose to take the initiative. Firstly, how the European package is going to function and how it is going to develop, it might fall very, very flat in the months to come. That is a possibility that exists, there are a lot of national rivalries between the Member States and the thing could fall flat. Secondly, we have to pursue Gibraltar's legal right to be included in the package and that is essential. For these reasons, Mr Speaker, I commend the amended motion to the House.

HON R MOR:

Mr Speaker, perhaps we should congratulate GBC for having said at half past one that the motion had been passed unanimously. I would like to deal with a specific point which was brought up yesterday by the Hon Chief Minister. Before that, perhaps on the question of the airfield I can speak with a little more knowledge about the technicalities which surround an airfield than most Members in this House for the simple reason that I worked in the Control Tower of the Gibraltar airport for twelve years between 1958 and 1970. In fact, Mr Speaker, I think it was in 1967 or 1968 when I was summoned to the office of the Senior Air Traffic Control Officer and I was asked to translate a NOTAM, a NOTAM is a short abbreviation of Notice to Airmen, which was signed by one named Francisco Franco, Caudillo de España, and in this NOTAM, Mr Speaker, it said that a prohibited air space was being declared all around Gibraltar and that no British Military or NATO aircraft could overfly Spanish territory if they were coming to Gibraltar. These restrictions are still being applied today, Mr Speaker, and no doubt will continue as long as we do not accept the deal on the airport. Mr Speaker, the way that the Gibraltar airfield operates as regards flights to Gibraltar is that because of the limitations of space, because obviously there are restrictions on the capacity of the airfield to take on aircraft, any aircraft which intends to land at Gibraltar, apart from scheduled flights, of course, which they already know are coming, must first of all ask permission to land, they must ask permission to land at Gibraltar at least twenty-four hours beforehand. It is then up to the airfield authorities, that is, the Senior Air Traffic Control Officer, to grant this permission. This is the system which is recognised under the ICAO, the ICAO is the International Civil Aviation Organization and which applies to airfields with restricted space such as ours. It is therefore nonsensical, Mr Speaker, I would say, for the Hon Mr Canepa to defend there being

a joint Anglo/Spanish Committee to coordinate the movement to and from our airfield because quite obviously.....

HON CHIEF MINISTER:

If the Hon Member will give way, Mr Speaker, because it is important. I was talking about movement of passengers on the airfield. I wasn't talking about movement of aircraft, movement of passengers on the airport itself. I didn't deal with the question of Air Traffic Control.

HON R MOR:

Mr Speaker, in any case, Sir Geoffrey Howe in his interview on GBC, referred to having a joint Anglo/Spanish Committee which was necessary to coordinate the safe conduct of aircraft. Well, that in itself is nonsense. I don't think Sir Geoffrey knew what he was talking about because already the coordination exists. As you may be aware the whole world is divided into flight information regions and in the case of Spain there are three different flight information regions which are Seville, Madrid and Barcelona. Because of our geographical position we come within the Seville flight information region and all flights which come or leave Gibraltar must be carried out in coordination with the central control which is at Seville. It is, I believe, Mr Speaker, superfluous to talk about any Anglo/Spanish Committee to coordinate any of the controlling or whatever you want to call it. If the Hon Member didn't refer to that Sir Geoffrey Howe definitely did. Mr Speaker, I think that is the only point I wanted to raise.

HON H J ZAMMITT:

Mr Speaker, I have tried after listening to all the arguments put forward here, to take note of what was said to try and be as pragmatic as one can be on this issue basing myself on the fact that those Members on both sides of the House who have belonged to GATAB know how difficult it is to understand air communications which is a very difficult subject to try and grasp and more so when it affects you personally or affects your country or your particular area. I would like to start, Mr Speaker, by saying that as phlegmatic as we say we are, as educated as we say that we are, having been brought up under a British system of education, nevertheless we are latins and therefore democracy seems to have found greater difficulty to function in latin orientated countries because of our emotional way of being. I think that we can show, certainly as leaders, that although we are latins and we have very strong emotions on very many strong issues, we do like to think carefully and we do like to be slightly above those countries that have not had the privilege of being brought up the way that we have been brought up and therefore coming to an honest conclusion by trying to put our thinking caps on and not react with our

hearts which, unfortunately, tends to be the case in very many of these countries that one has seen emerging from situations similar to ours as colonies, now independent countries or states, and who still find themselves unable to govern themselves mainly through their own inability of being able to reason. May I say from the beginning, Mr Speaker, that I will not give the impression, I hope, of supporting or rejecting, let me say that very, very clearly. I say that for a number of reasons. One is, that even us and I refer to the elected Members of the House, require clarification on some points. One heard the Hon the Leader of the Opposition this morning saying that he himself had to ask for clarification on paragraph 1.

HON J BOSSANO:

No, Mr Speaker, if the Hon Member will give way. I think paragraph 1 is written in simple straightforward English that doesn't require clarification. I asked for an explanation as to what it was doing there, not clarification of what it meant.

HON H J ZAMMITT:

I am sorry, I used the word clarification instead of explanation, but he had to ask for an explanation. I am sure people would like to have the matter, whether it is clarification or explanation or both, put clearly before them to understand. I think that the circumstances surrounding the whole package, the deal, is one which has been mentioned and I do not want to be repetitive, that we haven't got to charge at it like a bull at a gate, we can take our time, we can reflect and people must know everything there is to know with the pros and the cons. I would ask, Mr Speaker, in all sincerity, who the dickens knows anything here about the air liberalisation of Europe? And the answer is none of us, Mr Speaker. I am afforded as Minister for Tourism a number of leaflets and information and I can honestly say that I do not understand it fully, it requires an awful lot of explanation. There is an awful lot of talk going on about it, an awful lot of talk which I don't know if it's true but we are talking about a number of passengers on cheap fares. If Spain has opted to keep out their touristic airports as she has, she has opted to stay out and we all know why. Those of us that are closely involved know why. But the general public doesn't know why Málaga, Alicante, Barcelona, Tenerife and Mallorca are out and one knows that Spain did not want the deal to go through because, of course, they are already suffering great competition for Iberia to have to face even stronger competition within Europe. But Mr Public does not know and understand these legalities or arrangements which we have to put calmly in front of them for them to decide. Mr Speaker, very many say it is a matter of principle. I agree and there is a price to pay for principle. I am a great believer in that but Mr Public must realise what the

price to be paid is whether in saying no or whether in saying yes. Let us look at it, let us really be analytical, let us be serious. One of the things I do like at the end of the day is that at least we can leave this House, Mr Speaker, with a sense of agreement because at the end of the day all of us, all the elected Members, do want the best thing and the only thing which is a united front on the Gibraltar we would all like to see. Let us be quite sincere, let us be honest about it, let us stop having digs because there has been an awful lot of contradiction which I would not like to pick on now because one does not want to pick bones at this particular stage. I think the best way forward is for us to put the matter before the people with total clarity and let them decide but let us not hide, let us not in an attempt to say no or yes not bring out every single fact. I say this because it has been mentioned this morning by my colleague Major Dellipiani about the frontier situation. What Spain can do, what Spain cannot do or what Spain should do are three different things and nobody knows the Spaniards better than us and we have had them at our doorstep for the last three hundred years so let us not try and kid ourselves that 'they can't do this, this wouldn't be allowed'. Mr Speaker, I think we are on the right track now, I think we should just have time for reflection, keep it cool and, of course, the whole thing has come about because it has all happened within the last month, from a massive demonstration to two very important meetings full of emotion, full of a tremendous amount of sayings in the press, radio and television, even offensiveness which antagonises people and which injure people and I can say that because I am criticised by my own colleagues because I listen an awful lot to another station. But I can tell Members and probably they didn't listen to it, to what was said in the early hours of the morning by Cadena Ser when GBC closed down. They were saying: "Well, England has contracted a pact with Spain and Sir Joshua Hassan must accept he is a colonial and he must do as his colonial masters say". Well, Mr Speaker, three hours later they didn't come out and say "sorry, the colonials are the ones to decide". They didn't and, of course, some people have been worried about it and this is why I think that at this stage, of course, the popular thing to say for us politicians, which is easy, is to say no, but that is not thinking with your head as Sir Joshua himself has said. I think we have to be careful. They may have hurt me, they may have hurt you, they may have hurt a number of people but we have to think of Gibraltar as a whole and the people as a whole and the future of Gibraltar and we have to be calm, cool and collected and show leadership which I am sure we will do, Mr Speaker. Thank you, Sir.

HON J L BALDACHINO:

Mr Speaker, after listening to speakers from the other side, it is no wonder that the Hon Major Dellipiani is confused because they are all confused. The Hon Mr Zammit said that who knows about the air liberalisation of Europe, but that is not the question, Mr Speaker. What is in question is whether we are giving concessions to Spain by agreeing to

the deal made by Sir Geoffrey Howe and Señor Ordoñez, that is the question. It is not a question of whether the air liberalisation is good for us or bad for us. We should be included as of right in the air liberalisation package so you cannot join one thing with the other. What we are considering is whether the Agreement or the deal over the airport of Gibraltar gives no concessions to Spain and as far as I understand it, I am quite clear on that, Mr Speaker. The Hon Member opposite seems to need time for reflection to decide if there are concessions or not. It is not a question of whether it is good for us or not, the point is are there concessions? They haven't admitted yet that there is some element of concessions there and that is what they should come out saying. Of course they are confused. The Hon Chief Minister in 1984 said: "Have we in the AACR agreed to any concessions that effectively undermine the position of the people of Gibraltar?" And I say to this House and to the Hon Chief Minister, Mr Canepa, that if he defends this deal, there are concessions in this deal which the people of Gibraltar have already manifested against in the mass demonstration that we had. This is what we are talking about, Mr Speaker, and I would like to clarify another point to the Hon Chief Minister because the Hon Chief Minister and I think my Hon colleague, Mr Mor, did not explain what the Hon Member had said and maybe I can. What he said was, in defending or what appears to be defending because we don't know, are they defending the deal or are they not defending the deal, I am still not too sure. I know what our position is and my position is 'no' to the deal but they don't know yet. What the Hon Member said and I suppose he was defending one of the clauses, was that you couldn't have an aircraft flying over Madrid and saying 'I am here, I am going to land'. That cannot happen, it cannot happen today, you don't need to have it written down, it is air communications law that before you leave a place or a take-off, outbound, an aircraft must ask permission of the intermediate authorities which is Seville. And we have had in the runway, when they had the restrictions on the air space, a passenger aircraft waiting for hours before they could have this permission. So you don't need to have any agreement, that is a different thing. If you have something else in the Agreement it means something else, it doesn't mean that at all. They are confused and I don't understand how they need clarification of an Agreement which the Government was party to. How did they sit down and negotiate something and they don't know what they have been negotiating? We need clarification on that, we need clarification because they negotiated, I don't sit down and negotiate something and then I come out and I don't know what I have negotiated. They need reflection, reflection on what, on what they negotiated, so that somebody else can give them an interpretation of what they negotiated? Of course you don't want to go to a Referendum because if you go to a Referendum you have to defend your position. You are for it or against it and we are quite clear. If we go to a Referendum tomorrow, whether we are in a majority or in a minority, we will go for no deal. You don't want to go to

a Referendum because it is comfortable to sit on the fence like they have always done, Mr Speaker. The leaders of the people, the Government of Gibraltar, today are showing no leadership at all. 'We will wait and see', wait and see for what? Why have we now reached the position that we have to make a deal on the airport? Because it is part and parcel of the Brussels Agreement, that is why. The Hon the former Chief Minister laughs but it is part and parcel of the Brussels Agreement, Mr Speaker. And as it is part and parcel of the Brussels Agreement let us and the people of Gibraltar not have any illusions about it. Until the Spaniards get what they want and that is up to the Lighthouse and the Spanish flag up the Rock, the restrictions at the frontier will never be taken away. They will always use that to blackmail us into accepting anything and for that reason I say no to the deal.

HON SIR JOSHUA HASSAN:

I certainly know that there is one Member opposite who is confused and that is the last speaker. Completely confused because he is talking about the Agreement and what he has voted in favour of, is that we should find out a little more about the air liberalisation transport package, not about the Agreement. The Agreement we know, it is about the package we want to know so he is confused, he doesn't know what he is talking about nor does he know what he is talking about when he talks about it is all Brussels. It has nothing to do with it. The whole matter could well have been discussed within the EEC context by Spain blocking it as she did and it would have remained the same, so that is all nonsense. There are only two points I want to make. There is another one in which it is obvious that people don't know what they have voted for because the Hon Juan Carlos Perez said that we had to have a clearcut decision I thought the decision was what we had voted for which is to look at the liberalisation agreement and find out about it. If people had their minds made up before, that is a matter for them. Insofar as the question of previous resolutions are concerned, I explained at the last meeting my interpretation of both the demonstration and the reason why I took part in it and I said this: "What we say is we are prepared to consider ways which having regard to the views of the people of Gibraltar, we are prepared to consider in which better and more profitable way use can be made of the airport for the benefit of Gibraltar" - this is at page twelve of the Hansard that I was given - "I have always said and I am not afraid to say that I will look at any agreement or the Government have to look at any proposed agreement on the merits of it, how it affects Gibraltar, how it affects our commitment, how it affects the airport, how it affects sovereignty and how it affects the people of Gibraltar. I would like to make that clear". Well, that is perfectly clear. The last point I want to make on the general debate is that the question of the final agreement to which too much has been spoken about and the concessions made on both sides to reach an

agreement, it is quite obvious that the Spanish Prime Minister who is a committed European and uses every opportunity to stress the importance he attaches to Europe, must obviously have an influence in order to be able to make sure that an agreement was signed which, as far as we were concerned, was far away from the agreement that they originally suggested.

HON J E PILCHER:

Mr Speaker, I don't need the Hon and Learned Sir Joshua Hassan to tell me what we are voting here in the House, we know that. What I also know is what we are not voting. We are not voting to reject the deal which was our initial proposal and we are also not voting in favour of a Referendum because they have already voted against it so I know what we are voting and I know how the Opposition has had to come down slowly from our position of strength, which we still have, in order to carry - not carry, I think carry is the wrong word - drag the Government benches with us so that, at least, we should have some semblance of morality coming out of this motion, Mr Speaker. If the Hon the Chief Minister bothers to read the motion as, indeed, he will - I will leave that to the contribution of the Hon Leader of the Opposition - he will find that, in fact, we have got a motion that says different things and contradicts itself at one point and another. I know, Mr Speaker, what we are voting and I don't need the Hon the ex-Chief Minister to tell me what we are voting. I will tell the Hon the Chief Minister that the feelings expressed by my Hon colleague Mr Baldachino, who is not confused, I share totally. The fact that we have come to an airport deal is a direct consequence of the Brussels Agreement and it is clear because it is not that the Hon Pepe Baldachino is saying it, it is not that the Hon Joe Pilcher is saying it, it is that the Rt Hon Sir Geoffrey Howe said it on television, that is the reality. Mr Speaker, the Hon Minister for Tourism said "We know what Spain can do, we know what Spain could do, we know what Spain should do". That is pointless, it's neither here nor there. What we want in this House and what the people of Gibraltar want to know is what Gibraltar can do, what Gibraltar could do and what Gibraltar should do and I hope Gibraltar will do in the future under the leadership of another Government, Mr Speaker, because there is clearly no leadership at all from that side of the House. And, again, I reiterate the point made by my Hon colleague. It is nonsensical, Mr Speaker, to come to this House more than two weeks after the signing of the Agreement and not to be in a position as a Government should be. I am not saying that the Government should have come to this House, that is a matter of policy, either rejecting or otherwise the deal but they should have come to explain the deal which they signed. What we have here and I won't go into the deal and I said so already why I feel that any thinking person will accept that this is a concessions deal and will not accept it but I would like to make three points. The Hon Chief Minister shows quite

clearly that he either has not read the deal or does not understand it. I said this morning in my intervention, Mr Speaker, that I can read something and I might think it is white and be convinced it is grey but I cannot be convinced it is black. I said this morning three things, one was that according to this deal the Spanish authorities would have, and I have got notes that I made this morning, Mr Speaker, intervention whether direct or indirect on flights from a third country, the right to put internal flights with Spanish authorities only and the fact that this was a Spanish regional airport and also that all of these could be referred to coordinators. The Hon Chief Minister stands up and tries to play down that statement by saying how ridiculous I was being in saying that if there was a disagreement between passenger control that this would be taken up to the coordinators and the Secretary of State. I did not say that, I was referring to what the Agreement says. I will read those three parts of the Agreement to the Hon Chief Minister. The first part - "The aeronautical authorities of the two sides will hold regular consultations about all questions relating to the development of the civil use of the airport including those related to the establishment of new services to third countries" - English, black upon white, a clear definition. It might be slightly out but that is clear black upon white, clear English, and if not let somebody explain to me what it means. If the Government are going to come here and say that we have got the interpretation wrong they should have brought the true interpretation and not waffle with childish and ridiculous remarks about our not understanding. The fact that Spanish airlines have a right to come into Gibraltar and the fact of making this a Spanish regional airport. I will read again from the text of the Agreement: "Permission for Spanish airlines to operate services between airports of the Kingdom of Spain and Gibraltar under paragraph 1 of article 6 of the draft EC decisions on capacity and market access will be given by the Spanish authorities". Again, clear. There might be a difference of interpretation. And the third point which is the first point that I made about the coordinators which the Hon Chief Minister in his wisdom said that I was talking nonsense about the coordinators meeting to discuss all these things, it says: "The arrangement in paragraph 4(1)" - 4(1) talks about the coordinating committee and I won't go into that - "will be kept under review by the working group on civil aviation questions established in 1985" - it could be the date of the Brussels Agreement, I am not very sure. Of course, it is the Brussels Agreement Civil Aviation Coordinating Committee, of course it follows from the Brussels Agreement but I digress - "under the auspices of the Anglo/Spanish coordinators. This working group will report regularly to the coordinators". And if that were not enough, it says: "The reports" - which are going to be passed on regularly from the joint coordinating committee - "will contain any recommendations for further cooperation in the use of the Gibraltar airport". That is the Agreement, I didn't sign it, the Anglo/Spanish Agreement. Mr Speaker, the Government can come here and say 'We think this Agreement is bad, we think that even though this is

bad for Gibraltar we want some time to think about the economy', they have a right to do that. What they don't have a right to do is to sit on the fence and confuse everybody in Gibraltar into thinking that this Agreement is a good Agreement for Gibraltar because it is not. It is not only concerned with concessions, it goes much, much further than that. The Spaniards, Mr Speaker, Señor Ordoñez is not saying that this doesn't have implications for sovereignty as the Hon Chief Minister wanted us to think. An article in 'The Sunday Times' of the 6th December said: "Spain believes it has won an unprecedented diplomatic victory in the agreement reached with Britain last week". It goes on to say: "The atmosphere in the Foreign Ministry in Madrid is described as euphoric because according to its experts the deal implicitly recognises Spain's sovereignty over the isthmus". I don't use it in argument that there is or there isn't infringement of sovereignty, I am arguing it against what the Hon Chief Minister said that Senor Ordonez had said that it didn't have any implications on sovereignty. I think, Mr Speaker, this is what the Government should have come here to explain to the people of Gibraltar. This is what the Government today should be doing, explaining what this means and my Hon colleague was right. They were part of that negotiation, if nothing else because they were both there, the present Chief Minister and the former Chief Minister, both were there. The people of Gibraltar are entitled for people to come to this House and say 'This is what the Agreement means, this is what it is and this includes concessions or doesn't include concessions' and then the Government give a leadership if those concessions should or should not be given, given the economic impact of Gibraltar. But that is not what they have done, Mr Speaker.. What they have done is similar to what they always do and that is sit on the fence, and hope and pray that the thing either goes away or that they can use it somehow politically to get back into power and I am sure that if they got back into power having said today no to a Referendum, I have no doubt in my mind that this would go the same way as the Brussels Agreement went, it would be implemented a few months after the Government were returned to power. I also have a couple of other points I would like to make, I won't take up too much of the House's time because I think everything that needed to be said has been said. I would just like to remind the Hon Chief Minister because as the Hon Leader of the Opposition said, I think perhaps it is a question of memory, perhaps it is a question that they are so immersed in what they are doing at this moment that they forget what they said a week ago, two week's ago, three week's ago. I would like to remind the Hon Chief Minister of the 'Open Forum' programme when he said "the price with a 'c' we will never pay irrespective of what Spain wants, we do not put a price on our homeland" or words to that effect because I don't have the kind of memory to be able to quote him word for word but I can go back and show him the video that I have at home and he was defending because it is when my Hon colleague mentioned the price that I suddenly remembered his play on words with price with a 'c' and prize with a

'z'. And he said quite clearly that no price could be put and what he is saying to the people of Gibraltar now, what they are all saying except for the Hon and Gallant Major who is confused, is 'let us reflect'. But let us reflect on what? What he is saying is 'let us reflect to see what it costs us and then we can put a price with a 'c' on the Agreement'. That is what they are saying and that, Mr Speaker, is not what the people of Gibraltar want. Another point which I would like to bring to the attention of the Hon Chief Minister and although it has not come from him, I think it came from the Hon Major Dellipiani, was the fact that he said - and I am not here to defend the position of any Trade Union Movement or the GTC - but I would like to remind the Hon Chief Minister that one of his Ministers has said that it is disgraceful for a union to say that they would fight the deal irrespective of what the people of Gibraltar wanted. May I remind the Hon Chief Minister that in the programme 'Open Forum', when he was asked 'What are you going to do?' He said 'Well, we will fight it legally', and when he was pressed he said 'Well, if we cannot find any other means we will turn to the GTC for them to stop it'.

HON CHIEF MINISTER:

If the Hon Member will give way. I said that in the context of the supposition that the deal was going to be imposed on us, against the background that there were indications that the deal was going to be imposed on us but we have a free choice and I would like him to remember that point.

HON J E PILCHER:

Mr Speaker, I accept that we have a free choice and I am glad for it but it is just that we cannot have a situation when we say different things to different people at different times. I think, Mr Speaker, this is one of the failings of politics. If you asked an ordinary man in the street to give you a definition of a politician he would say 'a dishonest person' - and I am going to qualify that by what I am going to say - 'a dishonest person that never says what he means' and that is the definition. People sitting across the way in Government benches are politicians in the way that the definition of politicians have meant for the ordinary man in the street until, Mr Speaker, the GSLP came to the forefront. Because we, Mr Speaker, as my Hon colleague said, we since 1983 said 'we will call a spade a spade and if there is something to be told then it has to be said'. And if that puts us in a minority and keeps us out of Government so be it, we are honest and we defend what we believe in. A couple of matters, as I say, just to round off, Mr Speaker. One, I wasn't apologising for bringing the motion to the House. I was just explaining the reason and the events that have led us to bring this motion to the House. Perhaps we would have brought it to the House anyway but I think I explained that enough this morning and there is no need to expand but one point to be made clear is that we don't apologise for

bringing things to this House because we feel that this is where matters of interest in Gibraltar should be discussed and I am glad that we have live broadcasting of the House because it is not only presented here but it is presented outside Gibraltar for those who care to join in with their radios and listen to us. The Hon the Chief Minister has always been clear and to the point and this is why the Hon Leader of the Opposition in moving his motion looked towards the Hon new Chief Minister to say what he meant which he didn't and that is why we were disappointed and that is why I kept using the word 'subtlety' because subtlety is sitting, Mr Speaker, on the right of the present Chief Minister, that is, the past Chief Minister. The point that I was trying to make about blackmail succeeding, I think is a point that has been made already by the Government benches themselves, saying yes or no to the airport deal will not prevent the blackmail situation but I think, again, the Hon Chief Minister misleads the people of Gibraltar when he says that the Spanish motion in the European Parliament which referred to the airport deal was defeated. It was defeated, Mr Speaker, but it was defeated because it was not supported by the British delegation on the grounds that a bilateral agreement was being discussed and asked the UK delegation to vote against it because if it was passed it would destroy the bilateral agreement. That was why it was defeated, if not we would have lost that one as well. I am surprised that the Hon Chief Minister dares to mention the fracas of the visit of this House of Assembly to Strasbourg or Brussels or wherever it was. It was a fracas and it showed how powerful the Spanish delegation is in Brussels, Strasbourg and anywhere related to the EEC. I think the present Government has done a disservice to the people of Gibraltar by coming to this House and saying 'I am neither going to defend or reject the deal'. As the Government, they should have come to this House to defend or reject it even though, as the leaders of the people of Gibraltar they could have said 'the deal is bad, we feel that we cannot accept it at this moment but we want a, b, c, d, e, f, g', and they could have chosen that path to convince the people of Gibraltar. But this pussyfooting around which is confusing not only their own Ministers but confusing the rest of Gibraltar, it is not a question that people don't know, it is not like the Hon the ex-Chief Minister saying that there are more people that want it than don't, it is not that, Mr Speaker, it is that there are more people and more people by the day confused because they will not be told by the Government of Gibraltar what they should be told by the Government of Gibraltar. What was the deal that they negotiated or, at least, helped to negotiate with Sir Geoffrey Howe initially and then Sir Geoffrey Howe with Spain and whether this deal had the blessing of the Hon the past Chief Minister when it was signed. Mr Speaker, I have on various occasions challenged the Government to come out and say whether all that we are asking or all that I asked of them is to stand up and say whether the deal was good or bad for the people of Gibraltar who manifested themselves in the demonstration just before the meeting. I have sat here for

two days or ever since the motion started and I don't know what the position of the Government is. One Minister is confused, the other one does a study on the psychology of the Gibraltarians - the Hon Mr Mascarenhas, the other one says he is cool and pragmatic, the other one says we have to rejoice, the other one talks of reflection and goodwill in the Christmas period. It is total confusion. How do they expect the people of Gibraltar to stand behind one banner any more. If tomorrow there was a 'no concessions' banner downstairs where would the members go? I would like to end, Mr Speaker, on the point made by the Hon Mr Mascarenhas, that on reflecting about the agreement, maybe they were saying to Gibraltar yes to free association, that was certainly a new one. My answer to the Hon Mr Mascarenhas is if I were sitting in HMG today I would say to the Hon Mr Mascarenhas 'You are not going to get free association because free association, like you say, means that there is a certain maturity in your people that we have to accept'. The AACR by saying 'no' to a Referendum have said to the people of Gibraltar "You are not mature enough to know what you want" and, therefore, Mr Speaker, that negation to the people of Gibraltar of a Referendum really shows the true colours of the Government sitting opposite. Thank you, Mr Speaker.

MR SPEAKER:

If there are no other contributors I will call on the Hon the Leader of the Opposition to reply to the debate.

HON J BOSSANO:

Mr Speaker, the motion that I brought to the House was not as the Chief Minister seemed to think, one about which my colleague was making apologies for or allowances for but one which we had thought, until today, was unnecessary and, in fact, even though the Government may think that we have had a good exercise in debating this issue, we don't think that it has been a good exercise because what it has exposed is that the position of the governing party is not as strong as we had assumed it to be by reference to the stand that they had taken previous to today in the other six motions. To that extent the strength of unity on this issue is not the same after the passing of the motion as it was before the passing of the motion. And it is not true to say that because we are getting closer to an election the differences between us are going to be sharper and, as he said, there is no reason why we shouldn't continue to be friends as we have been for many, many years. We joined the House together in 1972 and the Hon Member knows that I have always felt that we were closer to each other in our thinking and in the way we did not shy away from blunt speaking and that I thought was something that would make it easier for us to be able to understand each other and to work together on issues on which both parties thought the same. I was under the impression until this motion, in fact, that both parties

thought the same on this issue. Let me say that we could have been throughout in all the preceding motions and, indeed, on this one, we could have been on the attack against the Government on the basis of their having compromised Gibraltar's position under the Brussels Agreement and we chose not to. We chose instead to deal with the airport issue, particularly after the situation of the position of the British Government in June of this year which chose to deal with the situation on the basis that we could have a joint common bipartisan position on the airport even though we did not agree on the Brussels process. The offer to join forces with the Government was made and the Chief Minister at the time said that he would look at it and he chose never to take it up. Therefore, as far as we are concerned, the only people that have had an input into this agreement is them and they are the people who should need to study it least because they were in Madrid and they were in London. But when my colleague Mr Baldachino told the Government just now that this was the result of the Brussels Agreement the Hon. and Learned the Backbencher seemed to disagree. Well, I don't see how he can disagree with that. Let me read to the House what the joint declaration says, Mr Speaker. The joint declaration says: "Taking into account the joint communique agreed at Brussels on the 27th November, 1984, which established a negotiating process between both countries aimed at overcoming all the differences...." and then it goes on to specify the bilateral air agreement. So, clearly, the bilateral air agreement is the child of Brussels. No? Well, that is what it says here, I will read it again. "The Minister of Foreign Affairs of the Kingdom of Spain and the Foreign and Commonwealth Secretary meeting in London on the 2nd December and taking into account the joint communique of Brussels on the 27th November, 1984, have reached the following arrangements....." and it specifies the arrangements. We haven't laid emphasis on that but let us not say that the arrangements have nothing to do with the Brussels process when both Sir Geoffrey Howe and Señor Ordoñez who made the joint declaration say it has. It says "Taking into account".

HON SIR JOSHUA WASSAN:

If the Hon Member will give way for one minute, I don't like to interrupt him. I didn't say that, what I said was that Brussels or no Brussels there would have been the problem that has been solved that way.

HON J BOSSANO:

Well, let me tell the Hon Member why we don't agree with that interpretation. We don't agree that Brussels or no Brussels there would have been the problem, first, because this specifically links it to the Brussels process and, secondly, because before the Brussels Agreement was reached, in 1983 there was an EEC Directive of inter-regional flights whereas now the new EEC Directive deals with category 1 to

category 1 flights and cut to regional flights, in 1983 there was a previous one prior to the Brussels Agreement and prior to Spanish accession where we were included as a British regional category 3 airport entitled to put on flights within 400 kilometres using aircraft of less than 70 seats and nobody could object and Spain came into the Community accepting we were part of the previous stage of the air liberalisation package and they intervened between the first stage and the second stage using the 1984 Agreement and using the right to a veto gained by them on January, 1986. It is quite clear that we were not in the same position in 1983 as we were post-1984. And the argument that Spain used in June in Luxembourg has an element of validity. What the Spaniards were saying to the other European Community Members in Luxembourg, Mr Speaker, was: "Wait a minute, here I have been since 1984 trying to persuade the British Government to do a bilateral agreement with me on the Gibraltar airport and you are going to come along in 1987 and include Gibraltar with all rights in the air liberalisation package and then what am I going to be left with to negotiate bilaterally? Effectively, since the process started in 1984, if you include Gibraltar in the multilateral agreement you leave me high and dry". At the time the Hon and Learned Member opposite was arguing, he argued it publicly, that the Spaniards were wrong in that interpretation because the wider agreement supercedes the smaller agreement. So, in fact, the smaller agreement was the Brussels Agreement and the wider agreement was the EEC Agreement. So he cannot say now that the Spaniards were not using the Brussels Agreement, they were using it specifically and clearly. What did Britain say to that? The British Government issued a statement on the 6th July, 1987, in Brussels in which they said: "We have made consistently clear that we are prepared to continue talking to Spain about issues relating to the use of the airport, that is to say, the process of Brussels". They were prepared to continue with that - "But we cannot accept that the application of the aviation package to Gibraltar should be subject to the successful outcome of these talks". It has been made subject to the successful outcome of the talks. "Spain does not have the right to veto the application to Gibraltar of her rights within the EEC" - Spain has used that veto right or no right. This is why we are saying to the Government, if we agree on that analysis and we have agreed with that together until July, surely, we cannot now be saying 'we are going to test whether we are right but if we are not right we are going to start thinking of implementing the deal', and what we can do even less and I know that I said some harsh things about the Hon Member in the interview that followed his interview on Friday the 5th December when he came back, but he has to understand that, frankly, he left me totally flabbergasted, I couldn't believe my ears, Mr Speaker, when I heard him. I had heard his interview in London and his interview in London, as far as I was concerned, left me quite happy. It seemed to me that the Chief Minister - and he was still the Chief Minister and still talking for the Government, as far as I was concerned - the Chief Minister had said in

London that his position was quite clear, he knew what the people of Gibraltar wanted, the people didn't want the deal and if the people didn't want the deal he didn't want the deal and that he stood by the motions of the House of Assembly. That is what he said in London and I was quite happy with that. When he came back and he was pressed on television, he may not have intended that it should be seen the way it was seen but he cannot get away from the fact that if one is sitting watching him being interviewed and they say to him "Will you defend the deal?" and he says "I am defending it now". "Is it a bad deal?" He says: "Well, the Spaniards were making a lot of demands, they were demanding all sorts of things and the demands have been considerably reduced". He was asked: "What is it that you are telling the people of Gibraltar?" He said: "My advice is that they have a good deal, they have nothing to worry about, there is nothing offensive, nothing bad for Gibraltar, very much the opposite". Why do we need to study it? Why is it that the other seven Members of Government need to study a deal that the former Chief Minister says is a good deal, we have got nothing to worry about, there is nothing offensive about it, nothing bad for Gibraltar, very much the opposite. And he was asked: "Well, if it is all those things why don't you go ahead?" and he said: "Because the people are sensitive". And he was told: "Well, surely, the people want leadership" and he said: "I am giving leadership, this is very good, it is very satisfactory". Well, if it is all those things and we reacted to that, we said 'if it is all those things we will go to the House and let the Government of Gibraltar tell us in the House that it is all those things and that they think that those of us who are against it, who may be in the majority, are wrong' but they have made a judgement on it. If they have not made a judgement on it and if they have not studied the consequences of the deal then they cannot say any of those things and the Hon Member was still Chief Minister when he was saying it and he knows that he cannot express private views in an interview even as a Member of the House. There is a political responsibility in that people will obviously pay more attention to the things that he says and assume that if he is saying it is a good deal it is because he has done his homework and if he comes back from London and he has been involved in London and involved in Madrid they will assume that he is in a better position than anybody else. That is why we reacted angrily and felt let down by the things that he said and that is why we felt we had to come to this House to get the facts straight, to get the Government to take a clear position. Unfortunately, we have not had the result we had hoped for because, in fact, the Government is not prepared to say 'it's a good deal' and it is not prepared to say 'it's a bad deal'. All that they are prepared to say is that they need to study it longer. Well, we get back to the original position then, the position in July when, clearly, it was stated that Spain had no right to a veto and that therefore the position of the British Government in defending Gibraltar was that we had a legal entitlement

to be there. And, in fact, the statement issued in Brussels on the 6th July goes on to say: "It has been clear since our accession that Community law on civil aviation does extend to Gibraltar". Of course it is clear, we were included in the 1983 Directive. This was confirmed by the Community's legal advisers. We all know that because, in fact, Mr Ratford told us in The Convent so they must have told the Government. And Mr Ratford said to us and I repeated it on television subsequently: "There is no doubt in Britain's mind about the legality of the position of Gibraltar. The political realities are a different thing and even if you have got legal rights there is a lot of pressure being put on everybody". As I said at the beginning, what we were saying to Mr Ratford was: "Fine, if that is the situation you have got and you have got a lot of pressure from ten Member States and we are holding that thing up, then, if necessary, if you feel there is no other way out, leave us out but don't land us in a deal which leaves us no room for manoeuvre". Well, I am afraid that advice was not taken. In fact, what they have done is they have landed us in such a deal and then they have given us Hobson's choice, they have given us a very difficult choice and they have called our bluff. They said: "Right, you want to have a day out by going to La Almoraima or to the Fair and you all come out with your Union Jacks, you have your little demonstration outside The Convent and you upset our civil servant. Alright, here is the package, now let us see if you have got the guts to stand up and be counted and say 'yes' or 'no' and live with the consequences". And the reality is that we are saying back: "No, we don't have the guts, we want free association, we want to be treated as adults but don't let go of my hand because I get dizzy". That is the message we are sending back unfortunately and it is not a message we would have liked to have sent back. I have said to the Hon and Learned Member many, many times, he knows that, when we have been to London, when we have been in different situations abroad and we have had a chance to talk together, I have said to him that he could always count on me to put aside party differences and stand side by side with him to defend Gibraltar's interests whenever he felt the moment came. The reality is that the moment never comes however black the thing gets he always says: 'Let's wait until there is a way out', because I suppose he always feels that it is better to fight to live another day and the fight never arrives. But the reality is that now we have been left holding the baby and it is quite obvious to us that the Government is holding it like a piece of jelly without knowing what to do with it. Given that situation, what have we got in front of us which we are going to vote now? We have got a motion which, first of all, reiterates that the airport of Gibraltar should be open to international use in exactly the same way as every other airport. That is to say, we want the international use to be on the basis that no special privileges are accorded to Spanish airlines, that is what we say we want. We haven't said we are either for or against the agreement, that we are not saying, we are saying what

we want. Is the first paragraph in conflict with the Agreement or not? Does the Agreement give special privileges to Spanish airlines? Well, the answer is yes, it does. Spanish airlines can fly from Spain to Gibraltar without seeking the permission of the British Civil Aviation Authority. They cannot do that to any other British airport, only to the Gibraltar airport. Yes, it says that; the Hon and Learned the Backbencher shakes his head, I will read what it says: "Permission for Spanish airlines to operate services between the airports of the Kingdom of Spain and Gibraltar under paragraph 1 of article 6 of the EEC Agreement", and paragraph 1 of article 6 is the one that says that you have to go to the Member State and ask their permission, that does not apply to Spanish airlines flying from Spanish airports. It applies to every other airline from every other airport so there is a privilege accorded to Spanish airlines. It doesn't say here 'all airlines', it says here 'Spanish airlines' specifically given a privileged status. That is one element. We then go on and we are only in the second line of the motion we are all in favour of, we don't want to give special privileges to passengers with a Spanish destination. Are we by any chance in this Agreement that we haven't yet decided whether to say yes or no to, giving any special privileges to passengers with a Spanish destination, I wonder, Mr Speaker. Shall we peruse the Agreement to see if we can discover anything in it about passengers, and what do we find? That passengers from any country flying in any aircraft of any company and of any nationality - the only thing they have left out is helicopters - whose destination on disembarking is any point on the territory situated north of the frontier - I suppose they don't say Spain because if they accepted that Spain was on the other side of the frontier they would be accepting it isn't on this side so they said the territory north and we go along with that. We are now the territory south and they are the territory north, we are no longer Spain and Gibraltar in this Agreement. Could it be that we need to have a legal interpretation of whether the territory north is Spanish territory or not? Is that where the Government isn't sure that there is a conflict? Do they need to have legal advice on that? Could the QC in their ranks advice on this matter? Clearly, we are saying we don't want passengers with a Spanish destination north of the frontier fence to have special treatment and the Agreement requires us to give that special treatment. Do the Spanish Aviation Authorities have any special privileges? Well, the Agreement says that the Spanish Authorities have to be consulted, there has to be regular consultations between the Aeronautical Authorities of the two sides, that is, the British and the Spanish because the two sides are not Gibraltar and Spain, the two sides are Britain and Spain, those are the two sides in the Agreement. The British have agreed that the Spanish Aeronautical Authorities will have regular consultations about all questions of the use of our airport including services to third countries. So after this Agreement if we want to discuss a service to Casablanca, that has got to go to the Committee which has got the authorities of the

two sides, until now we don't need to do that. Are we giving special privileges to the Spanish Aviation Authority? I would submit we are because we don't have that for the Moroccan Authorities and we don't have it for the Portuguese. Gibraltar Airways has now got a request for a flight from Gibraltar to Faro, they don't have to have a joint committee with the Portuguese Authorities for that. They go through the normal EEC procedure of submitting an application which the Portuguese Authority can accept or reject. That is just paragraph 1 which is going to be carried unanimously, I am happy to say. In paragraph 2 we reiterate what we said in March, 1984, that Spain should have no say in the future use of Gibraltar's airport. We reiterate what we said in June, 1985, and in 1986. We reiterate what we said about our right to be included in the EEC Agreement without any agreement with Spain. We reiterate what we said about anything that in our opinion could be construed or might have the implication or give the impression of any effect on sovereignty, that is out. The Hon the Chief Minister was talking about me bricking things up, we have unanimously bricked up the thing, doesn't he know that? Doesn't he understand that every time we put a motion here which he not only voted in favour but defended with the same vigour and the same emotion and the same sentiments as I am doing today, he has taken that line in every other previous motion, he was doing the bricking, I was putting the brick and he was mixing the mortar for me. No? Well, I think he was, he should go back and read the Hansard. He would be surprised to find what kind of person he used to be before he was elevated to the throne. We are not rejecting the deal but we are reiterating that in November we rejected the proposals in 'El Pais' and the proposals in 'El Pais' included access for Spaniards to the airport without passing through British customs and immigration and the construction of another terminal and that we rejected so we are now rejecting it for a second time although we haven't yet made up our mind whether we are going to reject it for all the other nationalities because I would submit, Mr Speaker, to those Ministers on the other side who wish to escape from their state of confusion by the exercise of logic, a highly attractive discipline I assure Hon Members, that if you have got a situation where you rejected that Spaniards should not have to use customs and immigration and now you have got an Agreement that says 'neither Spaniards nor any other nationality has to use customs and immigration' and the Government is saying that they haven't yet made up their mind about whether they are going to accept it for all nationalities or reject it for all nationalities but they are prepared to vote in favour of repeating the rejection for the Spaniards if you deduct (a) from (b) you are left with a situation that what they haven't made up their mind is whether the other people will be allowed to go into Spain without going through customs or immigration but definitely the Spaniards will not be. So if we take logically the clause that we are going to vote in favour reiterating the November motion and the possible acceptance of rejection of the bilateral Agreement, what we are saying is the implication

is that what the Government is considering is whether the best course of action would be to go and say to Spain: "Well, we stand by the motion of November therefore the Spaniards with Spanish destination will still go through customs and immigration but every other nationality other than Spaniards will be allowed to go through without going in", but not through the second terminal, no, because we are rejecting the second terminal. Well, not really because we rejected the construction of another terminal and this is a second terminal north of the frontier and that introduces a new complication which deals with geography amongst other things. But, clearly, we are reiterating positions which in our view eliminated the need for the motion, that is the whole point. By taking the Government through each of the clauses that they still support they will then understand why we felt that there was no need for us to reject the deal because axiomatically a priori the deal had been rejected by this House and consequently what the British Government had done, and let me say that that was one particular story going round allegedly emanating from a Government source that the British Government were being so clever with their British diplomacy of 200 years that what they had succeeded in fooling the Spaniards was in doing a deal which removed the veto in the knowledge that we were going to say no and then there would be no deal. That was one of the stories going round before the deal was struck. Obviously, my reaction when interviewed by people before the deal was struck was that I couldn't understand what Sir Geoffrey Howe and Señor Ordoñez were spending so many hours discussing because I couldn't see what there was for them to discuss which was compatible with all the motions we had passed. I think, Mr Speaker, that we find ourselves in a situation with the deal which, in fact, the Chamber of Commerce correctly pointed out. When Mr Seruya came out the Chief Minister in a radio interview said that he obviously didn't know what he was talking about because the public reaction to his proposals were quite clear and we had this business of the directors resigning. And the Chamber of Commerce subsequently said: "At present nobody has to the Board's knowledge presented a Gibraltarian view. To wait until a settlement is made over our heads is to leave matters too late as has occurred on other issues". A settlement appears to have been made over our heads because although the Government of Gibraltar was involved in the process we know that Major Frank Dellipiani only found out what his Government had been involved in two days after everybody else had it on their desks because it never got to him. Therefore we have a situation where the Chamber was wrong in taking that line because that line was in conflict with the line that the House took and the line that the people took but they are certainly correct now if now we are going to have to say to ourselves 'the choice that we have got is either accepting or rejecting a deal which we have had nothing to do with and which we have not ourselves introduced on the basis of the things that we want out of that deal'. This is a point that, again, there has been no response from the Government on. The fact that we have been maintaining this line consistently in the House doesn't mean that there

is no alternative to this line, Mr Speaker, there is an alternative and it is a defensible alternative for those who want to defend it. Just like the Party for the Autonomy of Gibraltar which never got any support still had a line that they defended year after year and it is legitimate to say 'I believe we should sit down and negotiate a deal with Spain', it may not be my view, it may not be the view of Members opposite but it is a view that can be defended. And then you go to Spain and you say: "I am interested in doing a deal with you on the airport and these are my conditions. What do you want?" And you sit down and you judge what you have negotiated and you say "Well, no, the price is too high, the price" - with a 'c' - "is too high for the prize" - with a 'z'. But what we have got now is a price - with a 'c' - for the removal of a veto, that is all we have got in exchange and that is why we have to say no. We have no choice and we cannot study it and look at the merits of it. I agree that before we decide to leave the air liberalisation package we should study the air liberalisation package, I don't disagree with that because we might not want to be in it. There seem to be an awful lot of people who want to get out of it so why should we be thinking of how much do we have to pay to get into the club that everybody wants to get out of? I agree that before we all rush to join the EEC liberalisation package we should study very carefully what the implications for Gibraltar are. But I think studying the implications of a bilateral for Gibraltar doesn't require any great thought, it is quite obvious what it is all about. We cannot be swayed in that consideration, Mr Speaker, by worries as to Spain getting nasty if we don't go along with the deal and putting restrictions and the standard of living going down which is one of the areas mentioned by Major Dellipiani. I can understand that that is a real worry, there are people who are thinking about that but we cannot follow that road for all the reasons that Government Ministers have put because if we demonstrate fear in that direction then they will be turning the tap on and off constantly and our lifeline, our standard of living will be on a thread which they can threaten to cut any time that is why we cannot do that. So, in fact, if we are going to have to make a stand it is better to make a stand with the airport still under our jurisdiction than with half an airport. If we are going to make a stand let us make a stand at the frontier not at the lighthouse. That is why we cannot even take that into consideration and, of course, if the Hon and Gallant Major feels that he has difficulties in obtaining employment at the age of 52 with his planned retirement from the House and I can understand those worries because I know many people in that situation, all I have to tell him is that that is due to the bad economic policies of the AACR administration. When the GSLP is in Government he will find he will have plenty of employment opportunities. The position, Mr Speaker, that we have adopted is not as the Hon Chief Minister thought, an off the cuff reaction to this deal without considering the pitfalls and it is not a question of having made bold

assertions on the Moran programme. I know that he was away and I know that he had agreed to come but there were other Ministers here who chose not to come to the Moran programme and, clearly.....

MR SPEAKER:

No, with respect, that is a new matter.

HON J BOSSANO:

I have made a note, it is point 8 on my page and he said that I made bold assertions on the Moran programme and that I was reacting immediately to the deal.

MR SPEAKER:

That is a different matter, but the reason why others didn't come is not relevant.

HON J BOSSANO:

What I am saying is that the Government had an opportunity to have somebody else there who could have put me right if I was entering pitfalls and making bold assertions although I doubt that they would have been in a position to do it since they don't seem to have made up their mind even by now and a long time has elapsed. But it wasn't just a question off the cuff, I was, in fact, confident at that stage that I was reflecting the collective views of the House and I could not have thought at that time because there had been no indication that anybody on the other side would have taken a different line from mine, I thought quite frankly, Mr Speaker, that what I was reflecting was House of Assembly thinking not GSLP thinking in that programme in relation to the Agreement. I thought everybody was clear on it. It is, of course, the position that in terms of consultation the Government, we thought, was in Madrid and in London in order to be able to influence the situation or to make clear that what was being discussed was going to be turned down here and we thought that that had been made clear. So if it was up to us to say yes or no it cannot be on the basis, as the Hon Mr Featherstone was saying, that that might imply we are the isolated man in Europe. How can we even consider as legitimate that we should be told in July by Her Majesty's Government, and I won't repeat what they called Señor Esquerria for opposing the deal, but everybody knows how tough the British press was on him, how can we be told then that Spain is the isolated man in Europe for vetoing us and we are now the isolated man in Europe for not giving in to blackmail to have the veto removed. That is not acceptable and we cannot accept that that is what British democracy is all about, that we have got a choice and we are free and we can exercise this choice but heaven help us if the choice we exercise

is not the one they want us to. On that premise we couldn't defend in this House the principles and the traditions and the links with UK. I think we have to assume that we do not run that risk and we do not run the risk of ostracism for exercising basic rights and if we are going to be told differently let it not be insinuated, let it be said so openly. I also think, Mr Speaker, that when the Hon Mr Mascarenhas was referring to the wider issues he accepted the point that I had made that Spain had the upper hand in the negotiations because at the end of the day if we go through the EEC air liberalisation agreement we find that the only country that has actually opted out of two clauses is Spain where they say 'our airlines will not use fifth level agreements' and nobody can use them in Spain. And it is clear, as the Hon Mr Zammitt mentioned, that they seemed to have left more of their airports out than anybody else. Of course, they were on a no lose situation, either they gave up the veto and got into the EEC but got a foothold in Gibraltar or they didn't get a foothold in Gibraltar but they blocked the EEC liberalisation package, either way they won an advantage, that put them in a very, very strong bargaining position and it is not that we have to be unsympathetic to the very tough negotiating position that Britain found herself in but that is, again, not a consideration for us. We can understand it, we can understand how and why they got where they got to but we cannot allow it to influence what we have to decide now, where do we go? Therefore, although it is a valid argument it is not a valid argument by reference to the thinking and the consideration that the Government says is required. The fact that that tough negotiating position was the background to the deal doesn't make the deal better or worse. It may explain why it is bad but it cannot make it better, it may make us understand why Spain got more out of it and Britain very little out of it but it doesn't make it more palatable and more acceptable and therefore given that the Government's argument has been until now that they are not yet ready to take a decision, I submit to the Hon Mr Mascarenhas that valid as the point is, it is not a relevant point in consideration of the merits of the Agreement. I am just looking, Mr Speaker, to see if there are any other points, before I round up, that I haven't covered from the submissions of Members. One other thing that I haven't previously quoted that the Government did prior to this, is the statement issued by the Hon Mr Canepa as Acting Chief Minister on the 27th July where he said that.....

HON CHIEF MINISTER:

Mr Speaker, isn't that new material?

HON J BOSSANO:

Well, let me just say what it is and then you will know whether it is new material or not.

MR SPEAKER:

Yes, but you can only raise matters in reply which have been raised in the debate.

HON J BOSSANO:

I am talking about the support given by the Government of Gibraltar to the Bland application.

MR SPEAKER:

Well, that hasn't been dealt with at all in the debate.

HON J BOSSANO:

Let me just say what the relevance of that is to what has been said. I think that is an indication, Mr Speaker, that on the 27th July the Government of Gibraltar, remember that this was Bland's request for a flight to Frankfurt which is an EEC airport covered by the air liberalisation agreement, Mr Speaker, and remember that this is after the air liberalisation agreement was vetoed and the Government of Gibraltar at that stage had, in fact, adopted a stand of saying 'we support and defend the right of Gibraltar to be treated as a British airport even without the liberalisation'.

MR SPEAKER:

I will stop you there and I will say that I will allow you to continue provided you give an opportunity to the Chief Minister to say anything he would like to say on the matter.

HON CHIEF MINISTER:

The only thing is, Mr Speaker, that the Hon the Leader of the Opposition is in the happy position of preparing his ground beforehand and then he catches me by surprise and I don't have an opportunity at this stage of looking into the matter in the same way as he has had because he knew that he was bringing the matter up. I think it is new material but it is a matter for you, Mr Speaker, and I bow to your ruling. But at the end of the day after so many hours of debate to bring up a matter such as this, I think he could have brought it up yesterday and he would have had a reply, if not from me he would have had a considered reply from one of my colleagues.

HON J BOSSANO:

Let me say, Mr Speaker, it is not an important point and, in fact, it was a point that I was making in the Government's favour so I am quite happy to drop it. So if the Chief Minister doesn't want me to say it I won't say it.

HON CHIEF MINISTER:

In that case I bow even lower to the Speaker's ruling.

MR SPEAKER:

Order, then we will leave it out.

HON J BOSSANO:

I did bring a number of important points at the beginning and I have not had any answers to any of them, Mr Speaker, and they have all spoken after me so I don't think the argument that they would have been able to answer that one is valid but in any case, it was not a criticism of the Government, it was in fact a point in their favour saying they were taking a line of supporting the new route independent of the air liberalisation package, to show that they could still do that even now. Even while we are doing all the other things I submit that the Government has already demonstrated that it is able to give support to promotion of the greater use of the airport and that is an important part of something that can be pursued which would, I think, strengthen our position and which I commend the Government to do independent of the things that we are agreeing in this motion. I would also like just to clarify, Mr Speaker, that the reference that my colleague made to this question of what was a jocular remark by the Hon Chief Minister after the last debate, and I think he made it here, in fact, he crossed the floor to us and he said it here when there were quite a few of us around, that had we not been able to reach agreement on the last motion they might have lost the deposit, or words to that effect. Clearly, let me say that we know that things like that are said in a spirit of not being taken seriously and nothing that we have said is intended to abuse any private or confidential information or embarrass Members on the other side. Members know that this is not our way of carrying on and therefore nothing should be read into it. I believe that therefore, Mr Speaker, we have gone through the arguments and we have come up with a final version of a motion which comes, as far as we are concerned, having demonstrated the inconsistencies that there would be into arguing that (1), (2) and (3) do not clearly say no to the Agreement and that (4) says maybe no and maybe yes. As far as I am concerned, the fourth paragraph of the motion to which I have not yet referred, says that no decision should be taken on the air liberalisation package. It has removed

the word 'implementation', for us it was an important consideration because as I said previously, we didn't want anybody to assume that we were saying 'the possibility of it being implemented is being retained by the House or by the Government'. We are saying 'no decision should be taken'. By implication we are rejecting it, we submit, in (1), (2) and (3) and, clearly, if we succeed in the legal test that we are including 'as a matter of urgency' in paragraph (3), the question of considering the Agreement does not arise because if the reason for considering the Agreement is to get into the liberalisation package and we find that we can get in anyway, why should we consider the Agreement? So, in fact, we are coming as close to rejecting it as we can without spelling it out. That is our estimation of where we have been able to reach a joint position. And let me just make one point, I am glad that Hon Members are able to support this without any worries about whether we are binding a future House of Assembly because, in fact, before we recommended that the House in future should not take a decision without a Referendum and now we are telling the House not to take a decision, we are not making a recommendation, we are actually deciding that no decision should be taken and, clearly, we don't mean between now and the 21st January, we mean now and until the whole process is finished and we were told before that the practical effects of the liberalisation package cannot be assessed until the summer comes. So the last paragraph, in fact, seeks to bind the new House of Assembly beyond summer but I am glad that they have no reservations anymore on that and that they can vote in favour.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:

"This House:

1. Reiterates the view that the international use of Gibraltar's airfield should be on the basis that no special privileges are accorded to Spanish airlines, passengers with a Spanish destination or the Spanish aviation authorities
2. Reiterates the views expressed in the resolutions adopted by this House in March, 1984; June, 1985; March, 1986; December, 1986; June, 1987, and November, 1987
3. Reiterates the view that Gibraltar's right to be included in the air liberalisation package as a regional British airport without pre-conditions should be pursued as a matter of urgency
4. Takes note of the proposed Anglo/Spanish agreement and considers that until the course of action proposed in paragraph 3 above is known and the practical effects of the Air Liberalisation Transport Package can be assessed, no decision should be taken".

On a vote being taken the question was resolved in the affirmative and the motion, as amended, was accordingly passed.

The Hon the Attorney-General and the Hon the Financial and Development Secretary were absent from the Chamber.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Thursday the 21st January, 1988, at 10.30. In doing so, Mr Speaker, there are two things that I want to do. In the first place I am sure that we can all rise above two days of intensive and if not heated at least warm debate, in conveying to you, in the first place, Mr Speaker, to Hon Members opposite, to the Clerk and the staff of the House, the Usher and our Secretary, the greetings of the season, my best wishes and those of my colleagues for a very Happy Christmas and a very peaceful New Year. If I may, with your indulgence, Mr Speaker, I said at the beginning of the meeting that I preferred to say a few words at the end of the meeting about the political career of a man and his era, namely, Sir Joshua Hassan. I know that he doesn't want any valedictory addresses about him but I honestly do not feel that I can allow such an occasion as this one to go by without paying some small tribute to him. I was jotting down a few bare statistical facts - over 45 years in local politics, over 42 years as an elected representative of the people of Gibraltar, the first City Council after the war in 1945; over 40 years as leader of the AACR; over 37 years as a Member of this Legislature, 37 years as a Parliamentarian; over 20 years as Chief Minister of Gibraltar, 15 of those years consecutive. I doubt, quite frankly, Mr Speaker, if anyone in the future will ever be able to match that record. It is clear that neither the Leader of the Opposition nor myself, given our age now in our late forties, can ever get near to that achievement. And although I don't want to say much about Sir Joshua's qualities and his achievements, I think one thing is undeniable. Sir Joshua would have made his mark in politics outside Gibraltar, I think he would have made his mark in politics certainly in the United Kingdom. I have no doubt that he would have reached the House of Commons, of that I have no doubt whatsoever and I think that reference has been made to that by others, by notable Parliamentarians in the United Kingdom and in the Commonwealth. Within the confines of Gibraltar, perhaps it is a case of paraphrasing the words of Mark Anthony when speaking of Caesar and when he asked the question: "Whence comes such another?" Mr Speaker, I have the honour to move the adjournment of the House.

MR SPEAKER:

In doing so I thank the Chief Minister for his greetings. I join you in wishing all the Members and the staff and, as I always do, the media who sit with us from day to day and the people of Gibraltar generally, of course, a Happy Christmas and a prosperous New Year.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Thursday the 21st January, 1988, at 10.30 am.

The adjournment of the House to Thursday the 21st January, 1988, at 10.30 am was taken at 6.10 pm on Thursday the 17th December, 1987.

THURSDAY THE 21ST JANUARY, 1988

The House resumed at 10.45 am.

PRESENT:

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

GOVERNMENT:

The Hon A J Canepa - Chief Minister
The Hon Sir Joshua Hassan GBE, KCMG, LVO, QC, JP
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 K 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 Rossano - 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.

MR SPEAKER

I understand that the Hon the Chief Minister is slightly
incapacitated. Don't stand, that is precisely what I am
saying.

HON CHIEF MINISTER:

With your leave, Mr Speaker, and without wishing in any
way to show any disrespect to the House, I would be
grateful if I be allowed to address the House from a
sedentary position.

MR SPEAKER:

Most certainly.

DOCUMENTS LAID

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

Schedule of Supplementary Estimates
No.4 of 1987/88

Ordered to lie.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move in the terms of the
Motion standing in my name: "That this House considers
that:

- (a) the liability to pay Social Insurance Old Age
Pensions to Spanish pensioners at current rates
under Community Law could not have been avoided
by amending local legislation;
- (b) the Gibraltar Government took all reasonable steps
to obtain the necessary derogations from the EEC in
respect of the additional liability;
- (c) the commitment to Spanish pensioners is totally
unrelated to the Brussels Agreement;
- (d) the additional cost of the commitment for 1988,
estimated at £2m, is a matter for negotiation
with the British Government in the light of the
information to be contained in the Actuarial Review
which is expected shortly;

- (e) the commitment beyond 1988 is a matter for negotiation with the British Government once the Report of the Joint Study Group has been submitted,

and consequently deplores the recent statements made by the GSLP in the news media, as confusing and misleading to the public".

Mr Speaker, having regard to the line that was taken by the GSLP in recent Press statements, I felt that it was necessary to introduce a motion in this House which would offer a proper opportunity to discuss the question of Spanish pensions fully and thereby clarify the issues involved. In our view, the GSLP, although understandably opportunistic, have been confusing and misleading the public on a matter which is far too serious and too complex to be confined simply to bold, pre-electoral exchanges in the news media. The whole issue of Spanish pensions is a major financial and political problem which merits close public attention and scrutiny, and which cannot just be fed on speculation or misinformation.

I shall start, Mr Speaker, by giving some background information which may, in part, prove repetitive to this House, but which has to be reintroduced in order to ensure that the matter is discussed in its proper context. Successive Governments of Gibraltar have been alert to this problem since the early 1970's even during the time of the Peliza administration. A series of attempts were made up to 1984 to resolve it by negotiating payment of a lump sum to Spanish pensioners - in effect through the Spanish Government in order to discharge the obligation. These were made during the course of Ministerial contacts and meetings of officials at working party level. We maintained this position throughout the process leading to the Lisbon Agreement in 1980 and subsequently in 1982 when all the indications pointed to the re-opening of the frontier. Indeed, it appeared all along that the Spanish Government were prepared to consider such an arrangement. At any rate, they never dismissed it and agreed in December 1978 to take away the proposal. But they never came back on it. As the House will recall, all negotiations ended as attempts to re-open the frontier were repeatedly aborted in the wake of major political change in Spain. Up to 1982, the matter was therefore being dealt with exclusively on a bilateral basis and on the understanding that the liability was to be resolved by a 'lump sum' formula.

By 1983, with the advent of the Socialist Government, it became clear that Spain had gained a fresh and fast impetus in its attempts to join the EEC. This brought to the fore the possibility that the payment of pensions to former Spanish workers would have to be met in line with Community directives, that is, these pensions would have to be met at current rates and not just at pre-1973 rates which was the rate at which they were then being paid to all those who become eligible by moving out of the Campo Area. At our request, Her Majesty's Government made representations to the EEC Commission in September 1983. The initial meeting with Community officials was followed up by a number of other meetings as a result of which British officials presented a formal case proposing the following two alternatives as a solution to the problem:

- (a) that the Spanish authorities should assume payment of pensions to Spanish pensioners on payment by the Gibraltar Government of an agreed lump sum which would be assessed actuarially to meet the liabilities as they stood under current legislation; or,
- (b) in the absence of such an arrangement, that the Treaty of Accession should recognise that the terms of Article 10 and 94 of Regulation EEC 1408/71 would apply to those pensioners who were not enjoying the benefit of those provisions prior to accession, only to the extent that the Gibraltar authorities would continue to pay the pension entitlement as it was before Spain's accession, together with any increase in pension awarded in Gibraltar from the date of Accession. In other words, payment of pensions at frozen rates together with any increases awarded from the date of Spanish accession onwards.

In effect, both alternatives formally sought a derogation from Community regulations. The formal response from the Commission was submitted in March 1984 and concluded that:

- (a) the effect of Community provisions required that from the date of accession, Spanish pensioners be accorded equality of treatment and not be discriminated against on grounds of nationality;
- (b) the obligation which would fall on Gibraltar at the date of accession would require it to review the amount of pension due at that date and to revise it so that, taking account of the insurance record of each pensioner the pension paid from that date would be of

an amount equivalent to that paid, on the same date, to a Gibraltarian with the same insurance record who has not suffered any previous interference or interruption in payment; and

- (c) that the proposed solution under (a) above, and this is that Spanish pensioners be accorded equality of treatment and not be discriminated against on grounds of nationality, that was a matter for negotiation between Spain and the United Kingdom.

The Commission rejected any derogation from the principles involving equality of treatment and non-discrimination which formed precisely the objects of the derogations sought.

In the event and this is very important, the Gibraltar Government received legal advice expressing grave doubts as to whether the payment of a lump sum would discharge the liability to individual beneficiaries. Even if the legal difficulty could have been overcome, any settlement would have had to be on the basis of current rates of benefit if it were not to be open to challenge by any individual pensioner before the Gibraltar or European Courts.

It was evident by then that the matter would not be resolved on a bilateral basis; that the EEC would not contemplate granting Gibraltar the necessary derogations; and, that there was no recourse open to us by way of amendment of Gibraltar legislation. Gibraltar was left with no other choice but to look to Her Majesty's Government to consider financing the liability. The formal submission was therefore made in August 1984. What followed was a series of protracted correspondence and negotiations with the British Government through the Secretary of State and with FCO and ODA Officials regarding the extent to which Gibraltar would contribute to meet the liability. Our approach was clear and consistent and can be summarised in the press release which we issued on the 3 December 1985, following an exchange on the matter in the House of Commons, and which stated:

"Gibraltar Government Ministers have made it clear to the British Government that, while Gibraltar is prepared to meet its moral responsibility in full, and has accordingly offered to contribute the total amount paid into the Social Insurance Fund by Spanish workers plus accrued interest (a total of £4.5m), their view is that the ultimate responsibility lies with the British Government"

At the same time, we reiterated our view that the Spanish Government should acknowledge its responsibility on the matter. At the end of December that year, the British Government finally agreed to contribute a total of £16½m over 3 years, as against our contribution of £4½m, to meet the total bill estimated at £21m over the period. At the end of December of that year, Mr Speaker, shortly before Spanish accession on the 1 January 1986, the agreement reached was without prejudice to the position of either Government on the matter.

I will not dwell on the nature of our discussions with the British Government culminating in the December 1985 Agreement other than to say that they proved to be so difficult that at one stage, as the Minister for Overseas Development, that was at the time Mr Timothy Raison, revealed in the House of Commons on the 9 December 1985, we were offered a contribution for only one year, which naturally we turned down out of hand. Our views are on record and are unchanged. What I would like to clarify is the reference to the Brussels Agreement reached the year before. The GSLP have argued in their recent press statements that the commitment to pay current rates of pensions to the Spaniards is related to the Brussels Agreement and, also, that it was only after the Agreement in November 1984, that the Gibraltar Government first publicly announced that they would pay revalued pensions in January 1986. This is incorrect and misleading. As I have already explained, the Gibraltar Government were aware of the possible pensions commitment well in advance of the Brussels Agreement. It is also clear that prior to that Agreement, that is in March 1984, the European Commission had ruled that there could be no derogation from that obligation. The commitment was there, Brussels or no Brussels Agreement. The Brussels Agreement made no reference to Spanish Pensions and the matter was only dealt with in the context of enabling legislation which ensured that there would be no advanced implementation of the rights which the Spaniards would acquire on accession. Furthermore, in answer to Question No.138 of 1984 on the 30 October 1984, which is prior to the Brussels Agreement, the Hon Mr Mor asked, and I quote, "Mr Speaker, can Government confirm that once Spain joins the EEC, Spanish nationals who are entitled to an Old Age Pension because of their pre-1969 contributions record will have to be paid at the current rates and not a frozen pension as at present?" The Minister for Labour and Social Security replied and again I quote "Mr Speaker, under the current provisions of EEC legislation, Spanish nationals who are entitled to Gibraltar Old Age Pensions because of their

pre-1969 contribution record, would become entitled to be paid at the current rates". Mr Speaker, I think it is important to note at this stage, that there was no suggestion from the Opposition about any possible changes to the law to avoid the liability, nor was there any attempt made to find out whether a derogation had been sought. Nor did they do so a few months later in January 1985 when the Minister for Labour and Social Security made a statement in this House explaining that there would be no advanced implementation of Spanish pensioners' rights to current rates of benefit and that they would acquire these rights only as from the date of Accession. Indeed, Mr Speaker, I would ask how the Opposition can reconcile their views on the need to amend legislation to avoid the liability when on the 28 January 1986, the Hon Mr R Mor, in presenting a motion on the matter of Spanish pensions said and I quote "let me make it quite clear, Mr Speaker, that the GSLP is not in any way against the Spaniards getting their pensions at whatever rates are mandated by EEC law, but what we cannot agree to and completely oppose is that one single penny of the contributions of the workers in Gibraltar should go towards paying for these pensions". On this issue, in particular, I think Sir, that I have shown without a shadow of doubt, that the Opposition have been misleading the public.

It has been suggested that the Gibraltar Government should have settled the Spanish pensions issue as a pre-condition to its agreement to the Brussels process. We were negotiating such a settlement prior to the Brussels Agreement, but we continued our negotiations beyond it, in good faith, and in the knowledge that the British Government would assist Gibraltar honourably. We are not in the business of pointing a gun at the British Government. We were not going to budge on our position because we had, and still have, a responsible and defensible case, and this was made clear right through the negotiations. Whether that approach was right or wrong is a matter of judgement. In our view, our honest and responsible approach on both the Spanish pensions issue and the Brussels Agreement does not weaken in any way our position for the future. I believe that in considering the Spanish pensions liability for the future, both the British Government and, in particular, the British Parliament, will give due weight to this, and it will recognise that if Gibraltar has to resort to taking a rigid stance, it will not have done so as a threat, or as a barter for anything, but because of the justification behind its moral and political views. Or does the Opposition consider that we should have said "We will support Brussels, if you pay for the Spanish pensions". And tomorrow what? "We will support the Airport

Agreement, if you pay for the construction of 500 housing units". There is no carrot, or stick, as far as we are concerned, when we take our stand on the issue of Spanish pensions. We said we would pay the £4.5m which the Spaniards had put in, no strings attached, and we will talk later. But let there be no misunderstanding, we have already made it clear what our position will be, and I will be explaining that in response to the Hon Mr Mor's motion which we intend to support subject to an amendment which will be consistent with what we have said publicly and which, I hope, the Opposition will agree to.

This brings me, Mr Speaker, to the additional commitment, which is estimated at £2m for this year, and to the liability in future years. The additional commitment this year arises because the number of Spanish pensioners is higher than was estimated at the time of the 1985 Agreement. This could not have been foreseen. It also arises, in part, because of the effects of annual increases in benefits, as required by 1977 statutory formula, applicable to the higher numbers involved. The Government's approach on this is that we should await the Actuarial report which will shortly be submitted and then discuss the matter with the British Government as part of the negotiations which are due once the report of the Joint Study Group, looking into the whole of the commitment for the future, is submitted. This will have to be done during 1988, before the current agreement expires at the end of 1988.

This is not to say, Mr Speaker, that we prefer to tackle the problem piecemeal, selling hostages to fortune. In our negotiations during 1984 and 1985, Her Majesty's Government made it clear that they could not enter into any commitment beyond three years ostensibly, if for no other reason, because of certain technical considerations binding them as a Government in contributing funds from the Overseas Development Aid Vote which, apparently, is the only vote from which funds to Gibraltar could be made available. We cannot brush that aside, nor can we ignore that the British Government itself has to work within certain budgetary constraints or parameters. We have to recognise also that it is problematic for them to justify a contribution to Spanish pensions from a budget vote that has rather different policy aims. That is their problem, naturally, but I must mention this in order to clarify the reasoning which set the basis for an initial three-year agreement. There has been some play made of the fact that the British contribution tapers down, whilst Gibraltar's increases, and that, in accepting that, the Gibraltar Government could be committing itself to an

increasing liability in the future. The only reason why we accepted an increasing contribution over the three years was to maximise the interest accruing on the Spanish sub-fund during the period. What happens beyond 1988 is a separate matter altogether. I will however, Mr Speaker, explain clearly and categorically what, if we are returned to Government, will be the Gibraltar Government's position for 1989 onwards during the course of the debate on the Hon Mr Mor's motion. It will then be seen that we are not deploying tactics or clutching at straws, but simply reiterating the stand that we took when we defended the existing 3-year agreement in the debate on a motion in this House publicly one year ago, and which we spelt out before then, in our confidential discussions with the British Government.

Before I conclude, Mr Speaker, I would like to clarify a general misconception about the nature of the liability to Spanish pensioners. There are some 6,000 Spanish pensioners. Of these, only some 700 to 800 are in receipt of full pensions at current rates. The remainder have only obtained an entitlement to a reduced pension. Let no-one be misled into thinking that we are paying all, or most, Spanish pensioners the same level of pensions as are enjoyed by the majority of Gibraltar contributors. I want to lay stress on this because I very often meet people who are ignorant about these facts. Compared to Gibraltarian pensioners, the majority of Spaniards are receiving pensions at reduced rates because they have got an inferior record of contributions given the years when they did not pay because of the withdrawal of Spanish labour.

Although Spanish pensioners are treated in exactly the same way as Gibraltarian pensioners, having regard to their average record of contributions, most of them were in fact unable to make a full contribution precisely for the reasons that I stated a moment ago, namely, that their labour was withdrawn when the frontier closed and therefore they were unable to keep up a full record of contributions. The other question which is often asked is how Spanish pensioners can be entitled to so much when they only contributed at 1s 5d per week. The answer to that is how is it that a Gibraltarian pensioner is entitled to so much if he only contributed at 1s 5p per week. The answer is that there are Gibraltarian pensioners who also contributed at 1s 5p per week and who are in receipt of full pensions at current rates. Naturally, the number of these is dying out because workers contributed at 1s 5p during the period from October 1955 to January, 1968. But people get pensions out of a Social Insurance Fund in

accordance with the contributions that they made at the time when they were making them and, naturally, workers contributing 30 years ago were contributing at a rate far below the rate workers are contributing today but that does not influence in any way the level of pension to which they become entitled when they reach pensionable age. This is generally normal practice with any social security or pension scheme and, in fact, it is of some interest to note that the average pension level enjoyed by a Spanish contributor is just below £27 per week. I hope, Mr Speaker, that the House will appreciate the extent to which efforts were made to resolve the problem. We looked at ways of amending the law; we repeatedly offered to pay a lump sum to discharge the obligation; we sought derogations from the EEC; we did not seek to barter a way out with the Brussels Agreement but opted for a responsible approach reaching an agreement with the British Government which did not prejudice our position beyond 1988 and we are now awaiting technical advice and information before pursuing negotiations for the future commitment that arises. Let me make it clear that whatever the technical advice, whatever the size of the commitment, we will not be prepared to pay, and I stress, I repeat, we will not be prepared to pay or to have Gibraltar paying for the consequences of the hostile action taken by the Spanish Government culminating in the closure of the frontier. It would be the height of irony, if not irresponsibility, if the Gibraltar Government were to assume payment for all, or most, of the commitment to resolve a problem which was created by the Spanish Government and which was aimed at destroying Gibraltar economically. We have told those in London, Madrid and Brussels, and we shall tell them again. The problem is unique and our case is a totally defensible one. I hope that this motion will have clarified a number of matters and that there is no misconception about the strength of Gibraltar's stand in the past and for the future. I have deplored the statements made by the GSLP because they failed to take cognizance of the facts and to treat this matter responsibly. Having told them the facts, I will seek to explain to them, in response to their own motion, how to pursue a responsible line. Mr Speaker, I commend the motion to the House.

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

HON J BOSSANO

I do not know what the Honourable Member opposite could have made of the behaviour of the Opposition in 1969 on this matter had he been here then but, clearly, if he thinks that we are irresponsible and opportunistic I can well imagine

he would have been even more critical of the stand taken by the AACR when it was in Opposition in 1969. I know the Honourable Member was not here, that is why I am saying I wonder what he would have made had he been here. Both of us joined afterwards. But, certainly, if he goes back and reads what happened then, he will find that they ridiculed the idea of trying to make a lump sum payment which he now says and has said previously, in fact, the AACR itself is trying to do. At the time that the Peliza administration was in office, the idea of giving away £4m to the Spaniards was ridiculed inside the House and outside the House by the AACR which was then the Opposition party. So, clearly, the governing party today takes one position which is in sharp contrast to what it did when it was in Opposition in 1969 and it remains to be seen whether they revert back to their bad old ways shortly after the election this year when once again they will occupy this side of the House. So, in fact, this motion is an attempt to put the record straight and find a solution to the problem facing Gibraltar? I think not, Mr Speaker, this motion to me is quite extraordinary because it is tantamount to a censure motion on the Opposition by the Government which no doubt the Government will be able to carry with its in-built majority. I do not know what Standing Orders say about the official members voting in censure motions against the Opposition, I believe that Standing Orders only envisage situations where they are not supposed to vote in censure motions against the Government.

MR SPEAKER

What the practical results are is another matter but certainly Government are as entitled as the Opposition is to bring motions on any matter.

HON J BOSSANO

I accept that, Mr Speaker, but I am sure you are much more experienced than I am in these matters, but I will certainly be interested if you could quote an example where the Government censures the Opposition in a motion because as far as I am concerned the parliamentary practice of a censure motion is that if it is successful, there is a convention that the Government then resigns and calls an immediate general election. We are quite happy to resign and call an immediate general election if that is what the Honourable Mr Canepa wants us to do. The analysis in the motion starts off by saying that the legislation in Gibraltar could not have been changed and the mover of the motion has ended by saying that they tried to change the legislation. Well, he has not quoted when they tried to change the legislation or how they tried to change the legislation and to my knowledge they have never tried to change the legislation. It is no

good the Government saying to the Opposition we have not told them how to change the legislation. Our job is not to tell them how to change the legislation, our job in this House is to point out that they are not doing their work properly and that there are things they could have done which they did not do and the connection between the Brussels Agreement and Gibraltar's ability to escape this liability lies precisely there. As far as we are concerned, having announced in the context of the Brussels Agreement that the Spaniards would get paid revalued pensions in January, 1986, and our understanding of the position is that they were seeking to get them paid before and that was resisted by the Government, we cannot see how you can say to somebody "I am going to pay you in January, 1986", and then change the law so as not to have to pay them. Once you tell them you are going to pay them then you are caught, Mr Speaker. Had the Brussels Agreement not been there the Government of Gibraltar could have been saying to the British Government, and it is not pointing a gun at anybody's head, they could have been saying "Look, I cannot afford to pay them and, therefore, either you tell me how this is going to be paid or I am going to change my laws so that I do not have to pay". They could have done that up to December, 1985, if the Brussels Agreement had not been there in November, 1984. They had a chance to do it until November, 1984, if they were going to accept the Brussels Agreement. We do not want them to accept the Brussels Agreement, we did not want them then and we do not want them now but the very least they would have done for Gibraltar had they decided it was a good thing to accept was to ensure that if the Government of Gibraltar accepted the commitments in the Brussels Agreement the British Government was accepting the commitment to pay the pensions. I do not think it is an unreasonable thing for a Government to do once it has decided it is going to accept something. We would not have asked the British Government to foot the pensions bill in exchange for the Brussels Agreement because we were against the Brussels Agreement and we are still against it, Mr Speaker. But if they are in favour, I do not think anybody would have criticised them in Gibraltar if they had come back and said: "We have accepted the Brussels Agreement but look what we have obtained in exchange". I do not think the Honourable Member opposite should make a big thing out of the fact that they did not do that, they have done it. I am sure their supporters would have welcomed that but they did not do it and therefore that was something that could have been done by the Government and which they failed to do to protect Gibraltar. In saying that the legislation could not have been changed, we say to the Government now that it is they who are being opportunistic and it is they who are doing a pre-electoral stunt because by putting that there in order, presumably, to try and show us to be wrong they are

effectively weakening Gibraltar's position because they are saying to the outside world that we could not have changed the legislation and if we could not have changed it in the past it must follow, de facto, that we cannot change it now. We have taken advice on this matter and the response that we have had is that the legislation could have been changed prior to Spanish entry but we are still not clear whether the different formulae that we have put forward for advice could still be used, it seems that some of them definitely could not be used, it seems that some of the others might be used. But let me tell the Honourable Member opposite what is manifestly a very simple formula. Section 10A which was introduced in this House in 1973 and amended in 1974, of the Social Insurance Ordinance, contains two clauses and in all the debates we have had in this House on the subject it is clear that the entitlement to revalued pensions arises out of the application of regulation 1408 in the interpretation of Section 10A. It is quite obvious that when Section 10A was drafted in 1973, which is when we joined the Common Market, the last thing that was in the minds of those who drafted Section 10A then was that there was any connection between Section 10A and Regulation 1408 because otherwise they would have realised that the way that Section 10A was drafted was a total nonsense because the first part of Section 10A says that in order to get pension increases from 1973 on you have to be a resident of Gibraltar and we have just passed a European Communities Ordinance which says that residence of the EEC is synonymous with residence of Gibraltar, so effectively when we legislated making it a qualifying condition that you had to reside in Gibraltar, the qualifying condition effectively should have read that you had to reside in the European Community. I am sure that from 1973 until 1976 there must be at least 20 or 30 Gibraltarians who might have been living in Germany or in France whom we do not know anything about who never claimed anything and who, in fact, were entitled to revalued pensions and were not getting them. I can tell the House that all they need to do is to remember what happened in 1985 when we changed our laws because of the Brussels Agreement and we discovered that our laws on family allowances was in fact in conflict with community law, but nobody had thought of it because in practice how many Gibraltarians or how many community nationals with children in other member states, how many cases of people claiming and being refused? But if members would look back at that debate they will recall, and it is recorded there, that I pointed out that I personally knew of examples of people who had sought to obtain family allowances in Gibraltar and had been told the children had to live in Gibraltar and in fact that is how the law was interpreted until somebody sat down and said "what happens when Spain comes in to the EEC", and when they looked at what happened

when Spain came into the EEC they suddenly discovered that there were all sorts of things we were doing which we should not be doing but which nobody has ever challenged because the odds against somebody being entitled to that benefit and claiming it and being denied was one in a thousand. So if we look at that situation we have a situation where our law in 1973 says "In order to get increases in your pension from now on, you have to reside in Gibraltar which means in 1973 you have to reside in the Common Market, which means in 1986 you have to reside in Spain. If we know that from 1973 to 1986 and we do not remove that clause, we cannot blame anybody except ourselves because what would have been the consequence of removing the residential qualification? Well, it would not have been in conflict with 1408 because 1408 says that you cannot pay one pension to people who live in one part of the EEC and another pension to people who live in another part of the EEC. But provided you pay them the same pension wherever they live it is not discriminating, so if we had not had that residential qualification there, if the law had been amended to delete the residential qualification what would have happened would have been that those Gibraltarians who qualified because of residence and not because of contributions would not have been entitled to the higher rate of pension. That is what would have happened. How many Gibraltarians are there like that. A handful? So what do we do? We pay them in our way and we are not discriminating because we have done that with elderly persons pensions and we have done that with retirement pensions. We are paying people retirement pensions and we are paying them without any law, and it is done administratively under the Supplementary Benefit Scheme and we are talking about fifty people who are getting retirement pensions. I am just giving the Government one example of one way it could have been done. Can they tell me that they tried that and they were told it could not be done? Because the advice that we have got is that it could have been done provided it was applied irrespective of nationality. And that it could have been done at any time. I am not sure whether it can still be done because that would now mean terminating payments that people are already in receipt of, and we have had this question of acquired rights before in this House and it is an area where, certainly, we are not sure whether it can be done any more or not. But it certainly it could have been done then and it could have been done any time up to 1986 as far as we are concerned. The other condition in Section 10A in 1973, Mr Speaker, was that people had to pay 104 stamps in the three years before they retired in order to qualify for the higher rate. That was altered in 1974 and it was altered in a Bill brought by the Honourable Mr Canepa who argued when he brought the amending legislation to the House as Minister for Labour that it was unfair because there might

be the odd individual who left Gibraltar at, say, the age of 61 and therefore when he got to 65 he had not contributed for the last three years before he retired and he might be in the UK or he might be somewhere else and he had not contributed and therefore it would be unfair to deprive somebody of the higher rate of pension because he was not the last two years out of the last three. So, in fact, Section 10A was amended in 1974 to remove that possible unfairness and although he says this thing has been under study since 1970 by successive Governments in all of which he has served, of course, by amending it he opened the door even wider to the Spaniards because, in fact, the amending legislation was that they had to pay for two years since 1970. If somebody was claiming retirement pension in 1988, as the law stood in 1973 before his amendment, they had to have paid two years between 1985 and 1988, where with his amendment they had to pay two years between 1970 and 1988. Well, obviously, it is much easier to meet the qualifying condition of two years out of 18 than of two years out of three. We were told by the Honourable Attorney General when we had the debate in this House about the changes in legislation in the Brussels Agreement, in the Committee Stage of the debate, that Section 10A was not in conflict with community law and provided the legal basis for entitlement to revalued pensions because the Spaniards on the 1 January 1986 would be able to meet the qualifying conditions of Section 10A, either on the grounds of residence or on the grounds of contributions made in the European Community or in Spain after entering. That is vitally important in an analysis of this problem. Vitally important, Mr Speaker, because I have already shown that the question of residence could have been eliminated legally, not in conflict with community law and at relatively little cost. We would then have been left with the requirement of 104 contributions and unless the House was misled by the statement made in 1985, the contribution conditions had to be met by Spanish workers who had left Gibraltar contributing 104 weeks either in the community, which could have been because they had gone to work in France or Germany or wherever or in Spain after entering. If they had to meet a contribution condition in Spain after entering, there is no way they could make 104 contributions before January 1988, because there would have had to be two years elapsing between entering and the time for them to make 104 contributions. None of that applies because the first part of Section 10A is residence in the community and therefore once you qualify under residence in the community, the other clause is disregarded and the advice that we have got is that because Section 10A says either residence or 104 weeks, it effectively covers everybody, it does not exclude anybody. If it had been "residence and", then it would have been a completely different situation so I think, Mr Speaker, I have clearly demonstrated that Section (a)

of the motion is incorrect and I shall propose an amendment to remove the word 'not', because the reality is that it could have been avoided by amending local legislation and the Government is wrong in saying it could not have been amended. Let me say I have just given the Government one example of the way it could have been amended. We have tested a variety of different formulae purely against the criteria of conflict with community law, nothing else, to find out if we could have done it before Spain joined. And the answer that we have been given is that the proposals we have made, some of which would have meant a more complicated method of calculating, let me give the Government an example. It is perfectly compatible with Community law to have a system of payment of pensions which gives a lower weight to a contribution the further back it is, so that in fact you belate the entitlement to a pension by a kind of pointage system so that the most recent contributions which are at a higher level have more points than contributions made 20 years ago. There is nothing in conflict between community law and that system. The only thing that is of course that the system has to be applied to everybody, the only thing that the community law says is that you cannot have a weighting system just for Spaniards or just for Frenchmen or just for anybody else, but if you have a weighting system which effectively means that a gap in your contribution record between 1969 and 1985 reduces your eligibility to a pension on the reduced scales then, de facto, the biggest group would be the group that was absent from Gibraltar before that period but, de jure, it would be irrelevant whether it was a Spaniard removed because of the Spanish frontier or a Gibraltarian emigrating to Australia and therefore it would not be in conflict with Community law. We are investigating, as I have said, whether it is possible to do that now that we know that it is not in conflict with Community law against the background of the fact that there are pensions already in payment and whether if it was introduced now we could actually introduce it for the people who are already in receipt of these pensions or whether it would have to be limited to future claimants. The second paragraph of the motion says the Government took all reasonable steps to obtain the necessary derogations from the EEC. Well, we have not said that the Government did not take the necessary steps to obtain derogations. We have never suggested they obtain derogations. What we have said throughout was that they should have taken the steps to remove from us the liability we have because of our legislation without seeking derogations. What I think the Honourable Member opposite has failed to answer in relation to that paragraph is what we questioned him on with the statement that he made publicly when he said that in fact derogations had been sought at the highest level by the British Government in 1985, that is what

his statement said and that the delay in reaching an agreement with the British Government until December, 1985, was partly due to this question of derogations being sought. Well, he certainly has not mentioned anything about 1985 in his submission today and he certainly did not mention anything about 1985 and 1986.

HON CHIEF MINISTER:

That date in the Press Release was a typing error, it should have been 1984.

HON R MOR

You were not misleading then.

HON CHIEF MINISTER

When you mislead you do something deliberately, when you make a mistake and you admit you have made a mistake you are not misleading.

HON J BOSSANO

Mr Speaker, the point is that if there is a statement from the Government saying that derogations have been sought in 1985 of which we know nothing and we come out publicly saying: "Why were we not told this before?", we do not expect to have to wait until I have stood up and questioned it. If they had come out immediately saying it is a typing error, it is not 1985, we would not have questioned the matter any more. Until this moment we were expecting to be told when the derogations were made in 1985 because we knew about the 1984 ones. We knew about the 1984 ones because we were in the EEC committee when Mr Hannay came along and informed us that there was nothing that could be done because the regulations on social security was fundamental to the Treaty of Rome and that you cannot obtain derogations from the fundamental precepts of equality and not discrimination and free movement. Those are fundamental to the EEC, so they might have sought the derogations but the information we had from the experts in the Foreign Office was that it was just for the sake of trying because it was really a non-starter. If in 1985 something different had been done, after the Brussels Agreement, then, fine. We would have had to see and certainly would have lent credibility to the argument of the Government if they had said here that even after the Brussels Agreement they had still gone to look for derogations because that would have supported their argument that even after the Brussels Agreement something could have been done to safeguard Gibraltar's position. In fact derogations were sought before the Brussels Agreement, that is why the date is important.

After the Brussels Agreement nothing was done by the Gibraltar or the British Government to get out of the liability of paying. All that has happened after the Brussels Agreement has been to try to persuade the British Government to foot the Bill and the reason we have been given today that it was the British Government's reluctance to pay for more than one year is the reason that we were given in the debate in 1986 but it is not the reason in the Press Release the Government put out. The motion, in fact, deplores the recent statement made by the GSLP. Let me say that of course we have no objection to the Government quoting the GSLP as a party because they will find that in our case anything that the GSLP says as a party in a Press Release is the same as everything that the members of the House say in the Opposition benches. We say the same things and we mean the same things. I am not very sure when you have a situation, Mr Speaker, where I make a party political broadcast and I am answered by the executive of the AACR saying one thing, the next day by the Council of Ministers contradicting what the AACR have said. Obviously, if I wanted to bring a censure motion here it would have to be two, one censuring the AACR for the things that they say and a different one censuring the Government of Gibraltar for the things that they say which are in conflict with the things the AACR say. But in their case they do not need to do a double act, one will suffice. We are here defending the position of this side of the House and of the party we represent in the House because we stand for the same things and we defend the same policies. The steps, therefore, that the Government took to obtain derogations, we have no quarrel with Section B, we think they took whatever steps could be taken and that it was a non-starter but there is no harm in trying and now that we know that nothing was done in 1985 and that in fact all that happened was, what we already knew about and what the Honourable Member has mentioned before in this House, although in fact, in this House he said 1983 and not 1984. When we brought the motion to the House in 1986, he told us that the derogation had been sought in 1983, and in the Press Release we have been told in 1985 and now we are told that it is, in fact, in March, 1984, and since we are being given a specific date, we assume that he is now talking from having checked the records. The next point, Mr Speaker, is that it is totally unrelated to the Brussels Agreement. Let us not forget that the Spaniards were seeking the application of European community rights as a condition for the implementation of the Lisbon Agreement and that the Government of Gibraltar and the then Opposition were united in arguing publicly that there should be no advance implementation of EEC rights. And when the Spaniards were seeking advanced implementations of EEC rights they included in their demands the Spanish pensions. In November, 1983, I think it was on the 15 November, 1983, the then Chief Minister, the

now backbencher, Mr Speaker, the Honourable and Learned backbencher, went along and told the British Foreign Secretary and he could explore this business of advancing EEC rights in exchange for the advance lifting of the restrictions. This was not known by the electorate when we had an election four years ago, it was revealed in the House at the time of the Brussels Agreement and it was revealed by the Government on the basis that it showed that the negotiations with Spain had not been a short term overnight thing, it had been something that had been taking place for a year. But the Government went to an election in the knowledge that they were talking to Spain about advancing EEC rights, in the knowledge that included in the Spanish demands was the question of the Spanish pensions, in the knowledge of the cost of the Spanish pensions and in the knowledge of the fact that we would never manage paying. None of this was publicly known, people were not given an opportunity to debate this publicly or vote on it. I am talking about history, this motion is about history and about apportioning responsibility. We are quite happy to debate the matter in the House as we are doing now but we brought the motion to the House in 1986 to debate this matter. The only reason why we have responded in public has been because the AACR choose to answer a party political broadcast in which we are perfectly entitled to point out our views on the Spanish pensions by setting off a chain reaction which, in fact, in a number of aspects were in conflict with the things we have been told in the House by the Government. We believe that there is clear circumstantial evidence that the room for manoeuvre of the Government of Gibraltar was curtailed by the Brussels Agreement and to that extent the commitment to the Spanish pensioners is, in fact, intimately related to the Brussels Agreement, that is to say, if the Government of Gibraltar, as I have mentioned earlier, had said they would not pay before January, 1986, which we believe they were doing, that is, the Spaniards wanted it before and they were saying no, but they said they would pay the higher rate of pension in January, 1986, I do not see how any Government morally, having agreed to pay in January, 1986, could come along in 1985 and change the laws so that they did not have to pay. What we are saying to the Government is, if in the context of the Brussels Agreement you have accepted that there is nothing that can be done to remove Gibraltar's liability, which is what you are still saying now, you say that in March, 1984, you had tried to get derogation and pay them, you have been told by the Commission that there has to be equality of treatment from day one with no discrimination on nationality and that is what you are told in March, 1984, then in November, 1984, when you come to the Brussels Agreement, you say: "Wait a minute, on the present system no discrimination on nationality is going to cost me £7m a year. I want to know who is going to pay the £7m? Because if there is not anybody with a cheque book to

pay the £7m, in fact, what I am going to do is, I am going to change my legislation so that there is no discrimination on nationality that does not cost me £7m". If we do not do that before you agree to come to this House and introduce legislation and defend the Brussels Agreement, morally, you cannot do it afterwards. I think the Government of Gibraltar was put in a situation where even if they had not thought of it before, it was too late to think of it afterwards. Let me say that the next section is totally unacceptable. The Government is saying to us that the additional cost of the commitment for 1988 estimated at £2m is a matter for negotiation with the British Government. We do not accept that it is a matter for negotiation with the British Government. We think it is a matter for the British Government, period. Because if it is a matter for negotiation with the British Government then, presumably, what you are going to negotiate is whether they say £100,000 and we pay £1.9m or we pay £100,000 and they pay £1.9m, vice versa. That is what negotiation is about, negotiation implies a willingness to pay part of the £2m. What else does negotiations mean to the Government? Does the Government really think that negotiations means sitting down and saying "I am not giving anything, let us negotiate". And a year later, you are still saying: "I am not giving anything, let us negotiate". And they are the ones who say that we are too obstructive that we are not reasonable and they are the reasonable ones and they do not point guns at peoples' head. I think that the British Government would think that the gun would be pointed at them if we passed a motion in this House saying it is a matter for negotiation with the British Government and then when we sit down to negotiate with the British Government, we say: "Well, my negotiating position is that I do not pay a penny. What is yours?". Presumably, they say: "My negotiating position is that I do not pay a penny", so what happens then? What happens then is that come October, a pensioner will come along with his pension book and goes to the Labour Department and says 'I want to collect my pension'. And what does the Director of Labour and Social Security say? "Well, look, I am waiting for the Chief Minister of Gibraltar and the Foreign Secretary to reach agreement that they are going to pay, meanwhile can you please sit down and we will find out who is meeting your pension". Is that what is going to happen? Or will that pensioner with that pension book be entitled to go along to the courts in Gibraltar and say: "Look, I have got here the equivalent of a promissory note which says I am entitled to £60 per week and they will not pay me and there are £15m in the kitty so I am suing". So while we are discussing with the British Government, payments would have to be made as the thing stands at the moment. This is no solution for Gibraltar, this is an extremely dangerous thing to say. And how is it,

Mr Speaker, I would ask the Honourable Member opposite, how is it that he is quite happy to commit a future Government to negotiating with the British Government and that causes no problems and yet on the airport issue we could not even recommend a referendum to a future Government. Here we are telling the Government of Gibraltar that they have to negotiate with the British Government what proportion of the £2m is paid by the British Government. Why do we have to do that in this case and why should we commit somebody else to doing something else. We will not go along with that. We certainly find it even more objectionable that it should be in the light of the information contained in the actuarial review because if it is in the light of the actuarial review, then all that we can say, Mr Speaker, is that the Minister of Labour has been deliberately misleading the House for the last three years. For the last three years, Mr Speaker, every time the Minister of Labour has stood up in this House to raise social insurance contributions, what has he told the House? He has told the House that the money that is being increased for social insurance contributions is for the local fund and for local pensioners and none of it is to pay the Spanish pensions, has he not said that? He is on record as having said that, year after year. Does the Government not realise that the actuarial review will show the surplus created by the contributions that he has raised and the actuarial review will not be able to distinguish between what part of that money is for local pensioners and what part of that money is not for local pensioners. What the actuarial review will say is, in the light of the fact that there is now £15m, you can afford so much, but there is £15m because of the increases that he has brought into the House, and he brought the increases into the House saying none of it would be taken into account for the payment of Spanish pensions, so we cannot allow it to be decided by the actuarial review because if it is decided by the actuarial review he will be made out to have been a liar in the commitments he has given the House. I suggest the Honourable Member opposite, the Minister for Labour, should vote against that clause even if he does not vote against the rest. As far as we are concerned we were told by the Government that the last actuarial review before the question of the Spanish pensions, came to the conclusion that we should increase contributions faster than benefits so that we created a situation, Mr Speaker, where the income from contributions was sufficient to meet the cost of benefits without having to use up investment ink, that was the last recommendation of the last actuarial review and that was the reason why the contributions were altered. They were altered and every time they were altered, we were told this will not have any effect and this money will not be used and it will not be decided on this money how the pensions to Spaniards would be made. In fact, the Honourable Member opposite in January, 1986, when we

brought the motion to the House, in defending the Government position said that he was not bothered about seeing the actuarial review because the Government's position quite frankly was that independent of the money that there was in the kitty they had a position that it was a question of not having a liability or a moral obligation to meet these pensions. That is what the Honourable Mr Canepa is saying. He said, 'I am frankly not worried about seeing it and even after today's debate I am not going to ask for it'. Well, he was not going to ask for it after the January, 1986, debate and now he is telling us that the negotiations have to be in the light of the information contained in the actuarial review which, presumably, he has changed his mind about and he is now going to ask for it because if he does not see what is in it then he cannot carry out what Clause 8 of his motion says. We now come to the last part of the motion which talks about the commitment beyond 1988 and again he says that it is a matter for negotiation with the British Government once the report of the Joint Study Group has been submitted. Well, on this we differ and on this we differed in 1986, and the Honourable Member opposite cannot simply brush aside the stand that the GSLP is taking on this matter as understandably opportunistic and pre-electoral because it is a virtual word for word repetition of what we said in January, 1986, and in January, 1986, even the Honourable and Learned Chief Minister of the time was not predicting an imminent election, that did not happen till 1987. So it was not that we were doing it in 1986 because we were expecting an election in 1986, and we are not doing it now because we expect an election now. We are saying the same thing now as we said then. We told the Honourable Member in 1986 that he should have changed local legislation. He thanked us, Mr Speaker, for giving him an opportunity to round up on behalf of the Government and he did not question that point, he did not challenge it, he did not say in 1986 the legislation could not have been changed as he is saying now. We told him that in our view the British Government should have been told quite clearly that not a penny of local money should have been put, and what did he say. He said that the Government considered that there was a moral argument for paying 700 people who reached retirement age in 1969 and that the cost was £1½m. Fine, this is what we are seeking to do with the other motion. As far as we are concerned the other motion is quite simple, the other motion is a statement of policy which we have been challenged by the AACR to make. It was the AACR in their communique who said that we should come clean and say where we stood. We have no problem, we said it in 1986, we are saying it now. Not a penny above the £2½m. That is our position. They are the ones who have to come clean now and tell us whether they are prepared to say where they stand or whether they are going to say it is a matter for negotiation after the report of the Joint Study Group, that is

coming clean? Well, I suggest that the AACR should then come out with a communique saying the Government of Gibraltar should come clean, if that is their response of the situation. I therefore cannot understand how the Government can in that analysis come to the conclusion that anything that we have said in the news media is confusing and misleading to the public because, in fact, Mr Speaker, everything we have said in the news media is something that we said in January, 1986, when the mover of the Motion replied on behalf of the Government after we said it. He did not consider any of it then misleading or confusing to the public. As we have pointed out at least one of the elements in the statement that he made which was the typing error of 1985, we found confusing and misleading because we thought that that meant that there had been a subsequent attempt to change the situation before December, 1985, when agreement was reached with the British Government. When that agreement was announced by the Government of Gibraltar, it was described as one which was a source of great satisfaction to Gibraltar, the £16½m. We challenged it then, we challenged that analysis then. It is not that we do not think that the Government has not got the right to be self-congratulatory about what it obtains. Of course, they have the right to be self congratulatory and we have the right to criticise them for not doing enough. And that is not to be irresponsible, and that is not something that should be deplored, that is what parliamentary democracy is about? So what is the Government saying, that they do not want to have an Opposition in Gibraltar, that the Opposition in Gibraltar should not disagree with the Government? That the Opposition in Gibraltar is not here to question and expose the shortcomings of the Government? Is that how they behaved when they were in the Opposition? Is that how they intend to behave because if that is how they intend to behave then, certainly, we shall have a very easy ride when we win this election when they are in Opposition. We expect them to do a job conscientiously and honestly and in fact to find fault with the things that we do in Government and tell us where we are wrong, it is a perfectly legitimate role and therefore it is complete nonsense for the Government to censure the Opposition and the party that we represent on this matter. I am therefore, Mr Speaker, moving a series of amendments to the Honourable Member's motion which will seek to put the record straight. In Section A, as I have already mentioned, I propose to amend that Section by the deletion of the word 'not'. The first section says that the liability could not have been avoided by amending local legislation. Our advice is that it could have been amended by amending legislation and, therefore, the first section of the motion is inaccurate, factually incorrect. The Honourable Member has said that it was attempted and he has not said when or how it was attempted. He wants us to

tell him how it could have been amended. Well, we are giving him one example and we are telling him that there are more than one. He said that they attempted it, let him tell us when they attempted it and how they attempted it and on what grounds it was brought up and by whom. Because, certainly, I can tell the Honourable Member opposite in all the time that we were on the EEC Committee when this matter was discussed, it was never considered and the committee, if the Honourable Member will recall, stopped functioning because we pulled out of it when they went ahead with the Brussels Agreement on the grounds of having agreed to advance EEC rights, what were we doing sitting in a committee with terms of reference designed to avoid having to grant EEC rights in 1986, and here we were finding ourselves with the Government of Gibraltar agreeing to advance them to 1985. But before that point was reached or the Brussels Agreement, we were not told in that committee anything other than that the explanation by Mr Hannay that we could not have legislation here which effectively was in conflict with regulation 1408 and consequently whatever we did here had to be compatible with 1408. And it is in that light that we are talking about, we are not talking about derogations and therefore we are not seeking to alter Section B. We accept that the question of derogation was investigated and the necessary steps about obtaining possible derogations were taken and the chances were very, very low and we were told that they were very low. We do not accept that the commitment to Spanish pensions is unrelated, on the contrary, in our view, Mr Speaker, the commitment to Spanish pensioners is related to the Brussels Agreement and limited the Government of Gibraltar's possibilities to avoid this liability and we shall amend that accordingly. In Section D, we propose an amendment which would effectively say that the additional cost of the commitment for 1988 estimated at £2m is a matter for the British Government and not 'is a matter for negotiation with the British Government', and we certainly would want to delete all reference to the actuarial review because if it is going to take into account the actuarial review, it has to take into account the strength of the reserves created by the increased contributions which we were promised by the Minister for Labour that would not happen and we voted in favour of those increases on the basis of that promise. I think that reference would effectively be against the commitment that he gave, which I am sure he gave in good faith at the time. As far as E is concerned, Mr Speaker, we do not think that it should be a matter for negotiation with the British Government once the report of the Joint Study Group has been submitted. We think that the commitment for 1988 we must say is a matter for which Gibraltar cannot accept responsibility and leave it at that. We cannot accept the responsibility beyond 1988. We have not

got the money and that is what we are, in fact, saying in the other motion. So if we are saying that the commitment beyond 1988 is a matter for which Gibraltar cannot accept responsibility, that is compatible with our stand that once the £4½m is finished that is the end of the story as far as Gibraltar is concerned. Mr Speaker, in the final clause, obviously, we cannot accept that the recent statements have been misleading and confusing to the public, in fact, presumably, if there had not been my original statement regarding the pensions we would not be debating the matter today here, so since we are putting forward amendments which are not seeking to convert this into a censure motion but as I have said to the Government if they wish to give us a commitment, here and now, that the House will be dissolved today and an election would be called, then we are quite happy to go along with that but if that is not the case then we think this to be treated as a motion on the basis of the factual accuracy of its contents and therefore we would seek to substitute for the word 'deplores' the word 'welcomes' the recent statements made by the GSLP in the news media as helping to inform the public of the true facts. I will now move the amendments of which I have given notice.

MR SPEAKER

Can the Honourable Member give me the amendments?

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

HON CHIEF MINISTER:

Mr Speaker, I think it is a matter for regret that the proceedings of this House are interrupted by more than 5 minutes. I think it shows some lack of courtesy for Members of the House that that should happen whilst the Honourable the Leader of the Opposition actually writes out his amendments. Surely, he could have brought the amendments to the House this morning and have them typed and circulated to Honourable Members.

HON J BOSSANO

I wanted to listen to what he had to say before I amended anything.

HON CHIEF MINISTER:

Mr Speaker, although I am not standing, I am not giving way. I think this is not conducive to good business, instant Opposition. If that is how they would conduct themselves in

Government, instant Government, I shudder to think what is going to happen. Of course what the amendments attempt to do is naturally to change the whole meaning and thrust of the motion and I will reserve my position to reply in detail if I feel that that is necessary when I exercise my right to reply to the points that he has made. But there is one matter which I consider to be rather more fundamental and which I do want at this stage to reply to in detail and that is the amendment that appears to be most innocuous which is the one in paragraph (a) where he seeks to delete the word 'not' and thereby asserting that we could have avoided, by amending local legislation, the liability to Spanish pensioners. He says that they are doing this based on legal advice that they have taken. We have taken legal advice on this matter over the years, not just from within Gibraltar but from outside and it is a nonsense, I think, to say that the legislation could have been changed prior to Spanish entry. I say that because what you cannot do when you amend social security or social insurance legislation is that the effect of that should be contrary to EEC social security regulations. When they are contrary to EEC Social Security Regulations then those regulations are overriding and they will therefore nullify the effect of what you are doing. In 1983, when all the problems of Spanish accession were being discussed with officials from the Foreign Office and with the International Division of the Department of Health and Social Security in the United Kingdom, their view was abundantly clear that the obligation to pay Spanish pensioners at current rates as from the date of accession was inescapable. It was they who advised that it was quite in order to revoke the provisions of the non-contributory Social Insurance Benefit Ordinance before the date of accession, the one that made provisions for the elderly persons pension, in order to avoid any possible claims from previous Spanish workers for benefits. They said that this would not create any problems because the scheme was non-contributory and the Spaniards had no legal entitlement to benefits but the same, however, did not apply to any change in the Social Security Ordinance itself because it is contributory, because people have earned entitlement under the Statutory Scheme in respect of the contributions that they have made over a period of time and that therefore any attempt to amend this legislation with a view to depriving Spaniards of the rights they would acquire on accession would be regarded as discriminatory. So local legislation could not have been amended to minimise the effect of Spanish accession on pensions. It would have been impossible to classify Spanish pensioners any differently from other Gibraltarians or any Community nationals who paid the same level of contributions during the same period of time. The Honourable Member said that after 1973, because of the amendment that I myself introduced during 1973, Gibraltarians, let us say a small

number of them in Germany, were entitled to revalued pensions. Quite so, because residence in Germany or in any other EEC member state was synonymous with residence in Gibraltar. But that would not be the case for Gibraltarians who were resident in Switzerland, in Australia, in Austria, either then or now. In so far as the Spaniards are concerned between 1973 and the end of 1985 their position was likewise but then, of course, after 1985 residence in Spain is synonymous with residence in Gibraltar. Had we revised or had we removed the residential qualification, all that you could have done would have been to pay everyone at the same rate whether they were in Gibraltar, in the EEC or in Spain and you could do that as I have explained was done in the case of the elderly persons pension because that was based purely on a residential qualification and not entitlement as a result of a contributory scheme. Once people have earned a statutory entitlement, then the view that the Government has consistently taken based on the legal advice that it has received, is that it could not stand for the test of challenge in the courts either in Gibraltar or in Europe. The amendment about the two years out of three of contributions after 1973 was specifically framed with a secondary objective of ensuring that, for instance, Moroccan workers, would be entitled to future increases in pensions. Let it also be said, Mr Speaker, that the amendments which we brought to the House in 1973 had the full support of the House at the time. Of course no Opposition has the duty to tell the Government how to do things, but what no Opposition which supports a measure can do is to avoid responsibility for voting for that measure and the Honourable Member himself, the Honourable Mr Bossano, consistently did that throughout the period in question and you cannot years later with what is the benefit of hindsight to him or he himself shirk responsibility for the manner in which he himself voted in the past. The question of the commitment to the liability to the Spaniards being unrelated to the Brussels Agreement, Mr Bossano said that at the time, in November 1984, what we should have said to the British Government is, 'who is going to pay?'. The result has been, in effect, immaterial because all that we have paid is what the Spaniards contributed, that is all that Gibraltar will be asked to pay during this three year period. Therefore, the position remains the same. You still have the position that you had in November, 1984, arising again during the course of 1988, who is going to pay for the remaining liability and you can take a stand in that situation without any difference, without any detriment to the Brussels Agreement because in any case the Brussels Agreement was overtaken by actual Spanish accession in 1986 and therefore everything that the Brussels Agreement brought about in February, 1985, would have happened in January, 1986, and therefore the liability to the Spanish pensioners would have

been a reality regardless of the Brussels Agreement. With regard to the additional £2m cost during 1988, of course it is a matter for negotiation, and there is no question of a willingness to pay part of it because you are prepared to negotiate because the reality is and the main reason for this deficit is the fact that the information, the number of Spanish pensioners could not be that accurately assessed at the end of 1985. It was impossible and now that the information is clearcut because it is known, we are fully entitled to go back to the British Government and say; "Look, had we known then what the position was, if the figures had not been x Spaniards to whom we have a liability but x plus a thousand, in the same way as you took x into account in arriving at the contribution that you have made for the last three years, you would have taken x plus a thousand into account, and there is no question that the British Government would have shirked that. Our contribution would have remained the same, £4½m, but there is no question of weakening our position at all, and in any case.....

HON J BOSSANO

Will the Honourable Member give way on that point.

HON CHIEF MINISTER:

I think the Honourable Member can now exercise his right to reply to the actual amendment itself and will have an opportunity to do that shortly because speakers on this side of the House are going to, by and large, concentrate their contributions during the course of the general debate and we will have very little more to say on the amendments that he has put. Again the additional £2m which will fall due as from October, 1988, for the last three months of 1988, is inevitably going to form part of the negotiations about what is going to happen at the end of 1988, so of what greater consequence is what happens after October, 1988, for the three month period October, November, December, than what is going to happen after January, 1989, when the position is much more serious. The Gibraltar Government could take the view in January, 1989, that because it has not reached a satisfactory agreement with the British Government, it is not going to pay, with all the consequences that that may have. Alright, it does not pay and then we will see what happens. The matter will be fought in the court or what have you. That position can also be adopted in October, 1988. You do not give people for that reason books for the nine months and we will talk about the other three months in October, so because the two are going to be inevitably the two issues of October 1988 and January 1989, the two are going to be discussed and approached together over the next few months, there is no

need to separate the two and the position is in no way bigger. Obviously, Mr Speaker, the position of the Government on the amendments is that we will be voting against them in order that the effect of our motion is not nullified.

MR SPEAKER

Are there any other contributors to the debate on the amendment? Does the Honourable the Mover to the amendment, the Leader of the Opposition, wish to reply on the amendment?

HON J BOSSANO

I regret to say, Mr Speaker, that the Honourable Member opposite has made no attempt to defend the position of the Government in this issue in relation to any of the arguments that I have put.

MR SPEAKER

He has certainly said that he will be making a contribution if he considers it necessary.

HON J BOSSANO

He has brought the motion to the House, we have listened to his arguments, we have moved amendments and it is not instant opposition because as far as I am concerned, no doubt, if they wish to amend our motion they will do what they always do which is to produce instant amendments. I have yet to recall one motion that I have brought to this House since 1972 where the Government gave me prior notice of any amendments they intended to move, they have all been instant, so I do not know what he is moaning about. They do it all the time, Mr Speaker. It is just the first time that the Opposition is doing it because it is the first time since 1972 that the Government has moved a motion against the Opposition. There is no precedent for it and obviously we wanted to listen to what he had to say before we moved any amendments and the amendments have been moved by me after listening to his arguments in support of what has been put. Let me say that in saying they are going to defeat our amendments, the Honourable Member opposite has not explained why and I cannot believe that with his background in this particular legislation it is out of ignorance or that he does not understand it. It is true to say that he brought the legislation here introducing Clauses 10A in 1973 and 1974, in fact, the 1974 amended legislation was passed without debate, nobody spoke, it was just passed on the basis of the information then available to Members of the House which clearly in any

situation is inferior to the information available to the Government and the Government presented the 1974 change as quite an innocent move and he has now mentioned that it was to protect the Moroccan workers. It is not just a question of benefit of hindsight. The Honourable Member tells us that they are going to vote against the removal of the word 'net' and they are doing so because innocent though it may seem, effectively it negates what they are saying. That is right, we are saying they are wrong. The reason why we are saying they are wrong is because they themselves are admitting it, in their defence of their position. Has not the Honourable Member just said that he brought legislation to this House amending the Social Insurance Ordinance, introducing new qualifying conditions in 1974 after we were in the European Community. Does not Section 10A introduce new qualifying conditions, yes or no? He says, yes, it introduces for the first time a requirement that you have to pay 104 stamps in order to be entitled to revalued pensions, that was done after being in the EEC. If it was done in 1974, it could be undone any time after 1974 or new conditions could be put otherwise what he did in 1974 was in conflict with community law and we are being told it was not in conflict with community law. He has said that we cannot bring in any legislation which conflicts with Regulation 1408 because 1408 is superior to national legislation. We know that, we accept that, that is why we are not quarrelling with the question of derogations. We are not disputing the superiority of community law. What we are saying is that just like in 1974, he was able to bring a Bill to this House saying 'people must either reside in Gibraltar and for Gibraltar 'read European Community', although that was not appreciated at the time by anybody in the House or mentioned, but for Gibraltar read 'EEC'. If you do not reside in the EEC, you then have to pay 104 stamps in the EEC, because it is 104 stamps in Gibraltar and for Gibraltar again read 'the EEC' so under the community requirements for aggregation and apportionment, which is the methodology used by Member States to take into account contributions throughout the community, what the Government did in 1974 was to introduce a limitation for persons not residing within the EEC or for persons not contributing within the EEC to revalued pensions. Suppose the residential qualification had not been introduced in 1974 or suppose the residential qualification had been removed in 1985, it would have meant that people who did not qualify because of their contribution record would not have got the pensions. We are saying to the Government that if they go back and get professional advice, they will find out that there is nothing incompatible with community law in either not having introduced that criteria in 1974 or in having removed it subsequently, and the effect of that would have been that then the requirement that would have

had to be met would have been 104 contributions under the legislation of a Member State. According to the statement made by the Attorney-General on behalf of the Government on the 15 January, 1985, he said; "In my view the period of insurance for residence in EEC countries or in Spain after accession. That is the important thing which is not the answer. What is the point of standing here and saying to the Government; "That is a vitally important thing", and it is completely ignored, as if we had not said it. We are saying, if it is in Spain after accession, then how could people count their contributions in Spain before January, 1986. No answer from the Government. What is the Government's answer to that, because if the Government's answer to that is the answer we were given in January, 1985, then we are saying to the Government had they removed the residential qualification, that in itself would have been enough because in 1986, people would not have been able to count their contributions within Spain, they would have been able to count their contributions in UK or in France and if a Spanish worker left Gibraltar in 1969 and did two years of work in France and paid 104 contributions in France, he could then come along to the Labour Department and produce documentary evidence of his French insurance record and that would enable him to qualify for revalued pensions. That, in law, he was entitled to do before Spain went in, let us be clear about that, because we have already accepted, the Government has already accepted our contention that if Section 10A was not in conflict with community law then Section 10A had to be 104 contributions in Gibraltar or anywhere in the rest of the EEC and it does not depend on the nationality of the individual, it depends on whether the individual is within a Member State or outside a Member State and therefore a Spaniard contributing in France is entitled and a Gibraltar contributor in Australia is not entitled, nothing to do with nationality, that is why it is non-discriminatory, and therefore people were entitled to claim prior to joining the EEC on the basis of their EEC contributions, but is the Government telling us that the 4,000 Spaniards that have claimed revalued pensions have been asked to produce their insurance records in community countries? It is news to us if they have done it, we certainly have not heard of it happening. The Government is simply saying they could not do it and that they tried to do it. We tell them to tell us if they tried to do it, as they claim, when did they try to do it and how did they try to do it. What was the amendment that they tried to make to the local legislation which they were told they could not do. Their answer is that they have been told by the International Department of the DLSS in the UK that we could not have legislation here which was in conflict with community law. We know that, we are talking about legislation that is not in conflict. Are they saying that it is impossible to amend the Social Insurance Legislation without being in conflict? Of course it is not impossible, we did it in 1974, how can it be impossible. So if in 1974, they came along and they said; "You need 104 contributions

to qualify for revalued pensions", why was it possible to have a condition of 104 and not a condition of 500, or a condition of a 1000 or of any other figure, why, what is the answer? They have not got an answer. What they have got is a majority of one until the end of their term of office, and that is all that they can do, what they can do is what they always do in this House, they say; "We are right because we say we are right and the proof that we are right is the fact that the majority of one enables us to do it". They do not attempt to answer any of our arguments, they do not intend to give us any rational explanations and therefore, Mr Speaker, in a way, what is a negation of respect for this House is not to produce an amendment to their motion after listening to them but we spend an hour here and it is like talking to a brick wall because it goes in one ear and out another. That is what is a waste of time because to try and persuade this Government by rational analysis of the problem is a complete waste of time. This is lack of respect for the House, the House should be a forum where we can discuss and if we put an argument that they have not heard before, they come back and they answer the argument we put and they have not done it and because they have failed to do it, what they will be exposing themselves is for the reality of the accusation that we make against them, that they have failed to take the action that could have been taken, they have failed because they did not realise it at the time or because they were ill advised or for whatever but they did not do what could have been done and whether it can still be done or not we are not entirely sure of but, certainly, if it can still be done we will do it and it is not a question, Mr Speaker, of saying what difference does it make when it comes to the other point which again the Honourable Member has attempted to defend and failed and the one that I wanted to interrupt him on to give him an opportunity to clear up the conflict between what he is saying now and what he has said previously in the House. That is the only reason why I wanted to interrupt him, to give him a chance to clear up a conflicting statement that he was making. Of course he has got the final right of reply or somebody else can answer it. The reason why the £2m for 1988 is different is very simple. When the Government debated this here in this House in 1986, when they announced the deal with the UK, and we are not talking about hindsight, I am talking about two years ago, before it happened, we asked the Government what is the position if the bill is more than £21m, that was not hindsight, they had not paid anything yet. We were pre-empting the problem that we have got today. And what did they say; "We are discussing with the British Government". We cannot be told two years later, "we are discussing with the British Government in October". That is what we were told in January, 1986, that they were discussing with the British Government and here we are two years later still in the same position. We asked them at the time; "Is the £164m a proportion of the bill. Is the British Government committed to pay 70% or 80% and the answer was, no.

We asked then; "Why is it then that they give us £16½m and if it is more than £16½m it is more and if it is less it is less", and the answer was, yes. Our understanding of the position of the British Government is that the British Government considers it has an agreement. We have said this publicly in our Press Release. The Government has not given us an answer on this one. Are we right or are we wrong? Are we misleading the public in saying that or are they misleading the public in withholding that information? Are we right in saying that the British Government holds the view that they have an agreement with the Government of Gibraltar that expires in December, 1988, and that they are committed by that agreement to see whether they make a contribution and if so how much the contribution will be from 1989 on, but that the agreement that they have with the Government of Gibraltar to which they are holding the Government of Gibraltar is that before December, 1988, they put up £16½m and if the situation had been that the bill had come to, say, £20½m, suppose the situation had been less than estimated, from what we understand of the British Government's position is that the £16½m would still have been provided. They would not have come back and said; "Since you only needed £16m, I am keeping the other £½m". So the British Government is saying; "I am giving you £16½m and you are footing the rest, which is estimated at £4½m but whether it is more than £4½m or less than £4½m that is your problem." We want the Government to tell us whether we are right or we are wrong, whether that is the British Government's view or it is not the British Government's view. No good saying it is a matter for negotiation when they already know that the position of the British Government is that it is not negotiable. And if that is not the position, we have said publicly that we understand that to be the position. We certainly think that it is consistent with previous statements so it is not a question of putting it all in. The only reason why the Government wants to put it all in is because they have been caught in a situation where there is a £2m shortfall and it is all very well for the Honourable Member opposite to say come October whoever is there gives instructions to all these Spaniards that they do not get paid. And then let them sue us. But have they not taken legal advice on that? Because the legal advice that we have got is that unless we can change the legislation which they say we cannot before October, come October the Spaniards will be able to sue effectively and win for non-payment of pensions because there is money in the fund and even if the money in the fund was exhausted the Social Insurance Ordinance says that if there is not enough money in the Social Insurance Fund, there has to be advances from the Consolidated Fund, so what are they talking about not paying. The only thing, of course, is that if they use up all the money for Gibraltar before then there will not be any money in the Consolidated Fund either. Mr Speaker, the more they try and cover up the mess that they have made in this area as they have in so many other areas, the more they stand exposed and, no doubt, the greater the problem

that the people of Gibraltar will be faced with in trying to rid themselves of the mess that they leave behind.

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

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

The following Hon Members voted against.

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

The following Hon Member abstained.

The Hon B Traynor

The following Hon Member was absent from the Chamber.

The Hon E Thistlethwaite

The amendment was accordingly defeated.

MR SPEAKER

Perhaps this is an opportune moment to recess until this afternoon.

The House recessed at 1.00 pm

The House resumed at 3.45 pm

HON SIR JOSHUA HASSAN

In the first place, I would like to say that my colleague, Mr Canepa, has dealt with the main matters the historical background of this to which I bear witness having regard to the fact that I was so intimately connected with the matter throughout the period and he has stated the facts, they have been researched and having done the research I bear witness that the position and the effort made in connection with our attempts to find a solution long before had been made without results and there are one or two other points that have been made by the Leader of the Opposition which I would like to mention. In the first

place, I cannot see how this debate can weaken our position. I thought Hon Members opposite were very much in favour of open Government and when a matter of this nature is aired, I think it must be to the benefit of everybody. What can we lose by discussing the matter of stating our facts. We are saying nothing new to the British Government because all along, the whole time since this problem arose, we have disclaimed responsibility for this heavy burden that arose as a result of Spanish accession to the European Economic Community. There are two aspects of it and the British Government naturally says; "Your legislation compels you to pay". Fair enough, but we say our legislation gives us the burden because you in the exercise of your sovereignty have agreed to pay to enter into the Common Market and therefore that is the direct result of your exercise of your sovereign right of concluding treaties with other countries and as a result of which Gibraltar suffers and if Gibraltar suffers as a result of an action that you take in the exercise of your functions of foreign affairs in general, we should not be made to pay more than is fair and reasonable and the outline of what is fair and reasonable has to some extent been stated by my colleague and we have said it before, but he has already indicated that in the next motion there will be an element of further explanation of what we consider to be fair and reasonable. I really do not think that we can lose anything by airing this matter and at least putting it in the concept in which it should be. Certainly nothing that is said here can be of any surprise to anybody, not in the Foreign Office, not the British Government, not, I presume, in Spain so long as the facts are stated correctly. Again, I do not think that it should be taken, or that there should be any compunction about whether this is a vote of censure on the Opposition. It is not a vote of censure, the Opposition feels censured because the motion is geared to the fact that they have misrepresented the situation. They say, no, naturally, that is why we are discussing the matter, but I think my colleague has made a case in that respect which clearly states that. The other aspect of this, too, is the question of the legislation. At the time of the discussion of the Dockyard, Mr Hannay was described to us by the Prime Minister as the man who knows everything that there is to know about the European Economic Community. They sent the top man here at the time and I do not think that he was limited to listening in respect of Europe, he listened to the Government, he listened to a wide spectrum of the community, he listened to the Chamber of Commerce and he listened to the Opposition, so that the feeling of Gibraltar, the general feeling, might well be considered to be unanimous. The point is that, of course, in the end the failure to carry out what we wanted him to carry out landed in the desk of the Government and not of anybody else who had made representations because nobody else has the responsibility to cope with the situation. We have consistently adopted a very clear and firm stand on this matter, even the moral and political issues involved, as well as the financial enormity of the problem. We never

advertised what we were doing and the efforts that we were making loudly to gain popularity, we never chose to take a strong line because we were able to have a showdown with the British Government or because we wanted to take some form of revenge on the Spanish Government. We looked at this issue in terms of the huge financial burden which was being put on the Social Insurance Fund and, in effect, on Gibraltar to resolve a problem which at its root was created, and whilst I said that it was the responsibility of the British Government, as between ourselves and the British Government, of course the root of the problem lay in the Spanish Government having withdrawn the labour force and having closed the frontier. But that is a matter of responsibility between the Spanish Government and the British Government. We have no representative in Spain, we have no function in our foreign affairs other than to advise in matters that affect Gibraltar. In the wider spectrum that was a matter for the British Government but in fact the root of the problem was the Spanish Government which was of course at that stage limited but it was later magnified no end by Spain's entry into the Common Market helped and approved by one of the Member States. And not only approved but, in fairness, in the general concept of Europe, welcomed. The question of getting Spain and Portugal into the Community following the political changes in Spain was something in which in the general concept of Europe all free nations were interested. That it carried with it a number of problems, of course it did, and one of them is the one that we are discussing now, and that some people were made more victims than others in the process, that is also true and we were the ones that were most the victims of it as we are discussing now though, of course, we still say that that was the responsibility of the British Government. On the other hand, we could not ignore the right of individual contributors, the Spaniards who have been the victims of the hostile tactics of the fascist Government of Spain and therefore it is unique, I think, you cannot separate the political from the social nature of the problem or from the financial consequences. It is regrettable, most regrettable that the Spanish Government, although showing a measure of understanding as Sr Moran did at the Geneva Conference, he said; "I know that this is a consequence of our joining Europe", and I think it is quoted generally, and it is known, I am not revealing anything that was not made public, "I know that it may be too heavy a burden". I can assure Hon Members opposite that we made the best of that in our discussions with the British Government, that even the Spanish Foreign Minister had stated at Geneva that he realised that this brought the increase in pensions, something which he thought I think his remark was, "it may well be beyond the means of the Gibraltarians". That kind of sympathy is very good as an argument but it does not produce anything in respect of the solution of the problem unless, of course, they had been prepared at some stage to take an interest. They took a very detached interest to say; "Well, that is the responsibility of the British Government and the responsibility of our entering". I think anybody who is an observer of the

Spanish media is well aware of the expectation that they have of their membership. One would have thought by the way in which the millions are bandied about on television that they have put ten of whatever it is and they want to get twentyfive out of it and yet they say that they are suffering from being members of the Common Market. As I said, the Spaniards or at least the Spanish Foreign Minister at the time showed a measure of understanding and sympathy for the problem but they have shown no intention, no magnanimity, not even an approach, an understanding of the situation beyond those passing remarks. However, despite all the difficulties, it was not an easy fight and I would not like certainly for the next few years to reveal some areas of conflict of the last stages of the negotiations leading to the final offer of £16½m which was then considered to be what was required after we put in the £4½m of the Spanish sub-fund. My colleague has referred to a statement made in the House of Commons by the Minister of Overseas Development, Timothy Renton, where he had been magnanimous enough of offering us a year and later on that was increased. I suppose a year was considered to be £7m. That was magnanimous, they increased later on to £9m until something else happened and then in the end it was £16½m. I can assure Members opposite that whatever point of view one may take as to that, to get £16½m of British tax payers money into the fund is no easy matter however much we think they have to give us and however much they may be justified in giving us. Anyhow, that was a situation of an impasse, it was, as always, an interim arrangement for three years. I think, everybody thought the question of the £2m is something completely separate which has come up in the practical application but if we cast our mind back to the days when we were negotiating, in fact, the figures were provided, presumably, by our own people, we were all in the honest belief that the pensions were worth about £7m a year 7 x 3 is 21, we have £4½m or £6½m in the balance. I do not know what would have happened if it would have been £6m or £8m but that is how it happened and it is only now in the last nine months or so where it has become clearer that it is not enough. When my colleague, the Chief Minister, mentioned the question of negotiation, first of all, if you have to discuss the matter with somebody else and particularly if you are expecting money from them, you can hardly go as he says with a gun and say: "We want the rest of the money for the pensions". We have to start discussions. As Members opposite know, at the time of the three year agreement, it was decided that there should be an enquiry into what was going to happen after 1988 and that has been going on for some time. In fact, I think a report is due any time, but whatever may be recommended there, there was this commitment to say "Well, this is a three-year interim arrangement, what is going to happen in the future?". Those are the negotiations and also in this situation of the £2m difference it is bound to be the same. You just cannot go and call at the Foreign Office and say: "Look, we are short by £2m, come back next week and collect it". As the Honourable Mr Canepa said, the manner in which the money was

offered was really done, there was no intention to increase the commitment, the commitment was there of how the £16½m was contributed, how it was tapered off was done at our suggestion because the way it was done was in order that you could get the most out of the payments that were made, I think six monthly, and we could get some interest on that. There was no hidden motive behind the way in which the money was given. There was £16½m and we got it tapered in the best way that suited us and not for the presentational purpose of the British Government washing their hands of the problem. That is a fact which I have lived through and which I can bear witness. It was in our interest to get the highest amount at the beginning in order to be able to get some interest as the payments were made because all the money was not being dispersed and this provided some interest which helped the fund. Anyhow, despite the difficulties of all those situations, in the end, up to now, the British Government expressed their sense of honour and commitment by producing the balance of what we said and this is something that has to be remembered, the agreement was made and they contributed on the basis, difficult as it was and limited in time as it was, the three years was accepted that we were putting the money that we only said we would put, £4½m there was nothing more that we were prepared to put into it and the fact that they paid the difference was an indication that at least they took note of what we were prepared to pay and paid the difference. What was very disappointing in another sense is the view taken by the European Economic Community in 1983 and 1984. Although in objective terms one must accept their rigidity in insisting on equality of rights and non-discrimination, I have always thought it difficult to accept that they should have remained so silent in seeking a solution. I am talking about the European Community as a whole. How many problems have the formation and the development of the EEC created to individual Member States over the years? How much money, by the billion, is poured in to find solutions to check imbalances to compensate. When Member States such as France and Spain quarrelled over trade quotas the EEC compensated, and look at the recent problem over fishing rights in Moroccan waters, how quickly the Community has provided some relief to the Spanish fishing fleet. That is what the Community is there for, to avoid the imbalance, to prevent or to cure temporary imbalance the longer term view of the higher principles and ideals of the Community. Every time there is an apparent injustice, as Lord Plum said, "This is the price that you have to pay for the benefit of all", leaving us waiting there for half an hour. The question of approaching the EEC on this matter is covered in the terms of reference of the Joint Study Group and I think that that is something that will have to be explored again and quickly. It is the sort of problem that calls for a European solution particularly if there is to be credibility in the spirit and the thinking behind the creation of a united Europe. Is it not better to try and argue it out again and again with the EEC than to run the risk of having the EEC itself determining responsibilities because the

matter ends up before the European courts as it probably will have to if no solution is found. I refer to this because I have always held the view that in future negotiations and discussions with the British Government we should press the EEC lines promptly. We have done so but I think that we should continue to do so. The door was shut in 1984 by the EEC and we have to conclude an agreement with the British Government. I would not be surprised if officials in London, Madrid or Brussels tried to push it back squarely into the ambit of British/Gibraltar relations to sort it out but we must put the necessary political pressure and then let us put it to the test what the British and the Spanish Government have to say on the matter and I think in that respect the concern expressed by all sides whatever the attitude of any particular side in the course of the debate, might finally be of benefit. Just one more point and that was on the question of legislation. I do not know and in fact because it was not felt that this matter would take part of the debate and I am not talking for the Government, Mr Speaker, or rather for the legal side of the Government, that is the Attorney General's business, I think we have had his advice before, but in my view, my personal view, any attempt at legislating to try and avoid our legal responsibility locally would be found to be ultra vires the European Community, whether it was done now or whether it was done before. Every attempt to do that would have been found to be in breach of the regulations regarding the responsibilities and the directives of that. Mr Speaker, there are a number of points that have been raised by the Leader of the Opposition, which I am sure my colleague and Leader, Mr Canepa, will dispose of in his reply. Thank you.

HON J E PILCHER

Mr Speaker, I feel that there is not a lot more to be said on this particular motion. I think it was covered, certainly by the Leader of the Opposition this morning. However there are small points that need to be made in the contributions of the Honourable and Learned Sir Joshua Hassan and certainly a couple of points which I would need to make to highlight the confusing and misleading events in this House which further confuses and misleads the people of Gibraltar, Mr Speaker. I think the Honourable Sir Joshua started off his contribution by saying something about whether we did not like the debate whether we did not like to have to debate. I did not really get the point that he was trying to make. Let me just say that, certainly, on this side of the House, Mr Speaker, we believe totally in parliamentary democracy and debate and in fact, it is a question that sometimes frustrates us as, indeed, it frustrated the Leader of the Opposition this morning, to stand up and make a contribution for half an hour or forty minutes and as if that had been said in the middle of the wilderness because not one single point was answered when the Honourable the Chief Minister contributed in the amendments to the motion. It is not really fair to wrap up and answer points brought in the amendment in his closing debate.

in the general motion because that, I feel, is contrary to the parliamentary debate system where at that stage we will no longer have the right to reply, but I will be going back to that very shortly. Mr Speaker, I still find the situation terribly confusing from the Government's point of view. We are quite clear what the Opposition is saying and I think we are quite clear and I think everybody is quite clear of what the GSLP position is and I do mention the GSLP position and the Opposition because they are one and the same thing as mentioned by the Honourable Leader of the Opposition this morning and that is that again we have heard from the Honourable and Learned Member that the Government still disclaim their responsibility to pay anything over and above the £4m in the Spanish sub-fund. However the back bencher then continues to talk about.....

HON SIR JOSHUA HASSAN:

If the Hon Member will give way. What I am trying to say is that we hold and we maintain the Government of Gibraltar is not directly responsible morally, whether legally internally morally, for the payment of the difference in the payment of the pensions, that is what I have been saying.

HON J E PILCHER

I am just trying to remind the Members of the Government opposite that only a few hours ago, they voted against an amendment or part of the amendment that read that the commitment beyond 1988 is not the responsibility of the Government of Gibraltar. They voted against that about two hours ago. That was one of the amendments as moved by the Honourable Leader of the Opposition. This is, Mr Speaker, what I am referring to about the confusing elements where they, the Government of Gibraltar, continue to say clearly that they disclaim their responsibility that the Government of Gibraltar, that the people of Gibraltar, do not have a responsibility to pay over and above the £4.5m which was the sub fund that was set up for the Spanish workers and continue to say in the next breath that they have to start discussion and negotiation with Her Majesty's Government, not only about the £2m but about the £7m per year from now until, I think, the year 2005 or 2006. Moreso when the Honourable and Learned the ex-Chief Minister stands up and says that he would like to be able to tell the people of Gibraltar how difficult it was for him to be able to get that agreement for £16m in three years and wants us to believe and we believe that it was very very difficult to get money out of the British Government. In the same breath as his Chief Minister today is saying to us that we have to go back and discuss it with the UK Government as if he was not paying attention to the fact that he was himself a witness of how difficult it is going to be today to get the UK Government not only to give us the £2m for the over-expenditure in 1988, because I think the Leader of the Opposition certainly made the point that we have through our network obtained the definition that certainly until the end of 1988 the agree-

ment entitles the Gibraltar Government perhaps to go back after 1988 but that £2m they will not make themselves responsible for. We would like to have an answer of whether that is the position or not the position as understood by the Government of Gibraltar. You see, Mr Speaker, there are two different elements in the same argument and they keep using one and the other when it suits them and then they have the audacity to say to us that we are electioneering. We are not electioneering, our policy has been the same since 1985, in the debate in 1986, throughout 1987 and in 1988, but the position of the Government is the one that has changed because today it is the popular thing to say that it is not the responsibility of the Government of Gibraltar because that is what the people of Gibraltar are saying today. Just as much as today or, in fact, yesterday it was popular to say that if a referendum is required over the airport deal we will have one, when a month ago the Government voted in this House against it. That is, Mr Speaker, where the electioneering is coming from. It is not coming from this side of the House. We take the matter seriously, we come to this House not to electioneer but to present our clearcut policies and our alternatives as seen by us since 1984, Mr Speaker. What I would like to find out, and I think what the people of Gibraltar would like to find out is exactly what the position of the AACR Government is because on the one hand we are told again by the Honourable and Learned Chief Minister that perhaps we will have to stop paying pensions after 1988 and in the next breath we are told we have a legal requirement to do it. Can we stop paying them? We, Mr Speaker, are quite sure, and I do not say this disrespectfully to the expertise of the Honourable and Learned Chief Minister, that if we are able and we were able, we might not be able to do it today, but we would have been able to do it previous to 1985, to have changed our legislation in 10A and change the residency clause or to have had a system under Clause 10B. We might not be able to do it today and that, Mr Speaker, would not have been in conflict with Article 1408 of 1971, because they did it in 1974. In 1974 they changed the legislation three years after Article 1408 was first published. If they did it in 1974, surely, they could have done it in 1984. What, certainly, they could not do, and this is the point made this morning, is changing after 1985 because they had already given tacit approval through the Brussels Agreement to the setting up of revalued Spanish pensions. And again that might not have been spelt out in the Brussels Agreement black upon white. As we all know, Mr Speaker, that was brought up I think even in the Strasbourg process, it was certainly brought up in Lisbon and certainly was part and parcel, as far as the Spanish Government was concerned, of the Brussels Agreement. So after 1985 it was not possible to do it and today it is even more difficult although we on this side of the House do not believe it is impossible to do it. Mr Speaker, coming to the general motion and talking particularly about paragraphs (d) and (e) of the motion, we do feel and we have said so clearly and we say so clearly again and in fact there is a motion under the name of my colleague the

Honourable Mr Mor where we actually clearly state what the position of the GSLP is now, three years ago and next year and that is, Mr Speaker, that it is not the responsibility of the Gibraltar Government to pay anything other than the £4.5m which is the Spanish sub-fund which is already being paid and certainly it will be exhausted by October of 1988. The Honourable and Learned ex-Chief Minister also spoke about the motion of censure on the Opposition and he said that we were playing the thing up because it was not really a motion of censure. I would like the Honourable and Learned ex-Chief Minister but particularly, I think, the Honourable present Chief Minister, because I think he is an avid follower of politics, particularly in the UK whether there is any precedent of a Government bringing a motion deploring, this is what the motion says, "and consequently deplores the recent statements made by the GSLP in the news media". I think, Mr Speaker, what really happens is that at this stage in the game the AACR really believe they are the Opposition. That is why they are bringing motions of censure against the Government, which is us, by the way. It seemed at one stage, Mr Speaker, that the Honourable and Learned ex-Chief Minister was going to actually censure the EEC, the Community, but he did not go as far as that. Coming back to the general motion, I think the question of why the legislation was not changed before 1985, the Government seemed to be saying that they had tried to change it, this is all news to us, and certainly not something that we were aware of and I think this needs an explanation, but it needs an explanation not only to this side of the House, it needs an explanation for the people of Gibraltar and I think with all respect to the Honourable and Learned ex-Chief Minister, saying that he feels that we could not do it is just not enough. I am sure that as far as the Honourable and Learned ex-Chief Minister is concerned he must accept that his expertise does not lie in that side of the law. On the question of it not being negotiable until 1988, I think this is a point that I have to make, and this is the fact that even after 1988 we have heard how difficult it is to get money out of the British Government but we have already a precedent where we have already entered into an agreement with the British Government in 1984 where we were told if things go bad we can go back to the UK Government for more money, and that is in Gibraltar. We were told clearly in Gibrepar, we can go back if we have difficulties. Well, we went back and because of what the Honourable and Learned ex-Chief Minister is saying, because Her Majesty's Government does not like giving away pennies, let alone pounds, we were told quite categorically no, we were given £2.4 or £2.3 which was the overspend on the capital side which CDA had already agreed, and we were not given a penny more. Does the Honourable and Learned ex-Chief Minister and the Honourable present Chief Minister believe that we at this stage are going to get £10m from the British Government for the next twenty years? And if that, Mr Speaker, is the answer, seeing that the Honourable and Learned ex-Chief Minister is saying no, then we are not in the same position today as we were three years ago.

HON SIR JOSHUA HASSAN:

If the Honourable Member will give way, what I am saying is that no Government will commit itself twenty years ahead because no Government is in office all that time.

HON J E PILCHER

Mr Speaker, the point I was trying to make is that the position is not the same today. Four years ago or three years, in 1985, we had not started paying out Spanish pensions. We still had £4.5m in the sub fund, we still had a negotiating position. How can the Honourable Chief Minister today say that we are in the same position now as we were three years ago? We are not in the same position. We have no longer any money left in the Spanish sub-fund, we have now a legal liability, certainly of acquired rights because people have already been getting their pensions for the past two years and I think that our negotiating position has been weakened tremendously. I think, Mr Speaker, the Government of the day, the AACR Government, did Gibraltar a disservice in accepting that agreement because it gave us a tacit responsibility of Spanish pensions. Had we said three years ago what we are saying today and what we said three years ago, which is that our responsibility should not go beyond that £4.5m and stuck to our guns then, we might have had a problem come 1 January 1986, but not as big a problem as we are going to have come the end of December, 1988, Mr Speaker. There is just one other point that I would like to end by saying, it is a point to do with the censure part of the motion where I think because it was admitted this morning by the Chief Minister that perhaps our reaction to what he said, certainly about the Spanish pensions and the derogations, was a result of a typing error which I think he only discovered a month after because we have been issuing press releases back and forth for the last couple of weeks, but if that was the case then I think he could not deplore us for having misunderstood him and now he is deploring us for trying to mislead and confuse everybody else. The record of the AACR administration, and of the AACR Government, Mr Speaker, does not allow the people of Gibraltar to believe any longer that we are confusing anybody. The confusing and misleading of anything is done by that side of the House. Let me remind the Honourable Chief Minister and the members of his Government about different confusing and misleading remarks, certainly over the last years, the New Year message of the ex Chief Minister a year ago, when we were going to have elections in 1987.

HON CHIEF MINISTER

Mr Speaker, on a point of order. What has the New Year's message or the date of elections got to do with the subject we are discussing?

MR SPEAKER

Only if it is related to the matter, otherwise it is

certainly not acceptable. You will most certainly speak to the motion.

HON J E PILCHER

I am speaking to the motion, Mr Speaker, the Government in their motion has said that they deplore the GSLP for confusing and misleading the public. I am saying that you do it on everything else and certainly we have not done it on the issue of Spanish pensions. Mr Speaker, certainly the record of the AACR as far as confusing the public.....

MR SPEAKER

Well, let us forget the records.

HON J E PILCHER

I have nothing else to add, Mr Speaker.

MR SPEAKER

I am delighted to hear that. Are there any other contributors to the debate? I will then call on the mover to reply.

HON CHIEF MINISTER

Mr Speaker, it is extraordinary how an Hon Member like Mr Pilcher can stand up in the House and say that the Opposition keep on making points and that we do not answer them. He should have listened a little bit more carefully to my opening address this morning when what I was doing precisely was anticipating the points that were going to be made later in the debate and, indeed, answering the points which the Opposition had been making during the course of party political broadcasts and press releases on the matter. But I am going to answer him straight away on some of the points that he has made. First of all, he says that I have stated that we were now in the same position as three years ago. I did not say that. What I said was that in January, 1989, we will be in the same position as in October, 1988, and that the two matters will come up for negotiation later this year and they are going to be wrapped up together. I did not say that we are now in the position in which we were three years ago, we are not in that position.

HON J BOSSANO

Mr Speaker, we have asked the Hon Member if we could get an answer on that point three times. Can he tell us does the British Government say as we have said publicly is our information, and if we are wrong we would like you to tell us that we are wrong or that they have different information does the British Government say that the only thing that they are willing to discuss with the Government of Gibraltar is what happens after 1989 because as far as they are concerned there is an agreement with the Government of Gibraltar up to December. Because if that information is correct what the Hon Member has just said is wrong. They

are not in the same position, they are in a position to talk about 1989 onwards but they are not in a position to talk from 1989 backwards. That is our information, we have asked three times for an explanation from the Government whether they have been told that or not.

HON CHIEF MINISTER

I have no doubts, Mr Speaker, that we are fully entitled to raise in the course of the negotiations which are going to ensure following the report of the Joint Study Group and having regard to the fact that the three year agreement ends at the end of this year, I have no doubt that it will be quite right and proper to bring up the question of the £2m deficit as from October, 1988, and that inevitably, given the experience that I have of the manner in which the talks proceeded, the negotiations with the British Government during 1984 and 1985, the two are going to be wrapped up together. Certainly if I lead the next Government of Gibraltar I will wrap up the two together and I will take a stand in anticipation of October, 1988, let alone January 1989. Mr Pilcher then asked; "Are we going to get £100m from the British Government?" My answer to that is, are we going to pay £100m over the next fifteen years, are the people of Gibraltar going to pay? We are not and if we are not somebody had better start thinking about who is going to pay because we are not. We have not got the capacity or the resources to do that. So he has got part of the answer to his question. Again, that we do not answer the points made. The Leader of the Opposition and he himself now this afternoon has continued to assert that the question of Spanish pensions is related to the Brussels Agreement. I explained ad nauseam this morning and in great detail that this was not so and I was doing that again in anticipation of the arguments that the Opposition were going to make. Did they want me to repeat the same points again when I was speaking on the amendments of the Honourable Mr Bossano? Does he want me to repeat the same points now when I am exercising my right to reply? Surely, it is not necessary. The ground was covered fully and totally this morning. There is no need for any further repetition in answering the same points ad nauseam on the other side that the two are related, they are not related.

HON J E PILCHER

Will the Honourable Member give way?

HON CHIEF MINISTER

I am at a disadvantage, Mr Speaker. All they have to do is to stand up like Mr Bossano did five minutes ago and they have the floor.

HON J E PILCHER

I think it is fair to say that we have not asked the Honourable Chief Minister to answer the point of the

Brussels Agreement. He has made what he considers to be his position and we have made ours and we disagree.

HON CHIEF MINISTER

Alright, let us agree to disagree and do not expect me to keep on coming back.

HON J E PILCHER

Mr Speaker, I am not expecting him to come back. What I am saying is that that point is clear. The point that he has to come back to is the point when he said that he had tried to change legislation and had not been able to and we feel that we do not know when he tried it, how he tried it and whether he has answered the fact that after 1971 he changes in 1974, why could he not do it in 1985?

HON CHIEF MINISTER

Again, Mr Speaker, I dealt with the point when I was dealing with the amendment and I am going to deal with it again. It is I think the most important and crucial matter, whether the law could have been changed or not, and that is why I have brought a motion to the House. What really sparked it off was the point that Honourable Members were saying that the law could have been changed. Other matters I could have dealt with by press releases but that is what really sparked off this debate and my bringing the motion here. Both of them have made much play about the missed opportunities to amend local legislation and thereby minimise the liability towards Spanish pensioners. Mr Bossano said this morning that they had taken legal advice, I think they also made the same statements in a press release, correct me if I am wrong. Later on he spoke about professional legal advice on the matter. But what remains to be seen is what is the status of that advice, what analysis that legal advice carries. They do not tell us but we have told them the basis of our legal advice. The Gibraltar Government has been grappling with this problem for some fifteen years. Is it that the advice that they have received now is superior to the advice that the Gibraltar Government has received all along? The British Government has had full knowledge of the size and the intricacy of this problem over the same period. Our officials foresaw the difficulties and they sought technical advice both actuarial and legal, both locally, in Gibraltar, and in the United Kingdom. Experts, specialists in the field were working on this matter on a day to day basis, that is what the people in the International Division of the Department of Health and Social Security and in the FCO are doing. They have been handling this matter on our behalf and they are the specialists in the field. Sir Joshua Hassan then spoke about Mr Hannay and it is true, I remember the Prime Minister calling Mr Hannay in when we were discussing with her the problems of Spanish accession, and saying; "Mr Hannay, not only does he know everything that there is to be known about the EEC, he knows everything

that there is not to be known about the EEC". That, coming from the Prime Minister herself. That she should be able to make a statement like that about a specialist adviser on EEC matters, we are not talking about the Chief Minister of Gibraltar, we are not talking about a local Councillor or a mayor, we are talking about the Prime Minister of one of the most important countries in the world, saying something like that about an individual, about an official. That is the calibre, that is the measure of the calibre of the people from whom we have been taking advice. Who do the Opposition take advice from, or is this again a repetition of their economic plan. We have taken legal advice, they say, so all their followers bow down to the Ayattolah and say 'Amen', he has spoken, and therefore that is the end of the matter. Mr Bossano is the expert on income tax, he is the expert on Gibraltar, he is an expert economist, now he is the expert on pensions and he says 'we have taken legal advice', that becomes gospel truth and nothing can challenge that. That is exactly the same kind of tactics that I deprecated during the debate on the airport agreement. He does it far too often, he can fool his followers, he is not going to fool us, I can tell him. He is not an expert on every field that is discussed here much as he pretends and he might get the impression that he is. Without knowing the status of their legal advice, I have explained to them now ad nauseam the calibre of the people that we have got advice from. Again, I told them about the advice this morning and I am going to repeat it. The experts in this field in the DHSS and the FCO handled the matter on our behalf in consultation with officials here in Gibraltar and naturally in consultation with Sir Joshua and myself because we were intricately involved in the matter. Time and time again we were reminded of the legal commitment and the fact that it was inescapable, that was the advice. "You have a legal commitment, you cannot get away from it. We have sought derogations from the EEC, you cannot have the derogations". That is the advice and if there had been scope for amending the local legislation without infringing community law, why should not then that option have been put forward in the same way as it was put forward over the non-contributory benefits to which I referred earlier. Why should they give us advice and say; "Look, you had better do this because there is a danger that Spanish beneficiaries could claim entitlement", they do it for one thing but they will not do it for another, why? For some personal quirk or other, why should a distinction be made in the advice which they gave. They need not accept such advice if they did not want to. The advice was given, the point was made, we acted in accordance with that advice and we amended the legislation that we were told we could amend, that is the responsible position for Ministers to act when you are in Government and if you do not want to act in that way, then you get separate legal advice from people who are supposed to know about these matters or you ignore the advice with all the consequences that that can entail. But what really strikes me is, why is it that the Honourable Mr Bossano has chosen to raise this particular matter of whether the law could have been

changed beyond what it, in fact, was now? Why did he not query, let alone make any suggestion on that specific issue in 1983, in 1984 or in 1985?

MR SPEAKER

Order, order.

HON J BOSSANO

It is a false statement, Mr Speaker. In the meeting of January, 1985, page 71.

HON CHIEF MINISTER

Mr Speaker, I want to make it clear that I am not giving way to the Opposition. I hold the floor and I will not give way.

MR SPEAKER

I would like to hear what is the point of order.

HON J BOSSANO

Yes, the Honourable Member asks why I have not said it before and I am quoting Hansard of the 15 January, 1985.

MR SPEAKER

Order, it is not a point of order, it is a point of personal explanation which you are entitled to make.

HON J BOSSANO

The Honourable Member is accusing me and he is factually incorrect because he says that I have not raised the matter before and when the Attorney General gave the explanation that he gave in January, 1985, on the 15 January, when the House was changing the legislation because of the Brussels Agreement, I stated then that in the light of the explanation given by the Attorney-General, we did not accept that there was a legal obligation to pay in 1986 and I was not saying it after it had been paid, I was saying it a year before any payment was made so the Honourable Member is wrong, it is not the first time I have put in this argument.

HON CHIEF MINISTER

They did not take legal advice then, Mr Speaker. He was expressing a view, his own view, but one can stand up in the House and disagree with any expert view that is put across but you have to substantiate that and today to say that they have taken legal advice now when that was something that they could have done earlier. But of course for other reasons, probably, it did not suit them to do that earlier.

Again, I am accused for having said that supposing the final bill had been more than £21m, and I did say in January, 1986, that if the final bill is more than £21m, we will discuss it with the British Government. The British Government had the objective immediately after that agreement was concluded, of having a study carried out, which is the one that the Joint Study Group has been making, and that that could be concluded within a period of six months. By the middle of the year, in fact, that was one of the reasons, I think, why at one stage the offer of a British contribution of £6m, I think it was, and we were expected to put a film in, was made for just one year because they thought that the whole study could be wrapped up within a period of six months. If they were saying that the deliberations of the Joint Study Group could be concluded in a period of six months, it was against that background that I could say: "Of course, we are going to discuss the matter with the British Government, if it is more than £21m we will have an opportunity to discuss that after the report of the Joint Study Group has been submitted; "But let me tell Honourable Members that it took more than six months not for the report to be submitted, because even now it has not been, but even to agree to the terms of reference took a great deal more than six months and therefore they never got started until 1987. That the Government and the AACR say and make conflicting statements. I do not know whether Honourable Members opposite are either not human but, whether they are machines that never make mistakes or whether they are infallible, perhaps Mr Bossano, instead of standing for the next prospective Chief Minister may be making a bid for the next Pope. The only contradiction lies in the fact that in the AACR press release, the word 'negotiations' was used whereas here in the House I have stated that what we were having with the Joint Study Group were 'discussions', that was the only difference. That the person who drafted when I spoke to him over the telephone and told him what the position was of the Joint Study Group and I used the word "discussions", he must have made a note and instead of using the word discussion, he used the word negotiation.

HON J BOSSANO

Another typing error?

HON CHIEF MINISTER

No, not a typing error. I have proved today that Honourable Members opposite are also in conflict and that there are contradictions between what they say here in the House and what their party says either in a party political broadcast or a press release, that is when I quoted directly from what Mr Mor had said in the debate about the commitment, the legal commitment to the Spanish pensioners. That statement that he made is not in consonance with the press releases that the Opposition have issued recently. And, finally, Mr Speaker, this dismay and this surprise about

what an extraordinary move it is on the part of the Government to bring a motion to the House. First of all, it is not a motion of censure. I do not take it as a motion of censure, we do deplore that misleading statements are made but we are not censuring the Opposition. But who has said that the Government has got to sit back year after year in this House and dance to the tune of the Opposition? Government usually brings a motion to the House to amend a piece of legislation, the Licensing and Fees Ordinance is amended by motion, have brought motions to amend the Social Insurance Ordinance, to note the Principal Auditor's Report, but there is nothing unusual in what we have done in the normal realms of parliamentary practice and neither is it contrary to standing orders. What is different is that in other parliaments, such as in the United Kingdom, in the House of Commons, the Government has got backbenchers who support the Government and who are able to introduce a motion for debate on matters that might very well welcome debating. We are in the position today that had we wanted to, we could have asked the Honourable Member to move the motion so there would have been nothing peculiar about that, we would have been taking advantage of the fact that we have a backbencher. But in a system such as ours, where the likelihood is that Ministers, members on the Government side are going to be Ministers, you do not have the flexibility that there is in other Parliaments and therefore in my view the Government is entitled to bring a motion for debate on any subject that it wants to have discussed. It would also be peculiar if one Government Minister were to ask the question of another Government Minister and that we have not done but, again, there was a time in this House when there had been a backbencher and that backbencher had assisted Government Ministers by clever supplementaries in eliciting the right sort of answers from the Government, the kind of answer that could have confounded the Opposition questioners. There is nothing peculiar in what we have done, I think that it has given the House an opportunity to debate the matter, what is wrong with that? It has led to another motion from the Opposition, we are not quibbling about that. We are fully entitled to have that debated and I think that it is more beneficial in the exercise of our democratic rights than we should bore the public with continuous exchange of Government press releases. Let me say that I do not shirk any opportunity to debate the matter. We have debated it here today and I am prepared to have it debated elsewhere and I look forward, indeed, to the opportunity of discussing and debating the matter with Honourable Members opposite during the election campaign. Mr Speaker, I commend the motion to the House.

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

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

The Hon G Mascarenhas
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt

The following Hon Members voted against.

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

The following Hon Member abstained.

The Hon B Traynor

The following Hon Member was absent from the Chamber.

The Hon E Thistlethwaite

The motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE 1988

HON CHIEF MINISTER

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping (Amendment) Ordinance, 1988, 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 CHIEF MINISTER

Mr Speaker, I have the honour to move that the Bill be now read a second time, it seems I am going to have a belly-full. Sir, the principal purpose of this Bill is to amend the existing legislation so as to enable Her Majesty's Government in the UK to extend to Gibraltar the following International Conventions.

- (1) The International Convention of standards of training, certification and watch-keeping for seafarers, 1978.

- (2) The International Convention for the safety of life at sea, 1974, what is termed the SOLAS Convention, and the various amendments and protocols to that Convention.

- (3) The International Convention on loadlines, 1966, and

- (4) The International Convention for the prevention of pollution from ships, 1973.

As Honourable Members know, the legislation has had a long and somewhat difficult period of gestation, extending as far back as late 1983. The Bill which is now before the House can be divided into three parts, namely,

- (a) Those clauses which relate to the extension to Gibraltar of the four International Conventions to which I have already referred,
- (b) the revision of the existing legislation relating to Wireless Telegraphy on ships, and
- (c) the various clauses which increase the penalties for offences under the Merchant Shipping Ordinance.

To deal now with the parts of the Bill that deal with the extension to Gibraltar of the four International Conventions. Firstly, Mr Speaker, I want to direct the House's attention to clause 4. This clause extends to Gibraltar the provisions of,

- (a) The Merchant Shipping Certification of Deck Officers Regulation of, 1985, of the United Kingdom,
- (b) The Merchant Shipping Certification of Marine Engineer Officers and Licensing of Marine Operators Regulations, 1986, of the United Kingdom,
- (c) The Merchant Shipping Certification of watch-keeping Regulations, 1982, of the United Kingdom and
- (d) The Merchant Shipping Tankers Officers and Ratings Regulations, 1984, of the United Kingdom.

The application of these four pieces of United Kingdom legislation will enable the International Convention on Standards of Training, Certification and Watchkeeping for seafarers of 1978 to be applied to Gibraltar. In addition, this legislation will have to be supplemented with two further pieces of subsidiary legislation, namely, the Merchant Shipping Navigational Watch Ratings Regulation, 1988,

and the Merchant Shipping Engine Room Watch Ratings Regulations of 1988. These two additional pieces of legislation have been prepared and will be promulgated in the near future. The next clause which I would like to draw attention is clause 21. This extends to Gibraltar the Rules and Regulations contained in the International Convention of safety of life at sea, 1974, and the various amendments and protocols of that Convention. Thirdly, clause 22 of the Bill, extends to Gibraltar the provisions of the Merchant Shipping Loadlines Act of 1967 of the United Kingdom, and the Loadlines Rules which were made under that Act, to Gibraltar. This clause will enable the International Convention on Loadlines, 1966, to be extended to Gibraltar. Fourthly, clause 32 of the Bill extends to Gibraltar the provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations of 1983 of the United Kingdom. This particular clause will enable the International Convention for the Prevention of Pollution from Ships, 1973, more colloquially known as the 'Marple Convention' to be extended to Gibraltar. To deal now, Mr Speaker, with the part of the Bill which relates to Wireless Telegraphy on ships. Clause 20 repeals the whole of part 3 of the existing Ordinance entitled 'Wireless Telegraphy on Ships'. The legal requirements with regard to Wireless Telegraphy on ships will be contained in subsidiary legislation to be known as the Merchant Shipping Radio Installation Regulations of 1988. These Regulations will also be promulgated in the near future. They will deal with,

- (a) DHF Radio Telephony
- (b) Radio Telephony
- (c) Radio Telegraphy, and
- (d) Radio equipment for life boats and survival craft.

Many of the clauses in the Bill and Schedule 4 of the Bill increase the penalties for various offences under the Ordinance. The increase in penalties in most cases is substantial but nevertheless in line with the penalties imposed by the United Kingdom legislation. Not unnaturally certain amendments have to be made to the United Kingdom legislation in order that such legislation can properly apply to Gibraltar and these amendments are contained in the new Schedule 3 to the Bill which appears on pages 15 to 20 of the Bill. The remaining clauses of the Bill contain consequential amendments. The House will recall that on the 11 February, 1987, it passed the Merchant Shipping (Amendment) Ordinance of 1987. This Ordinance, amongst other things enabled the Captain of the Port, as Registrar of British Ships, to refuse, strike off and cancel the registration of any ship on the Gibraltar Register which did not comply with the requirements of the International Conventions. This legislation was brought into operation on the 30 July, 1987, and simultaneously with the coming into operation of that Ordinance, the Merchant Shipping Excluded Registration Order of 1987 was promulgated. This order imposed the duty on the

Captain of the Port to refuse to register ships more than 15 years old unless the Governor specifically approves the registration in a particular case. The effect of this legislation has been two-fold. Firstly, the surge of vessels coming on to our register has been stopped as numerous enquiries have been turned down. Secondly, owners have been made aware of the stricter control and powers of the Registrar for those that do not comply. Since the 31 July to date, or rather to the 14 January, last week, only six merchant vessels have been accepted on our register and at the 31 December, 1987, the register stood at 106 vessels with an aggregate gross tonnage of 2.6 million tons. The passing of this legislation will give respectability and acceptance to Gibraltar registered ships worldwide as they will be issued with full Convention certificates. Sir, the passing of this legislation will, I trust, bring to completion the task on which we embarked four years ago after the visit to London of the then Deputy Governor, the Captain of the Port, the then Crown Counsel, who today is the Attorney-General, and myself, on ship registry matters and the subsequent decision that we took on the United Kingdom Department of Trade consultative document to go for full registry status. Sir, I commend the Bill to the House.

MR SPEAKER

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

HON M A FEETHAM

Mr Speaker, as you are well aware, the Opposition have on a number of occasions discussed and questioned Government policies insofar as the Merchant Shipping Ordinance was concerned and, indeed, in 1987 we opposed the amendment, the merchant shipping amendments of 1987, on the basis that what Government were doing was approaching a very important issue as the Merchant Shipping Ordinance was, on a piecemeal basis. Today, it would be wrong for the Opposition not to support the Bill, so the Opposition will be supporting the Bill but on the other hand we would like to make clear that we do not agree with the last statement made by the Honourable Chief Minister that with the passing of this Bill the process insofar as the Merchant Shipping Ordinance in Gibraltar is concerned is brought to completion, and I would like to explain the reasons why we take that view. Having said, therefore, that we are supporting the Bill, I think it is important that we distinguish between what is happening today insofar as this Bill is concerned and what, in the view of the Opposition, should be done to give the Gibraltar Shipping Registry the importance that we attach to making the port of Gibraltar a port of repute. What the Bill is doing in effect is pre-empting the passing of the Merchant Shipping Act in the UK and attempting, and we welcome it, being ready for the time when the Merchant Shipping Act is passed in the UK. I would like to question that under the Merchant Shipping Act when it is passed, the Shipping Registries are

going to be categorised into five different categories. It is therefore a question of under which category the Gibraltar Ship Registry is going to be classified, one, two, three, four or five, whichever will depend on the importance that we, through our local legislation attach to making the Gibraltar Shipping Registry a reputable registry. Just before I continue with that line of thought, I would just like to say that I came across the other day a report on Port state control - I am just trying to emphasize the importance of having a reputable Shipping Registry - a report on Port state control which outlined the list of countries having more than 10% of the ships inspected and detained for serious safety deficiencies. The highest was Malta with over 37% and second was Gibraltar with over 20%, so whilst we are moving in the right direction in meeting our international obligations, there are a number of things that have to be done for us to be able to say that we have got in Gibraltar a first class shipping registry. As far as we are concerned, the matter has not been brought to a conclusion. I would like to draw the attention of the House, Mr Speaker, to the Merchant Shipping Acts of 1970 and 1979 which gave the Department of Transport powers to make regulations on the manning of UK registered ships to the extent that it appeared necessary in the interests of safety. These powers relate not only to what we are doing today insofar as certifying officers and doctors, in fact, in UK it went as far as doctors and cooks, but also to other seamen of any description as may be specified in the regulations which were introduced and therefore there is still an important element of an area which needs to be looked at in terms of manning of ships registered in Gibraltar. What the Opposition is saying is that the same regulations which were introduced in the UK as outlined, I think it would be of importance to the members opposite, particularly the Attorney General, if he were to take note of a notice published by the Department of Transport, M1178, which is manning of merchant shipping registered in the UK, which gave guidelines on how they look at the problems and how they reached agreement insofar as their ships are concerned and that the same guidelines, broadly, ought to be introduced in Gibraltar and applied by the Captain of the Port. I am talking about Merchant Shipping Notice No.M1178 of which I will give a copy to the Honourable and Learned Attorney General when I have finished my contribution. If we, insofar as money is concerned, introduced this sort of approach then we would not only be meeting our international obligations but we will be going a long way to reassuring the National Union of Seamen, for example, even the shipping organisations, that we are thinking seriously about a reputable Shipping Registry in Gibraltar. The other thing that I think we would need to do is to look at what other regulations ought to be introduced and I am talking about statutory regulations which cover other matters such as navigation, ship construction and equipment in Gibraltar Registered ships. Again, I will like to draw to the notice of the Honourable and Learned Attorney General Merchant Shipping Note No.M1265 and I will let him have a copy at the end of my delivery, and whilst I would accept that the

regulations contained therein cover a wide area of shipping registry, there are particular regulations in there which I think on closer scrutiny we ought to introduce in Gibraltar in support of our shipping registry. For the record, Mr Speaker, I am talking about Regulation 3 on crew - I will hand all this over to the Attorney General - on dangerous goods, on fire and life saving, on loadlines, navigation and collision regulations, occupational health and safety, oil pollution. Incidentally, there are a number of regulations here, one of which we are, in fact, passing in this House with this Bill but there are others which we have not given any attention to, I assume, because they have not been brought to this House. There is a number of regulations which we will need to look at on the radio and navigational equipment and construction, equipment and tonnage. When I pass this over to the Honourable and Learned Attorney General and if we are serious about what we really mean by bringing this to a satisfactory conclusion and aiming for a top category registry, then I think that going on the lines which I have explained and looking at these regulations and guidelines as a basis for adapting to Gibraltar, I think that we can then say, Mr Speaker, that we have brought the whole question of the Merchant Shipping Ordinance in Gibraltar to a satisfactory conclusion.

HON CHIEF MINISTER:

Mr Speaker, there are two points. First of all that whatever material the Honourable Mr Feetham, makes available we will naturally be only too happy to look at. There is one point that I want to make, and I think that the Hon Mr Bossano will confirm to his colleague the truth of what I am saying and that is that I have never liked to have my words twisted in the 15 years that I have been a member of this House or to have words put into my mouth. I am sure the Hon Mr Bossano will remember that I never used to allow Mr Peter Isola to get away with it and he was fond of doing it quite often and I would never let that go by because I try to be as precise as I can be, as any politician can be about what we say. I do not like to eat my words but I do like to be as precise as possible and therefore I can tell the Hon Mr Feetham that I did not say, as he has stated, that the process of amending the Merchant Shipping Ordinance had been brought to an end. That is not what I have said. What I said was, and I repeat, that the passing of this legislation brings to completion the task on which we embarked four years ago when we visited London and then we took a decision. When the Department of Trade issued a consultative document to the dependent territories, we took a decision to go for full registry status. That is the task which we embarked on four years ago and I think that at this meeting of the House we have brought that task to a conclusion. I am not saying that it is the end of the road by any means but we had specific targets and specific objectives that we set ourselves in December, 1983, and after the general elections of 1984 the Government took certain decisions as a result of our visit to London and I think that these decisions have with the legislation brought to the House today and what is going to be promulgated in the near future, brought that task to completion.

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

HON CHIEF MINISTER:

Mr Speaker, I beg to give notice that Committee Stage and Third Reading should be taken at this meeting, and if the Opposition so agree, later today.

This was agreed to.

THE COURT FEES ORDINANCE, 1988

HON ATTORNEY GENERAL

Sir, I have the honour to move that a Bill for an Ordinance to make provision for matters affecting the payment of court and similar fees, to repeal the Fees (Collection) Ordinance, and to provide for matters incidental thereto, be read a first time.

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

SECOND READING

HON ATTORNEY GENERAL

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the Fees (Collection) Ordinance which came into operation on the 16 June, 1984, requires that all fees payable by law at the Supreme Court, in the Court of First Instance and in the Magistrates Court in respect of legal proceedings in those courts and that all fees payable on deeds, wills and other documents lodged in the Supreme Court and all fees payable on searches or requisitions for searches shall be payable by means of stamps. Consequently, Mr Speaker, the fees payable, for example, on the filing of an affidavit in the probate registry in the Supreme Court looks something like this, Mr Speaker, where there are stamps and stamps Fees of £192 on this document had to be paid by means of stamps. Thirty eight £5 stamps and two £1 stamps, plus all the inconvenience certainly in my Chambers, make out a payment voucher, get a cheque, endorse the cheque, take the cheque to the bank, get the money, go to the Post Office, get the stamps and then stick them on and the procedure has become almost impossible. Some documents, this is just an example, have four and five pages of stamps, just containing stamps, all of which have to be checked, all of which have to be entered in the court books and in 1988 it is a ridiculous waste of time. Mr Speaker, this Bill does away with the requirements that these fees be paid by way of stamps and in future the fees would be paid in cash or in cheques acceptable to the Registrar of the Supreme Court so this Bill, Mr Speaker, moves us out of the 1880's into the 1980's, and for that reason, Mr Speaker, I heartily commend the Bill to the House.

MR SPEAKER

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

HON J BOSSANO

We support anything that makes the service more efficient and gives a better service to customers. I can only suppose, Mr Speaker, that if it is from the last century, the Government must have been studying this problem for the last hundred years.

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 this meeting.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1987/1988) ORDINANCE, 1988

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that the Bill be now read a second time. As is customary on these occasions I do not propose to make a speech, simply to point out that this is a Bill the substance of which, that is to say, the increase in respect of the pay supplement, would normally have been brought before the House in the what I think is generally known as the pre-budget meeting by which time the information is available. Unfortunately, the information was not available at the time of the December meeting of the House so it could not be brought at that stage.

MR SPEAKER

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

HON J BOSSANO

We do not normally speak on the general principles but of

course one of the things that was said at the last time when we had a supplementary appropriation was that the Government did not want to leave uncovered liabilities and that therefore they were bringing forward whatever they could sensibly anticipate was going to be needed. At the last meeting of the House, the only controversial item was the question of whether the £2m that was provided for GSL was sufficient to meet the requirements of the GSL restructuring exercise and whether in fact more would be needed. I would have thought that by implication since the Government is telling us that they are now bringing an Appropriation Bill to meet requirements that they have established exist but of which we were not aware of in December, one would deduce from that that they have now been able to establish that GSL does not need any more money between now and the end of the financial year. Can the Financial Secretary confirm that this has now been checked and established because it was something that was raised at the last meeting when we suggested that it might be better to defer part of that vote for this House if the Government was going to be better placed to give us an explanation as to whether the money was needed and what for they tell us now that they will not be needing any more money before the end of the financial year given the turn of work that has been done on it since the last House.

HON FINANCIAL AND DEVELOPMENT SECRETARY

The Government will not be asking the House to vote any more money before the end of this financial year in respect of GSL, Mr Speaker.

HON J BOSSANO

Presumably because the House is not going to meet but that is not the question I am asking. In the last House we were asked to vote for £2m and the Government told us they could not give us more information because the information was not available then and they could not defer the vote because the money was needed urgently in December. That is what we were told the last time. We are asking now, since we have now got a new Appropriation Bill and since they are not making any further provision, can they confirm that it means that the £2m we voted is sufficient to last GSL until the end of the financial year?

HON FINANCIAL AND DEVELOPMENT SECRETARY

I think, Mr Speaker, all I can say is that the discussions which are continuing, the exchanges with the company, have not suggested in any way that more than the figure which was voted in the December session of the House, would be needed before the end of this financial year.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

This was agreed to.

The House recessed at 5.20 pm.

The House resumed at 5.50 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL

Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Income Tax (Amendment) Bill, 1987; the Merchant Shipping (Amendment) Bill, 1988; the Court Fees Bill, 1988, and the Supplementary Appropriation (1987/88) Bill, 1988.

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

THE INCOME TAX (AMENDMENT) BILL, 1987

Clause 1

HON CHIEF MINISTER

Mr Speaker, I would like to make a general statement at this stage. Hon Members will recall that during the debate of the Second Reading of this Bill, the Hon Mr Bossano made a number of points, he said that he wanted to consider the Bill, carefully and we asked your staff to make available a Hansard of the debate at an early stage. This was done and for which I am grateful and it has enabled the Government, with officials, to have a close look at the points which the Hon Mr Bossano made. I am going to deal at this stage with the points that were made on home ownership and the Financial and Development Secretary will then deal with the question of the contributions to pension schemes and in particular I think two points that were made. One was how the Vineyards Purchasers Association were going to be affected by the arrangements on closed market development scheme and the instalments that they had paid and, secondly, the fact that the guidelines that would be used by the Director of Crown Lands were not specified, they were not included in the Ordinance and therefore they were merely going to be administrative guidelines. We have looked carefully into the position of the Vineyards Development. Hon Members will recall that Clause 5 what it does is to extend the relieve of the initial deposit under Section 26A of the Ordinance to first time home buyers during the period of construction of their homes. In the case of the deposits paid by prospective owners under Phase I

of the Vineyard Development, this commenced after the 30 June, 1986, and it consisted of an initial deposit of 10% of the selling price, plus 15 instalments amounting to 1% of the final cost of the flat during the construction period. I understand that payments have now ceased and that payment of the remaining 75% will become due when the flat is completed. This is expected to be the middle of this year. The allowance of £2,000 under Section 26A cannot be exceeded in total so that when 75% of the selling price is due, the allowance of £2,000 can in fact be given in the taxpayers code for 1988/89 as no allowance has been given previously. There is no real need, in fact, to consider Vineyard as a closed market development scheme as in any case the assessment for 1986/87 which could incorporate 20% of any payments made during the year ended 30 June, 1987, will probably not be issued until the middle of 1988 at the earliest, and whether the Vineyard becomes a closed market development or not the taxpayer will not lose entitlement for in practice they could not reap any benefit before the 1 July, 1988, but what can be done is to leave it for the Vineyard Purchasers Association to decide whether they want to be considered as a closed market development scheme and we are therefore moving an amendment, a necessary amendment, to make that alternative course of action possible and the Attorney-General has given notice on my behalf of the amendment which I will be moving after Clause 5 at the end of that sub-section, the provisions relating to the criteria to be adopted given them therefore statutory effect by including them in the Bill.

Mr Speaker, I beg to move that Clause 1 of the Bill, be amended by the deletion of the figures "1987" and the substitution therefor of the figures "1988".

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 FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, as the Honourable Chief Minister has said I have been asked to comment on the points which were made during the Second Reading debate by the Honourable Leader of the Opposition with particular reference to the pension provisions. I have read his comments in the Second Reading debate and also in the discussion on the Government side, subsequently. I am anxious, naturally, not to make political points in my contributions at this stage. I shall try not to do that although I think it may be a little bit difficult. I think a great many of the points made by the Honourable the Leader of the Opposition apply to the changes which were introduced in the Budget affecting the tax treatment of pensions rather specifically to the amendments which are the substance of this Ordinance, namely, those concerned with the returning contributions. It is inevitable, I think, that my comments will likewise go over the ground which have, in fact, already

been covered in the debates of the Budget. But if I can take the comments of the Honourable Leader of the Opposition, I think they fall into, or at least I have represented them to myself as falling into three categories, three main criticisms. One, that there is discrimination in this sort of measure between some beneficiaries and others, that is to say, one has a cut-off point. We are legislating for people who have taken up employment since July this year and giving them inferior treatment to all the people who were in employment then. I think he has made the point but if I could take them in the order in which they appear, I think this is inevitable with any taxation, whether one is introducing a new allowance or withdrawing one. The change is bound to discriminate between those who have been or have not been enjoying the facility up to the time the change is made. Usually in the case of changes in taxation this is at least ameliorated by the universality of the effect, that is to say, if everybody is affected by a change in taxation then there is, I suppose one could call it equality of misery. With some tax changes, however, I think this is one of them where the expectations for a good many years of personal planning may be affected, it is necessary to have some regard to this and minimise the effect. That is what the changes introduced in the budget were intended to do. There are, I understand, over 150 corporate pension schemes and something like 200 personal pension schemes in operation in Gibraltar. The Government felt that it would be wrong to legislate with retrospective effect than to penalise all those members of additional schemes or of existing schemes whose expectations over a number of years would have reached a certain point. They could have a 100% lump sum target. The amendments to the Income Tax Ordinance were introduced so as to preserve that expectation for those people who were members of existing schemes. It is not for me to comment on the politics of this decision but I can certainly think of other instances where the same principle has been followed in the United Kingdom when a tax reform has been introduced. The second point is that as the position of all existing members of approved schemes which provide for 100% lump sum payments was preserved this way it follows, this is another point that the Honourable Member pointed out, that the revenue effect to the change will initially be very small indeed. I agree that is so and it cannot be argued that there is a great amount of money at stake now nor could it be justified on the grounds that the Government is raising revenue, that was not, however, the purpose of the amendment. The real purpose of the amendment is that it is, I think, a point of principle, whether it is desirable to make this tax reform or not, and I appreciate that there may be a different view on this. This brings me to what I think myself is probable the nub of the objection on the part of the Honourable Leader of the Opposition and Honourable Members opposite to this whole change and when I say this whole change I am referring not so much to return of contributions but to the notion of taxing a lump sum. The Honourable Member drew a distinction between those in the private sector, good employers such as Shell, he mentioned Smith Imossi and Saccone and Speed, where it might be reasonable to deny the beneficiaries of the pension schemes

100% commutation because these schemes are salary related, like the Gibraltar Civil Service scheme or the United Kingdom principal Civil Service pension scheme. I think, if I may quote from the Honourable Members own comments, the legislation is saying to both people in the private sector that they cannot, in fact, have what amounts to an endowment policy funded wholly or partly by their employer because that is what most money purchase schemes really are. It is a misnomer to say that they are a pension because they bear no relation to the salary since what you are doing is putting money into a savings account etc, etc. I accept the distinction which the Honourable Member draws between money purchasing schemes and final salary related pension schemes, I accept that point, but I do not agree and neither may I say do those in the pensions and insurance industry whom I consulted on this, that it is correct to call the one endowment policy and the other a pension scheme. With due respect to the Honourable Member and the comments he made, I think this understates the difference and also of course it ignores, this is quite an important point, the different tax treatment which is given in the case of an endowment policy and the pension scheme. I owe it to the Honourable Member to expand on this comment in view of the points he has made. In the case of an endowment policy, we are talking essentially of two features one, an element of life insurance, that is to say, if you die before maturity, there is a lump sum, it is a form of life insurance, that aspect. Secondly, of course, there is the return made by the Life Company to investing the premiums which are normally paid to the individual in the form of reversionary bonuses and then terminal bonuses on maturity. In the pension scheme there is far greater flexibility both as regards the contributions and the benefits payable in various circumstances, benefits which moreover cover many more circumstances than those covered by a life policy and, therefore, an endowment insurance. With a personal annuity contract, the individual can decide and with a group pension scheme trustees will in effect sign on behalf of a group of individuals whether the contributions will be flat rate or salary related and also whether and when and at what stage contributions ought to be increased from time to time and, indeed, whether the scheme should be, in effect, final salary related. They are, in fact, much more flexible arrangements than simple endowment insurance, indeed, with an endowment policy there are in effect two parties to the contract, the insured person and the insurer. In the case of an approved pension scheme, the employer, the employee, the trustees and the company which is effecting the pension scheme. These differences quite crucially, I think, extend to the different tax treatments of endowment policies and pension schemes and I think this is perhaps the most important point. In both cases the contributions are allowable against tax but the similarity ends there. Both the employers' and the employees' contributions will be allowable against tax in the case of pension schemes. In the case of contributions to an endowment policy, the question of an employer's contribution does not normally arise. It could arise, there is no reason why an employer should not

take out an endowment policy for one of his employees, as one might take out a policy on the life of one's wife or a close relative. But the premium paid by the employer in those circumstances be a benefit in kind. It would be allowed as a deduction to the employer, taxable deduction, and in theory at any rate, is taxable in the hands of the beneficiary, that is to say, the employee, although of course the employee could then probably claim relief under Section 33 in respect of the premiums unless, of course, he already had other life policies which took him beyond the allowable limit of 1/6th of his income. One reason why an employee will probable not chose this particular path and would in most cases though not in all cases choose the pension scheme option, is because of the other main difference in tax treatment. This, really, is the essence of the distinction and the rationale of the Government's decision to tax lump sums in the hands of the beneficiaries in future. If you or I take out an endowment policy, Mr Speaker, the lump sum which we are eventually given on maturity will have paid tax in the hands of the insurance company at the corporate rate. That is to say, the interest which is earned on the investment by the company would have been taxed and this is not true of the return on investments made by the company in the case of approved pensions schemes. This is the essential difference, whether they are personal pension schemes or annuity contracts or corporate schemes such as, for example, the stevedores scheme which was subject to discussion earlier in the year. Those investments are not taxed and it follows as surely as day follows night or as day is different from night, that the returns in the form of the final handout, the final pay, should that be a lump sum, are much greater in the case of a pension scheme than in the case of a maturing endowment policy. When I say much greater, broadly speaking, I am talking about a factor of 100%, that is to say, an insurance company will quote twice as much for a pension scheme as for an endowment policy. This really brings me to the rationale on the whole tax reform. In short, that is the reason for not allowing 100% lump sum pensions free of tax. The contributions have been allowed, have been taxed deductible, the investments in the pension schemes have been allowed free of tax, it is reasonable in those circumstances for the individual who is earning a pension and having benefitted from his tax advantages, to take a substantial portion of the maturing pension in the form of an annuity, after all he will, this is the rationale behind it, such an individual will in most cases still be taking advantage of the services of the Government, services of the community and therefore it is not unreasonable to expect him to contribute in some way by means of tax, to those services, services provided by Government as any other citizen. That, in short, Mr Speaker, is the rationale for it. As I have said it is not my position to defend the politics of it but I felt I owe it to the House to give what has been a rather lengthy explanation. There are some changes which we have considered to the particular provisions in this income tax ordinance affecting return of contributions. I think, by way of introduction, I ought, perhaps, to comment on the points made by the Honourable Leader of the Opposition in relation to GSL

employees. The Honourable Member asked the Government, "Do they know that the biggest single group that will hurt by this new legislation is the group that they made redundant in January in GSL? Are they aware of that, because if they are not aware of that, then they ought to be aware of that". This is not our understanding of the situation, Mr Speaker. The position of GSL employees will really be as follows. Those who might as a result of the restructuring proposals be made redundant and might withdraw their contributions to the GSL pension fund will not be caught by the provisions in this Ordinance for taxing in return of contributions. The Commissioner of Income Tax will regard all those employees of GSL who were in employment prior to the 1st July, 1987, and provided, of course, they have made contributions retrospectively in respect of their employment, he will regard them as being exempt from the tax of return of contributions. There is one very final point, I am sorry for standing on my feet so long, Mr Speaker, but this is the question of the rate of tax. I think the Honourable Leader of the Opposition pointed out that in the United Kingdom the rate of tax is 10% on return of contributions. We have so phrased the legislation as to make the effective rate of tax 15% because of the particular formula we had used was that any amount in advance or in excess of 25% will be taxed at 20%. I think that comes out at an effective rate of 15% or 16%. On reconsideration, Mr Speaker, the Government has decided that it is prepared to lower the rate to 10% and it is not necessary to frame this particular part of the Ordinance in the terms in which it is now expressed, namely, the incentive of 25%. I have an amendment which I would like to circulate to Honourable Members which will quite simply say that the tax on the rate of return of contributions will be at 10%. I do not know whether I need to explain the technicalities of the amendment. As Honourable Members know, any changes to the Ordinance are in two parts. First of all, you have a substantive part and then you have a charging part so the bit where it says what the rate shall be comes later, namely, in 37B. That is why the first amendment is rather a curious one.

MR SPEAKER

That is why you are proposing Clause 11 to be amended. Any contributors?

HON J BOSSANO

We support the deletion and we will vote in favour of the deletion and we will oppose the introduction of the new rate of 10% because, in fact, we do not agree with what the Government wants to do and we think it is a decision which requires a political decision and we politically are against it. It is not that we do not understand the arguments, it seems to me that all that has happened since the last House is that the Government having studied the arguments have, as it were, attenuated the effect of their measure to incorporate the arguments that they were using and therefore

the measure is less lethal than originally intended but still insufficiently good to satisfy us and therefore we are against it and we shall vote against it, but we will of course support the deletion in Clause 2.

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.

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

Clause 5

HON ATTORNEY-GENERAL

It is quite a lengthy amendment as set out in my notice, Mr Chairman, of the 20 January. The first amendment, if you wish me to go through it, Mr Chairman, is to the new Section 26A2, at page 190; to omit the words "a house or a flat is purchased" and substitute the words "a person who is eligible to apply for Government housing in accordance with the Housing Allocation Scheme, as revised in 1987, made under the Housing (Special Powers) Ordinance, enters into an agreement to purchase a house or a flat".

MR SPEAKER

Does any Hon Member wish to speak on the proposed amendment?

HON J BOSSANO

The amendment itself is something which we welcome because it specifies what was previously, one assumes, in the mind of the Government but not stated black upon white. That was one of the arguments that we used the last time, that if you gave discretionary powers to the Director of Crown Lands to certify what was a closed market development scheme and we did not think it was good legislation that somebody should have to guess what would satisfy the Director of Crown Lands or that the Director of Crown Lands in theory should be free to vary those criteria from one application to the next. Since it is the first time you are including the expression "closed market development scheme" in the law, we felt it ought to be defined so that we knew what the Government meant by it. The only previous reference that we have seen to this as we said in the last meeting of the House was in the published City Plan, so it is now clear and we are therefore, in principle, in favour of the fact that it should be set out in the law. However, we ourselves are not entirely sure whether the two-tier system is desirable in Gibraltar and whether we would want to perpetuate it which was the other point that I made in the debate. There were really two things, one was, we have said; "if there is going to be an open market and a closed market, there should be absolutely crystal clear definitions of what is closed and what is open so that everybody knows where they stand. My second argument was, can we have a closed market development and are we not in conflict with community law? And that the amendment does not answer because it seemed to us that conceptually the

closed market thing came from looking at the way Jersey and Guernsey have tried to protect local residents from competition for housing by excluding new people coming to the islands from being able to buy certain properties and consequently there are properties that only Jerseymen can buy and which can only be sold to Jerseymen, as it were, and there are properties which anybody of any nationality can buy provided they get the residence permit. Our argument is that having looked at community legislation, it seems to us that under community law we are required by community legislation, as the Honourable Member opposite was saying earlier in relation to the pensions. In relation to the pensions we have been told in a previous motion in this House that if we are legislating something which is in conflict with community law then, in fact, the legislation that we pass here is unenforceable because community law supersedes it. Can we be told categorically that the Government has looked at that aspect and that the Government is completely satisfied that this cannot be challenged as being in conflict with community law because having read community law on the subject it appears to us that a community national that takes up residence in Gibraltar has got the right to buy property on the same basis as a native of Gibraltar and that discrimination on the right to buy a home in Gibraltar on grounds of nationality is not permissible. Therefore if the closed development is a closed development because a person is not allowed to buy it unless he qualifies for Government housing and we are then saying that only a person that is a Gibraltarian goes on the Housing Waiting List, then it seems to us that we are making it a condition of this law that somebody should act in a way which breaks community law and I do not see how we can do that. We are not satisfied that it can be done. Secondly, we are not satisfied that it ought to be done even if it was not a matter of community law. We would like a view on whether it is or it is not, but independent of that I think I have to say that we still would wish to reserve our position independent of that issue because purely on economic grounds, as it were, on the grounds of the promotion of home ownership and so forth, we are not ourselves sure in our own minds that the best way to go about it is to have a two-tier housing market. We are not clear ourselves on that, we think it requires much more thought and the Government has not really put up a very strong case for doing it. As far as we are concerned the only time that we have really had any kind of explanation about a two-tier market was in this legislation. If you are introducing a new system which gives certain privileges to certain categories of citizens and denies them to other categories of citizens, we ourselves feel that there have to be very powerful arguments for doing that. As a matter of general principle we would say to ourselves that we believe that if you give certain tax advantages for home ownership, then you do it to everybody. If you are going to give it to some and not to others we need to be persuaded by much more powerful arguments that have been put forward so far. But as I said initially Mr Chairman, as far as the amendment being moved by the Attorney-General now is concerned, we welcome that because it does clarify the position of what it is that the Government is trying to

do and therefore we think it is a good thing for everybody in Gibraltar to understand the law better as a result, even though we might in principle not be in agreement with the law itself and we might want to change it in the future. We will support the amendment purely for those reasons but I think I need to make clear that when the time comes we shall be abstaining on the amended motion, because we have not made up our minds finally and because we would like clarification on the EEC dimension.

HON ATTORNEY GENERAL

Insofar as the EEC dimension is concerned, it is, as the Honourable Leader of the Opposition knows, a difficult piece of legislation insofar as Gibraltar housing is concerned. It is quite clear from the amendments that we have made to the Lands Titles Order that any EEC national can purchase land in Gibraltar. But then we have the equally difficult problem about how the Housing Allocation Scheme which is mentioned in this particular clause fits into community regulation, I think it is 1612. You have had my views on three times in this House on that. We defend the Housing Allocation Scheme which allows the eligibility for housing in Gibraltar to go to people who have been registered in the register of Gibraltarians and to persons who were not registered in the Register of Gibraltarians but have a right of permanent residence and also British Dependent Territories citizens through their connections with Gibraltar. We have had this out in the House on several occasions and it is not easy to have to reconcile it with community legislation but we have said and I have said more than once in this House, it is something which is so fundamentally important to Gibraltar that we would fight it and fight it and fight it again to do our best to ensure that the public housing stock of Gibraltar goes to Gibraltarians and not to community nationals in general because I cannot imagine a worse situation, Mr Chairman, than Frenchmen, Spaniards, Germans and the like, as community nationals, coming in and taking priority in our housing list over Gibraltarians who were born here, who have been registered here, just because the community national coming in manages to get more points on the housing list. It is difficult, we think that there is a reasonable argument for saying it is within community law and we are prepared to fight that argument to win the day because we think it is terribly important to Gibraltar.

HON J BOSSANO

I am afraid the Honourable Member has skilfully avoided giving me an answer and I cannot let him get away with it. I am not suggesting to the Honourable Member that the few houses that we have available for people on the waiting list should be distributed to Spaniards, Frenchmen, Portuguese et al. In fact, if they all joined the waiting list I would imagine they will still be there in 10 years time like we all are. That is not what we are talking about, we are talking about an amendment to the Income Tax Ordinance which gives tax treatment for home ownership to people who are

able to apply for Government housing. I am not questioning whether the Housing Allocation Scheme is an infringement of Community law because we are not discussing the Housing Allocation Scheme and that is not a scheme which exists in any of our laws. I know that the explanation that the Hon Member has given now and that he has given before is that even if it is contrary to Community law, he is prepared to defend it because housing is such an important area and obviously because the AACR is building so few houses that the Hon and Learned Attorney-General has got to keep the few that there are available for Gibraltarians and I agree with him. However, my question is, since we are legislating now not only about the right to apply for public housing but the right to purchase, and there is specifically in the legislation of the Community a specific reference to the right to buy, it is about the right to buy that I am seeking an answer. If we are saying to somebody that he may not sell to someone who is not on the waiting list, are we not limiting the right of people to buy property in Gibraltar in a scheme which we call restricted and we are restricting it by reference to a definition of the category of people, can that restriction be sustained? That is the question. I am saying that even if the restrictions can be sustained we may wish not to do it for other reasons but we want to know in any case, since that question has not been answered to our satisfaction, whether in fact in his view we have got the right in Gibraltar to build houses for sale which we can say will only be sold to Gibraltarians. Can we do that?

HON ATTORNEY-GENERAL:

This is the point I have been trying to make, Mr Chairman, because it does come down to the validity of the Housing Allocation Scheme.

HON J BOSSANO:

Mr Chairman, what I am asking him is, independent of the fact that the Government, in renting council houses as a landlord may be able to select the tenants and it can select the tenants by birth or by colour or by income or by whatever criteria and that criteria might be challenged or not be challenged which is one issue which is not the issue we are questioning at the moment. Can a private developer say 'I am now going to build houses exclusively for Englishmen which nobody else can buy or exclusively for Frenchmen', can he do that under Community law or does, in fact, the law of the European Community say that any Community national has to have the same right to buy property in any Member State as a national of that Member State?

HON ATTORNEY-GENERAL:

That is what our law says in the amendment we made to the Lands Title Order. We gave community nationals the right to purchase land in Gibraltar so they do have a general right to purchase land. All we are saying here is that the landlord can only sell or dispose of the property in a closed market development scheme to somebody on the Gibraltar housing list.

HON J BOSSANO:

I am aware of that. Perhaps I am being very obtuse in following the Hon Member's argument. It seems to me if he tells us that we have changed the Lands Titles Order to say 'anybody can buy property in Gibraltar.....

HON ATTORNEY-GENERAL:

Other housing schemes.

HON J BOSSANO:

Other housing schemes, this is what we want. What I want is a categorical statement from him that we are entitled within Community law to require a particular developer in a particular development to sell to a particular class of purchaser. In fact, we can say to somebody tomorrow: 'this is a piece of land for development and the conditions of the tender are that the property may only be sold to people with the following characteristics', be those characteristics that they are on the waiting list or that they are tall or that they are short or they have got brown eyes or whatever. Can we, in fact, introduce a limit of the class of purchasers to which a property may be sold without being in conflict with what he has told us we have already done which is to give people a general right to purchase? If he says we can do that then, fine, that is his view and it satisfies our concern that we were acting in a way which could be challenged effectively. But I am also saying, independent of that, that we ourselves think that much more thought has to be given to the development of this two-tier market which is a concept recently introduced by the Government and which we are not entirely sure we want to support because we think more thought has to be given into its economic consequences, generally, as to what we want the private sector market to be like.

HON ATTORNEY-GENERAL:

The Hon Leader of the Opposition may contend with, I think, the position taken in this, is defensible in Community law because of the peculiar situation. It is a very complex subject.

MR SPEAKER:

In other words, you are saying it can be put to the test.

HON ATTORNEY-GENERAL:

It can be put to the test because it is important that certain houses only go to people on the waiting list and for that reason we have got to try and defend it.

HON J L BALDACHINO:

Mr Chairman, but once we have a closed market development, for example, or somebody builds houses of a closed market, can he then revert to an open market if he so wishes or does that remain a closed market for the duration?

HON ATTORNEY-GENERAL:

I think it must remain within the closed market situation. If you look at the various criteria the Director of Crown Lands has to be satisfied before issuing a certificate and that the purchaser, lessee or other person acquiring such house or who has entered into a legally binding commitment not to sell, grant a lease or otherwise dispose of such house or flat except to a person eligible to apply for Government housing under the Housing Allocation Scheme. It is the best we could do to try and maintain the closed market development so that the person cannot go out to sell in the open market.

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

HON ATTORNEY-GENERAL:

That Clause 5 be further amended though we have been discussing this, Mr Chairman.

MR SPEAKER:

There is no need to read it.

HON ATTORNEY-GENERAL:

It is exactly the point we have been discussing.

HON J BOSSANO:

We will be abstaining because as I explained, Mr Chairman, we agree with the amendment but the original concept we are not very sure about, we still think this two-tier system will not work.

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

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

The following Hon Members abstained:

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

The amendment was accordingly passed and Clause 5, as amended, stood part of the Bill.

Clauses 6 to 10 were agreed to and stood part of the Bill.

Clause 11

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move the proposed amendment which I have circulated to yourself and to Hon Members, namely, that the proposed amendment to Section 37B of the principal Ordinance shall be replaced as I have circulated.

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

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

The following Hon Members voted against:

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

Clause 11, as amended, stood part of the Bill.

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

THE MERCHANT SHIPPING (AMENDMENT) BILL, 1988

Clauses 1 to 33 were agreed to and stood part of the Bill.

New Clause 34

HON ATTORNEY-GENERAL:

Mr Chairman, I have given notice of an amendment to add a Clause 34. It is purely a legal amendment so it should be inserted immediately after Clause 33 and before Schedule 3. Schedules 1 and 2 are in the principal Ordinance and this is the purpose of this new Clause, that the Ordinance is further amended by inserting immediately after Schedule 2 the following new Schedules.

MR SPEAKER:

Will you read your amendment.

HON ATTORNEY-GENERAL:

The insertion of the following new Clause 34 as follows:
"34. The Ordinance is further amended by inserting immediately after Schedule 2 the following new Schedules - Schedule 3, as printed, Schedule 4 as printed but to be amended when we come to Schedule 4.

MR SPEAKER:

I think we have got to deal with the proposed new Schedule 4 now and then the new Clause 34 will read, and that is what I was suggesting before, 'as printed in the Bill', as circulated in the amendment.

HON ATTORNEY-GENERAL:

Schedule 4 as circulated if you please, Mr Chairman.

Mr Speaker then put the question which was resolved in the affirmative and new Clause 34 was agreed to and stood part of the Bill.

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

THE COURT FEES BILL, 1988

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, to amend Clause 2 to omit the words "sections 4 and 5" and substitute the word "section 4".

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

Clauses 3 to 6 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1987/88) BILL, 1988

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

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

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Income Tax (Amendment) Bill, 1988, with amendments; the Merchant Shipping (Amendment) Bill, 1988, with amendments; the Court Fees Bill, 1988, with amendments; and the Supplementary Appropriation (1987/88) Bill, 1988, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Merchant Shipping (Amendment) Bill, 1988; the Court Fees Bill, 1988; and the Supplementary Appropriation (1987/88) Bill, 1988, the question was resolved in the affirmative.

On a vote being taken on the Income Tax (Amendment) Bill, 1988, the following Hon Members voted in favour:

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

The following Hon Members abstained:

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

The Bills were read a third time and passed.

MR SPEAKER:

We will recess now until tomorrow morning at 10.30.

The House recessed at 7.00 pm.

FRIDAY THE 22ND JANUARY, 1988

The House resumed at 10.45 am.

MR SPEAKER:

We will continue with Private Members' motions.

PRIVATE MEMBERS' MOTIONS

HON R MOR:

Mr Speaker, I beg to move that: "This House considers that Gibraltar has no further obligation to contribute to the cost of revalued Spanish pensions beyond the £4.5m from the Spanish sub-fund and that any further payments is a matter for Her Majesty's Government to agree with the Government of the Kingdom of Spain". Mr Speaker, the question of Spanish pensions was extensively debated in this House on the 28th January, 1986, that is, almost two years to the day. On that occasion you will no doubt recall that the reason why the Opposition had brought a motion to the House was because an agreement had been concluded in December, 1985, whereby the British Government was providing a certain amount of money and we were putting up that part of the fund which belonged to the ex-Spanish workers and as you know, Mr Speaker, the British Government put up £16m and we put up £4m so that made up the £21m which were expected to cover the years between 1980 and 1988. At the time the Hon and Learned Sir Joshua Hassan thought that this agreement was a matter of particular satisfaction, that is how he described it in his New Year Message. But we, on the other hand, thought that the agreement failed to adequately protect the interests of the people of Gibraltar. That was the reason why we brought the motion at the time because we believed that the agreement failed to protect the interests of the people. Mr Speaker, if I may go very briefly over what was the scenario at that time. If I may go briefly over what was being said and what was being debated both here in this House and, in fact, in the House of Commons. On certain occasions the question of Spanish pensions was raised in the House of Commons at the time and I would like to start by referring to a debate which took place in early December when the British Parliament was discussing the Spanish and Portuguese Accession Bill. I have here, Mr Speaker, a copy of the contribution which Mr Albert McQuarrie made during that debate and I think it is interesting to note that he made reference to a written question which had been asked earlier by Mr David Young to the Foreign and Commonwealth Office. The question was as to who would be responsible ultimately for the payment of Spanish pensions. Mr McQuarrie quoted the reply given by Mr Tim Eggar, which was: "Under Gibraltar law and under European Community Regulations responsibility for payments of pensions rests with the Gibraltar Government. We are having discussions with the Gibraltar Government about how this responsibility will be met". This question was answered on the 2nd December, 1985. Mr McQuarrie pointed out and, as we all know, that this reply had provoked a reaction from the then Chief Minister of Gibraltar who issued a press release which read as follows: "I have just been informed of the answer given by Mr Tim Eggar to a parliamentary question by Mr David Young regarding the ultimate responsibility for the payment of social security pensions to Spanish nationals working in Gibraltar before the closure

of the frontier by the Spanish Government". Sir Joshua then went on to say and I think, Mr Speaker, this was, in fact, quoted yesterday here by the Hon the present Chief Minister: "Gibraltar Government Ministers have made it clear to the British Government that while Gibraltar is prepared to meet its moral responsibility in full and has accordingly offered to contribute the total amount paid into the Social Insurance Fund by Spanish workers, plus accrued interest" - a total of some £4.5m - "their view is that the ultimate responsibility lies with the British Government". In fact, the statement Mr McQuarrie, again, quoted this as well, later on it said: "we reiterated previous oral suggestions that the Spanish Government might be asked to acknowledge some responsibility in this matter". Mr Speaker, as you can see, the motion which I am presenting today is, in fact, no different to what the Hon and Learned Chief Minister of the time was saying, that is, that Gibraltar has no further obligation to pay for Spanish pensions beyond the £4.5m of the Spanish sub-fund and that any further payments is a matter for Britain to agree with Spain since they are both in some way responsible for our situation. Spain caused the problem in the first place by withdrawing the labour force and Britain, as the EEC Member State, failed to secure Gibraltar's position before Spain's entry and, of course, we on this side of the House also apportion blame on the AACR Government on this since as you know, Mr Speaker, the GSLP has been pressing for derogations to be sought since 1980. But in this debate in the House of Commons there was also a contribution by Mr David Young and in concluding his speech Mr Young said: "In agreeing to the accession of Spain and Portugal, it is the duty of the House not to neglect the rights of 30,000 British citizens in Gibraltar who look to us as their one safeguard. I ask Hon Members to remember that it is Her Majesty's Government who have negotiated the Accession Treaty, not the Gibraltar Government. I hope that the Minister of State will not dodge those essential issues as his Right Hon and Learned Friend did earlier".

This was in fact a direct reference to Sir Geoffrey Howe who had, as Mr Young said, dodged the issue of Spanish pensions when he was answering questions earlier on. In fact, Mr Speaker, Sir Geoffrey Howe had been asked earlier by Mr Alfred Morris: "The Right Hon and Learned Gentleman spoke of the importance of this legislation for relations between this country and Spain. He said nothing about the important issue of the pensions that will be payable to Spaniards who worked in Gibraltar up to the time when the frontier was closed. He must know that it is an issue of the first importance to the Government of Gibraltar. It could cost them £7m a year for the next 15 years. Can the Right Hon and Learned Gentleman give them any sort of assurance before he concludes his

speech?" To this, Mr Speaker, Sir Geoffrey Howe replied: "The Right Hon Gentleman was right to raise that question. It is clear that the financing of those obligations is a matter of interest. The Government will make a significant contribution for the first year from the date of Spain's accession to assist Gibraltar to meet its obligations while negotiations continue about future years. I shall say something more about Gibraltar later". What Sir Geoffrey Howe said later about Spanish pensions, Mr Speaker, was in fact disappointing and was also, in fact, what brought about the remark that he was dodging the issue. Because there was no doubt that he was avoiding making references to the issue and had to be interrupted by Mr James Pawsey - Mr James Pawsey, if Members will recall, was out here some time ago - and he said that it was clearly unfair that the 30,000 people of Gibraltar should bear the burden of the amount involved to meet these pensions and that he thought the Gibraltar Government were looking for a rather better deal than that. All Sir Geoffrey Howe said, Mr Speaker, was "With regard to pensions it must be remembered that the workers in question contributed to the Gibraltar Pension Scheme for a number of years and, like other workers who contributed in the same period, are entitled to benefits which match those payable to people who live in Gibraltar. That is the pattern with which we are dealing and I have nothing to add to what I said earlier about this topic". This, Mr Speaker, was the scenario at the time. It was clear that several Members of Parliament in the United Kingdom were expressing concern at the problem of Spanish pensions on the one hand and the British Government was attempting to avoid the issue. To us, on this side of the House, Mr Speaker, it was an indication that the British Government were not prepared to accept responsibility for the payment of these pensions and, clearly, what was obvious then and we believe it is still obvious, that the British Government is expecting the full responsibility to be taken up by the people of Gibraltar. Mr Speaker, we were in for quite a surprise when in his New Year Message Sir Joshua Hassan had said that the agreement was a matter of particular satisfaction. We believed then, Mr Speaker, and we still do, that the agreement, as I mentioned earlier, failed to adequately protect the position of Gibraltar because we believe, of course, that the matter should have been settled long before Spain joined the Community and if that was not done then we would expect the British Government as a member EEC State to accept the responsibility. Mr Speaker, I will therefore come to the motion which I have referred to earlier on and which I moved in this House in January, 1986. As you will no doubt recall at the time I expressed some doubt as to the value of the Spanish Sub-fund which was then calculated to be £4.5m and the reason why I had expressed doubt was because I had reason to believe that the original figure should have been £3m and not £4m and I had come across, Mr Speaker, a statement which had been made here in this House in 1970 and which had, in fact, mentioned the figure of £3m. I am obviously not going to go into that again, Mr Speaker, because with

the passage of time it is very difficult to be able to clarify how those figures were produced although as you may remember, the Hon Financial and Development Secretary did attempt to give an explanation during that debate. At the time I also referred to a statement made by the then Chief Minister of Gibraltar, Major Bob Peliza, who was trying to reach a settlement whereby the monies due to the Spaniards then was being handed back and he did, in fact, say that an acceptable settlement was possible in his statement. It is a pity, Mr Speaker, that the AACR who were then in Opposition were opposed to this arrangement otherwise we may, obviously, have not been discussing this today and Gibraltar would have been rid of this problem. However, Mr Speaker, it is interesting to note some of the things which were said then and which relate to the motion which is before us today. In his contribution the Hon and Learned Sir Joshua Hassan once again reiterated the Government's position when he said: "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. We consider that the ultimate responsibility rests on the British Government". On the face of it, Mr Speaker, it appears that the Government's position was still as firm as when their previous Government statement was quoted by Mr McQuarrie, that is, that we should not be called upon to provide any further money beyond the £4.5m. In fact, Mr Speaker, when my Hon Colleague, Joe Pilcher, was saying to the House during the debate that what we wanted the Government to continue was with what the Hon Mr Canepa had been saying here and outside the House, that they would not pay out a single penny of Gibraltar taxpayers' money, the present Chief Minister interrupted and said: "We say that today". That was in January, 1986. However, Mr Speaker, the solidly firm stand which the Government appeared to be taking was somewhat shaken by the Hon Mr Maurice Featherstone when he came out surprisingly by saying that he felt Gibraltar had a commitment to meet the pensions of those Spaniards who had qualified for pensions before 1969 and, as you know, Mr Speaker, there are over 700 of them. However, it was not only the Hon Mr Featherstone who said this but this position was, in fact, endorsed by the Hon Mr Canepa himself who said that in 1989 we have a moral and legal obligation to pay for those pensions. He said that we should not have any liability towards those Spaniards who had not yet reached 65 in 1969 and were withdrawn as a political weapon to harm us but that we had an obligation to pay the others. Mr Speaker, although I suppose that at face value it may well sound a reasonable attitude to show, I suppose it could also be argued that those Spaniards who were used as a political weapon, as the Hon Member has said, those same Spaniards who had not yet qualified for pensions in 1969 formed the base with their social insurance contributions from which the money would have come to pay for those others who had already retired. In fact, Mr Speaker, by withdrawing this labour from Gibraltar, Spain had actually taken away the means by which

Gibraltar could have honoured the payments of the pre-1969 Spanish pensions. As I say, Mr Speaker, I believe this could also have been used as an argument but what I find incredible is that the Government should have come out with such a statement right at the outset of negotiations over who was going to pay beyond 1988. I think, Mr Speaker, that this clearly shows the lack of ability of this AACR Government when negotiating anything on behalf of Gibraltar. Mr Speaker, to say publicly how far you are prepared to go before you start negotiating is very much like showing your hand in a poker game before the betting starts. The British Government must have been delighted to hear this, Mr Speaker, because quite obviously they would then have started negotiations from the basis that the Gibraltar Government was already prepared to pay up £1.5m for the payment of Spanish pensions. Mr Speaker, we were asked by the Government to come clean on the issue of Spanish pensions and this we have done with this motion we are presenting today. We would also ask them to come clean and explain how is it that they are committed to look at Gibraltar's capacity to contribute towards meeting the cost of Spanish pensions beyond 1988 according to the terms of reference of the Joint Study Group. Under these terms of reference, Mr Speaker, in paragraph 2 it says: "To assess the capacity of the Gibraltar economy to contribute towards meeting the liability after the end of 1988 taking into account the Gibraltar Government's financial and economic policies". Mr Speaker, we asked the Government in Question No. 188 of 1987 on the 6th July last year: "In view of the improved economic climate are Government now ready to proceed with the reduction of the age of entitlement to 60 for male social security pensions?" In their reply, Mr Speaker, they said: "This is not a matter which is directly related to the general economic climate". We would be interested to know how is it that in the case of Spanish pensions this is related to our economic potential and yet in something of benefit to our own pensioners it is not. Mr Speaker, as I said before, the wording of this motion is very much in line with the position that Gibraltar has been taking all along as regards the payment of Spanish pensions. We believe that this is an issue which should have been resolved long before now and long before Spain joined the EEC. We believe that Gibraltar should have no further commitment beyond the £4.5m and that Britain must accept responsibility as the Member State and, equally, we feel that Spain is also answerable for having created the problem in the first place. As has been said before, Mr Speaker, we were the victims of Spain's aggressive tactics and yet we are now being asked to pay a price for this. And the price we would pay would be deficiencies in our education system; deficiencies in our housing; deficiencies in our medical and social services as well as affecting the general development of Gibraltar. We believe that Britain's position today is still very much the same as expressed by Mr Tim Eggar in December, 1985, that is, that it is Gibraltar's responsibility and they are

still maintaining a firm position on this. Spain, obviously, will also maintain a firm position by saying that they are entitled to these pensions and so I believe that we must equally be as firm and we must also take a very firm stand on this. We should not be asking, Mr Speaker, the people of Gibraltar to pay a price for the failure of the AACR Government and that of the British Government in having sought derogations for Gibraltar at the appropriate time. Mr Speaker, I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, in setting the scenario as it was in the debate in the House of Commons back, I think, in 1985, Mr Mor mentioned a number of MP's who took part in that debate and who did so on a rather well-informed footing because they had formed part of a CPA delegation that had come out to Gibraltar and who had discussed the matter, I am sure with the Opposition certainly, they certainly discussed the matter with us in the Government at great length and we were able to impart to them a great deal of information on the issue. In fact, the remark that Mr David Young made in the House of Commons that it was Her Majesty's Government who had negotiated the Spanish Accession Treaty is precisely the point that Sir Joshua Hassan made yesterday in his contribution that it is the actions of the British Government in pursuance or in respect of its international obligations when Britain signs international treaties that had created the problem for the people of Gibraltar. Alfred Morris had also come to Gibraltar on that occasion and, indeed, together David Young, Albert Morris and another several MP's who expressed concern, noted that Her Majesty's Government were attempting to avoid the issue. In fact, at the time of that debate I think they were trying to wash their hands off the issue beyond the first year. I think their attitude was: 'Let us get the pensions paid during the first year, once they start to be paid we have got the Gibraltar Government committed' and we were not going to fall for that. If you compare the line that was being taken during that debate in the House of Commons, the concern that MP's were expressing, if you contrast that with the agreement that was finally reached in December, 1985, on the brink of the 1st January, 1986, I think it is full proof of our success in the negotiations, proof of the fact that we pushed the British Government much, much further than what they would have wished to go on the matter and that is the reason why Sir Joshua Hassan, Chief Minister at the time, expressed some satisfaction at the result of the agreement because the negotiations had been extremely difficult at official level. With the Secretary of State, they had been difficult and not by any means bereft of acrimony, a great deal of acrimony arose during the course of those discussions, on

those negotiations. Mr Mor then went on to make the point that the AACR should have agreed to what the Peliza Government had in mind. As I recall it, I was not a Member of the Opposition, but as I recall it, Major Peliza made a statement in the House. The then Leader of the Opposition, Sir Joshua Hassan, reacted to that statement and the reaction was not a positive one but why on earth should that have stopped the Peliza Government from going ahead with what they had in mind escapes me. There was no bipartisan approach on foreign affairs then so why couldn't that administration have taken the initiative, even if the AACR did not agree with them, of going ahead with that proposal?

HON J BOSSANO:

I think the Hon Member is wrong in that particular date of which we have a copy, Mr Speaker. There is a reference to the fact that because it was a matter of foreign affairs both Government and Opposition were being consulted by ME on the proposals.

HON CHIEF MINISTER:

Of course, they were being consulted by the Governor on behalf of the British Government about the proposals but there was no requirement that there should be a bipartisan approach because there was no agreement between the then Government and the then Opposition that this matter or any matters to do with foreign affairs would be approached on a bipartisan basis in sharp contrast to what happened between 1977 and 1980 when Mr Xiberras was Leader of the Opposition, during the time of the so-called Strasbourg process and later on when Mr Peter Isola was Leader of the Opposition between 1980 and 1984. There there was a bipartisan approach and if one of the two parties to that agreement did not go along with a proposal then it could not be pursued. But the Peliza Government could have pursued it. But let us assume for one moment that, in fact, the AACR had been in agreement with the approach. Who is to say that the Spanish Government of the time and at the time in 1970 Franco was still very much at the helm, would have gone along with that proposal. In 1978 we know how a democratic Government in Spain much better disposed towards Gibraltar already, was not prepared to do so and what likelihood could there be of securing agreement precisely from that regime that had caused the problem by withdrawing Spanish labour as a hostile act against the people of Gibraltar. I think that that point anxious as Mr Mor might be to pin the blame on us for not just for what happened in 1984 and 1985, he wants to pin the blame on us for what happened in 1970, how far back can you really go? I think, Mr Speaker, I have demolished that point without a shadow of doubt. I said during the course of the debate yesterday that the Government would spell out what its position was in respect of the liability beyond the £4.5m

contribution from the Spanish fund. I also explained that if Gibraltar had to take a rigid stance on the matter it should do so responsibly and on the merits of the case. Our position, in fact, has not changed from what we put to Her Majesty's Government in 1984 and 1985 and what we publicly stated in a debate on this matter in January, 1986. I myself explained then, Mr Speaker, that it was important, in my view, to draw a distinction between the benefits payable to Spanish contributors who were withdrawn in 1969 and those who had become pensioners by the date of the withdrawal. What I was saying was, what I am saying now is that the position of people who were working in Gibraltar, who were contributing to the fund and who were withdrawn as a hostile act by the Spanish Government before they became pensioners, the position of those individuals is different to the position of the much smaller number of persons who had already earned entitlement to a pension by 1969. Who had earned entitlement at any time between 1960 when pensions were first payable and 1969, who had worked in Gibraltar, who had contributed to the fund many of whom were no longer working in Gibraltar and therefore could not be used as a weapon in order to undermine the economy of Gibraltar. Therefore, Mr Speaker, I quote from Hansard of that debate at some length as to what I said because it is the view that I continue to hold today. Quoting from Hansard I said: "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 contributions should go towards" - I am adding a word or two here and there not to change the meaning of it but so that it reads better in correcting the actual verbatim record - "should go towards meeting the cost of 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. In respect of these people we must draw a clear distinction between the two categories, that is, 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 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 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". By 'those people' I am referring to the workers that were withdrawn. 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. 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 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 pensions we should also pay for the pensions of those Spaniards who were not withdrawn" - that is the end of my quotation. That, Mr Speaker, is a consistent line of argument. We have argued that we could not make any contribution because of the enormous financial burden arising from the damaged cost to Gibraltar's economy by the closure of the frontier and the distorting effect which that hostile act created for the Social Insurance Fund. We should not thereby disclaim Gibraltar's obligation to those Spaniards who obtained their entitlement before the frontier was closed. Gibraltar's position on the matter would, in our view, gain more respect and understanding. It is certainly more defensible than saying that we will only pay out what the Spaniards put in. There are now some 400 to 500 such pensioners and it is estimated that the current commitment is running somewhere between £1m to £1.5m per annum, but I think it is important to underline that it is, in fact, a diminishing commitment for this particular category of Spanish pensioners are the eldest of them and will therefore, naturally, be dying, as they have been, at a faster rate than the majority of Spanish pensioners. Consistent with that line, Mr Speaker, I am proposing that the motion be amended by adding after the words "the Spanish sub-fund" the following words: "other than in respect of those Spaniards who were already in receipt of pensions prior to the closure of the frontier in 1969". Mr Speaker, I commend the amendment to the House.

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

HON J BOSSANO:

Mr Speaker, I am speaking at this stage just on the amendment. We are voting against the amendment. When the Hon Mr Canepa made his original contribution in January, 1986, two years ago, which he has been quoting from today, he invited us to consider that position and, in fact, to take a bipartisan approach on it basically because he was saying that it would be helpful if both the Government and the Opposition agreed that that was as much as we were prepared to pay which he told us at the time, surprisingly enough, came to £1.7m a year because there was something like 700 entitled pensioners but that the figure obviously would be declining because they were people who were fairly elderly already having been 65 in 1969. In subsequent questions, in fact, the figure that was given, I think, was in excess of £1.6m in 1986.

The first year that people got full pensions we asked how much did the full pensions come to which was the people who were entitled to the pension and the figure was there were about 700 people and the fee was £1.6m. We responded to that request from the Government in a press release issued by the Party after considering the arguments that had been put in 1986 and our position was that we did not accept that there was a particular responsibility for those people then and we don't accept that there is a particular responsibility for those people now. Let me say that had we thought in January, 1986, that we had the responsibility for paying the £1½m, the logic of that position would have required us to say the £1½m that we have paid in 1986 and in 1987 and that we are going to pay in 1988 is not something to which the British Government is contributing with their £16½m because we are accepting that it is our responsibility solely. Why should it be our sole responsibility to meet that £1½m in 1989 and it has not been in 1986, 1987 and 1988? If in 1986, 1987 and 1988 we have put for those three years £4½m and the British Government have put in those three years £16½m it is obvious that we couldn't have been paying exclusively the part due to the people pre-1969 because that in itself would come to more than £4½m when you take into account that we were already paying frozen pensions to the rest. If you accept the logic of the position that the Government is putting to us and we are saying in 1989 the pensioners in respect of which there is an amendment, ie that there is an obligation in Gibraltar to meet the cost of the Spaniards already in receipt of pensions prior to the closure in 1969, if we are saying that today and if the Hon Member was saying it in 1986, there would have been no argument for saying to the British Government that they must make a contribution towards these pensioners. That is what the motion is all about. The motion is about whether we pay any money at all now that the £4½m is finished or the British Government pays the money now that the £4½m is finished. If the Government of Gibraltar says they are prepared to meet the cost of this group without any contribution from Britain, logically they should have been prepared to meet it already without any contribution from Britain but they haven't done it, they have included it as part of the £21m. In fact, it seems to me that the motion that the Government wishes to put forward, the proposal in their amendment, effectively negates the argument that they used initially with the British Government of saying 'the British Government must put up £16m' which includes paying for this group for which we are now saying we are responsible. We have already stated in 1986 that this is not acceptable to us and, in fact, as my colleague said in his opening remarks, we think it is very unwise of the Government to go along into a negotiating situation which has not yet started saying 'we are already accepting a £1½m liability and we are already accepting for this group'. It is quite obvious that if there was any prospect of the British Government having been willing to pay for this group that prospect no longer exists given

the fact the British Government knows that the Government of Gibraltar is willing to pay for it. We believe that the Government of Gibraltar should not accept giving one single penny beyond the £4½m. That is what we said in 1986, that is still the position today and that is what the motion was seeking to get the House to say unanimously. It is obvious that there are two different positions and it is obvious that that position of paying for the £1½m for those 700 Spaniards who are pre-1970 is something that in the future will only materialise if the Government can get support for that because they will have to include that as their position in the election manifesto that they put forward and get the public to support that idea and we will have to put the opposite. There is a clear division on this issue. Therefore, Mr Speaker, having cleared up that position, let me just say one other thing before I sit down because really all I stood up is to make clear that we are opposing this. Subsequent to 1986 and I have been trying to find the questions but I am afraid I haven't been able to get me hands on it at short notice, subsequent to 1986 when the Hon Mr Canepa made that statement in the House in answer to a question of mine the Hon and Learned Sir Joshua Hassan, then Chief Minister and not backbencher as he is today, stated that this was not the policy of the Government of Gibraltar and that the Government of Gibraltar was not, in fact, committed to this position because he wasn't going to have his hands tied before he started negotiating with the British Government, the point made by my colleague. Presumably, since then, since that statement was made by the then Chief Minister on behalf of the Government of Gibraltar the position has changed and the Government of Gibraltar has now taken a formal policy decision to which they are bound, that they are prepared to commit £1½m from the Social Insurance Fund to meet this extra cost. Obviously that commitment is being made by the Government now in anticipation and without the benefit of the knowledge of the Actuary's Report. I have to say to the Government that we need them to state, having taken a policy decision, that they are prepared to commit this fund whether in fact the Actuary has been asked to do his review of the fund in the knowledge that the fund will be meeting £1½m for 700 pensioners who were entitled before 1969 because you cannot bring an amendment to this House and ask the House to vote on something and have the Actuary doing a study of the money in the fund on the basis that we haven't got this commitment. I need them to tell me that having taken a policy decision that they are prepared to give this money, that the Actuary in the report has already had included in his brief and in his terms of reference this cost because the report of the Actuary will recommend what is the level of contributions that will be required to meet the level of benefits on certain assumptions. As we have understood it from the Minister for Labour the assumptions of the last Actuary Report was based on frozen pensions for Spaniards and the contributions that we have been paying in the last four years and the increase have been based on frozen pensions to Spaniards. I want really, Mr Speaker,

having said that we are against it, I want since the Hon Member has got the right of reply on the amendment that he has moved, I want him to clarify for me whether, in fact, in the light of the previous answer given by the previous Chief Minister, Sir Joshua Hassan, to a question of mine that it was not the policy of the Government of Gibraltar, it was the view, if you like, expressed individually by Mr Canepa at the time in 1986 but that that was not the negotiating position of the Government of Gibraltar vis-a-vis the British Government and whether the fact that the amendment is being moved implies that it is now the position officially and formally. That a policy decision has been taken and therefore since they are now negotiating on the premise that they are willing to pay this and publicly stating it, that the Actuary has been told this so that in the Actuary's Report, that we are all expecting to materialise within a few weeks, this will be taken into account. We were told that the Actuary's Report would be ready early in 1988, Mr Speaker, and the discussions in the previous motion with the British Government were supposed to be in the light of the Actuary's Report.

MR SPEAKER:

Does any other Member wish to contribute to the debate on the amendment proposed by the Hon the Chief Minister?

HON DR R. G. VALARINO:

Mr Speaker, I wish to speak on the amendment. Mr Speaker, I fully support the amendment moved by the Hon the Chief Minister. I must again emphasise what the Chief Minister has previously said that whatever the size of the commitment, the Government will not be prepared to pay for the consequences of the hostile action taken by the Spanish Government culminating in the closure of the frontier. In fact, if I may quote from Hansard, I said: "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 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 the 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". I thus firmly believe that the ultimate responsibility for the additional cost for this commitment must be placed fairly and squarely on the shoulders of the British Government whilst reiterating the view that at the same time the Spanish Government must acknowledge

its responsibility on the matter. This is reflected in the latter part of the original motion as moved by the Hon Mr Mor. I feel that today we have made our position very clear, the position of the Government. It has been placed on record for the future and I am, indeed, sorry that the Opposition is unable to support this amendment in order that a unanimous decision would have been reached on this motion. Mr Speaker, in conclusion, I would like to say that the point raised by the Hon Gentleman on the Actuary's Report will be raised and tackled by the Chief Minister in his next intervention. Thank you, Sir.

HON R MOR:

I would like to speak on the amendment. Mr Speaker, the Government is saying that they have divided the Spanish pensioners into two groups. One group which already should have been paid a pension in 1969 because they were over 65 and the other group, those which had not yet reached pensionable age ie those which the Government is saying were withdrawn as a political and hostile action. Mr Speaker, the point I made before seems to have been missed by the Government because what we are saying is that the way that a pension scheme works is not that the contributions that one is paying are given back at the end when you retire, but the way it works is that the present day contributors are contributing to those who are already pensioned off. We had a situation in 1969 when the Spanish pensioners of those days, those who were already getting a pension, were being paid by the contributions of the other Spanish workers working at the time. By withdrawing those Spaniards the Spanish Government was taking away the means by which we could have been paying them and therefore I cannot see that Gibraltar should have any commitment in that sense, Mr Speaker.

MR SPEAKER:

I will now call on the Mover of the amendment to reply.

HON CHIEF MINISTER:

The very last point made by Mr Mor, Mr Speaker, that by withdrawing those Spanish workers the Spanish Government was removing the means by which we could finance the commitment to those Spanish workers who were already pensioners. I don't think that it is an entirely valid one in this sense and if those Spanish workers had not been withdrawn they would have had a better contribution record during the intervening period between their being withdrawn and their reaching the age of 65 and therefore you could say that their contributions would have gone to financing a higher commitment to pensions at a higher level in order to finance the pensions of those Spanish workers who were already pensioners prior to 1969.

I don't think it is an entirely valid one and that is not certainly how the scheme necessarily works. I would like to clear up the point about the Actuary's Report and to state that certainly the Report of the Actuaries should not take into account the point that we have made here today about the approach that we take to those persons who were pensioners prior to 1969. That was a view which I had at the time, I don't think that the Department will have given the Actuaries any directive, it had no business to do so, to look at the question of Spanish pensioners differently to what it had done so in the past, in other words, on the basis of frozen rates. What has happened, Mr Speaker, is that I have previously expressed personal views on the matter, these have now been discussed by the Government and in the context as a result of having to take an attitude, an approach to Mr Mor's motion, we have discussed what line we should take and we have come up with what now constitutes as of this moment Government policy. This is now the policy of the Government. I think I should correct Mr Bossano because I mentioned it in my earlier intervention and perhaps he didn't get the point but we are no longer dealing with 700 pensioners. I was making the point that, in fact, it was a fairly rapidly diminishing commitment so much so that today, say, in three or four years after the point first arose in 1985, at the time of the negotiations with the British Government part of the information which the Department of Labour and Social Security were providing to us in the context of the negotiations was precisely how many persons there were in that category and at that time it was over 700 but the number has now diminished to between 400 and 500. And that is a far more rapid rate of diminution than is otherwise the case with pensioners. Even the number of elderly persons pensions has not decreased at the rate at which this particular category of Spanish pensioners has decreased and the reason is obvious. Anybody who reached pensionable age prior to 1969 is today a very elderly pensioner and therefore rapidly dying off. But the point that we are making is, Mr Speaker, what is the difference between Gibraltar and other pensioners who contributed at the same rate - one shilling and five pence as it was between 1955 and January, 1968, in January, 1968, it went up to four shillings or twenty pence - what is the difference between those pensioners who contributed at the same rate and who may have the same number of contributions, who are Gibraltarians or other nationalities and Spanish pensioners of that same period contributing at the same rate equal amounts and equal number of contributions? The only difference that I can see is one of nationality, there is no other. The Social Insurance Fund and today's workers are paying for the pensions received by the same group, the same category of non-Spanish pensioners who became pensioners prior to 1969. Those persons who are Gibraltarians or other nationalities who were already pensioners prior to 1969 and who are alive today are having their pensions which are being received for a couple over £60 a week, for

a single person over £40 per week, they are being received at amounts vastly beyond what could have been envisaged at the time when it is remembered that pensions first started to be paid out in 1960 at the rate of two pounds and two shillings a week. As I say, it is the workers of today who are financing with their contributions that commitment way beyond the amount of money that was put into the Fund by those pensioners when they were in employment, when they were in employment, when they were workers and way beyond at today's value of the amount that was contributed by those workers. That is the point that we are making. It is a point that we think has got validity, certainly in moral terms it has got validity. There is a clear division on this issue as Mr Bossano has said and if we are returned to Government they from the Opposition will not support us if we take that line in Government. I think that I should also inform him that if we are in Opposition, if the position is reversed and they are in Government, we may not be able to support the line that they take and therefore instead of a united approach from this House on this crucial issue, there will be a divided approach. Obviously from the Opposition benches we would do nothing to undermine the position of the then Government but if they were to run into difficulties we would just sit on the sidelines and not actively support them in the course of the negotiations as we otherwise would. If they were to support this amendment and if in Government they were to take that line we would actively support them because we are convinced about the moral rectitude of that position and about the responsible attitude that it represents and I think that it is a perfectly tenable position to take in any negotiations with the British Government one from which certainly no Gibraltar Government should budge and should not be prepared to go beyond. I think I ought to make the position clear so that when the time comes we know where we stand. Mr Speaker, I commend the amendment to the House.

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon Miss M I Montegriffo
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The amendment was accordingly passed.

HON M A FEETHAM:

Mr Speaker, very briefly, in fact, just to make three points on what has been said because the matter has been debated in full in the motion that was in front of the House yesterday and the arguments of the Opposition have already been put forward by my colleague, Robert Mor. Much has been said about obligations to Spanish workers in relation to the Social Insurance Fund but I think very little has been said about obligations and rights of the contributors to the Social Insurance Fund as a whole. This is not a matter exclusively which affects Spanish workers, it is a matter which affects contributors to the Social Insurance Fund as a whole. In relation to this then there are just three points which I wish to record in Hansard. That is, the fact that the British Government has accepted contributing to meeting the cost is in my view a recognition that, in fact, they did not take proper steps to protect the interests of the contributors to the Social Insurance Fund post-1970. I think that from that point of view if we are interested in defending the interests of the contributors to the Fund we must say to the British Government that the liability lies with them and not with the Government of Gibraltar. Also much has been said about the EEC regulations in defence of what has happened. Just let me say one point, when we talk about the hostility of the Spanish Government, which is a fact, let me relate that to the EEC Regulations 1408/71. The purpose of that Regulation is, in fact, the protection of migrant workers so as to promote freedom of movement and equality of treatment that is the purpose of Regulation 1408 of which much has been said in this House today. But the act that prevented equality of rights and the act that prevented the question of indirect or direct discrimination was done by the Spanish Government and it is the Spanish Government's move which has prevented the proper introduction of EEC Regulation 1408 apart from the fact of the hostility act against Gibraltar. They are responsible for having denied the Spanish workers of their legal rights. So far as the moral obligations are concerned, in relation to the contributors of the Social Insurance Fund in Gibraltar we have already met our moral obligations in the light of everything that has been said insofar as the Spanish workers. In our view to exceed that moral obligation to the Spanish contributors, to make the payments that we are already embarked on doing is, in fact, unfair to the present contributors which is in direct conflict with EEC Regulation

1408. Therefore when we are looking at this problem let us not look at it from a parochial point of view but let us look at it from the point of view of applying EEC Regulation 1408 insofar as the rights of contributors in general and not one sector of the contributors insofar as the Social Insurance Fund is concerned, that is to say, Spanish workers. Let us look at it across the board and then we shall see, in fact, who have got moral obligations to defend. Therefore the position of the Gibraltar Government should be and should have been to say that if we are going to have to come to a decision where we are not bound to meet beyond the \$4.3m that is the position that the Gibraltar Government should have taken instead of having negotiated the three year agreement. In the same way as I am saying that the British Government's willingness to contribute is a recognition of the failure to protect the Fund, that same argument will surely be put to the Gibraltar Government for the stand they are making. I think in a negotiating position what the Hon Chief Minister is proposing already by accepting some obligation is, in fact, weakening the position of the Gibraltar Government. Therefore, Mr Speaker, I think that having made those three points let us look at this exclusively and strictly how it affects the contributors in general and not just Spanish workers.

HON M K FEATHERSTONE:

Mr Speaker, I think the motion, as amended, has given us a much more responsible position in our approach to the British Government when we suggest to them that they should meet the cost of the pensions of those Spanish workers who were withdrawn in 1969 as a weapon to force us into economic ruin. If I were a UK negotiator and Gibraltar were to come to me and say: "We expect you to pay all the pensions of Spanish workers including those who had qualified in 1967, 1968 and up to 1969", I as the UK negotiator would say: "You are asking a little bit too much. You must face up to your own responsibilities and you must meet them properly". It is very interesting to consider what would have been the position of, let us say, a refugee Spaniard who was of pensionable age in 1967 and was living in Gibraltar. He would have received his pension all through the years 1969, 1970, all the way up to 1985 when the other Spanish pensioners came into the orbit. It is not that we are avoiding our moral responsibilities, it is a moral responsibility to meet those persons who had legally qualified before 1969 and we would be in a much stronger position by saying: "We are willing to meet that commitment" if we were to go to a European Court, an EEC Court over the question of our non-ability to pay the Spanish pensions to those persons who had been withdrawn. The motion, as amended, Sir, is a far stronger and far more responsible motion and I commend it to the House,

HON J E PILCHER:

Mr Speaker, again I will be brief, I do not want to be in a position to repeat what has been already an extensive debate both yesterday and today about the question of Spanish pensions. It seems to me that the Government has shifted its position yet again over the last three years in this particular aspect. We are now being reminded ad nauseam by the other side of the House, Mr Speaker, about the responsible position that we have to adopt. Let me say immediately that we are losing sight of one, I think, primordial situation and that is mentioned, again, by the Hon and Learned ex-Chief Minister because it seems to me that there has been a shift of position between the AACR position as led by the Hon and Learned Sir Joshua Hassan and now by the Hon Mr Canepa. At the end of 1986 the Hon and Learned the ex-Chief Minister, Sir Joshua Hassan, was talking also about not losing sight of one major factor which was the ability of Gibraltar to pay for the Spanish pensions. Obviously he was referring to the ability of Gibraltar to pay in general for the whole of the Spanish pensions but also for the chunk of the pensions, ie £1.6m which was the element which now the Hon the present Chief Minister is saying we have a moral obligation to. But, of course, having the moral obligation and not having done the homework on what that would cost the present contributors, we might be talking about the fact that perhaps present contributors once the Actuarial Report is out would be called upon to pay another £4 or £5 a week in order to meet that commitment. Is this the responsible position and are we not losing sight of the reality that it was because, as the Hon Minister said, a hostile action by what was then a hostile Government in closing the frontier and in prejudicing their own workers and their own residents in not being able to collect this pension that we find ourselves in the predicament today. This element obviously was not taken into account because had the frontier not closed these people would have obtained their pensions, the other workers would have continued to provide contributions and the Social Security Pension Fund would obviously have been increasing at the rate to be able to cope with that £1.6m. Obviously we would not be at the stage that we are today or we were in 1985 when there had been a break of seventeen years, those workers had not been accounted for and we come to the end of 1985 with a commitment to pay pensions with only a Spanish sub-fund of £4.5m and a fund in the pension scheme which is only geared towards paying for the workers that were in Gibraltar working at the end of 1985. That is the real problem. I think it is farcical to talk about our moral responsibility when the moral responsibility should have been one exercised by the Spanish Government in 1969 by not having closed the frontier, not to have prejudiced their own workers, that is the reality. That is one question, certainly on the responsible aspect. I think my colleague,

Mr Feetham, very ably tackled what about the morality of our workers? What about the morality of our people who have spent sixteen years under siege only to find that at the end of that siege they might be called upon to pay more social insurance contributions to pay for the people who were not here and contributing for the past sixteen years but that today we are going to have to pay? The EEC and it is also within these Regulations, quote "moral obligations", and certainly I think we have a major case of 25,000 being morally obliged to pay pensions for Spanish workers that were not here for sixteen or seventeen years and that is a moral situation. I think the most important one which was mentioned by my Hon colleague, Mr Mor, initially and that is a question of negotiating ability. If the Government of Gibraltar really believe that it is their moral obligation to pay this £1.6m, surely in the negotiating process when we all heard yesterday the Hon and Learned ex-Chief Minister saying how tough the negotiations were, well then this would have been an element that could have been left to the actual negotiation and at least if we found ourselves in dire straits we could always say: "We will pay for that". I am not saying that this should be the position but looking at it from the AACR point of view if they have already accepted that this is an obligation, which we don't accept from this side of the House, their negotiating position would have been much stronger had they not mentioned this at all and kept it up their sleeve in case the negotiations were, as undoubtedly they will be given the last negotiations in 1985, very very tough negotiations. But to come out today and say that as from today because this is a motion that will be passed today, the position is that they are morally obliged to pay for that £1.6m how on earth are they going to go back to the UK Government at the end of 1988 and say that they want the £2m, which is the differential between the £21m and the £23m. The UK Government will say: "I will now take into account the part that you feel is your moral obligation" and that will be more than £2m so at the end of it they are now even going to lose the £2m by what they consider is their own moral obligation. If I were a UK negotiator that would be my position. They have accepted a moral obligation and having accepted it today they have accepted it today forever more and also today retrospectively since 1986 because the argument being used today is exactly the same argument, on the moral basis, that should have been used in 1986. I think on the negotiating side they have certainly weakened the position of the negotiations and done Gibraltar a disservice because they have actually admitted that £1.6m since 1986 is the moral obligation of the Government of Gibraltar as seen by the AACR.

HON CHIEF MINISTER:

If the Hon Member will give way. First of all, it is not £1.6m, that was the figure in January, 1986. Today the numbers are lower and therefore it is closer to £1m than to £1.6m. There is no question of accepting liability back to 1968 because these people continued during the period between the closure of the frontier and the accession of Spain to the Community in January, 1986, they continued to receive pensions at frozen rates so we discharged our obligation to them. If therefore he divides a figure of £1m or slightly over £1m by 13,000 workers in Gibraltar today he will see that the figure that he has mentioned of £4 to £5 increase in weekly contributions is grossly exaggerated. The increase in contributions would be between employer and employee, more like £1.50 than £4 or £5, it is a vast difference.

HON J E PILCHER:

Well, whether it is £1.50, £2, £3 or 50p.

HON CHIEF MINISTER:

No, it is not £3 or £4, let us be accurate, this is an arithmetical matter.

HON J E PILCHER:

Mr Speaker, I will not be drawn into the argument of whether it will be £1.50, I said £1.50, £2, £3 or 50p. What I said and I repeat, the issue is not how much we will have to pay. The issue is that we consider that the Government of Gibraltar have a moral responsibility to the people of Gibraltar and the people of Gibraltar first and in exercising that moral obligation we have to look and we have to be as firm as my Hon colleague said, we have to be as firm in this as the UK Government is going to be and as firm as the Spanish Government is going to be. By trying to look at all our moral responsibilities to everybody else we are doing the people of Gibraltar a disservice. That, Mr Speaker, is the message which I think is quite clearly coming from this side of the House.

MR SPEAKER:

Are there any other contributors to the debate?

HON J BOSSANO:

Mr Speaker, this is not an issue of morality and we are not here elected by the people of Gibraltar to look after their souls or their consciences, but their pockets. It might be different in the future but at the moment none of the Members of this House has stood on that particular ticket, as far

as I recall, from the last elections. If the Government is concerned about morality and moral obligations they have been seriously remiss on that count in respect of our own elderly people in Gibraltar because what about the moral obligation to civil servants who have been deprived of a civil service pension because they have been out of the service for a few weeks or a few days. Isn't there a moral responsibility which we have brought to this House before and the Government has answered that the moral responsibility doesn't enter into it. That is the Pensions Ordinance and that is the Pensions Ordinance and if people lose twenty years of service and the Government knows who we are talking about because they are people working close to them and people who have written to them and people who have written to us and the Government's position has been that morality doesn't enter into that. It is a matter of law and the law cannot be changed. What about the moral responsibility to the people getting elderly persons pensions.....

MR SPEAKER:

No, no, you can make a point on morality but let us not go into details.

HON J BOSSANO:

The point that I am making and this is my speech on the motion.....

MR SPEAKER:

Yes, I do realise that.

HON J BOSSANO:

And I have spoken only and exclusively on the amendment before and here we have got a motion before the House which puts on Gibraltar and the Government of Gibraltar and the people of Gibraltar a responsibility that is defended purely on moral grounds. There are other contending bidders.

MR SPEAKER:

Yes, but what I am asking you is not to go into the details of the others.

HON J BOSSANO:

One of the others are the people who were left out of the social security scheme because the Government chose to put a £500 limit and people who were not able to join afterwards because they were beyond a certain age and people who have been making representations for as long as I can remember and the Government was arguing for years in this House that

they could not be included in any way because that would destroy the whole principle of the social insurance fund and to bring them in would put a burden on the fund that the fund couldn't meet. What has been happening to the fund, Mr Speaker? I will tell the House what has been happening to the fund. In 1976 and in 1975 the fund had reserves to cover the benefits for something like seven years. When the Government said that the fund couldn't afford to reduce the pensionable age from 65, when the Government said that the fund couldn't afford to allow people in who had been left out, the fund had enough to cover benefits for seven years and by 1982/83 the cover was down to two years and a few months. And the Actuaries then said that the cover was getting too low for the benefits and that therefore we had to increase our social insurance contributions to restore the cover and to ensure that there was enough money coming in from contributions and that is the argument that the Minister for Labour has used here in the last three years, since the last election to justify increases every year. Well, in 1985/86 we were talking about a situation where the Gibraltar pensioners and all the other social insurance benefits came to £6m and the reserves were £14m which provided a cover of something like two years and four months if we ignore the £1½m of Spanish pension costs. If we include the £1½m of Spanish pension costs then the cost rises to £7½m and the cover drops to one year and eight months, the lowest in the history of the pension fund without accepting any kind of moral obligations. This is why I asked the Government whether in fact the Actuary had looked at accepting this liability and clearly the Actuary could not have looked at it because we have been told it is Government policy as from this moment. As my colleague has pointed out the previous answer I had from the previous Chief Minister was that he wasn't making that the Government position because he wasn't going to have his hands tied to having accepted any level of liability. His position then was our position now that as far as we are concerned it is not one penny over the £4½m and that is our position and we are not prepared to be budged from that and we think they should have joined us in taking a common stand on that position. I don't see why it is better to be united about being willing to give £1m a year away than to be united about being willing to give nothing away. Why couldn't we have been united on the original motion? Why do we have to be united on the amended motion? After all until today the Government was not fully committed to that position because until today it was a possibility that they floated and that they wanted our reaction to and we gave them our reaction two years ago. What other argument has been put to justify the position of the Government of Gibraltar? The morality of the issue I have already dealt with, the reaction of UK? Well, surely, if UK was going to say, as Mr Featherstone claims, Mr Speaker, it is a little bit too much that we expect them to pay for the people who had a pension on contributions paid before 1970 and who had already retired in 1970, why didn't they say it is a little

bit too much in 1986? Because in 1986 of the £7m, £1.6m is the group that he says we are morally responsible for and Britain isn't and £5.4m is the group which he says we are not morally responsible for and Britain gave us £6m in 1986. So Britain gave £6m of the £1.6m in 1986. Obviously if the British reaction was not that in 1986 why should it be in 1988? It certainly will be now because he has already told them what they need to say. But, of course, we have already and we still insist on saying that there was an alternative open to us because we could have said to the British Government: "If you think it is a little bit too much to ask you to pay for it then we will go back home and change our law and then nobody will have to pay for it". We have already established that, in fact, although the Government initially claimed to have tried to change the law and to have been advised against it, it has subsequently materialised that they had not thought of changing the law because nobody had suggested it to them. We intend to pursue this matter because, in fact, since the Hon Member in his winding up part of the amendment said that it would be better if we had a situation where irrespective of the result of the elections we were both taking the same position, we invite him to commit his party to supporting the position that we are proposing which is better for Gibraltar. This is that when we come in we say to the British Government: "We don't accept we have got any liability at all and since your position throughout has been that you don't have to give us the money because it arises from our laws in Gibraltar that the entitlement is entitlement under the Social Insurance Ordinance of Gibraltar, we are now changing the Social Insurance Ordinance of Gibraltar and we will introduce legislation to change it", and we will expect the AACR Opposition to support us and that we take a united front in saying: "Either you foot the bill or we change our laws". Certainly the first aspect of the Social Insurance Ordinance we state publicly now we will change and which we think they should have wasted no time in changing and they should certainly have taken the opportunity to change in this House, is the aspect which I mentioned in the previous motion, Mr Speaker, where it says that if the money runs out of the Social Insurance Fund it has to be advanced from the Consolidated Fund. At the very minimum they should take immediate steps to protect the Consolidated Fund and we are now saying publicly that that is the very minimum we will do the moment we are in, remove that clause so that at least only the £15m in the Social Insurance Fund are at risk if we find we cannot change anything else. Our advice is that although we are in this House taking a policy decision today which is going to be carried by Government majority and we were proposing ourselves taking a policy decision as we said already at the invitation of the AACR. It was the AACR that invited us to come clean and we have come clean and now they come clean and they are prepared to put £1m up and we are not and we will have to see which the people of Gibraltar would like to see happening but, independent of that, the situation is, as we understand it, as the law now stands

it is not a question of the Government talking about it being £1m a year then, presumably, for the last two months or the last three months of the year they are talking about £1m. What we are talking about is that the Government on the basis of the policy statement made here today and on the basis of this motion, would be prepared to pay £1m out of the £2m shortfall for 1988 since they are prepared to accept that level of commitment as being morally right. Forget that the £1m will go to everybody, you could argue that the £1m would be to pay for 1988 for the pre-1970 pensioners and the £1m would be to pay for the rest. But, in fact, if the position is reached in October that the British Government says as we understand is their position and as the Government has avoided giving us a straight answer on so far: "We are not paying anything for 1988, the commitment we gave you was £16m and whatever the cost is over that that is your problem". The Government cannot say in October, 1988: "We will pay Spanish pensioners until the £1m runs out and then we carry on paying everybody else but not Spanish pensioners" because that is discrimination on grounds of nationality which is morally wrong, they have just told us it is morally wrong. In fact, when the 4,000 people turn up and the £1m is finished the other £15m in the Fund is there and nobody within the existing law, as we understand the law, nobody within the existing law, no politician can direct the Director of Labour and Social Security in Gibraltar to withhold payment from people who have got a valid claim within the law complying with the qualifying conditions to meet that payment. If somebody comes along and says: "I am entitled to my £60" the Labour Department cannot say: "I am not giving it to you because the GSLR says not a penny" or "I am not giving it to you because the AACR says not a penny over £1m", the law will need to be changed for that to be stopped. Therefore if the Government of Gibraltar believes the law cannot be changed they haven't got a bargaining position at all. They have already put on the table £1m but, in fact, the limit at the moment under the existing law is not £1m. The limit under the existing law is £25m because the limit under the existing law is the £15m in the Social Insurance Fund and the £10m in the Consolidated Fund and the first thing we need to do is take protective action. Pre-empt a negative reaction and protect ourselves and if we don't need to use the protection, well, fine, we have lost nothing by having it. That is the first step that needs to be taken. I think Mr Speaker, the Government has told us that the last situation was one of acrimony and they have also told us that the terms of reference of the Study Group which will determine how much Gibraltar contributes or will advise how much Gibraltar contributes and how much the UK contributes, were difficult to get agreement on and that the Study Group took a very long time to set up because it was difficult enough to get agreement on the terms of reference, terms of reference that we would not accept ourselves and terms of reference that we have publicly criticised and terms of reference which, as my colleague has pointed out, are clearly in conflict with the motion

we have just passed. Because as stated by the then Chief Minister in answer to Question No.251 of 1986 on the 3rd November, 1986, the terms of reference were to estimate the expenditure until the liability is extinguished and to assess the capacity of the Gibraltar economy to meeting the cost of the liability after the end of 1988 taking into account the Government's financial and economic policies. First of all, the terms of reference preclude the cost of the £2m before the end of 1988, whatever Mr Canepa may say that it will be all discussed at the same time. The fact is that these terms of reference prevent a statement from the Study Group about contributions before 1988. Clearly it was not envisaged that anybody would be making any further contributions in 1988, this is about what happens in 1989. The policy that we have got today about the £4m would normally have been for what happens in 1989 but we know that the £4m run out before and therefore we know that there is a separate and clearly immediate issue that has to be tackled then before we get to this stage. But given that the policy of the Government of Gibraltar is now that they are willing and accept that they have to meet from the local economy and from the Social Insurance Fund an additional liability which has been put by the Hon Member opposite as £1m, and he may say '£1m is only £1.50 a week', £1m may only be £1.50 a week but £1m is more than we give our 600 elderly persons who don't get anything from the Social Insurance Fund, £1m is more than that. Are we saying that the Government is now satisfied that the economy of Gibraltar has the capacity to contribute an extra £1m a year? Because if they hadn't done that then, in fact, it is a nonsense to say 'We have got a moral responsibility to do something' when, in fact, they have already agreed in 1986 that the responsibility that they are accepting is contingent upon our capacity to pay not our moral obligation to pay. We have already got a policy which we have been critical of as being insufficiently protective of interests and now the Government comes along with a motion which protects us even less. Because at least you could argue on the basis of the 1986 position that by reference to our capacity to pay and by reference to our financial and economic policies you would not be placed in a situation where the cost will be too high. You could then argue that independent of whether there was a moral responsibility or not you would only pay £1m a year if it could be demonstrated that we could pay £1m without too much hardship. But if it was demonstrated that we couldn't pay the £1m we didn't have to, we had a basis for saying 'no'. We have lost that basis so now we have got a situation where if you take the two positions, that is to say, the terms of reference of the Study Group and the policy announced by the Government today, it means that we are caught both ways. If our economic capacity does not allow us to pay £1m we have to pay £1m because it is our moral responsibility and if our economic capacity allows us to pay more than £1m then we forget our moral responsibility and we pay more than £1m. The Government of Gibraltar couldn't have done a better job than if they were negotiating on behalf of the British

Government - thank you very much, with friends like that who needs enemies? We don't want their support in the future, Mr Speaker, thank you very much. We are doing the negotiating, with policies like these and arguments like these we wouldn't get past the starting line. It is a wonder they ever got £16½m, no wonder they were so satisfied with it. We believe that once again in the handling of this issue and by the motion that has been amended by the Government, instead of taking the most strong position available to us what we are seeing is the Government shifting its ground. That is to say, they started and the Hon Member is saying 'he is going back a very long time to go to 1970'. The only reason why we had to go to 1970 is because we looked at how they behaved in Opposition and we look how they behave in Government and therefore, frankly, I know that the Hon Member has said that should the position be that when this has got to be decided after the elections they are on this side of the House, they will not support a Government of Gibraltar that doesn't want to give any money.

HON CHIEF MINISTER:

We may, I did not say 'will'.

HON J BOSSANO:

Is he saying that they may be on this side or that they may be supporting the Government, which of the two is it? Should they be on this side will they support us if we are saying 'no' to giving any money? They say now that they will not be supporting that position. That is the position they were advocating themselves from this side in 1969 and 1970, that is the point of reminding them of that. That what we are proposing to them now which is to say we will not give a penny more than £4½m is, in fact, consistent with what they were proposing to Major Peliza which was to say 'what a hare-brained idea it is to give away £½m to the Spaniards. Whoever thought of that bright idea'. That is what they said then, fine, we are saying to them 'probably we would have agreed with you had we been here and not with Major Peliza but if you are going to give anything at all then it is better to give £½m than to give £4½m and if you are already committed to giving £4½m then at least stick at the £4½m and don't go up now from £4½m to £5½m and then whatever may come after that'. As far as we are concerned the position really is very clear, they have been shifting their ground and their ground today is one which puts Gibraltar in a weaker bargaining position than it was before and after this motion it has been weakened further because before this was an idea, as I have already said, and now it is a policy of the Government which the Government cannot retract from, they have got no choice in the matter. They have now undermined their own position and they have undermined their position in both motions. They have undermined their position in the

original motion by saying the law could not be changed and we are going to prove to them that it could. We are going to prove it to them and we hope that it may still be possible to change it because that will be very good news for Gibraltar and they should be glad if, for no other reason, as individual taxpayers and as individual contributors to the Social Insurance Fund. We will be looking after their money as well, Mr Speaker.

HON SIR JOSHUA HASSAN:

How good.

HON J BOSSANO:

We are very good. I hope he will vote for us if he thinks so, now that he is a backbencher he has got more freedom. Therefore in a situation such as the one we find we would agree with the Government, frankly, that it would be preferable in situations like this if instead of having to react as we have had to react, for example, the Government was critical of us for not bringing the matter before to the House in 1986 when we brought the motion after the agreement was announced. If the Government thinks it is a good idea to have a joint position or to explore the possibility of a joint position, the initiative has to come from those people who are in Government, it cannot come from us. It is not up to us to go knocking on their door and say: "Are you negotiating with anybody and is there anything we can do to help you?" No, if they think that they are clear in their own position and they want to go their own way, I have always said to the Government, I said it on the issue of the airport and I said it on a number of other issues, Mr Speaker, as far as I am concerned because that is our philosophy and that is how we will behave in Government, we believe that they have got the responsibility and they have got the right to carry that responsibility alone. But what they cannot do is embark us on a particular road and then say that we should join what they have decided on their own and that is how they have dealt with the situation throughout and because they have dealt with it throughout they have dealt with it very badly and this is finally the last nail in the coffin of the policy of the AACR on Spanish pensions which puts an additional burden on the people of Gibraltar which, hopefully, we will be able to extricate them from in a few months time.

HON SIR JOSHUA HASSAN:

It is quite clear if I ever had to be convinced I was convinced today that Mr Bossano loves the sound of his voice. I wonder what all the radio listeners bored stiff with such repetitive stuff will be thinking of the broadcasting of these proceedings. I am only going to make two very small points. First of all, when we talk about morality, of course

there is an aspect of morality in everything that the Government does but in this case it isn't morality alone, it is insofar as we are concerned a strict legal liability according to the Laws of Gibraltar and it is no use saying that we haven't changed the law because if we had changed the law now it would have been held ultra vires because it is contrary to the rules of the Common Market and if one is in conflict with the other the Common Market law prevails over the local law not only in Gibraltar but throughout the Community. Those two points are the most important points relevant to this matter.

MR SPEAKER:

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

HON. R. MOR:

Mr Speaker, I regret very much that my original motion should have been amended as has been done, or rather demolished. What the AACR is saying to us is that they believe that they are going to adopt a policy whereby they are going to accept a liability to pay the pre-1969 Spanish pensioners and that that will be a diminishing liability so eventually what they are saying is that in a few years time they would have nothing else to contribute. I think the question we have to ask is who then is going to contribute? Are they expecting really that the British Government is going to contribute? Mr Speaker, if I may refer once again to the contribution that Mr McQuarrie made in the House of Commons when they were discussing the Portuguese and Spanish Accession Bills, in the last paragraph he said: "It is not good enough for the Government to say that they are doing something to meet the problem of the payment of £7m per annum. No one in Gibraltar can accept that approach. The British taxpayer should not be asked to subsidise £11m over fifteen years". In fact, Mr Speaker, the British position was coming out clear, that they are not going to ask their taxpayers to pay. How is the Government going to defend that position? Mr Speaker,

I think it is really a matter of regret that the Government, as the Hon Leader of the Opposition was saying a few minutes ago, that the Government should be shifting their position. The British Government has maintained a strong position against that, if we may say it like that, but the Spanish Government will, of course, be adopting a similar strong position and that is why I was trying to emphasise before that we should still maintain, we should keep on maintaining a strong position because otherwise we are likely to lose out in the end as has been the experience. In fact, Mr Speaker, the experience that Gibraltar has had on the negotiating ability of the AACR Government was even pointed out in their own motion yesterday when in paragraph (b) they were saying that the Gibraltar Government took all reasonable

steps to obtain the necessary derogations from the EEC in respect of the additional liability. Quite obviously we haven't got the derogations and the Government failed in securing this, Mr Speaker, and consequently we have to oppose this motion because the position of Gibraltar is not being protected in the manner that we would like to see it. Thank you, Mr Speaker.

Mr Speaker then put the question on the Hon R Mor's motion, as amended, which now read as follows:

"This House considers that Gibraltar has no further obligation to contribute to the cost of revalued Spanish pensions beyond the £4.5m from the Spanish sub-fund other than in respect of those Spaniards who were already in receipt of pensions prior to the closure of the frontier in 1969 and that any further payments is a matter for Her Majesty's Government to agree with the Government of the Kingdom of Spain".

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

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

The following Hon Members voted against:

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

The following Hon Members were absent from the Chamber:

The Hon Miss M I Montegriffo
The Hon H J Zammitt
The Hon E Thistlethwaite
The Hon B Traynor

The motion, as amended, was accordingly passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I now have the honour to move that this House should adjourn sine die.

MR SPEAKER:

In proposing the motion and without wishing to give grounds for unfounded speculation, I think I can safely say that there is a likelihood that this Fifth House of Assembly will not meet again before it is dissolved in accordance with the provisions of our Constitution. I would therefore like to take this opportunity, perhaps slightly prematurely, to bid farewell to all Members and, indeed, to thank you all for your cooperation and assistance in making our proceedings at all times orderly and dignified. To all Members who intend to contest the forthcoming elections I wish good fortune, to those of you who have decided to call it a day I wish all the very best in your new fields of responsibility.

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

The adjournment of the House sine die was taken at 12.45 pm on Friday the 22nd January, 1988.