

# 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(1)(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(1)(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 Gibraltarian 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 <sup>for</sup> 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 £3½m 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 <sup>the</sup> 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 <sup>get</sup> 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.