

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6TH JULY, 1987

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventeenth Meeting of the First Session of the Fifth House of Assembly held in the House of Assembly Chamber on Monday the 6th July, 1987, at 10.30 am.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 24th March, 1987, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

The Hon the Minister for Education, Sport and Postal Services laid on the table the following document:

The Accounts of the John Mackintosh Hall for the year ended 31st March, 1987.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 8 of 1986/87).
- (2) Schedule of Supplementary Estimates No. 1 of 1987/88.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

Answers to Questions continued.

The House recessed at 7.25 pm.

TUESDAY THE 7TH JULY, 1987

The House resumed at 10.45 am.

MOTIONS

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg leave to move the motion which is standing in my name in the Order Paper and unless you so desire or Hon Members wish I do not propose to read out the terms of the motion which has already been circulated.

MR SPEAKER:

Do Members wish the Hon Financial and Development Secretary to read the motion? It has been circulated and it is formal so I think it perfectly in order not to read it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Thank you, Sir. Mr Speaker, Hon Members will recall that at the Budget meeting of the House in April the sea passenger tax was increased from 30p to 50p per passenger arriving at or departing from Gibraltar. Operators of the cross-straits ferry services have made a number of representations about this particular increase pointing out that while the tax is negligible compared with the fares paid by cruise passengers, it represents a quite significant amount of the £15 fare charged for the cross-straits journey compared with a relatively insignificant proportion of the fare for a cruise passenger. The Government has accepted this point which, of course, could assume a heightened importance in the event of any further development in ferry services in the area. Bearing in mind that air journeys within a relatively small radius of Gibraltar, fifty miles, are also exempt from tax, it would therefore not be unreasonable to afford some relaxation on similar journeys by sea. It is therefore proposed that in the case of sea journeys beginning and ending within a fifty mile radius from Gibraltar, the tax should revert to its pre-Budget level of 30p. The increased rate of 50p will apply only to longer sea journeys such as the cruises I have mentioned. The effect of this amendment on Government revenues is fairly minimal, approximately £11,000 less, but of course it will make a measurable impact on the finances of the services concerned. Mr Speaker, I formally move in the terms of the motion circulated to Hon Members.

Mr Speaker proposed the question in the terms of the motion moved by the Hon the Financial and Development Secretary.

HON J BOSSANO:

Mr Speaker, if reducing it, I think it is from 50p to 30p, means £11,000 less then, in fact, the whole of the 30p is also an insignificant part of Government revenues. Why do we need to bother with having a 30p charge at all if all it is producing is something like, what, £20,000 a year? Was it not the case or am I wrong in thinking that, in fact, when we had the Mons Calpe providing services to Tangier they were completely exempt? It seems to me, quite frankly, that if we have revenue raising measures which cost a certain amount of money, presumably, to collect for the Government and put an administrative cost on the commercial operation that we are taxing and the yield at the end of the year is of the order of £20,000 in a budget of £70m, I would have thought we would be better off by not taxing them at all.

HON CHIEF MINISTER:

The point is that they made no representation originally for the withdrawal of the original tax and now they have complained about the increase and I think it is not good policy to give people more than they ask for.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, I think the Chief Minister has made an intervention.

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

BILLS

FIRST AND SECOND READINGS

THE CONSUMER PROTECTION (PROPERTY SERVICE CHARGES AND PROTECTION FROM EJECTMENT) ORDINANCE, 1987

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to make provision for tenants to obtain information from landlords relating to service charges; for limiting service charges to such charges as are reasonable; for prohibiting unlawful ejectment and harassment of tenants; and for matters connected therewith be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, Hon Members will recall that in the latter part of 1986 great concern was expressed by flat owners at Ocean Heights about the level of service charges. I myself received numerous letters and I arranged for those concerned and their representatives to have meetings with the Consumer Protection Officer in order to discuss and to see how best the matter could be tackled. On the 10th February, 1987, I stated here in the House that as a result of representations made to the Government

by the flat owners at Ocean Heights, consideration was being given to introduce legislation to protect those concerned. The Consumer Protection (Property Service Charges and Protection from Ejectment) Bill now before the House, Mr Speaker, has been modelled on the United Kingdom Landlord and Tenant Act of 1985. The Bill, *inter alia*, makes provision to ensure that service charges for flats are restricted to relevant costs which are reasonably incurred and to works and services carried out to a reasonable standard. Except in certain specified circumstances, landlords are required to consult with tenants before carrying out works. The tenants may obtain a summary of relevant costs from the landlord and they may reject the accounts upon which the summary of cost is based. A residential occupier is also being protected from harassment by any person with a view to require him to give up the premises. The Bill restricts the landlord's right of re-entry to premises or ejectment without process of law. There has been more recently, Mr Speaker, further legislation enacted in the United Kingdom, in fact, just before the dissolution of the House of Commons prior to the general election, and our intention is to study the provisions of this further legislation carefully during the summer recess and if any appropriate amendments are considered to be desirable we will be introducing them in Committee at the next meeting of the House. Therefore the Bill today, Mr Speaker, is only being given First and Second Reading. It will give those concerned who have made representations an opportunity to study the legislation and make any further representations that they may have and also, of course, any suggestions from the Opposition about the contents and about the provisions of the Bill will be welcomed. We want to try and see that we get the most effective piece of legislation on the statute book. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, the Opposition, obviously, welcomes this piece of legislation. As the House is already well aware, we have, in fact, been pressing for remedial legislation to protect both landlords and tenants from a situation where there wasn't any formal regulation whereby tenants were able to have some protection from the scandalous situation which existed at Ocean Heights where people were paying more service charges than actual rent and they had no recourse to law. From that point of view, obviously, I am convinced that most of the landlords and most of the tenants in Gibraltar will welcome this

piece of legislation because what has happened is that because of a few landlords who have abused their situation, a lot of tenants have suffered and, indeed, so has the credibility of landlords generally. From that point of view I think that this piece of legislation which we have been pressing for for some considerable time is welcome. There are a number of things which we consider need to be looked at and, obviously, we shall be raising them during the Committee Stage, I don't think this is the appropriate time, in fact, to raise these matters but just as a quick indication, there is no information or legal indication at all in this piece of legislation about management companies that are responsible for management of properties who themselves may be the tenants of such a property. There is also no definition with regard to what is meant in this particular piece of legislation which does not form part of the Landlord and Tenant legislation, it is a piece of legislation on its own and I can see the arguments why since the Landlord and Tenant Ordinance, for example, only covers pre-war accommodation and this covers the whole spectrum of accommodation including business accommodation and so on but what is meant by a superior landlord in respect of this particular legislation which is not indicated in the definition? The other things which need to be looked at are such points as what happens when a landlord may take a tenant to court, takes legal action against the tenant, will the cost of that legal action form part of the relevant costs and shared out by the other tenants? That is not clear in this piece of legislation. There are about three or four other points which need to be cleared up during the course of the Committee Stage and I don't wish to waste the time of the House with these sort of details but, generally speaking, as I said, we welcome this piece of legislation, it regulates the position as far as service charges are concerned between landlords and tenants and from that angle alone. Mr Speaker, we welcome this piece of legislation.

MR SPEAKER:

Are there any other contributors?

HON J L BALDACHINO:

Mr Speaker, I would like some clarification from the Hon Mover. The Bill refers to landlords and tenants. I would like to know, Mr Speaker, if this Bill also covers those people who are owner/occupiers and there is a maintenance company set up which is directed by somebody else and then the service is charged which I think is what is happening to a certain extent in Ocean Heights and up to a very great extent in what used to be the Mediterranean Hotel at one time. Could we have that clarification so that we can judge better what the Bill intends to do?

HON A J CANEPA:

Mr Speaker, on the points that have been made by Hon Members opposite, the question of the definition of 'superior landlord' is one that we can consider and we may well bring the appropriate definition as an amendment at Committee Stage. The question of costs arising from legal action from proceedings is already taken care of in the Bill. I commend the Hon Member to have a look at page 89, Clause 3(4)(a), it is taken care of there.

HON M A FEETHAM:

No, I am looking at it the other way round. I am saying if the landlord takes legal action against a tenant, for example, for not complying with the agreement and is successful or not successful, for that matter, will the costs of that proceeding form part of the relevant costs which have to be shared out by all the tenants in paying the service charges or not? That needs to be made clear, I think.

HON A J CANEPA:

Costs normally follow the event. If the landlord takes the tenant to Court and the landlord is unsuccessful the tenant would not pay the costs, it wouldn't arise. On the other point of the owner/occupier and the management company, I am informed that that is one of the provisions in the legislation in the UK that has been very recently enacted so we will be considering that and if we think that is desirable we will bring the necessary amendments at the next meeting. Other than that, Mr Speaker, I commend the Bill to the House.

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

HON A J CANEPA:

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

THE EMPLOYMENT (AMENDMENT) ORDINANCE, 1987

HON DR R G VALARINO:

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

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. Since the opening of the frontier there has been an increasing demand for the employment of foreign workers for relatively short periods, mainly to carry out specific jobs requiring specialist skills not available in Gibraltar and in some cases to instal machinery and equipment purchased in Spain by local firms or private individuals. As the law stands, all foreign workers who undertake any work in Gibraltar require work permits irrespective of whether it is just for one day, a week or an indefinite period. Furthermore, if the firm providing the service or supplying the specialist labour is not established in Gibraltar, the local contractor or client who has purchased the goods becomes responsible for applying for the work permits and is compelled by law to enter into a local written contract of employment even though the workers concerned remain subject to labour contracts and social insurance of the country of origin and will return to that country as soon as their jobs have been completed. Current legislation does not cater for this new employment situation. Having regard to the difficulties experienced by my Department in applying certain provisions of the Employment Ordinance in relation to Spanish, Portuguese and other detached workers who are not EEC nationals, such as the anomaly of dual employment in two different countries and duplication of contracts of employment, it was felt that certain categories of detached workers should not require work permits. As far back as December, 1985, the Labour Advisory Board agreed that specialist firms should be issued with a special licence by the Director of Labour and Social Security which would exempt them from the provisions of the Employment Ordinance only when there was no local expertise or the know-how to carry out the work involved. In fact, if I may quote from the minutes which I have mentioned, during the meeting which was defended by both unions and the Chamber, there are some comments from the Hon the Leader of the Opposition who felt that, and I quote: "Mr Bossano felt it was difficult to amend the law to include specific cases and agreed that perhaps a special licence should be issued. Following this Mr Canessa was of the opinion that labour laws should not be used to protect the local trade but that this should be protected by trade laws. He asked whether there should be an element of protection for the small traders. Mr Bossano felt that certain specialist firms should be allowed only when there was no local expertise or the know-how to do the job". This goes back to the Labour Advisory Board. Sir, the Bill now before the House is designed to give effect to the foregoing. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON M A FEETHAM:

Mr Speaker, we will be supporting this piece of legislation. However, as I understand it, this Bill has been in the pipeline since 1985. There are a number of amendments that we will be proposing and what we would ask the Hon Member opposite is to leave this Bill for the next meeting of the House since the information that we have requested elsewhere is not available to us, particularly the implications of the Bill. As I say, we are supporting it but we don't want to be doing something which can have a backlash later on. We are concerned about the implications for the EEC Regulations on cross frontier services as a result of this particular Bill where people have got the right to carry out such a service without having to have a work permit and we want to look at that. Also how it affects EEC nationals and since we are not clear and, certainly the Bill doesn't seem to indicate anything that clears our mind, we would like this to be left for the next meeting of the House by which time we ought to be in a stronger position to discuss the Bill in depth.

HON J BOSSANO:

I think also, Mr Speaker, it is a point that we have made before on virtually every occasion that we have had to look at Bills where we are taking all stages in one meeting, we think it ought to be the exception rather than the rule and if there was a pressing need to grant somebody these permits in August and the House is not going to meet until October then, fine, we would put aside our reservations and go ahead. But I think as a general policy we would ask the Government to work on the premise that it is better, I think, to give matters more thought than to have to come back later and change things that we have passed already. I also think that it is not a bad thing if we take an opportunity to look at how effective we are now in monitoring other areas where certainly we feel that partly through lack of resources and partly through, perhaps, inadequate precision in the way the legislation is phrased currently, there are many, many people today working illegally in Gibraltar about which very little is being done and very little seems to be able to be done and it would be wrong, in our view, to simply change this principal legislation through an amending Act and allow the glaring loopholes that everybody know exist, including the Department.

HON CHIEF MINISTER:

Mr Speaker, I would like to say that in preparation of the Agenda for a meeting of the House I have to make a valued judgement on what is likely to be possible to get through legislation and when there is a short Bill and I don't see that there are any difficulties I normally allow it to be put in for the Third Reading but as the Hon Leader of the Opposition knows, I never refuse when time is asked for it to be put to another meeting unless it is very urgent. So we have no difficulty in that. I hope the same thing will not be said of one or two of the other smaller Bills which are routine ones and which is a repetition of previous ones such as the review of the social insurance which has to come in time for the books to be prepared. But in the case of this one, certainly, though the Bill is a short one, it has wide implications and if Hon Members want to look at other aspects of it which we may or may not have looked before, we would certainly agree to it to be taken at the next meeting. Again, I should make the same pleas as I have made before, if you have any substantial amendments which are likely to require investigation, we would rather have them in time rather than have to deal with them in the House.

MR SPEAKER:

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

HON DR R G VALARINO:

No, Sir.

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

HON DR R G VALARINO:

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE)
(AMENDMENT) ORDINANCE, 1987

HON DR R G VALARINO:

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

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

SECOND READING

HON DR R G VALARINO:

Sir, I have the honour to move that the Bill be now read a second time. As a result of the rapid growth of the Gibraltar Shipping Register, it has become very evident that the current legislation which determines the insurance liability of persons employed outside Gibraltar, which includes mariners, has been overcome by events and is not only inadequate but cumbersome and difficult to enforce. The Bill before the House introduces a 'domicile and residence' condition and brings the Ordinance into line with UK legislation and with the general principles and common practice in many European countries which are mainly concerned with providing protection for workers residing in their own States. The revised legislation must, however, be applied in conjunction with Community Regulations on social insurance for mariners and the practical effect of both measures is that all Community nationals serving on Gibraltar registered ships are liable to pay Gibraltar social insurance contributions except in the following circumstances:- (1) If the mariner has been sent by the employer he normally works for in another community country to work on a Gibraltar registered ship and: (a) he has not been sent to replace someone whose term of duty has terminated; (b) his term of duty is not expected to last more than twelve months. (2) He normally lives in another Community country and is paid by an employer who is there or who has his registered office there. (3) He does not usually work as a mariner and is employed other than as a member of the crew on a Gibraltar ship while that ship is in the territorial waters or in a port of another Community country. In these situations the employee is subject to the scheme of the other country and there is no liability to pay the standard rate contributions under Gibraltar legislation. In the case of EC mariners on Gibraltar registered ships whose owners' main place of business is outside the Community, the employer has no liability to pay his share of the contributions. The employee, however, does have a liability to pay his share, and will be entitled to all the benefits of the scheme. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON R MOR:

Yes, Mr Speaker. First of all, I would like to say that this is a very controversial Bill and that we believe that this Bill should be left for the next meeting of the House. Mr Speaker, as you are no doubt aware, since 1985 I have been raising in this House the question of

social insurance contributions by seamen employed on ships registered in Gibraltar. The Bill before us, Mr Speaker, I would say that it is, in fact, a piece of shameful legislation which only aims to cover up the gross inefficiency and, in fact, the impotence of the AACR administration. As we all know, up to now seamen serving on Gibraltar registered ships have been treated in exactly the same manner as any other employee in Gibraltar as regards social insurance and their employers should have equally been treated the same way as any other employer in Gibraltar. These employers, Mr Speaker, have all been represented here in Gibraltar because they have registered their ships here and consequently we on this side of the House cannot see any reason whatsoever why they have not been complying with the law. We find it inconceivable, Mr Speaker, why the Government should have allowed these employers to have indulged in a fundamental breach of the social insurance regulations and got away without paying their share of contributions under the passive eyes and, indeed, with the apparent blessing of this Government. We on this side of the House have no doubt that this piece of legislation is going to be opposed in the United Kingdom by the National Union of Seamen as well as other unions who represent the interests of seafarers. This will, of course, bring about further adverse publicity for Gibraltar as regards our ship registry. In the explanatory memorandum, Mr Speaker, it says that the object of the Bill is to bring the law concerning social security insurance of seamen into line with the principles of the British Law of national insurance. What exactly does this mean, Mr Speaker? Does it mean that during all these years our principles on insurance for seamen have been different to that of the United Kingdom? Because throughout all the questioning in this House, throughout all the questioning on this subject we have only been hearing of the practical difficulties in recovering contributions from seamen. It is, indeed, rather surprising, therefore, that we should now find that our principles on this matter were contrary to those in UK. I would therefore submit to you, Mr Speaker, that this House has been misled all these years when all we have heard from that side of the House was about the difficulties involved in recovering contributions and never was the question of principles raised before. Talking of being misled, Mr Speaker, I think it was, in fact, during the last session in this House that the Hon Minister for Labour and Social Security gave an undertaking in this House that all the seamen's rights with respect to social security would be protected. This Bill now renders that undertaking meaningless. The passing of this Bill would also mean that should we have another incident similar to that of the Syneta that any unfortunate victim would have no protection whatsoever from Gibraltar. You may recall, Mr Speaker, the Syneta incident gave Gibraltar very adverse publicity and, in fact, the point about seamen not being covered by social insurance was described as scandalous at the time. Mr Speaker, we believe

that this Bill poses a considerable threat to the reputation of Gibraltar's ship registry and that it will give the impression that we have no interest whatsoever in the wellbeing of people who serve in ships registered here and, indeed, I believe that it will be detrimental to the interests of Gibraltar and would make us out to be only a place where all the interest would appear to be to have a few offices plastered with brass plates and the collection of tonnage fees. As you will no doubt imagine, Mr Speaker, we are opposing this Bill.

HON J BOSSANO:

Mr Speaker, with reference to what the Hon and Learned the Chief Minister has said, as he has heard from my colleague we do not consider this to be a mere technical amendment of the law. We think this raises fundamental issues of principle and we have no doubt that it will be seen as, in fact, a retrograde step in conflict with what the Government has been saying they are seeking to do with the Merchant Shipping Ordinance, that is to say, whereas we were told with the Merchant Shipping Ordinance that there was a need to pass it urgently in February in order to clean up the register of Gibraltar and give greater protection to seafarers engaged on Gibraltar ships, we are now removing a protection which has been there since the social insurance legislation was introduced, which we have been told consistently since 1985, as my colleague has pointed out, that it wasn't that the Government did not want people to pay social insurance, it is that it had practical difficulties in collecting it, we do not believe we have been told the truth. We do not believe that because as far as we are concerned since 1985 the Government could had they so chosen served notice on employers that have got registered offices in Gibraltar and in UK. We think it is inconceivable, for example, that a company like BP tankers which is not a backstreet operation, could not be approached by the Government of Gibraltar and told 'You have to pay social insurance for the people that you employ on Gibraltar registered ships' because that is not a company which is going to disappear tomorrow or overnight, we are talking about very substantial businesses. We might understand that there might be some backstreet operation with a thirteen-year old rust bucket who if approached might disappear from our register. We want them to disappear. Reputable ship owners will want to have their employees insured against accidents. The Government of Gibraltar has stated publicly that the fact that they have failed to collect will not deprive people of their rights and as far as we are concerned having taken advice on the matter, we have been told that the statement made by the Minister for Labour and Social Security is, in fact, enforceable in law, the statement that has been made publicly saying that people who have a right under the law will have that right honoured by the Government notwithstanding the fact that no contributions have been made, if that person had to go

to Court because they were claiming a right in respect of contributions that would have been paid had they been collected, then we are told that the statements that have been made and are on record in Hansard in answer to questions and have been stated publicly as a result of such public statements somebody would be able to go and say: "Basing myself on this public statement I have got such rights". Where do those rights stand today? If this law is passed today what does it mean? On the 24th March, 1987, it has just been brought to my attention by my colleague, that in answer to Question No.107 the Minister for Labour said: "At the moment, as I said, because most of the ships which are registered in Gibraltar do not come here the collection of contributions has not been enforced". Until then we had been told that they had been trying to enforce it and failing but, in fact, the reality is that the attempt had not been made. And he went on to say: "What we want to put right is to make sure that the employees are covered and that the revised legislation will be taken to enforce the collection of the contributions". We were promised in March this year revised legislation to enforce the contributions and we get in July revised legislation which says you don't have to pay and they expect to pass it all in one day because it is not controversial. It makes a total mockery. How can we pay any attention to statements made by Members opposite if the impression that they give to the House and to the people of Gibraltar is that they don't even know the implications of the things that they say? This was welcomed by us, Mr Speaker. The Hon Member was answering my questions and I welcomed the fact that, okay, if there are practical difficulties we are not going to put a gun to his head, we certainly think we have been more than patient since 1985 with his practical difficulties. We have a situation, what, two years of practical difficulties and at the end of the two years because there are practical difficulties they are not doing it. He doesn't expect to satisfy us with that. Certainly I can tell him that if the legislation is put through in spite of the arguments that we are putting which we think should make the Government have second thoughts and at the very least put off the Committee Stage until the next meeting of the House and have a second look at it, but if it does go through we can tell him that it is bound to be opposed by the UK unions that have already been making representations to the Government on this point. And it is bound to be raised publicly and it is bound to be a negative thing for the Gibraltar register because it will be seen for what it is. What would we say? That if we have got 117 ships registered in the Port of Gibraltar we don't care if people injure themselves because we have got a practical difficulty in collecting contributions from their employers, it doesn't matter that they are not covered for insurance. They can get drowned, the ships can sink, people can get injured at work. Working at sea is a dangerous job, Mr Speaker, I can tell the House from personal experience

of doing it for four years and people are more exposed to industrial injuries on a ship than they are working behind a counter in a shop and we insist that people behind a counter in a shop should be covered against injury at work so why shouldn't we do it on our ships? Not to mention the fact that it certainly seems to be contrary to what we have been told before about residence and insurance in an EEC context. Here we are saying that people who are resident in Gibraltar pay insurance but presumably people who are resident in the rest of the European Community are not. I really urge the Government to think about it again and really urge the Minister for Labour to come back with what he promised us in March, Mr Speaker, and he will have our full support.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, since he has brought up Question No. 107 of 1987 I said also at the time: "The Department has been closely involved with other Departments in the UK to find out about the insurability of mariners. There have been certain changes in legislation because of EEC attitudes and pressures and because we felt that the best way would be to get the information at first hand, we arranged for a visit by senior officers, which included the Deputy Director, to go to UK for a week" - to the Board of Trade - "and acquaint themselves with all outstanding information so that he could bring it back and we could then hurry up the revised legislation which we intend to put before the House". Certainly I have no objection to the Committee Stage and Third Reading of the Bill going to a subsequent meeting of the House. The Hon Leader of the Opposition felt that what we were doing would be removing our liability for the insurance of mariners. I have got here a brief note on the practical effects of the proposals of this Bill. If I go through them he will probably realise that this is not the case. Let me say, if the main place of business is in Gibraltar and the mariner is an EEC national and resides in the EEC full contributions are payable. If his main place of business is in Gibraltar and the mariner is a non-EEC national residing in Gibraltar full contribution is payable. It is not there, I have got it here. If main place of business is Gibraltar and the mariner is a non-EEC national not residing in Gibraltar there is no liability to pay. If main place of business is in an EEC country and the mariner is resident in an EEC country, not liable to insurance in Gibraltar, liable to insurance in Community State but possible option to Gibraltar insurance. If main place of business is in an EEC country and the mariner is not an EEC national, no liability. If main place of

business is outside an EEC country and the mariner is EEC national, mariners' share only. If main place of business is outside the EEC and mariner is not an EEC national no liability. Let me add that for this Spain, Portugal and Greece are considered full Community members for this purpose. So we are trying to protect through the law not only.....

HON J BOSSANO:

Can the Hon Member tell us what he is quoting, Mr Speaker?

HON DR R G VALARINO:

I am sure if the Hon Member listened to what I said.

HON J BOSSANO:

Where is he quoting from, Mr Speaker?

MR SPEAKER:

He is quoting from a brief that he has.

HON J BOSSANO:

Can we have sight of that?

HON DR R G VALARINO:

The problem I feel is that the Hon Leader of the Opposition has not heard about Community Regulations being applicable in addition to the Bill. He is certainly lacking as far as Community Regulations are concerned.

HON J BOSSANO:

I am sure. I give way to the Hon Member's expertise on this and on every other subject.

HON DR R G VALARINO:

I am very grateful for those kind words of compliment, it only shows the attitude of the Hon Member. There is only one other thing I would like to say before I finish my contribution. I would like to tell the Hon Mr Mor that this is not a party political broadcast because this is the way he started off talking and that he mentioned the National Union of Seamen. I imagine that this is a subsequent thing on what my Hon colleague mentioned in the previous Bill, that is the only thing I can deduce from that.

HON J BOSSANO:

If I can correct what the Hon Member has said, if he will allow me since he is quoting me! I have not said the National Union of Seamen, Mr Speaker, I have said seafarers' unions in UK and the Hon Member must know that there had been representation from NUMAS which is the Officers' Union.

HON DR R G VALARINO:

Again, obviously, the Hon Leader of the Opposition was speaking to his colleague. I was saying what the Hon Mr Robert Mor had said, not what he had said. Let me say to wind up and close this discussion that the revised legislation must, however, be applied in conjunction with Community regulations on social insurance for mariners and the practical effect of both measures is that all Community nationals serving on Gibraltar registered ships are liable to pay Gibraltar social insurance contributions except in certain circumstances.

HON J BOSSANO:

Before the Hon Member sits down, can he tell us what he is bringing to overcome the practical difficulties which is what he said prevented him from collecting it before? How is he going to be able to collect insurance now from all EEC mariners which he couldn't collect before? Can he tell us that before he sits down?

HON DR R G VALARINO:

Mr Speaker, Sir, that particular question has got nothing to do with the Bill, he is going back in time, maybe he wants to go back to his IWPB days. What I must say is that now that we have got the advice, now that we will pass the Bill at a subsequent meeting of the House, we will be able to start enforcing with certain selected people because it would be far easier than when we were last discussing this when we were rather at a loss to find out who had to pay and who did not have to pay except that they were all covered. Thank you, Mr Speaker.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON DR R G VALARINO:

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

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

Mr Speaker, I am not in a position to proceed with this Bill. It will have to be taken at a subsequent meeting of the House.

THE FIREARMS (AMENDMENT) ORDINANCE, 1987

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this Bill is to increase the fees payable under the Firearms Ordinance. By Clause 2(a) of the Bill, the fee payable on the granting of a firearms certificate is increased from £3 to £5. Clause 2(b) of the Bill, the fee payable on the renewal, replacement or variation of a firearm certificate is increased from £2 to £3. By Clause 2(c) of the Bill, the fee payable of the registration as a firearms dealer is increased from £30 to £40. These fees were last increased, Mr Speaker, in August, 1981. There are 435 firearm certificates in existence and 6 firearms dealers. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON ATTORNEY-GENERAL:

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

This was agreed to.

THE INSURANCE COMPANIES (AMENDMENT) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Insurance Companies Ordinance, 1987, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. There are three amendments in the Ordinance, Mr Speaker, and the reasons are as follows. In the first place, as a result of the amendment which was passed during the Committee Stage of the Bill earlier in the year, the requirement to publish accounts would as section 50 of the Insurance Companies Ordinance now stands, impose a burden on local insurance companies which was not intended and which, in fact, goes beyond the requirements of similar legislation in the United Kingdom and I think generally in the Community. The essential distinction which I probably failed to make adequately clear to the House during the heat of Committee Stage, if I may call it that, is between accounts required for publication and accounts required for supervisory purposes. Those required for supervisory purposes include a great deal of detailed material which is highly sensitive in commercial terms and which could be damaging to a company if published and seen by a competitor. This distinction is one which is common to both banking and insurance supervision and is recognised in the United Kingdom and other administrations. What the proposed amendment would do is to remove an unreasonable

burden on local companies and lay upon them the duty to publish accounts as required by the Companies Ordinance as in the United Kingdom, for example. As the House will be aware, Gibraltar's company law is in need of revision and it does not, in fact, now require publication of accounts which, of course, is the issue which was the subject of a certain amount of debate, the issue of disclosure nor does the Companies Ordinance at the moment specify the form of accounts. However, these provisions will be introduced when the Companies Ordinance is brought up to date. In the interim what is being asked of the insurance companies is that they should publish profit and loss accounts and balance sheets which they would, under the existing Companies Ordinance, be required to lay before annual general meetings. The other main provision deals with captive insurance or is intended for captive insurance, I should say. Here again the same distinction between supervision and publication would apply but in a more extreme form, there really should be no requirement for publication to shareholders in the case of captive because the parent company is the sole shareholder and there is no third party insurance as such, there is no public involvement. Moreover, security, secrecy in that sense is the essence of the captive insurance industry. If we do not amend the law captives will not come here and those that are likely to go away hence the law allows for making regulations which would exempt captives from the provision regarding publication. The final section, Mr Speaker, simply extends from six months to twelve months the period during which existing licensed insurance companies are allowed to continue without seeking fresh authorisation under the new Ordinance. As I explained during Question Time, a combination of circumstances, pressure of work on a very small and highly select group of Treasury staff plus a desire to sort out the particular problems which are the subject of this amendment Ordinance before publishing the regulations governing the form of applications and so on, has made that extension necessary. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, the Government is now going back on what was legislated in February and, in fact, I think the regulations to which the Hon Member refers which in Question Time he gave us the impression we are not yet ready, in fact, I asked him whether they were discussing the draft with anybody and he told me with the Finance Centre Group and, in fact, they were published on the 2nd July, as I understand it, these are these regulations so the

regulations are now out. If anything, one would think that all they need is six months from today and not twelve months from February because they were given six months initially and the regulations were not needed initially. In February, Mr Speaker, the Government thought it was reasonable to give people six months to come in line with the law and the regulations were not ready. Today the regulations are ready and we are giving them twelve months from February. We don't see why there is a need to give them that extension nor are we clear about the question that the legislation is going to do simply what the Hon Member says it is going to do. That is to say, when we pressed the Government during the Committee Stage of the Insurance Companies Ordinance to include the provision for publishing accounts all that we were seeking to obtain was, in fact, publication of the balance sheet and publication of the profit and loss. If further information has to be provided for supervisory purposes to the authorities in Gibraltar then we do not think that there is any necessity for that information to be made public. But, in fact, we have got an amending Ordinance here which says: "The object of this clause is to impose on insurance companies the obligation to publish at a prescribed time and in a prescribed manner such balance sheets and profit and loss accounts as companies are required by the Companies Ordinance to lay before a General Meeting". In fact, that obligation is already implicit in what in what already exist, so the law is not introducing a new obligation that doesn't exist, the obligation exists already and what the law is doing is removing an additional obligation. Let us put things in their proper context because it is to be assumed that the information laid before a General Meeting must, of necessity, be already included in the supervisory requirements that have to be provided under the existing law. Secondly, the law as it stands at the moment requires that to be complied with presumably the moment that people are licensed under section 17 and here it says 'at a prescribed time'. Does it mean that, in fact, we are legislating with an open ended commitment and that subsequently there has to be, by notice in the Gazette or whatever, a time by which people have to comply with publication of accounts, if not what does 'at a prescribed time' mean? As far as we are concerned, Mr Speaker, having discussed the Bill on the basis of what the Bill says, the Opposition had already taken a policy decision on this matter to vote against. The explanation given by the Financial and Development Secretary of divorcing the requirements for publication from the requirements for supervision, we are in favour of but that is not on the surface what the law appears to be doing. As far as we are concerned, what the law appears to be doing is to create a loophole to negate what we legislated in February because what we are saying here is that the law will read: "Every licensed insurer shall publish in such manner and at such time as may be prescribed". So we are legislating that they shall publish it 'in such manner and at such time as may be prescribed' but we are not saying we are prescribing it so what does that mean?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is prescribed under the Companies Ordinance.

HON J BOSSANO:

And the Companies Ordinance we don't know when that is going to be changed because we had a question on the Order Paper and the Minister for Economic Development said: "Well, it is still there in the pipeline". The law we have got today imposes today and has imposed since February an obligation to publish accounts and it is a total misrepresentation of the facts to tell us that we are now legislating to impose an obligation when what we are doing is removing an obligation that exists and leaving it as a possibility in the future in the event that the Companies Ordinance ever sees the light of day and requires everybody to publish their accounts. As far as we are concerned we support the statement made by the Hon Member opposite that we don't want to put a burden on local companies beyond the requirements in UK. But this isn't just a technical thing, Mr Speaker, there are fundamental issues of principle at stake about the right of access to information especially when you have got a situation where employees and public are involved. There are, of course, from information provided to us by the Government, a total of 46 insurance companies registered in Gibraltar and 23 of them are with £10,000 capital. We have done a search of these companies and they are, in fact, handled by a handful of people. Let me say that, for example, of the total 46, one single legal chambers has 26 of them. We have carried out a search. What we are talking about is a concentration in one particular area and we are not prepared simply to protect that one particular area to go against what are certain fundamental rights that people have because as well as the 43 that have got very little to do with Gibraltar except for providing an income for a few people, except for that because they certainly provide very little for the State, £250 a year. So if they all went the effect in terms of income for Gibraltar as a whole would not be noticeable. But, of course, there are some where there are important factors at stake. For example, there is a company which is responsible for the pension rights of the employees of a particular local company. I don't wish to mention names because I don't think it is right to do so, Mr Speaker, but why should the employees of that particular company not have the right to see the balance sheet and the profit and loss accounts of the company which is responsible for their pension rights until somebody eventually decides in the Government that they are going to comply with a 1968 directive of the European Community to publish accounts under the Companies Ordinance. As far as we are concerned we have made it clear from the beginning, Mr Speaker, that the GSLP felt, partly because the Finance Centre Group was complaining all the time that the Finance Centre could not survive

with EEC terms as it were, that the EEC terms should be amended in order to protect Gibraltar's position. The House knows that we have been pressing that point since 1980 with little support from others other than paying lip service and setting up committees. And our position is that just like we bring in a motion which is on the Order Paper defending in no uncertain manner our rights within the Community, we think we have to accept that obligation within the Community. We cannot have our cake and eat it, Mr Speaker, and if there are things that we have to comply with we should comply with them because that strengthens our hand when we are making demands of things that we are entitled to have. I know that within Community legislation on insurance there isn't a specific requirement on insurance companies per se but it must be taken for granted, Mr Speaker, and I cannot imagine that it can be otherwise, that if a company that is not involved in insurance, if a company is selling fish and chips is required by law to provide a balance sheet and profit and loss accounts that must be even more so in the case of insurance where, in fact, people's savings and people's pension rights and people's cover for risk is, in fact, involved and not a mundane transaction of buying and selling. We are only prepared to support, Mr Speaker, a Bill that does clearly and specifically what the Government said was their intention. Therefore if they amend the legislation that we passed in February so as to limit it to publication of the profit and loss account, that is to say, if we go back to the original sections that we are seeking to amend, section 50. It says there in section 50(2): "Every licensed insurer shall publish profit and loss accounts and the balance sheet prepared in accordance with subsection (1)(c) and (2)(d) of this section". What we want to do, Mr Speaker, is propose an amendment at the Committee Stage removing what the Government is seeking to do and amending the original legislation so that in fact instead of saying: "In accordance with subsections (1)(c) and (d) of this section", we say: "In accordance with section 115 of the Companies Ordinance" and we incorporate that in our law and nothing about the prescribed manner and the prescribed time or as may be prescribed or as may not be prescribed because that is all that is required to achieve what the Financial and Development Secretary tells us he wants to achieve which we agree with. If all he wants to do is to remove the extra requirements which we have introduced unintentionally, I accept what he said in the heat of the debate, we were not asking for that extra requirement to be incorporated in the law. By accepting the amendments that we wanted he may have unwittingly put in more than we were asking him to do. If he is not going back on what he agreed to do then all we need to do is to go back and restore and give effect to what we agreed was our intention in February when we debated this in the Committee Stage. I put it to the Hon Member that to do that all that we need to do is to go back to section 50(2) of the existing Ordinance and where it says: "Every

insurer shall publish the profit and loss account and balance sheet prepared in accordance with subsection (1)(c) and (d) of this section", we remove 'in accordance with subsection (1)(c) and (d)' which are the offending words. Once we remove that it cannot be in accordance with the information given to the supervisory authorities and we put in there 'in accordance with section 115 of the Companies Ordinance' and then we have done what we intended to do in February. As far as we are concerned we are undoing what we intended to do in February. If the Government is not, in fact, going back on what they committed themselves to do under the guise of trying to correct an anomaly then, fine, we have misunderstood what the intention of the Bill was and we are in favour of what they said they wanted to do and we will support it. If they carry on with this then I think we could suppose that, in fact, what they are doing now is going back on what they said they had accepted in February and we cannot go along with that because we spent a very long time in Committee Stage debating that issue, Mr Speaker, and as far as we are concerned we won the day by logic and argument.

HON CHIEF MINISTER:

Mr Speaker, I think I may be responsible for all this trouble and that is because when the matter was in Committee Stage at the last meeting and the Hon Member said that people who invested money in insurance companies should have the right to know how they stood, I readily agreed to an amendment that dealt with that matter. In doing that we closed the door completely to a set of companies which are the captive insurance companies which have no obligation except to themselves in the sense that they are made out of their own resources. In fact, I was accused after the meeting by the captive insurance people in the Finance Centre Group in a friendly way at a social function: 'You have killed captive insurance in Gibraltar by the amendment that was passed'. I think if we leave the position as it is now that is true. What is intended is, as I understand it, to make, first of all, applicable the necessity to publish profit and loss accounts and balance sheet, to do that which was being done before, but to give authority for exemption in the cases of captive insurance companies. Captive insurance do not owe any duty except to themselves and if they were to publish that then Gibraltar would have no attraction because they are not expected to be published elsewhere. That is really the reason for the amendment. Whether the amendment achieves that or not is another matter but that is the rationale and, in fact, sometimes in order to respond to sensible statements made about certain things one goes by agreeing beyond that. I think they would have been happy if we had remained as we were before. Then when we brought in the amendment it could kill the captive insurance business which I understand is a profitable business and one which one should encourage.

HON J BOSSANO:

If the Hon and Learned Member will give way.

HON CHIEF MINISTER:

I will finish and before I sit down I will give way. One final thing I want to say because it could give the wrong impression, is that the fact that a number of companies may be registered in particular Chambers doesn't mean that they are governed from there at all. They have to have a registered office where papers have to be properly served if they have proceedings and so on and that is done everywhere in the world, that they have a registered address is one thing and the management is another. The fact that they are in a registered office which happen to be legal chambers is perfectly normal and does not in any way indicate that the management is done from those Chambers at all. Management is done by insurance managers and not by lawyers at all, it is just that they happen to be in particular registered Chambers, I don't care where they are but they have to be somewhere and some may have more than others. But the point that I made at the time and the way I gave in to the suggestion because it looked to me to be sensible, had the effect of closing the door to captive insurance and this is the way that it is intended. Before I finish I will now give way.

HON J BOSSANO:

Mr Speaker, I think I had, in fact, in my contribution directed myself primarily at the point made by the Financial and Development Secretary about removing a burden to publish more information than necessary of companies that are trading in Gibraltar. Our position on the exempt companies is that we are not adverse to the exempt companies being given different treatment and not being required to publish accounts if the Government feels that they can do that without being in conflict with Community law and therefore we are prepared to leave that door open and not kill the business just for the sake of killing the business provided, of course, that we have got a clear distinction that with local companies we are going to continue to require them to publish the accounts as we agreed to do in February and we think that therefore the amendment, perhaps unintentionally, undoes the work that we agreed to do in February. We are not against and we will not vote against different arrangements being made although in our own minds we have had some reservations about whether we can get away with it in the context of Community requirements.

MR SPEAKER:

Are there any other contributors? I will then call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I wonder whether there is, in fact, all that much between the Opposition and the Government benches on this particular issue. I listened closely to the Hon Member's, I think if I may call it, a suggested amendment or re-amendment which I think would be very close to the existing section 2(2). As far as I heard him correctly if one excluded the phrase 'in such manner and at such time as may be prescribed', the two would be almost coincidental. Perhaps I could, after I have concluded my speech and subsequently before the Committee Stage ask the Hon Leader of the Opposition if that, in fact, is what he intended. What we, in fact, meant by that particular phrase was prescribed under the Companies Ordinance and I don't think there was any particular significance in it but if we can avoid using it then I don't see any objection. The real issue is, of course, the form of accounts and as the legislation stands, the accounts that should be published will be those that are required for supervision. What we intend to do and here I don't think there is any difference between us, is to impose on the companies a requirement to publish those which will be required under the Companies Ordinance.

HON J BOSSANO:

Will the Hon Member give way? Is, in fact, the existing section 115 of the Companies Ordinance as drafted at present one which requires the profit and loss and the balance sheet to be laid before a general meeting?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Certainly it shall be laid before a general meeting but not to be published so it doesn't, in fact, it could be laid before a general meeting and no one would find out anything about it, that is the crucial distinction. The purpose of the second section is exclusively for captives and I take it the Hon Leader of the Opposition accepts that it is reasonable to make that exception. I don't think I need to say any more but perhaps before we get to the Committee Stage I could just take the Hon Leader of the Opposition's mind further on this particular point I have mentioned.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1987/88) ORDINANCE, 1987

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1988, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. In accordance with long hallowed convention I do not propose to make a Second Reading speech on the general principles of the Bill.

MR SPEAKER:

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Fast Launches (Control) Bill, 1987; the Firearms (Amendment) Bill, 1987; the Insurance Companies (Amendment) Bill, 1987, and the Supplementary Appropriation (1987/88) Bill, 1987.

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

THE FAST LAUNCHES (CONTROL) BILL, 1987

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move the amendment set out in the notice dated the 30th June in the definition of the expression 'fast launch' and to substitute a new definition of 'territorial waters'.

MR SPEAKER:

I think perhaps you are not going to get away with it so easily unless Members are quite happy that the amendment to Clause 2 which is basically the definition on 'fast launch'. Should it be read or are you quite happy?

HON M A FEETHAM:

We are quite happy.

MR SPEAKER:

You are quite happy, there are no controversies in the amendment?

HON M A FEETHAM:

There is a question I would like to ask on the definition, Mr Chairman. I want the Hon and Learned Attorney-General to clarify for the enlightenment of the House how he arrived at this formula?

MR SPEAKER:

Which formula?

HON M A FEETHAM:

The formula which is there under (a).

MR SPEAKER:

I will propose the question as moved by the Hon and Learned the Attorney-General that Clause 2 should be amended and then you can ask your question.

Mr Speaker proposed the question in the terms of the amendment as moved by the Hon Attorney-General.

HON M A FEETHAM:

Mr Chairman, could the Hon and Learned the Attorney-General explain how he arrived at this formula, what it means, because quite frankly it is beyond me.

HON ATTORNEY-GENERAL:

Mr Chairman, I am afraid it is somewhat beyond me as well. I have had a long explanation of the formula and I can tell the Hon Member what the formula means. For example, the maximum allowable length of a vessel, let us take a vessel of 19.981 feet in length. That can go at a speed of 24 knots without falling within the definition. A vessel of 40.101 feet in length can travel at 34 knots without falling within the definition of a fast launch. I have got copies of a full explanation of the formula and the maximum allowable speeds and maximum allowable lengths for the speeds which I can hand to the Hon Member, Mr Chairman, if the House likes. It is a very complex formula, it is not easy to follow except by the Port surveyors and the technical people in the Port Department but there is a full explanation of it here.

HON M A FEETHAM:

Mr Chairman, why I have asked is because if it is such a complicated formula which I am none the wiser after having asked him and since he himself finds it equally as complicated, how are people going to interpret the formula by reading the legislation?

HON ATTORNEY-GENERAL:

Because the Port surveyors can work it out in accordance with this formula. This is the formula which they themselves devised and the Port surveyors can show the members of the public what it means, for example, as I say, a 40 feet boat in length can go at a speed of 34 knots without becoming a fast launch. This could be explained to members of the public by the Port Surveyors.

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

Clauses 3 to 22 were agreed to and stood part of the Bill.

Schedule

HON ATTORNEY-GENERAL:

To amend the Schedule, Mr Chairman, to delete the chart contained in the Schedule and to substitute the chart which has been circulated with my notice.

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

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

THE FIREARMS (AMENDMENT) BILL, 1987

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

Clause 2

HON J L BALDACHINO:

If I may ask the question on (a) and (b) because I think they are related. We are talking here about people who buy firearms other than those who belong to a club because they don't need a certificate, do they?

HON ATTORNEY-GENERAL:

No, these are the fees for firearms certificates, for example, 'No person shall purchase, acquire or have in his possession any firearm or ammunition to which this part applies unless he holds a certificate in force at the time'. It is in respect of those certificates that Clause 2(a) and (b) relate. The exemptions are contained in section 6 of the Ordinance, 'Exemptions from holding a certificate - A person carrying on the business of a firearms dealer and registered as such, or a servant of such a person, may, without holding a certificate, purchase, acquire or have in his possession a firearm or ammunition in the ordinary course of business'. (3) A person carrying on the business of an auctioneer, carrier or warehouseman or servant doesn't need a certificate if he does it in the ordinary course of business. Subsection (4) "Any person may, without holding a certificate, have in his possession a firearm, ammunition on board a ship or a signalling apparatus" etc. All the exemptions there are contained in Clause 6. I think if the Hon Member will look at Section 6(7): "A person conducting or carrying on a miniature rifle range, (whether for a rifle club or otherwise)" - is exempt - "or shooting gallery at which no firearms are used other than air weapons or miniature rifles not exceeding .23 calibre may, without holding a certificate, purchase, acquire, or have in

his possession such air weapons or miniature rifles and ammunition suitable therefor; and any person may without holding a certificate, use any such air weapons, rifle and ammunition at such a range or gallery". People taking part in a theatrical performance, athletic meetings, those are all the exemptions within the Ordinance.

HON J L BALDACHINO:

The point I am trying to make, Mr Chairman, is a person who requires a certificate under the Ordinance whether he buys an air gun or whether he buys some other type of arms still pays the same certificate fee?

HON ATTORNEY-GENERAL:

Yes, the fee for obtaining a certificate under the Ordinance pays that fee. If you don't need a certificate you don't have to pay the fee.

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

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

THE INSURANCE COMPANIES (AMENDMENT) BILL, 1987

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

Clause 2

HON J BOSSANO:

Mr Chairman, I am in the process of drafting an amendment.

MR SPEAKER:

Have you done it now?

HON J BOSSANO:

I am half way through it.

MR SPEAKER:

We can leave this one until after lunch and go on to the Appropriation Bill.

HON J BOSSANO:

What I am suggesting is, in fact, in the light of what the Hon Member has said, is that the words 'in such manner and at such time as may be prescribed' should be removed from that Clause 2. But I have got two new amendments that I want to put forward to that Clause which I would like to put to the Hon Member. I think, perhaps it will give him time to think about it if I mention it. One is that I propose that if we are going to accept the amendment to section 122 which has been proposed of extending it to twelve months then, as far as we are concerned, we will vote in favour of that amendment provided we also amend subsection (2) to add the words "and any insurer authorised under section 122". So what we would be saying would be that the Clause would read: "Every licensed insurer and any insurer authorised under section 122" would be required then to publish the balance sheet and profit and loss account under section 115 of the Companies Ordinance. In that case we don't mind whether it takes them twelve months to register because, in fact, what we are saying to the Government is under the existing law six months after February these companies would be required to register and to publish accounts. If we are going to give them a year from today to register, isn't that what we are doing by altering.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, at the commencement of the principal Ordinance. It is not a year from today, in fact, it is a year from February. It is seven months from today.

HON J BOSSANO:

As far as we are concerned, Mr Speaker, since this is the important point at issue, we are not concerned about how long they have to register provided that while they are still doing insurance business they are required to comply with this so that if any of them have a year end between now and seven months and they have to publish accounts then they have to publish accounts now because we are authorising them to continue doing business whilst they register or they don't register and that can be taken care of by saying: "Every licensed insurer and every insurer authorised under section 122". We also believe that there is another point on which representations have been made to us which has not been mentioned by the Government and which we agree is a valid point in terms of protecting our own insurers and therefore what we would like to see since we are doing something to improve the law, is the addition to subsection (2) of the words: "and where a company is not incorporated in Gibraltar" because it seems to me that if we say that every licensed insurer shall be required to produce a balance sheet and a profit and loss account as required

by section 115 of the Companies Ordinance, I am not sure how that applies to somebody who is not incorporated under the Companies Ordinance and is not required by section 115 to do anything. What we would like to see is that where a company is not incorporated in Gibraltar then such information should be published as relates to its Gibraltar business which is the point that has been made to us by insurers which we support, which is not reflected in what the Government is bringing and which we are in favour of because a company says to us: "If I have all my business in Gibraltar and I publish my sales and I public my profit, my competitors know it. If my competitors have got an office in Gibraltar and they are doing business worldwide, they publish their accounts in UK and all they are required to do by the law is to publish and there is no way of knowing, they know my profit margins, I don't know theirs, it puts me in an unfair competitive position". We support that view. If we are going to do something to improve the situation from what we did in February then we think it is an opportunity to put it right. That is to say, if we are talking about a local company then they have to publish the information they put before their shareholders in a general meeting. But if we are talking about a multi-national company which is in competition with our local company, then publishing their worldwide accounts is meaningless, it doesn't tell anybody anything. It certainly doesn't tell the customers in Gibraltar anything either. Even from the point of view of our concern to protect employees in Gibraltar and consumers in Gibraltar, worldwide accounts don't mean anything at all. I imagine the Government has been asked to do this because we have been asked to do this and we are in favour of it and we are prepared to see it introduced now so we will move an amendment to that.

HON CHIEF MINISTER:

I think, Mr Chairman, that perhaps we should leave the Committee Stage of this till after lunch and then the Hon Member can clear it with the Financial Secretary and the Insurance Supervisor. I am now loathe to have these ad hoc amendments which we find later to be very confusing and complicated, perhaps we can leave that part until later on, leave Clauses 2 and 3 for after lunch.

MR SPEAKER:

Most certainly. We will move on to the Appropriation Bill.

THE SUPPLEMENTARY APPROPRIATION (1987/88) BILL, 1987

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

Schedule

Part I - Consolidated Fund

Head 25 - Treasury

HON J C PEREZ:

Mr Chairman, as most probably was expected by the Government, we will be voting against the £100,000 for the Gibraltar Quarry Company more or less because of the same reasons which I explained during the Budget session where I didn't get an answer and that is that it is our contention that we were misled to believe in the previous Budget, when the £200,000 subvention came to the House, that the company was looking towards a rosy future and that the £200,000 subvention would put it on a firmer footing and the evidence I have and the evidence I gave this House during the Budget session was that at the time that that subvention came to the House, the Government had already considered the possibility of closing the company for other reasons and that was not disclosed in the House at the time of the subvention. Had that been a possibility then perhaps that subvention would not have been voted by the Opposition at the time. I therefore think that it is not warranted that we should come again to the House with an extra £100,000 basically to wipe the slate before winding up the company and we will be voting against.

HON M K FEATHERSTONE:

Sir, when the subvention of £200,000 was requested from this House, there was no intention to close down the Quarry Company and it was thought that the situation was that the company would be able to continue and move to a viable position. It later transpired during the year that the Quarry Company was working in unsafe conditions and that was the reason for the closing down.

HON J C PEREZ:

Mr Speaker, with due respect to the Hon Member, I think that a report commissioned by the Public Works Department from the Council of Ministers, there are two reports, one is August, 1986, but there is one report even in July, 1985, where the question of the safety of the Quarry Company was being looked at by the Public Works Department at the time and all this information has been kept by the Government without disclosing it to the House and without suggesting that there was a serious possibility

of the Quarry Company having to close down and that information was held by the Minister and by the Government at the time they came with the subvention. So with due respect to the Minister, they might have not intended to close it but perhaps they were ignoring fundamental information that they had in their possession which actually lead to the closure six months after the subvention was voted.

HON M K FEATHERSTONE:

No, Sir, that is not so. There were reports from the Public Works Department about certain aspects of the Quarry Company but none of them suggested that the Quarry Company should have to be closed down as it was actually closed down in September last year.

HON J BOSSANO:

Surely, Mr Chairman, the reports that the Hon Member is saying suggested that the alternative was either closure or further investment and nothing happened between the time of the investment and the decision to close to change the parameters. Apart from the fact that, of course, the Government got scared by the implications of what happened at Casemates to perhaps be more sensitive to safety issues but nothing technically was discovered in the intervening six months which was not technically known before, that is one issue. I think the other issue which is perhaps important is the company is already, we understand, in the process of liquidation. We ourselves believe that it is right for the Government to accept that it has a moral if not a legal responsibility to the employees of the company because there is no question that anything.....

HON CHIEF MINISTER:

And creditors.

HON J BOSSANO:

And creditors, well, that is where I am not so sure that that is the case because if we are saying, quite frankly, that people who enter into business relationships with a company of whom the shareholder is the Government, are not taking any commercial risks like they would with any other company, I don't think anybody wants companies to go bust and not pay off their suppliers and their creditors but it happens all the time, let us be clear.

HON J C PEREZ:

And it creates a precedence for when GSL goes bust.

HON J BOSSANO:

Right, if all the unpaid bills of GSL are going to have to be voted as supplementary estimates, it is going to be a very big supplementary estimates when the time comes.

HON CHIEF MINISTER:

There was a direct connection involved.

HON J BOSSANO:

We think that the Government is setting a dangerous precedent with this and we don't want to be a part of it.

HON MAJOR F J DELLIPIANI:

Sir, I would like to clarify a couple of points on the question of the winding up of Gibraltar Quarry Company. First of all, the Hon Member, Mr Juan Carlos Perez, is right in that the Public Works Department had certain reports indicating their concern over the stability of the area where the Gibraltar Quarry Company was working. There were other aspects apart from the stability of the area and that was that the water section which is responsible for the water catchments were also concerned at the damage that was being caused to the catchments by the method of conveying the sand down the slope. There were two aspects to the operation, one was safety of the personnel involved and the other one was the safety of the catchments and the consequential damages that could be caused to the catchments and the cost involved in modifying the conveying system to make it safe for the catchments. So there were questions of finance involved and questions of safety. I think the Hon Leader of the Opposition is quite right in saying that at that time though the Government was willing to see the Quarry Company being a successful venture because we both felt, at least I felt, that joint ventures between a public company with Government participation was good for Gibraltar and in the history of the sand operation it was proved because the Quarry Company was there the sand imported from other sources was kept at a low price, the sensitivity of the Casemates Triangle had a great bearing in my decision to advise Government that despite the fact that I wanted it to be a commercial venture, I was frightened that if anything happened all the engineers would say: "We warned you about it". I think maybe it was a cowardly decision but on the whole, if anything had happened to any of the members of the Quarry Company I don't think I would be very happy standing here. I think, though, that Members opposite were as willing as I was to see the Quarry Company being a success.

HON J BOSSANO:

Absolutely.

HON MAJOR F J DELLIPIANI:

I think the pressures and the sensitivity of the Casemates Triangle had a bearing. Maybe it was a cowardly way of going out but my conscience is clear that nothing has happened but, unfortunately, it has cost us a lot of money.

On a vote being taken on Head 25 - Treasury, Subhead 37 - Gibraltar Quarry Company Limited the following Hon Members voted in favour:

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

The following Hon Members voted against:

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

Part I - Consolidated Fund was passed.

Part II - Improvement and Development Fund

Head 105 - General Services was agreed to.

Part II - Improvement and Development Fund was passed.

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

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

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

The House recessed at 12.45 pm.

The House resumed at 3.45 pm.

MR SPEAKER:

I will remind the House that we are still at the Committee Stage of the Insurance Companies Bill and I believe that the Hon the Leader of the Opposition has an amendment to move to Clause 2.

COMMITTEE STAGE OF THE INSURANCE COMPANIES (AMENDMENT)
BILL, 1987, (CONTINUED)

Clause 2

HON J BOSSANO:

Mr Chairman, following discussion with the Government we have agreed on the amendment that we would like to see incorporated which will enable us to support the Bill before the House. In fact, the Government is going to move an amendment to Clause 3 which will, from a drafting point of view, be a neater way of achieving what we would like and what we had proposed before lunch. Therefore we are just moving an amendment to subclause (2) of Clause 2 by deleting the words "in such manner and at such time as may be prescribed" where such words appear therein. We are not proceeding with the further amendment about requiring other companies not incorporated in Gibraltar to produce accounts in respect of their Gibraltar business in the light of the arguments that have been put to us that there are problems in being able to do this although I am putting in a caviat that we haven't given up altogether and we shall be having second thoughts about it and we may come back on that one at a future date when the new Companies Ordinance arises in the House.

Mr Speaker proposed the question in the terms of the amendment as moved by the Hon J Bossano.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We entirely accept that amendment, Mr Chairman, I am grateful to the Hon Member.

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

Clause 3 was agreed to and stood part of the Bill.

New Clause 4

HON ATTORNEY-GENERAL:

Mr Chairman, I move that the Insurance Companies (Amendment) Ordinance, 1987, be further amended by adding a new Clause: "4. Section 122 of the principal Ordinance is further amended by adding the following new subsection: "(3) the provision of section 50(2) shall apply to a person to whom the provisions of this section apply".

Mr Speaker proposed the question as moved by the Hon the Attorney-General.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 4 was agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Fast Launches (Control) Bill, 1987, with amendment; the Firearms (Amendment) Bill, 1987; the Insurance Companies (Amendment) Bill, 1987, with amendment, and the Supplementary Appropriation (1987/88) Bill, 1987, have been considered in Committee and agreed to and I now moved that they be read a third time and passed.

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

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move the motion of which I have given notice, namely, that: "This House - 1. Notes the refusal of the Government of the Kingdom of Spain to ratify the agreement to liberalise air travel within the European Community because it applies to Gibraltar; 2. Notes that Gibraltar is a full member of the European Community as part of the Member State of the United Kingdom and has been since its accession in 1973; 3. Notes that Gibraltar is obliged to comply with Community directives and regulations as required by its terms of membership; 4. Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership as part of the Member State of the United Kingdom; 5. Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations as an existing constituent part of the Member State of the United Kingdom; 6. Considers the position adopted by the Government of the Kingdom of Spain in relation to the liberalisation of air travel totally unwarranted and an attempt to deprive Gibraltar and its people of their rights as members of the Community; 7. Warmly welcomes the resolute stand adopted by Her Majesty's Government and urges them to continue to maintain this stand; 8. Requests Her Majesty's Government to transmit the views herein contained to the Governments of the other eleven Member States as the views of the people of Gibraltar expressed through their democratically elected Parliament". Mr Speaker, I know that much of what the motion contains reflects the thinking of the Government on this matter and not just of the Opposition from the reaction of the Hon and Learned the Chief Minister to press questions on this issue where he has said that he is quite satisfied with the way Her Majesty's Government is handling the matter. I think there are a number of reasons why it is important that the motion should be carried by the House - I sincerely hope without amendment - and one of them is that I think that in the last paragraph of the motion by asking Her Majesty's Government to transmit these views which we have already made known directly to them when we first heard what was happening, immediately there was a reaction from our party communicated on the Monday through The Convent. The importance, I think, of the motion and the request that it should be transmitted is that, in fact, we are trying to bring it to the attention of the eleven Member States in the Community other than the United Kingdom, that this is not Gibraltar and the Gibraltarians, in fact, doing what the British Government wants us to do because it suits their policy, we are, in fact, welcoming the stand that they have taken because it is what we would have asked them to do had we had to take the initiative ourselves before they had already

adopted that position. I think that is emphasised by the fact that the motion is moved from the Opposition benches because there is no question of it being suspect in any way that the Government of Gibraltar has been put up to this by Her Majesty's Government so as to produce a local reaction which suits what is being said by them on their behalf. I think it can only serve to strengthen the legitimate stand of Her Majesty's Government in this matter and to demonstrate that, in fact, in Gibraltar it is seen in the only way it can be seen. Needless to say, Mr Speaker, although my motion is undoubtedly critical of the position adopted by the Government of the Kingdom of Spain because I say that it is unwarranted, I will not be as critical as some of the media in UK appears to be of some of the personalities involved. I think the position of the Government of Spain in this matter can only be understood, and I don't want to dwell on that aspect at length because we have got different views on the matter in this House as regards the Brussels Agreement, but we have in fact notwithstanding our different views on the Brussels Agreement, taken a common view on the question of the airfield already before this motion. And I remember that, in fact, it was the Minister for Economic Development who said that it was a red letter day when we carried a motion on the question of the airfield in that since the 1984 election it was the first time when Government and Opposition had agreed on a matter which was related to the Brussels Agreement although we held different positions on the Agreement itself. Clearly, the Government of the Kingdom of Spain having failed to achieve what it wanted to achieve in the Anglo-Spanish talks on the use of the airfield in the framework of the Brussels Agreement, have done what they said they would do. They announced this publicly in January in what they described as a failure in the meeting between Señor Ordoñez and Sir Geoffrey Howe and they made it clear then that they would be launching a diplomatic offensive in the areas of the Common Market and of NATO because they were not making the kind of headway that they would like to see and I prefer to use the word 'headway' rather than 'progress' because when we talk about progress it seems as if we both wanted the same thing and we clearly do not want the same thing and we cannot shy away from that reality or try, I think, to water down the extent of the difference that there is between the aspirations of the Kingdom of Spain and what they want to get out of the Brussels Agreement and the aspirations of the Government of Gibraltar and what they want to get out of the Brussels Agreement. But, of course, by taking it out of the context of the Brussels Agreement and putting it in the context of the European Community, had Her Majesty's Government not taken the stand that it has taken and let me say that as far as we are concerned here on the Opposition benches, we would not have been happy even with a compromise formula. We don't see why we should stay out of the air liberalisation agreement for one year even if we are told at the end of the year

'You'll get in', quite frankly. There is no way that we can accept that because on the other side, for example, Mr Speaker, we have just passed a Bill amending the Insurance Companies Ordinance where I have said: 'We are not pursuing a particular amendment on the publication of results which relate to Gibraltar business because we have been told that we cannot do this without being in conflict with Community law'. That is something that I think is perfectly legitimate for Gibraltar looking after Gibraltar's interest and looking after our own business interest of people who have their base in Gibraltar. If we cannot do certain things because we accept as members of the Community the obligations of the Community and we cannot even change something that affects three Insurance Companies which is all we have got in Gibraltar against hundreds of them in the Community, well, then why should we have to put up with being left out of the Community even if no single plane comes in the whole year. It is a matter that is fundamental to the principle that we are defending and to the principle that we have defended, quite frankly, over many, many years irrespective of political persuasion. I think there has always been a broad underlying element in our relationship with the United Kingdom which has been resentful of the colonial status of Gibraltar and has been resentful of being second class citizens and on more than one occasion we have argued on this side of the House that we don't want to replace being a Colony ruled by London by being a Colony ruled by Madrid and we certainly want to replace even less being a Colony ruled by Brussels where we would become Colonials in relation not to the one or the two but to all the twelve. Let us be clear that the responsibilities that goes with being members of Europe and members of the Community, are responsibilities that are very onerous for a place of our size and of our economic potential. The few crumbs that we might be able to obtain of benefit to Gibraltar cannot be weighed against any national interest and I think it is important that we should take a strong stand. I am not saying that there is any indication of a change on the part of Her Majesty's Government but we all know, as a small people, the difficulties that nations have in defending principles when the stakes are very high and the Transport Ministers have to meet again, we understand, in October and there is no doubt that the Government of the Kingdom of Spain will be lobbying continuously and assiduously between now and October to persuade people to come round to their point of view. We cannot simply sit back with our arms crossed and say how wonderful the United Kingdom Government is to be fighting our battle on our behalf, we must be seen to be doing something ourselves. The very least that we can do is to applaud the stand they have taken, to say in no uncertain terms that we do not consider the position of the Government of the Kingdom of Spain to be justified, to spell out why and how contradictory it would be to treat Gibraltar differently from anybody else in the European Community and to make sure that it is clearly understood throughout

the Community that the Gibraltarians themselves have a view in this matter and that if there was a difference between the view of the administering power in a colonial situation and the colonial people the logic would be that they should listen to the colonial people, well, let them listen to the colonial people. I commend the motion to the House.

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

HON CHIEF MINISTER:

Mr Speaker, in the first place, this side of the House fully agrees with the spirit and the intention of the motion proposed by the Leader of the Opposition and fully supports the action that he proposes we should take as set out in paragraph 8. But precisely because that is the action that is going to be taken, in the description of some of the matters to be noted there are one or two matters which I think we can improve by slight amendment. It is not intended as an alternative, I will describe the intention because we want to be sure, particularly in a bureaucratic place such as Brussels where the letter sometimes counts for more than the spirit, we have to make sure that the letter is correct. I will then after describing the two or three minor corrections or improvements, if I may put it that way, in no way by way of taking away any part of it, I will then give a short description of the action that we have taken. But let me say at the outset that my understanding, certainly I have not been asked or consulted or requested, most times I cannot say what I am asked but I think I always say 'I can always say what I am not asked' and that is that there was no question of any formulas that were considered as having been an attempt on the part of the British Government to put it to us. I think it is fair to say that the compromise proposals to get the thing out of the impasse were suggested by the Duty Chairman - a Belgian - whose functions were finishing at the end of June and who has really achieved very little in their six months of Presidency. Normally the Presidency goes round the Member States at six months at a time and naturally each one sets itself certain parameters and certain things that they want to obtain. What had been advocated for cheap fares which is very limited in some senses, in fact, there was an article in The Times the previous Wednesday to this event by Lord Bethell who is the Leader of the Freedom of the Air Movement where he was saying that even what was being proposed was not enough because there are quite a number of limitations but, anyhow, we are talking about a liberalisation which had been agreed by the twelve Member States and which has been worked on at that basis. As I say, let me say that the compromise solution to get out of the impasse, according to my understanding, was suggested by the President in an endeavour to get the thing through.

The fact that there were compromise proposals which might or might not have been acceptable here is neither here nor there because my understanding is that the proposals did not come from the British side though, of course, in an international matter of this nature it could well have been that there might have been some way in which they might have got over it if there was a will to negotiate, that is if the spirit was there for an agreement and the principle which was being defended had not been so rigid and obstreperous then perhaps there might have been some way in which perhaps it might have been found. As it happened one kind of adamant attitude brings about another kind of adamant attitude and that, I think, is the result of the outcome of the proceedings. As I say, the three small amendments that I have are purely for the sake of correction and not for any other reason. Paragraph 2, really, is not strictly correct. I don't criticise the Member because I am sure that he has thought out this and has set out as many of the considerations as he could which I think cover everything but really we are not a full member of the European Community as part of the Member State of the United Kingdom. The provisions of the Treaty of Rome apply to Gibraltar as a territory in Europe for whose external relations Britain is responsible, by virtue of Article 227(4) of the Treaty, subject to the exceptions agreed by the Community, and that those provisions have applied to Gibraltar since 1 January, 1973. That is purely, if I may say so, an improvement in the description if there is going to be a correct presentation of the case. I will give notice in a minute, I am just going to describe it. Then in paragraph 4 because of that, the words "as part of the Member State of the United Kingdom" is really not strictly correct and, in fact, is not required there if we put the previous amendment, "Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership" which have been fully described in my previous amendment. And the last one is in paragraph 5, again as a result of the bigger description made in paragraph 2, the last words "as an existing constituent part of the Member State of the United Kingdom" are unnecessary and would read "Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations" which I have described. These are really the amendments which I propose and which I think Members will accept as an attempt at an improvement rather than in any other spirit. As I stress, these are purely for the purpose of technical accuracy and in no way alter the sense of the motion with which we agree insofar as it goes and, of course, subject to those amendments which I think improve the motion, we will support the motion. I say as far as it goes because we have to do more than merely to express the view stated in paragraphs 6 to 8 of the motion. That we can do here but other things ought to be done. In that respect I would like to state just very briefly and in very general terms what we have

been doing in this respect. Naturally, I cannot say what the nature of the representations are, some can gauge what they are by the results if we think that they have done as well as they have, the British Government, and what I propose to do in the future. On the 25th June I wrote to the Governor expressing my views and the views of my colleagues on the situation. Early in the morning on Monday the 29th June I asked the Governor to transmit to the Secretary of State an urgent personal message to Sir Geoffrey Howe. On the following day - and this is by letter not by telex - on the following day, virtually twenty-seven or twenty-eight hours from the time that my letter was deposited on Monday morning, I received a personal message. The Governor passed to me a personal message from Sir Geoffrey Howe in reply and then I sent him another message on the 1st July. On the 3rd July I wrote to the Governor saying that in view of the situation which had arisen with regard to the airport, I would be grateful if arrangements could be made for me to see the Secretary of State as soon as possible as convenient to him and I hope to me because I have a few days put aside for a short holiday. There I set out the main points which I wished to discuss and to that I am awaiting a reply. Paragraph 6 of the motion I fully support especially and I think it is fair to say that the intervention by the Spanish Foreign Ministry in the discussion by Community Transport Ministers at the late stage just before the decision was about to be taken has been greatly resented in Gibraltar and I made this plain to the Secretary of State in my letter. I also warmly welcome the sentiments expressed in paragraph 7 which in turn welcomes the resolute stand adopted by Her Majesty's Government. I also commented on this in my two messages to the Secretary of State last week and thanked him and the British Government for their determination as always to defend Gibraltar's fundamental interests. I have to make no apologies for that because I have always said that we would be supported by the British Government in matters of principle and I think we have been vindicated, other people have at times had doubt and perhaps they will carry on having doubts. One point made by the Leader of the Opposition that because the motion comes from the Opposition it will be seen as not being a motion at the instance of the British Government. I should ask him to have no illusions about that because in the days when we went to the United Nations the Opposition went with the Chief Minister and subsequently in many discussions where there was or up to the time when there was a joint bipartisan approach to foreign affairs on the same spirit as the motion and on the same spirit as has been explained by the Leader of the Opposition, it didn't stop our neighbours saying that we were the tools of the British Government. They would go perhaps even further, they would say that we are the tools and we don't know it. There is the fundamental mistake in approach to a matter and to a way in which matters in a European context are likely to be solved in the future with the spirit that everybody in Europe, even the smallest territory, has got the same right as others in Europe and therefore we will be voting in support of the motion subject to those small amendments.

MR SPEAKER:

You are moving the amendments?

HON CHIEF MINISTER:

I move formally the amendments that I have given notice.

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

HON CHIEF MINISTER:

I should have perhaps said before sitting down that having explained the reasons and having explained the attempt at improving the motion and that is something often done on the opposite side in respect of legislation so they are subject also to improvement, I hope they are accepted in the spirit in which they are proposed and that we will have a unanimous decision on this matter.

HON J BOSSANO:

Mr Speaker, I simply wanted to have the opportunity to speak to confirm that point. In fact, as far as we are concerned the amendments (2) and (3) remove elements as presently drafted which become unnecessary with the first amendment proposed and the first amendment simply gives a technical description of what being a full member of the European Community is. Quite frankly, in a way I don't suppose we would have been able to draft it technically as well which shows that even though I am better at drafting than the Attorney-General, probably the Hon and Learned the Chief Minister is better at drafting than me.

Mr Speaker then put the question which was resolved in the affirmative and the amendments were accordingly passed.

HON M A FEETHAM:

Mr Speaker, just one observation I wish to make taking the matter up from where the Hon and Learned the Chief Minister left it. He talked about the days of a bipartisan approach when the Chief Minister and the Leader of the Opposition went to the United Nations. Perhaps I can throw this proposal from this side and that is that whilst we are obviously opposed to the Brussels Agreement and our position will not change on that, the Opposition would be in favour since this is a European Community matter and one where we can perhaps have a joint front, the Opposition is prepared to suggest that the Leader of the Opposition should accompany the Chief Minister on his meeting with the Secretary of State on this matter so that we can continue a united front in areas where we feel that this can be done.

HON CHIEF MINISTER:

I have to take note of that but I think there may be difficulties, I have nothing against it but I think in the context in which the correspondence has gone, I don't know that that will be that easy. But that does not mean that where there can be a bipartisan approach there should be. Therefore we should earmark those things that divide us but not forget those things that unite us.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the Mover to reply if he so wishes.

HON J BOSSANO:

Mr Speaker, simply to welcome the support of the Government on this matter and to say that the response of my colleague has been an offer in good faith and if the Government feel that they want to take it up it is there.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:

"This House -

1. Notes the refusal of the Government of the Kingdom of Spain to ratify the agreement to liberalise air travel within the European Community because it applies to Gibraltar
2. Notes that the provisions of the Treaty of Rome apply to Gibraltar, as a territory in Europe for whose external relations Britain is responsible, by virtue of Article 227(4) of the Treaty, subject to the exceptions agreed by the Community, and that those provisions have applied to Gibraltar since 1 January, 1973
3. Notes that Gibraltar is obliged to comply with Community directives and regulations as required by its terms of membership
4. Notes that Gibraltar is entitled to the privileges and benefits deriving from its terms of membership
5. Notes that the Kingdom of Spain applied for membership of the European Community and achieved accession on 1st January, 1986, in the full knowledge of Gibraltar's rights and obligations under the Treaty of Rome

6. Considers the position adopted by the Government of the Kingdom of Spain in relation to the liberalisation of air travel totally unwarranted and an attempt to deprive Gibraltar and its people of their rights as members of the Community

7. Warmly welcomes the resolute stand adopted by Her Majesty's Government and urges them to continue to maintain this stand

8. Requests Her Majesty's Government to transmit the views herein contained to the Governments of the other eleven Member States as the views of the people of Gibraltar expressed through their democratically elected Parliament".

The question was unanimously resolved in the affirmative and the motion was accordingly passed.

HON M A FEETHAM:

Mr Speaker, I beg to move the following motion of which I have given notice: "This House recognises that the Council of the Regions of Europe is a democratic forum which expresses the point of view of European Regions - particularly on problems of concern to them in the context of European Construction and the policies of the European Community, considers membership of the Council as being appropriate and approves that a formal application to join this Institution be made accordingly". Mr Speaker, as you can well see, the motion to a great extent is self explanatory. I wish to inform the House of the background to the reasons why this motion is being brought to the House and where we should be going from here. During a visit to Brussels, my colleague, the Leader of the Opposition, and myself, had a meeting with the Minister for Economic Affairs of the Wallonia Region of Belgium who explained to us that there was a great deal of support in the European Community from Regional Governments in ensuring that in the building up of European Community policies and in the reconstruction of the European Community economy, that the views and interests of regions were not lost in a policy of centralisation and that there was a great danger that the democratic process in the decision making would be seriously hampered to the detriment of the regions unless there was a forum, an institution that was able to express the views and the interests of the region in that policy making process. Having listened to us and the problems of Gibraltar as a particular region in the Community, as we preferred to align ourselves, at least the Opposition who were speaking to the Minister at the time, he thought that this was a particular forum where Gibraltar's interests, to some extent, could be defended and also, equally important, a forum where we could establish contacts and at the same time be known by all other regions who, as events have shown, have

problems which are of particular interest to Gibraltar and because Gibraltar has got particularly the same interests and the same problems and it is only when we can get together and formulate a policy which affects regions that we should be able to resolve them by having this particular forum. The discussion at that time was in its infancy because the constitution of the forum or whatever the outcome was going to be was still in its infancy stage, discussions were in the process of taking place and the forum had not been set up. We were at that point on the verge of being able to be one of the founder members of this particular forum which now, of course, has been instituted and is called the Council of the Regions of Europe. When we came back we informed the Government and we did give the Government certain information for Government to pursue and, indeed, as far as we are aware, Government did take some initiative on the matter and have pursued the matter. Unfortunately, as I understand it, a number of hiccups have occurred which have been recently pointed out to me where, in fact, the forum was set up, the Council was constituted and we were not a founder member, indeed, we are still not a member of the Council. I can inform the House that today there are about 200 regions of the Community represented in the General Assembly and Gibraltar is the only one that is interested in joining but is not a member. The few regions that are not members of the Council are, in fact, regions that have voluntarily said that they are not interested in forming part. Suprisingly enough, the major part of the regions that are not represented is in the South-East of England, the only regions which are not represented in the United Kingdom. All Spain is represented, 95% of the regions in France are represented and so on so we are really talking about fairly few regions because of their own interests are not represented. Why is this motion here then? During our visit to Denmark recently to a conference of the Council of Regions, let me say that this conference had nothing to do with the actual Council but were people that were interested in regionalism. One of the sessions was, in fact, addressed by the Secretary-General of the Council of Regions on its policies and so on, and it was during his intervention that I had a long discussion with him after that particular session and he pointed out to me that it was news to him that we were in the process of applying for membership, that he had had no correspondence at all. Obviously, since I have great interest in ensuring that with Government support, hopefully after this motion is debated, that we should be represented, I entered into formal discussions with him which I will outline now where he explained to me what should be done and how we should go about becoming formally members of the Council. The first thing that had to be done was that the motion had to be passed in the Regional Assembly of the Region, in this case, of course, in the Gibraltar House of Assembly where both sides of the House had to be in agreement in being members of the Council and where we would nominate two representatives

and one civil servant to be the representatives of Gibraltar in the Council. It is probable that as a result of our membership that we will have one representative in the permanent committee of the Council that actually draws up policies and makes formal representations to the Community supported by a permanent foundation which gives technical support to the regions on matters of regional development and regional cooperation. I should say at this stage that the Secretary-General has already given an indication that he would support our application and that he was quite dismayed, quite frankly, that matters from our end had not been pursued, perhaps, with a little bit more determination. I am not in a position, at this stage, to give the reasons why perhaps from the Council end of matters, why in fact there may not have been replies to the Government correspondence. As I understand it, when the Council took off and was initiated, obviously, with such a large influx of membership from the regions, there was some indication at that stage as we had missed the boat, there was indication of opposition to our membership. I am not so sure that that opposition to our membership of the Council will not be there when we pass this motion. The realities are if we are interested in forming part of this Council which, I think, is of tremendous importance, that we should pursue it regardless of what may happen. I should say as well that the Council is completely composed of elected representations of the regions. It is not a forum where we have representatives of foundations or banks and so on as we had in the conference which we attended in Denmark but they are all elected representatives and therefore are involved in political decisions. The idea being that where a national government of a particular region does not take into account the interests of the regions then the Council tends to by-pass national governments and makes representations direct to the Community. The implications for that is a matter, perhaps, that would need to be considered by the House but I am sure that we have to play a formal part in our participation in Europe. I think that we have left it rather long since 1973 to actually play a part in the institutions which are there for us to play a part in. I think already we have noticed the implications for Gibraltar of remaining in a cocoon as we have been doing for the last fourteen years. I don't think we should look back, we should look forward and I think by actually becoming members of forums where we are likely to be listened to, where we are likely to pick up ideas of what is happening elsewhere, I think this is in the best interest of Gibraltar. Let me say that one of the things that was remarkable during our recent visit and I am sure that the Hon Mr Mascarenhas will agree with me, was the similarities in the problem that existed in other regions where border relationships exist and we think that we have got problems in this area, I wish some Members would have heard the problems that exist elsewhere. But the remarkable thing was the great initiative and the great impetus there was on the part of regions in resolving those problems and to what

extent they were afforded technical support and technical advice which is not readily available to a particular region but is available centrally for support to the region where we can perhaps obtain similar technical and administrative support in resolving the problems. I am sure that Mr Mascarenhas has already given a progress report on how he saw it to the Government but the first thing that we have to do if we are interested in participation in Europe, we should be interested in joining the forums which are open to Gibraltar and exploiting that in the best interests of Gibraltar and at the same time making a contribution to the rest of the regions by our support and participation in those forums, Mr Speaker.

Mr Speaker proposed the question in the terms of the motion as moved by the Hon M A Feetham.

HON G MASCARENHAS:

Mr Speaker, we welcome the motion as moved by the Hon Mr Feetham. This has been a bipartisan approach to Gibraltar seeking membership of the Council of the European Regions. I am surprised, however, that since this has been, as I say, from the beginning a bipartisan approach and at Government expense, that the Hon Mr Feetham did not inform me that he was submitting the motion. Perhaps when he exercises his right of reply he can tell me why. We believe that after the visit to Copenhagen I made with Mr Feetham, that the general feeling of the different people representing the different regions of Europe was that Gibraltar is ideally placed to be represented on the Council of European Regions and I think it would be a mistake not to be represented on that forum. People within the Community, although the CER has some members who are not members of the European Community, the majority are members of the Community and they encounter very similar problems as we encounter here in Gibraltar and I think, on occasions, what they encounter, perhaps, are more problems than we encounter here seeing that some of them particularly are in the heart of the European Community and yet they have quite unbelievable problems that both the Hon Mr Feetham and I witnessed there of the number of people who are on the dole. For example, the Vice-President of the Commission told us on the first day that the problems that exist at the border between Belgium and Luxembourg where he travels from Brussels, from the Commission, to Strasbourg and he does that journey three times a week, he found that the Belgian side, for example, has high unemployment, there is hardly any commerce and people are moving away and yet three metres across on the other side of the frontier, the Luxembourg side is booming with high employment and a lot of commerce taking place. It is quite incredible that this should happen to two of the founder members of the Community. The CER is a relatively new organisation, it was formed in 1985. I have seen the correspondence that has transpired between

the Chief Minister and the Hon Mr Feetham. The delay has been purely one of getting wrong addresses and the fact that the President of the CER changed, the Presidency changed over, I believe it was in 1986. The then President wrote to the Chief Minister in late 1986 and I noticed something that he had said in the letter to the Chief Minister and I quote: "The experience of Gibraltar is unique in Europe and other regions can only learn from it." It is quite incredible because during the conference in Copenhagen both the Hon Mr Feetham and I took the opportunity, certainly not because we wanted to rub it down people's throat but because we were asked continuously about Gibraltar's special circumstances and we took the opportunity to explain. So much so that I recall that the representation from the Faroe Islands who are an integral part of the Kingdom of Denmark and have a representative in the Danish Parliament, one seat, and they, when I was having dinner with this gentleman, they are now looking at the possibility of having their own assembly and forgetting about having representation in the actual Danish Parliament. They find that one voice in a Parliament of 200 members doesn't go very far and they are thinking in terms of their own assembly and they were very interested to find out about the Constitutional position of Gibraltar. I think that the opportunity of meeting different people with aspirations very similar to the aspirations of the people of Gibraltar is essential for us. For example, the Catalans, they were very interested in Gibraltar and my passing joke to them during the Conference was that, perhaps, if they had the full extent of autonomy that we have in Gibraltar they might be happy. They took this in a very good spirit and I think that certainly the Catalans who were there in strength will not, I don't think, oppose our membership in any way, on the contrary, I think they will support it. Mr Speaker, the position of Gibraltar as a region is clearcut. There is no doubt that we can become a member of this organisation. I agree with the Hon Mr Feetham that the application should be made quickly and that we should be represented in this forum. I have no hesitation in supporting the motion as moved.

MR SPEAKER:

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

HON M A FEETHAM:

Yes, just briefly, Mr Speaker, on the point that he made at the beginning as to why I had not informed him about the motion was because the Hon Member left it to me in Denmark to deal with this matter. As you know, in my discussion with Mr George Perez, and I have done exactly what I had agreed with him to do and, secondly, when

I came back I informed him of this at the time that we met for the first time which was on the way up to Television House to do the interview. I couldn't do it any quicker than that. As far as I am concerned, you were informed and you left the matter to me.

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

ADJOURNMENT

HON CHIEF MINISTER:

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

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

The adjournment of the House sine die was taken at 5.00pm on Tuesday the 7th July, 1987.

