

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

29TH MARCH, 1989

VOL. I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifth Meeting of the First Session of the Sixth House of Assembly held in the House of Assembly Chamber on Wednesday 29th March, 1989, at 10.30 am.

PRESENT:

Mr Speaker . . . . . (In the Chair)  
(The Hon Major R J Peliza OBE, ED)

GOVERNMENT:

The Hon J Bossano - Chief Minister  
The Hon J E Pilcher - Minister for GSL and Tourism  
The Hon M A Feetham - Minister for Trade and Industry  
The Hon J C Perez - Minister for Government Services  
The Hon Miss M I Montegriffo - Minister for Medical Services and Sport  
The Hon R Mor - Minister for Labour and Social Security  
The Hon J L Moss - Minister for Education, Culture and Youth Affairs  
The Hon K W Harris - Acting Attorney-General  
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon A J Canepa - Leader of the Opposition  
The Hon P C Montegriffo  
The Hon M K Featherstone OBE  
The Hon Dr R G Valarino  
The Hon G Mascarenhas  
The Hon Lt-Col E M Britto OBE, ED  
The Hon K B Anthony

ABSENT:

The Hon J L Baldachino - (who was away from Gibraltar)

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon K W Harris, Acting Attorney-General, took the Oath of Allegiance.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 24th January, 1989, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 5 of 1988/89).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 6 of 1988/89).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 7 of 1988/89).
- (4) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 3 of 1988/89).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 4 of 1988/89).
- (6) Statement of Supplementary Estimates No. 4 of 1988/89).
- (7) Annual Report and Accounts of the Gibraltar Broadcasting Corporation 1987/88.

Ordered to lie.

HON A J CANEPA:

Mr Speaker, perhaps you will grant me the indulgence of my asking the House to note the fact, since we have tabled the Accounts of the Gibraltar Broadcasting Corporation, that apparently the proceedings of this meeting of the House are not being broadcast over GBC radio. It might be of interest if before the House resumes this meeting on the 11th, which is only the second part of a meeting which will then continue late in April, we might get answers from the Gibraltar Broadcasting Corporation as to why they are not broadcasting the proceedings, and I stress, of this meeting of the House. I think we are going to have to be consistent and if they do not broadcast the proceedings of the House today we may not want them to broadcast the proceedings of the House on the 11th when there will be Question Time and we may also not want them to broadcast the proceedings

of the House at the end of the month when we consider the Budget and, perhaps, GBC might have to explain to the public why they are not using the funds, and the staff, which have been voted by this House in order to broadcast the whole of the proceedings of the House.

HON CHIEF MINISTER:

Mr Speaker, certainly, as far as the Government is concerned, the position is that we have maintained the consistency in the views adopted by both sides of the House prior to the election that it was a matter for the House to determine what it wished to have broadcast since, in fact, this is an additional service to keep the people better informed and for which we are paying extra and therefore GBC was still entitled to deal in its news items with the things it wanted to highlight. Both sides of the House felt then and feel now that, in fact, it would be extremely difficult and not in GBC's own interest to introduce their own selectivity into the procedure without running foul of possible misunderstandings and possible fears that they were being influenced by political considerations in that selectivity. I think that was a consideration that the AACR in Government wished to avoid and it is a consideration that the GSLP Government wishes to avoid and at the end of the day whilst we are not in a position to order GBC to be here and to provide the coverage, certainly it is a commercial transaction, as far as we are concerned, for which we are paying and if they do not provide the service for which we are paying then we may decide that the service is not required.

HON A J CANEPA:

May I add, with your indulgence, Mr Speaker, that first of all, GBC do not appear to have had the courtesy of informing your office of the fact that they were not going to broadcast the proceedings of the House. I think, as a matter of courtesy, your office and Hon Members were entitled to have been informed beforehand that that was not the case. Let me also make it clear that it is the desire of Members on this side of the House that all the proceedings of the House be broadcast. It is not that we do not want them to broadcast Question Time on the 11th, that works to our disadvantage as Members of the Opposition, but we think that we ought to be absolutely consistent and it would seem that GBC want to decide what is of public interest themselves and what is not. Apparently the legislation before the House this morning is of no public interest and it could well be that Question Time on the 11th is of public interest but it could also well be that the Budget Session is of great public interest at the end of the month and, really, what they cannot do is to pick and choose. The view of Hon Members on this side is that they have got to broadcast

all the proceedings of the House and we do not agree with the interpretation that has been given on a previous occasion that that constitutes editing. Broadcasting all the proceedings of the House is not broadcasting a news item. GBC have a perfect right to edit news, this is not news, this is a service and they either take all of it or they do not. I think that GBC have been, to say the least, most discourteous to this House by not having informed us, at the beginning of the meeting, that they were not going to be broadcasting the proceedings.

MR SPEAKER:

If the House agrees I will communicate the views and feelings of the House to GBC.

SUSPENSION OF STANDING ORDERS

The Hon the Minister for GSL and Tourism moved the suspension of Standing Order 7(3) in order to change the Order of Business and consider Bills.

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

#### BILLS

#### FIRST AND SECOND READINGS

#### THE GIBRALTAR HERITAGE TRUST ORDINANCE, 1989

HON J E PILCHER:

Sir, I have the honour to move that a Bill for an Ordinance to establish the Gibraltar Heritage Trust be read a first time.

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

SECOND READING

HON J E PILCHER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, in so doing I would like to give a short explanation of how we have arrived at this situation. Before I start doing so let me, first of all, say that this Bill in front of the House today has taken the last six to seven months to see the light of day after long discussions with both the Museum Committee, with the old Heritage Trust - if I can call them that at this stage -

and the Friends of Gibraltar Society in the United Kingdom. I think it is a question of looking at the history of the Gibraltar Heritage Trust particularly and looking at what it did once it was established. When we took up office early in April and started looking at things, one of the things which we looked at was the Heritage Trust. If the Hon Members who were here in the House, when Members opposite were in Government, will recall that at meeting after meeting I used to ask questions relating to the Heritage Trust and whether or not any land, buildings or site had been handed over to them and I kept this up for about a year. The answer always given was that there was some problem or other and that the MOD had not handed over the sites. In reality what happened was that the Gibraltar Heritage Trust, as it was conceived, never got off the ground and it became, I think, a situation where it was one other Committee which did not have either the power or did not have the land vested in it to actually be able to be more than just be a Committee. In looking at the Gibraltar Heritage Trust and after having meetings with members associated with the Trust I realised that there was, as far as I was concerned, a duplicity in the function of the Trust and the functions of the Museum Committee and that both of these Committees in one way or another were supposed to be looking after Gibraltar's heritage. Heritage be it in antiquities, buildings, etc and in some cases the Government sought advice from the Museum Committee and in other cases it was from the Heritage Trust. There seemed to be a duplicity in the system which, as I say, I thought would be better handled in the manner that we have in front of us today. There was also, Mr Speaker, the matter of the Government giving the Museum Committee a subvention and, I think, this subvention went a long way in helping the Museum but at the end of the day it did not provide the necessary finances for the things which the Museum Committee wanted to do like expanding the Museum, etc. It was the inadequacy of the - if I can call it that - existing Heritage Trust which sparked off the flame to do something about this. Let me, first of all, stress, Mr Speaker, that this inadequacy is not due in any way to the inefficiency or lack of motivation of any of the members of the Trust but I think it was - and I do not say this in any desultory fashion to the previous administration - but perhaps a lack of direction. It is no secret that we said at the time that we felt it was perhaps a bit of a screen that was being put in between what the Government had to do with their own land, buildings, etc and the criticism being levied, at the time, to such matters as the Old Command Education Centre, etc. We felt that perhaps the Heritage Trust had been created to provide a bit of a screen for areas where the Government did not really know what to do with buildings. As it happened, Mr Speaker, what was supposed to have happened or rather the activating of the Heritage Trust was, in fact, the handing over or the vesting of the land or buildings to the Heritage Trust. The Heritage Trust at that stage would then be activated

and would then follow a mechanism by which they would then manage the area, get it refurbished, etc. This never happened because of two things. One, obviously, there was not any land or building vested in the Trust and the second difficulty was the fact that the Trust had no resources whatsoever, it was made up of volunteers and part-timers who had all the motivation in the world but did not have the facility to act on a full-time basis and in these two areas are to be found the difficulties as far as I have been able to analyse the problem. Herein, Mr Speaker, is contained the main difference in the new Ordinance. If one looks at the new Ordinance which brings together the Museum Committee and the Heritage Trust, the main difference, Mr Speaker, in the two Ordinances, particularly if one compares the old - if I can call it that - Heritage Trust with the new Heritage Trust, the primordial difference which is, I think, a difference in policy is that the new Trust would not have the ability to own land, buildings, sites, etc. That is, I think, Mr Speaker, the main difference between the old Trust and the new Trust. We feel, Mr Speaker, as a Government, that any land that is surplus to MOD or any land which the Gibraltar Government owns should be retained by the Gibraltar Government and the role of the Trust, Mr Speaker, which is in Clause 4(1) and which states: "The Trust is established for the purposes of preserving Gibraltar's heritage". I think 'Gibraltar's heritage' is far more wider because it encompasses the Museum Committee as well. The second and equally important point is at Clause 4(2) which states: "The acquisition in any manner and retention of any investments the income whereof shall be applicable (subject to any trusts imposed by the donor or otherwise affecting the same) at the discretion of the Board for any particular purpose of the Trust or for its general purposes". What that implies, Mr Speaker, is that it is not only the role of the Trust to say to the Gibraltar Government: "You shall not do anything with this building", but to try and obtain the necessary investment in order to act positively and not negatively and I think that, Mr Speaker, in a nutshell is the major difference between the old Heritage Trust and the new Heritage Trust. What the new Trust would be there to do would be: to advise Government on all matters of Gibraltar's Heritage. The Bill, which I am sure Members opposite have read - provides all the powers under the old Museum Committee and all the powers under the Heritage Trust with the exception of holding of land, but I think it is a question, Mr Speaker, of the Heritage Trust being able to seek investment in order to play a positive role in the refurbishment or the protection of Gibraltar's heritage. If you turn to page 30, Mr Speaker, "The Board's General Functions", that gives an idea of the type of things which the Government would want the Trust to do in preserving Gibraltar's heritage: "(a) to promote and secure the preservation and enhancement of Gibraltar's heritage; (b) at the request of Government, to advise Government and, where appropriate the Secretary of State" - obviously in the case of any MOD land - "at an early stage and prior to any consents being granted, on any planning or other

proposals affecting any Listed building, structure, site or land; (c) to promote the public's enjoyment and advance their knowledge of Gibraltar's heritage; (d) to promote research into and publications on Gibraltar's heritage and on the history of Gibraltar including its social, cultural, economic and political evolution; (e) to assist the Government of Gibraltar in the formulation of policy in respect of these matters; (f) to undertake such other functions as are conferred on it by this Ordinance or by any other enactment". There is, Mr Speaker, one other difference, and I will go through the Bill in a moment, but to explain the two fundamental differences, one difference which I think is the primordial difference is the ability to own land. The other difference between this Heritage Trust Ordinance and the previous Heritage Trust Ordinance is found under "Interpretation - 'Gibraltar heritage' includes (b) areas of natural interest or beauty in Gibraltar along, where appropriate, with their animal and plant life". We thought, Mr Speaker, that when we talk about Gibraltar's heritage one must not forget that heritage is not only bricks and mortar, it is also land, trees, fauna and flora and we have added that. One other main innovation is the new Category 'B' which in the old Heritage Trust used to be Schedule I - Ancient Monuments, as they were called and which nobody can damper with. If you look at "Listed Buildings, Structures, Sites and Land" under Schedule 'A', this is a copy of the old "Listed Buildings, Ancient Monuments" which came under the Museum Committee. There is a new Category 'B' which has been added to the new Heritage Trust Ordinance and which is a category of buildings, structures, sites or land which the Heritage Trust recommends to the Government and once it had been scheduled under Category 'B' the Government would have to seek the advice of the Heritage Trust before anything is done with these buildings, sites, land etc. So it adds a new dimension where it is not only the ancient monuments that the Government is trying to protect but it is also trying to protect other areas which are, perhaps, of importance to Gibraltar although not necessarily ancient monuments which cannot be touched. In this way, I think, it shows the Heritage Trust and certainly the people of Gibraltar that the Government is itself embarked in also wanting to protect Gibraltar's heritage and I think the new Category 'B' would actually give once it would be scheduled if you look at page 47 under Clause 49: "No person who is beneficially interested in any Listed 'B' building, structure, site or land shall - (a) make to that building, structure, site or land any alterations, addition, or repair that affects its archaeological, architectural, artistic, historical or vernacular character; or (b) fell any tree on the land on which the Listed 'B' building or structure is situated - except in accordance with a permit in writing issued for that purpose by the Governor acting after consultation with the Board". That, Mr Speaker, is a new element which has been added to the new Heritage Trust Ordinance. Apart from that, Mr Speaker, I think the only

other innovation is the fact that the Museum Committee is now incorporated in the Heritage Trust and would not be called upon to actually manage the Museum. It is the Government's intention, Mr Speaker, to have the Museum managed by the Gibraltar Tourism Agency which has the resources to be able to do so. Mr Speaker, it is self-evident that the Museum Committee and the Gibraltar Heritage Trust have now been integrated into this one Ordinance and, as I say, there are no major changes other than those that I have already mentioned. I do not think I have left anything out but obviously when Members opposite have made their contribution if there are any points which I have not tackled, I will be more than happy to do so then. I think all that is left for me to say, Mr Speaker, because if you look at page 48 of the Bill in front of us, Clause 53 states: "The Gibraltar Heritage Trust Ordinance and the Gibraltar Museum and Antiquities Ordinance are repealed", is to thank every member of the Museum Committee and the old Gibraltar Heritage Trust, once this Bill becomes law, as I hope it will at the next session of the House of Assembly, for the help which they have given to Gibraltar in many ways. It is the intention, obviously, in bringing together those two Committees, to use many of the same people and if you look at the page on the Board's implementation it will be seen that it is by appointment of the Governor in consultation with the Chairman of the Museum and the previous Chairman of the Gibraltar Heritage Trust. So I think everything is well covered and we will find that a lot of the members that have through the years played a part in either of these two Committees will, in fact, have a role in the new Heritage Trust. Mr Speaker, if I have left anything out I will be more than happy to answer any questions from Hon Members opposite. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Sir, the Hon Mover of the Second Reading of this Bill has spoken in very skimpy terms, if I may use that word, about the genesis of the former Gibraltar Heritage Trust and on the legislation that we brought to the House at the time. I cannot agree that he has presented the matter in its correct historical perspective. He has spoken about the creation of the former Heritage Trust which is now being repealed by this legislation as having been part of what he termed a screen. Well, I do not agree with him. In fact, the Gibraltar Heritage Trust was the result of a process which had started with a conference in London which anti-dated the controversy over the Command Education Centre. The irony of it all, Sir, is that the Command Education Centre is today a reality, that it is a very handsome building, very much in character with Cornwall's Parade

adding lustre to Cornwall's Parade, very much in scale, it is no taller than the buildings around it. It is that particular development that seemed to draw the fangs of the Conservation Society who made a tremendous hoo-ha about it at the time, took the Government to the Supreme Court and since then many more buildings are going up in Gibraltar much uglier than that one, totally out of character and more are in the pipeline in places such as the South district where they are going to be totally out of character. There is now just one sole person carrying on a valiant campaign in the Chronicle, a sole voice crying in the wilderness and of the Gibraltar Conservation Society we do not hear so much as a squeak. They seem to have gone underground completely. So I would contest what the Hon Mr Pilcher has said about the history and the circumstances in which the Gibraltar Heritage Trust which is now being done away with was created. I would like the Hon Member when he exercises his right to reply, to inform the House in some more detail as to what degree of consultation there has been with the Friends of Gibraltar's Heritage, to what extent they are in agreement with the legislation before the House today and to what extent they may not be in agreement. Let me say that we support the much wider definition about what constitutes heritage. We think it is very much a step in the right direction to have included under Heritage, areas of natural interest on beauty in Gibraltar along where appropriate with their animal and plant life and I would commend to the Minister that he should show a similar interest for other legislation which requires to be brought to this House in order to protect Gibraltar's fauna and flora. The Attorney-General's Chambers has, I think, a draft which we had approved in Council of Ministers and it has only been held back because of pressure on the Attorney-General's Chambers and in the Government's Legislative Programme. Now that the Hon Mr Pilcher is showing his wider concern for heritage, wildlife and so on, I would commend to him that he should start asking questions about that legislation and we on this side of the House would welcome seeing the appropriate legislation being brought to the House because it is now overdue and was overdue in our time, let me add. I hope that very great care will be taken now that the Government is showing a commitment to protecting this aspect of Gibraltar's heritage, that a great deal of care will be taken with any land that may be transferred in future by the Ministry of Defence where there are unique features of Gibraltar's flora and fauna evident, where expert consultation with the Natural History Society will indicate to Hon Members opposite, and to the Minister in particular, which are the areas which particularly need to be conserved and to be declared as Nature Reserves because of their peculiar habitat which enables certain types of plants and, indeed, animal life including, for instance, the Barbary Partridge. I think a great deal of care has to be taken if the Ministry of Defence are going to hand over important sites that we should not just think that they are going to be handed over for the purpose of development and that they ought to be preserved and conserved. So I think great care should be exercised in

that respect. The Minister did not explain in any detail to what extent the provisions of the previous legislation and the powers and functions of the Gibraltar Heritage Trust that this legislation is seeking to repeal, to what extent they were inadequate. He just said "because of the inadequacy of the previous set-up" but he did not explain how in the short period of time, of slightly over a year since the creation of the Trust, what is it that has happened that has indicated that, in fact, it was inadequate? I would ask him to explain that in much more detail. He has indicated what the fundamental difference of approach is between what this legislation seeks to do and the previous legislation and that is the question of the acquisition of land, the ability which the Trust previously had to purchase land and which it is now going to lose. I think there is a danger, Sir, in concentrating too much one's thinking on Crown lands. The provisions of that particular section in the Ordinance were, we were lead to believe, based on the practice in the United Kingdom where the National Trust is able to purchase land but the National Trust in the United Kingdom is also able to purchase land which may be privately owned and land which is privately owned over a period of time can become part of a country's heritage. In the United Kingdom, obviously, the most clearcut example are these old historic buildings and mansions which have been owned for centuries by some of the wealthier families and rather than have them sold for private purposes it can be highly desirable that the National Trust should purchase them and keep them as part of Britain's heritage. Though we may not have yet reached a situation in Gibraltar where we have a parallel because there is not a great deal of privately owned land which has yet been regarded as being part of Gibraltar's heritage, it is a possibility that over a period of time that may well be the case and there might be privately owned buildings - and anything to do with heritage or town planning has got to be projected decades into the future - it could well be the case that what is today privately owned land and buildings therein could be regarded, over a period of time, as being an intrinsic part of our heritage and something that we want to preserve. Whereas the Gibraltar Government itself may not have powers to purchase such land and buildings, it might be a good thing for the Gibraltar Heritage Trust to do that and in their desire, conditioned to the thinking that it is always public land that we are dealing with, Hon Members opposite may not want the Gibraltar Heritage Trust to purchase such land in competition, let us say, with the Gibraltar Government because the Gibraltar Government may have plans regarding the use or the development of that land, our thinking should not be totally confined in that way and I think that there is a danger of being too restrictive. I would have thought that the provisions of the previous Ordinance covered the situation. We were very careful in that the Trust should not be in competition with the Gibraltar Government, that was not the situation that we wanted to see and, again, nothing has happened in the intervening period of eighteen

months or so that would indicate that that probability was at all likely. The only other point that I want to make, Sir, is that not only for these reasons but also for a more specific one that we are going to find it difficult to vote in favour of the Second Reading of this Bill. The legislation makes the Curator responsible and he will have to work to the Gibraltar Tourist Agency. Sir, we know very little about the Gibraltar Tourist Agency so we have difficulty about this particular legislation as we may also have later on with the Licensing and Fees Bill. The Bill to amend that Ordinance is also related to the Gibraltar Tourist Agency and since the Government has not yet made any statements in this House about the Gibraltar Tourist Agency and what we have been able to glean about it has been as a result of whatever has appeared in the press, which has been totally inadequate, and yet here we are being asked, as a Legislature, to enshrine in legislation provisions which have to do with the Gibraltar Tourist Agency. There is little information and little knowledge and we have to be cautious about our attitude to these matters and therefore we feel that we cannot go along with the Government in supporting the legislation if only for that reason alone. Perhaps the Hon Member will take note since the Committee Stage is not being taken today, when he exercises his right to reply, if he has got more information we might hear it. Otherwise I would ask him to carefully note the points that we are making and when we go into Committee perhaps, under the appropriate Clauses, he might let us have much more detail than what he has given us today.

MR SPEAKER:

Does any other Hon Member wish to speak? I will call on the Mover to reply.

HON J E PILCHER:

Sir, there have been various points raised by the Hon Leader of the Opposition. The first point he raised was that he wanted to know about the negotiations, if I can call them that, or the conversations I have had with the Friends of Gibraltar in UK about this Ordinance and whether they were happy or unhappy about the changes. Mr Speaker, let me say that I have spoken to the Friends of Gibraltar on three occasions. I expressly visited the UK in order to meet Sir Eldon Griffiths and Sam Alper about the Bill in front of us. I think we have a situation where the Bill in front of us meets the criteria set down by the Friends of Gibraltar in UK and I think to that extent they are happy that the Friends in UK can continue to exist with this new Ordinance. As far as the intention of the Government to protect the flora and fauna, it is the intention of Government to look at each particular instance of land which the MOD will, supposedly, at some stage release to the Gibraltar Government. When this happens the points that have been

raised by him on the flora and fauna will obviously be taken into account. I cannot, at this stage, give a clearcut undertaking because we do not know which areas we are talking about nor do we know anything related to development plans which the Government might have on any of those specific areas. But, certainly, it is the intention of Government to take into account things like flora and fauna and I will follow up what the Hon Member asked me to do by contacting the Attorney-General's Chambers and see the Bills which were in draft form prepared by the previous administration, I will take that on board. As far as the inadequacy of the old Trust, I think, I covered that although I do tend to agree with the Hon Member opposite that I did not go into it in any depth. The difficulty is that it is difficult to pinpoint where the inadequacy or inefficiency of the Trust stems from and as I have said, I have had various meetings with the Trust, with people associated with the Trust including the Friends of Gibraltar in UK and it is difficult to pinpoint where exactly where the inadequacy stemmed from. Personally, I think.....

HON A J CANEPA:

If the Hon Member will give way. Could it be the absence of the former very energetic Secretary? Sometimes inadequacies have to do with personalities. A particular individual may espouse a cause very energetically and it can make all the difference when he gives up the job and those who succeed him do not have the previous commitment which this particular individual could have had because, as it were, it was his baby.

HON J E PILCHER:

I am not for a moment going to say that that may not be the case, Mr Speaker, I do not know. Personally, although I do not think I was being skimpy at the time but I honestly feel that the problems related with the Trust were two-fold. One, that it was unable under its present system to be able to take on board land, buildings, etc because it was, perhaps it is a case of personalities, but it was a situation where the Trust is made up mainly of people who give part of their spare time in order to cater for that and do not have the necessary resources. I remember the report of the Northern Defences which the previous administration asked the Trust to prepare and that report, Mr Speaker, went round and round in circles within the Heritage Trust itself, a report prepared by one of the members of the Trust and, in fact, never went beyond that. I think the possibilities which the Trust had were one of two: have the Northern Defences vested on the Trust and then seek external management of them, or to make available the Northern Defences for development. In those two scenarios, Mr Speaker, there is no need to have the Heritage Trust with the ability to have the land or the Northern Defences vested in it because those

two solutions could have been very easily taken up by the Government. There is no need to have the Heritage Trust acquiring the Northern Defences. Surely, their role there would have been more to advise the Government on what to do with the Northern Defences than actually be landed with the problem of having the Northern Defences vested on them and not knowing what to do with them because their resources on manpower on the one hand and their financial resources on the other, was not there to meet that particular task, Mr Speaker. I think, personally, that is the inadequacy of the old Trust. But I do not rule out that it is not just that one element which created that inadequacy but that there are a series of elements and I do not discard the possibility that the loss of a full-time Secretary, who had run the Trust, could have been one of those elements, Mr Speaker. As regards the inability to own land, I do not agree with what the Hon Member opposite has said, in fact, this point was raised by the our friends in UK, by the Society, and the answer, I think, was given by himself, Mr Speaker, in that in Gibraltar 95% of the land is, in fact, owned by the Crown either in its guise as the Government of Gibraltar or by the MOD and I think the little percentage that is left over is mainly residential and in no way affects our heritage as we have looked at it in the Bill, Mr Speaker. There could be the possibility of the Trust owning or buying private land in the future or there could be the possibility of the Government buying the private land in the future if it felt that it needed it to be scheduled or otherwise, as Category 'A' or 'B' but I think, Mr Speaker, at this stage it is premature and if in the future it is found necessary then there is no difficulty in bringing an amendment to the House in order to make that possible. We however felt, at this stage, Mr Speaker, particularly since there is the forever balance between the MOD land and the Gibraltar Government that at this stage it was not necessary to have the Trust having the ability to own land and, in any case, we feel that we need to see the Trust operating to its full capacity and operating in a way that is attracting investment and being able to help the Government in maintaining that heritage before we are in any position to lumber - and I use the word advisedly - lumber the Trust with trying to take on board buildings or sites or anything without having the necessary resources or finance to do it. As regards the final point made by the Hon Member opposite, it is the intention of the Government to have the Tourism Agency running the Museum and in that, Mr Speaker, obviously the Curator would then have to come under the Tourism Agency although the Curator continues to be a public servant and would be working in conjunction with the Agency. The idea is for the Government to contract the management of the Museum to the Agency and that contract would obviously contain all the elements that the Gibraltar Government wants to safeguard and, in any case, having read the Ordinance, as I am sure he has, all the matters related to antiquities, etc, are the sole responsibility of the Government through the Trust and not the Agency. So I think it is safeguarded. The information

on the Agency, Mr Speaker, at the moment we are still in a position where, at the moment, we are undertaking interviews for people who want to join the Agency. As we said before, what will happen is that substantially the Agency will take over the role of the Tourist Office and there is not really any more information than what I have just given. 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 J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

The Bill was read a second time.

HON J E PILCHER:

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

This was agreed to.

THE TRAFFIC (AMENDMENT) ORDINANCE, 1989

HON J C PEREZ:

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



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

SECOND READING

HON J C PEREZ:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, as the explanatory memorandum to the Bill clearly states, the law at present allows the Commissioner of Police to dispose of a vehicle detained for breach of the Regulations in force, after the vehicle has been detained for three months. The purpose of the Bill, really, is to bring that period down to a period of one month to avoid accumulation of vehicles which have been evident recently when the enforcement of the Bill has actually taken effect. It is more a housekeeping exercise than a matter of policy. I do not think I need to add anything else to it. I commend the Bill to the House.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Mr Speaker, we cannot support this Bill because it seems to me that the Commissioner of Police or some other public officer wishes to deal with this matter with inordinate haste. The first objection we have is with Clause 2, Section 92(J)(1) where the Commissioner can sell, destroy or otherwise dispose of a vehicle (other than an abandoned vehicle) which has been detained for not less than one month. Mr Speaker, you may have an instance in which a person's vehicle is impounded by the gentlemen who tow away vehicles and the owner of the vehicle is away on holiday for over a month and when he comes back he finds that his vehicle has not only been towed away but has been disposed of, sold or what have you, by the Commissioner of Police. He has no redress whatsoever in the matter. We feel this is far too short a time since it does not give a person a reasonable opportunity and we feel that this clause should be deleted completely. The second point is Section (J)(ii) and the definition of what is an abandoned vehicle. We have no great objection to a properly abandoned vehicle being destroyed after a period of one month but we wonder whether they will still be gazetted as has been hitherto in the past. As I say, I think this Bill should be looked at again and perhaps Section (J)(i) should be deleted.

MR SPEAKER:

Does any other Hon Member wish to speak? I will now ask the Mover to reply.

HON J C PEREZ:

Mr Speaker, it is incredible how a past Minister for Traffic should come to the House with the ridiculous statement that the Hon Member has made. When he was in office he must have known the procedure under which these things happen and that the Police checked the vehicles and then called at people's homes to contact the owners of the vehicles that were impounded. He should know then that the possibilities which he says can occur in fact cannot occur. In any case, Mr Speaker, the Ordinance is being amended by reducing the period from three months to one month and if the Hon Member recalls before the vehicles were gazetted and it is the intention to continue to gazette vehicles after one month so that there is a process of a couple of weeks whilst the vehicle is gazetted after the month. In a small community, and because the Police take care on matters of this nature, every effort is made to contact the owners concerned to try and see whether that vehicle is actually going to be disposed of or not and that happens continually. Mr Speaker, on the other matter that he mentioned, the question of abandoned vehicles, the definition of "abandoned vehicle" is the same one that was there before when the Hon Member was Minister. The majority of abandoned vehicles that are being dealt with is, believe it or not, foreign vehicles. It seems to be a great offence to abandon a registered vehicle in Spain and we are getting more and more people coming into Gibraltar and abandoning their vehicles here. The Police then have to go through a process of getting in touch with Interpol to see whether the vehicles are in any way recorded as stolen or anything else before we are able to dispose of them. What the Ordinance gives the Police is the ability to dispose of vehicles when there is no doubt in the Police's mind that the vehicle is abandoned or that the vehicle is up for disposal. I think like with all other pieces of legislation the discretion of the authorities that enforce that legislation is something which inevitably accompanies pieces of legislation and if pieces of legislation were to be applied strictly by the rules, it would be a straightjacket all through, it would be a very uncomfortable way to live and I think the Hon Member should realise that. 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 J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

The Bill was read a second time.

HON J C PEREZ:

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

This was agreed to.

THE LICENSING AND FEES (AMENDMENT) ORDINANCE, 1989

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. As Hon Members are aware, a central feature of the Government's overall economic strategy has been, and is, the hiving off to private companies in joint ventures or on a wholly-owned basis certain functions hitherto performed by Government Departments. An example of this strategy is the Gibraltar Security Services Limited which now handles Gibrepair's security arrangements, Car Parks and also carries out certain traffic enforcement functions on behalf of Government. Hon Members may also be aware that as from the 1st April this year the administration of the Government's tourism services and of the Civilian Airport will similarly be transferred to private companies, ie the

Gibraltar Tourist Agency Limited and the Gibraltar Airport Services Limited respectively. At the same time, Mr Speaker, the opportunity is being taken in this Bill to increase the fees for various services carried out as indicated in Clause 3 of the Bill and to introduce further changes to the Schedule of Fees for Guides. The essential feature of the Bill is, however, to enable the Government to take powers, I should say, so that the fees which are at present under the Licensing and Fees Ordinance paid to the Treasury, in effect, may be paid to such other person, ie any of the joint venture companies or authorities set up by the Government on an arm's length basis who are to carry out the various functions which I have mentioned. Commending the Bill to the House I do not think I need to say any more, Mr Speaker.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, we will not be able to support this Bill, we will be voting against it. The background of the Bill, as explained by the Financial Secretary, makes it clear that it is part and parcel of the general Government strategy on joint ventures, for example, as regards GSL and now as regards the Gibraltar Tourist Agency Limited, not a joint venture but at least the hiving off of previous Government functions. Specifically on the Gibraltar Security Services Limited and Gibrepair Companies, we have voiced our dissatisfaction to the fact that there is not more public information given in this House on the activities and operations of those companies and, as far as the Tourist Agency is concerned, Sir, as the Leader of the Opposition explained, we have very little information on that and we therefore find it impossible to support a measure which is part and parcel of that general operation. Accordingly, Sir, we will be voting against the Bill.

MR SPEAKER:

Does any other Hon Member wish to speak? Does the Mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Sir, I do not wish to reply.

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

The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members voted against:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

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 later today.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1988/89) (NO. 2) ORDINANCE, 1989

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, 1989, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. As is the custom, Mr Speaker, I will not make any speech on the general principles of the Bill but merely commend it to the House.

MR SPEAKER:

Does any Hon Member wish to speak on the general principles and merits of the Bill?

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today.

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 Licensing and Fees (Amendment) Bill, 1989, and the Supplementary Appropriation (1988/89) (No. 2) Bill, 1989.

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

THE LICENSING AND FEES (AMENDMENT) BILL, 1989

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

Clauses 2, 3 and 4

On a vote being taken on Clauses 2, 3 and 4 the following Hon Members voted in favour:

The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss

The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members voted against:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

Clauses 2, 3 and 4 stood part of the Bill.

#### The Long Title

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

The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members voted against:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

The Long Title stood part of the Bill.

#### THE SUPPLEMENTARY APPROPRIATION (1988/89) (NO. 2) BILL, 1989

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

#### Schedule

#### Part I - Consolidated Fund

#### Head 12 - Housing

HON LT-COL E M BRITTO:

Mr Chairman, may we have some details on the heavier programme of work that has necessitated this extra expenditure?

HON J C PEREZ:

Mr Speaker, the increase required now is because when we came into office Housing Maintenance used to come directly under me and there were a lot of outstanding works which had been waiting for a very long time, roofs that need to be replaced going as far back as 1981 and the Government decided to give a large amount of this work on job price contracts to its own workforce to complete the works before the winter season. The result is that a much greater amount of work has been done than compared to previous years and that by the time that the winter season came we were able to make sure that complaints to the Department of leaking roofs had really gone down dramatically. Not only that but normally what used to happen when JPC's were given was that when the person finished the job allocated in a shorter period of time, under the previous administration he was sent home for the weeks that he had saved. We have utilised the weeks that he had saved and employed him further and therefore maintenance on Government housing has been much more intensive in the last year and that accounts for the extra expenditure now required.

HON LT-COL E M BRITTO:

I thank the Minister for the explanation but could he perhaps give me an indication whether he is speaking about specific areas or Government housing in general?

HON J C PEREZ:

I am speaking about Government housing in general but the specific area where there were a lot of complaints and a lot of people waiting for repairs has been in pre-war property. There really were a number of houses in very bad condition, particularly the replacement of roofs. That was one of the things that we tackled and if the Hon Member wants I can supply him with a list of those works that have been carried out.

HON LT-COL E M BRITTO:

I would welcome that, yes, Mr Chairman.

Head 12 - Housing was agreed to.

Head 13 - Income Tax Office was agreed to.

Head 14 - Judicial was agreed to.

Head 17 - Police

HON A J CANEPA:

Mr Chairman, is the provision of funds being sought this morning of £239,000 for overtime for the Police Force entirely the result of the IRA incident? In other words, if we had not had the IRA incident would the Police have been able to manage with previously voted funds of £168,000 or would the Government still have had to come to the House for some increased provision well short of £239,000, no doubt, but would there have been any requirement for the voting of funds over and above £168,000?

HON CHIEF MINISTER:

I understand, Mr Chairman, that the bulk of the increased overtime arises from two consequences of the IRA incident. One is the fact that the ceremonials now involve a much greater number of Police in a much wider exercise of checking beforehand, and the other is the requirement that the Police had to provide protection for witnesses and so forth during the period of the inquest. Those are the two major elements and neither of them would be there if the IRA incident had not existed. The reality of it is that the Police now feel and the Military now feel that once the incident took place the previous level of security was considered to be too lax and they now require that it should have been tightened up and although, in fact, the level of Changing of the Guard and so forth has been reduced, it is still much more expensive even with the reduced frequency than it was before with less Police cover.

HON LT-COL E M BRITTO:

Mr Chairman, under subhead 2, £600 to attend the Police World Olympics, is there any particular reason why this is coming as an administrative expense directly chargeable to the Police instead of, possibly, under the Head of Sport and a subvention from the sporting grant?

HON CHIEF MINISTER:

Well, Mr Chairman, it could obviously have been dealt with through that channel but we did not want to have a situation where it could be said that that was money available for sport generally and the Police would have to compete with other Associations for that money. This is money given specifically for their use and not in competition with other Associations whose grant has not been eroded in any way by it and we felt that if we put the £600 as Grants for Sporting Associations, then other Associations would have said legitimately: "Well, my argument for the £600 could be greater than the Police" and then that would not be the case.

HON LT-COL E M BRITTO:

I am not quite sure that I take the point that the Hon the Chief Minister is making. Why should it not be the case? Is there a commitment for the Police to attend the Police World Olympics? Are they not in competition with other sporting associations, why should they be treated differently?

HON CHIEF MINISTER:

I have just explained it but I will explain it again, Mr Chairman, since the Hon Member did not understand it the first time. We felt that if we put the £600 as Grants to Sporting Bodies instead of putting it specifically for this purpose, there is a global amount of money which is Grants to Sporting Bodies, if we had come here and said: "We want £600 supplementary appropriation to increase the Grant to Sporting Bodies that would not be the House approving £600 specifically for the Police to go to the Olympics, that would be the House approving £600 more for Sporting Bodies. And, of course, Sporting Bodies could have argued that instead of the £600 being used for the Police the £600 should be shared amongst all the Sporting Bodies. We felt, therefore, that we should ask the House to support the provision of these £600 for this specific purpose which is where we think it should go. That is the reason why we have done it this way and not the other way but it does not alter the amount of money that we are approving, we are approving £600.

HON LT-COL E M BRITTO:

Has the sporting grant been exhausted that was allocated in the last Budget, Mr Chairman?

HON CHIEF MINISTER:

Well, it is not relevant. In fact, if we had been prepared to use part of the money of the sporting grant then it would matter whether it was exhausted or not but since this is in addition to and separate from, it does not make any difference whether there is £600 there. I think the Hon Member would have been quite correct in asking that question if we had come here and said: "We now want to increase the sporting grant by £600". He could then ask: "Has it been exhausted?" but I have just explained to him that we are not doing that and why we are not doing it.

HON A J CANEPA:

Mr Chairman, Investigation Expenses - 'increased referral under escort of exhibits to the UK', is that linked to the IRA incident or is it separate investigation expenses which the Police normally carry out?

HON CHIEF MINISTER:

I do not have the details available but we can obtain them and let the Hon Member have them.

HON A J CANEPA:

Again, on the telephone service - 'increased use in the wake of the IRA incident'. Does that mean that in connection with the inquest, for instance, increased use of the telephone had to be made or is it that now, like the Hon the Chief Minister explained with regard to security, that because of the IRA incident there is an increased requirement for use of the telephone service generally by the Police Force?

HON J C PEREZ:

No, Mr Speaker, because of the inquest and leading from the IRA incident, as I have had it explained to me it is because there were more international trunk calls to the United Kingdom and more communication with the United Kingdom. That is what has increased substantially the telephone service.

Head 17 - Police was agreed to.

Head 27 - Contributions to Funded Services

HON K B ANTHONY:

Subhead 1, the increased requirement of £220,000 for the Electricity Undertaking, can we have an explanation for this please?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, Mr Chairman, the reason for that is a fall in revenue compared with forecasts. Clearly the change in the budgetary contribution can be either as a result of reduction in revenue or increase in expenditure leading to an increase in the budgetary contribution. In the case of the Electricity Undertaking, it is in fact less revenue than the forecast. In the case of Housing, as the Hon Member will probably have guessed, it is very much the reflection of the increased expenditure under Housing which is referred to at the beginning of the Schedule.

HON K B ANTHONY:

But is there any information why there is a reduction in the estimated revenue?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

An increase in the fuel cost adjustment, Mr Chairman.

HON CHIEF MINISTER:

That is right. The position is, Mr Chairman, that the formula which determines the adjustment for the cost of fuel, I think is one that has been there for a very long time and probably because of the fact that the fuel mix is not necessarily today what it was when the formula was devised and it is something that we are looking at and which may need changing, it means that effectively a change in the price of fuel can trigger off a drop in the charge for electricity which is, in fact, bigger than what we are actually paying because if we have got a situation where the engines were primarily in King's Bastion and now they are primarily in Waterport and the formula was done on the basis of the engines that we had at the time and it is in the law - it is quite a complicated formula and not an easy thing to understand how it works - but it is related to what the price of electricity was ten year's ago or fifteen year's ago and it moves up and down regularly as the price that we are charged for the fuel changes. In a situation where you get quite a big drop in the price of the fuel that you can pass on to the consumer and where a very large proportion of your total cost are fixed, effectively it means that every time the cost of electricity goes down through the fuel cost adjustment formula, the loss on the electricity account is magnified and therefore the need for this subsidy is increased and there is really nothing anybody can do about it because the law that exists that has been there for a very long time determines how the formula should operate and how the bills should be charged, at so much percentage of pence per units. In fact, it has been going on for quite a number of months during the last

twelve months. There has been, in stages, changes in the FCA and in fact it is now very, very low. The cost per unit now is barely over the original 6p a unit but the cost of generating electricity has not gone down proportionately.

HON K B ANTHONY:

I thank the Hon Chief Minister for that explanation.

Head 27 - Contribution to Funded Services was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have to apologise to the House for the fact that I must now move an amendment to the Schedule in Part I. It is purely an arithmetical error inasmuch as the total of £1,168,170 is not, in fact, the sum of the items shown in the Schedule and I was waiting to see if in fact any Hon Member had noticed it but obviously no Hon Member has. I am sure that is no reflection on the democratic process, Mr Chairman. It might be argued that this was a Treasury error in adding it up but I would like to think that this is a typographical error and there is some evidence to support that view in that the correct amount is shown in clause 2(1), Mr Chairman. So with those comments I beg to move that in Part I of the Schedule the total shown as "£1,168,170" be deleted and the figures "£1,168,100" be substituted therefor.

Mr Speaker put the question which was resolved in the affirmative and Part I of the Schedule was accordingly amended.

Part I - Consolidated Fund, as amended, was agreed to and stood part of the Bill.

Part II - Improvement and Development Fund

Head 104 - Miscellaneous Projects

HON A J CANEPA:

Sir, is this the same Police launch which had been ordered when we were in office and is it because of the passage of time that the cost has gone up or is it that whatever the AACR ordered was not good enough so a new one was ordered, a different one or is it the same Police launch that we are talking about?

HON CHIEF MINISTER:

Probably whatever the AACR ordered the GSLP has had to pay for.

HON M A FEETHAM:

An estimated cost.

HON A J CANEPA:

No, I do not think it was so much an estimated cost, I seem to recall that there was a quotation. This is the thing, it was a quoted price that we estimated. The matter did not go through Council of Ministers that easily. The figure that went into the 1988/89 Estimates must have been the quoted price.

HON CHIEF MINISTER:

I can say that it is certainly not an additional new launch and we have been told that that is the bill that has to be paid and, in fact, it has not been queried because the thing had already been ordered and we now have to pay the bill.

Head 104 - Miscellaneous Projects was agreed to.

Head 106 - Potable Water Service was agreed to.

Head 107 - Telephone Service was agreed to.

Head 110 - Crown Lands was agreed to.

Part II - Improvement and Development Fund was agreed to and stood part of the Bill.

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

Clauses 2 and 3 were agreed to and stood part of the Bill..

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

#### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Licensing and Fees (Amendment) Bill, 1989, and the Supplementary Appropriation (1988/89) (No. 2) Bill, 1989, with amendment, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker then put the question and on a vote being taken on the Supplementary Appropriation (1988/89) (No. 2) Bill, 1989, the question was resolved in the affirmative.

On a vote being taken on the Licensing and Fees (Amendment) Bill, 1989, the following Hon Members voted in favour:

The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon B Traynor

The following Hon Members voted against:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon J L Baldachino

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that the House do now adjourn to Tuesday the 11th April, 1989, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Tuesday the 11th April, 1989, at 10.30 am.

The adjournment of the House to Tuesday the 11th April, 1989, was taken at 12.10 pm on Wednesday the 29th March, 1989.

The House resumed at 10.30 am.

PRESENT:

Mr Speaker . . . . . (In the Chair)  
(The Hon Major R J Peliza OBE, ED)

GOVERNMENT:

The Hon J Bossano - Chief Minister  
The Hon J E Pilcher - Minister for GSL and Tourism  
The Hon J L Baldachino - Minister for Housing  
The Hon M A Feetham - Minister for Trade and Industry  
The Hon J C Perez - Minister for Government Services  
The Hon Miss M I Montegriffo - Minister for Medical Services  
and Sport  
The Hon R Mor - Minister for Labour and Social Security  
The Hon J L Moss - Minister for Education, Culture and Youth  
Affairs  
The Hon E Thistlethwaite QC - Attorney-General  
The Hon B Traynor - Financial and Development Secretary

OPPOSITION:

The Hon A J Canepa - Leader of the Opposition  
The Hon P C Montegriffo  
The Hon M K Featherstone OBE  
The Hon Dr R G Valarino  
The Hon G Mascarenhas  
The Hon Lt-Col E M Britto OBE, ED  
The Hon K B Anthony

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.



MR SPEAKER:

Before proceeding with the Agenda, I would like to refer to the question of the broadcasting of the proceedings of the House of Assembly and the Gibraltar Broadcasting Corporation's decision not to broadcast the proceedings of the meeting of the 29th March, 1989. I wish to inform the House that I have held two meetings with the Chairman of the Gibraltar Broadcasting Corporation and it has been agreed that GBC will broadcast this meeting as well as the whole of the proceedings of the Budget Session to be held later on this month, with the exception of the Committee Stage of the Finance Bill and the Appropriation Bill, as has been the practice since the broadcasting of the proceedings was agreed. GBC would, however, broadcast the Committee Stage of any other Bills that might be discussed during the Budget. It has also been agreed to hold further meetings in order to establish clear and formal procedures for the broadcasting of the proceedings. I would also like to say that before reaching agreement on what I have just told the House, I obtained the Chief Minister's and the Leader of the Opposition's concurrence.

With regard to GBC's statement of the 29th March in their News Bulletin "that the only formal arrangements were for the broadcasting of Question Time", GBC have informed me that there could well have been a misunderstanding in their belief that the only formal arrangements were for the broadcasting of Question Time whilst the Permanent Select Committee of the House on Broadcasting had always referred to the broadcasting of the proceedings as a whole.

#### DOCUMENTS LAID

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

The Employment Survey Report - April, 1987.

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 12.45 pm.

The House resumed at 3.40 pm.

Answers to Questions continued.

The House recessed at 5.10 pm.

The House resumed at 5.30 pm.

Answers to Questions continued.

## BILLS

### FIRST AND SECOND READINGS

#### THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) ORDINANCE, 1989

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance be read a first time.

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

#### SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. I do not think I need to make a speech on this, this is an annual event. I think the only thing I would like to say, Mr Speaker, is that one thing we are considering is whether, in fact, it will be possible to legislate to link the salaries of the specified offices so that we do not have to bring amending legislation once a year. They are the only public officers that this needs to be done for and I think, frankly, it gives the wrong impression because people will remember that there was a Bill to raise their salaries and what is retained, I think, in the memory is that we seem to be constantly raising the salaries of the specified offices and I do not think that that is what we are doing. Their salaries go up once a year by the same percentage as others and I believe it is because they are constitutionally paid directly from the Consolidated Fund rather than from a Head of Expenditure voted by the House that we have to vote the money this way. But the Government is looking to see whether it is avoidable. I commend the Bill to the House, Sir.

MR SPEAKER:

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

HON A J CANEPA:

Just to say, Mr Speaker, that we support this measure.

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

The following Hon Member abstained:

The Hon E Thistlethwaite

The following Hon Member was absent from the Chamber:

The Hon B Traynor

HON CHIEF MINISTER:

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

This was agreed to.

THE GIBRALTAR SHIPREPAIR LIMITED (AMENDMENT) ORDINANCE, 1989

HON J E PILCHER:

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

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

SECOND READING

HON J E PILCHER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, before I proceed to explain what we consider that the Bill actually does, I think it is appropriate to explain how we have, as a Government, been lead to the Bill now in front of us. I think we have to look at the situation that we were placed, in early in April of last year, when we took office and I took over the Chairmanship of GSL. Mr Speaker, early in 1987 there had been an incident where paint spray emissions had emanated from GSL and had sprayed vehicles, particularly of people working within the old DOE/PSA. Immediately upon taking office these individuals who had apparently been making representations virtually on a monthly basis to the old management, A & P Appledore, came to see us to say that they felt that we should be taking immediate action to resolve their claim. When I tried to find out the position of the company on this matter I found that like in every other area there was no documented evidence to prove that GSL had, in fact, been responsible for the incident in question and therefore I approached the members who had been claiming and I asked them to allow me time to look at this specific incident. Let me just say, for the record, that in the interim period

another incident happened where we actually sprayed vehicles - when I say 'we' I mean the present management of GSL - sprayed vehicles in the area and that particular incident and claim was arranged and agreed with the affected parties within three weeks of the incident. We logged it, we accepted the responsibility and, obviously, we paid up what we thought was the company's responsibility for having created damage. But in the interim period the persons who were claiming against GSL for the 1987 incident went to a lawyer and sought an injunction against the company to stop the company working. I think this was a very serious incident where because of a claim for damages we had, what we considered to be, a very important area of the economy put in jeopardy. For the record, it was the high-handed fashion in which A & P Appledore considered the claim of these individuals, ie they did not pay any attention to these individuals for a year that led to the problems and like everything else in life, Mr Speaker, when somebody sees that somebody is taking his commitments seriously then, obviously, these people felt that I should have considered that claim, particularly when we settled with the people that we had caused damage to. Mr Speaker, I think the matter raised a very important point and that was that an injunction against GSL for damage to property could be obtained and a situation where somebody who felt aggrieved, because we may have a situation where the company, as it could happen, does not accept liability and a situation where the individual or group of individuals could go to the Court, obtain an injunction against the company and actually close the company down because of damage to vehicles. The advice from the Attorney-General and, obviously, if the case arises the Attorney-General will explain that position, was that he felt that it was possible for a Court to grant an injunction against GSL because of the incident of spraying. As I say, since that case no other case has arisen but we felt, Mr Speaker, that we would be doing a disservice to Gibraltar and particularly to the employees of GSL, if we did not take protective action against what we felt was a situation whereby any individual, like in any area of Gibraltar, if he feels that damage has been done to his property has the right to go to Court and obtain damages. We however felt it was economically very important not to allow persons for what is, after all, a very minor incident and for which the company was prepared to pay for, to be able to close down GSL. Mr Speaker, after a lot of discussion on the matter we have produced the Bill which is now in front of the House and I think the Bill has three clauses. The first clause clearly is produced in such a way that accepts as provided for in subsections (2) and (3), the company cannot be taken to Court and in tort, ie the company cannot be closed down and has not got to pay damages to anybody at all except, obviously, for subsections (2) and (3). Subsection (2), Mr Speaker, I feel and I think the Government feels, creates the protection so that we do not have a situation where GSL feel that they can do whatever they like. So really clause 2 really says that when GSL

causes damage because of dust, grit, spray, paint, gas or similar substance, then the remedy open to anybody is the remedy of damages only, ie that if I feel my car has been sprayed by GSL I have the right to take GSL to Court and claim for damages but it does not give anybody the ability to close down GSL because the company happened to spray his car. We felt that that was imperative in a situation of the importance of the company to the economy of Gibraltar and, particularly, because of the amount of people that GSL employs and the obvious importance it has although not clearly shown as yet in the Input/Output Study, to the economy that the company could be closed down. In order to make it absolutely clear that GSL can act in a high-handed fashion, we have put in clause 3 which says: "Nothing in subsection (1) shall apply with respect to injury or other bodily harm caused to a person", ie, Mr Speaker, if anything that GSL is doing is causing damage to health in any way then there is no way that the company is not liable to an injunction or to any mechanism to close it down. So what this Bill produces, Mr Speaker, and I have heard through the media that it is a controversial Bill, I will obviously await to hear what the Opposition has to say, but the only thing that the Bill does, Mr Speaker, is that it protects Gibraltar and its economy, it protects the employees of GSL from people taking what I feel is not necessarily the proper way but trying to a point - and I know that it is acceptable in law - to blackmail GSL by saying: "You either pay up or we obtain an injunction and close you down". I feel that anybody has the right to take the company to court to prove that it was GSL that caused the damage and if that is the case then the court would award damages to the individual. But I think allowing an injunction to proceed against GSL would be causing Gibraltar and certainly its employees a disservice and the Government feels that we cannot leave that in the air. The advice that we have is that it could proceed and that the injunction would probably be quashed by the court but there is a possibility that it might not and I feel that if this possibility is there, Mr Speaker, then the Government is not protecting a very important area of its economy and certainly not protecting the nearly 800 workers employed in GSL. I commend the Bill to the House.

MR SPEAKER:

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

HON P C MONTEGRIFFO:

Mr Speaker, let me start by saying that from our side we obviously want to do everything possible but we have on occasions different views as to how that is best reflected, in real terms, to make GSL successful for the benefit of Gibraltar and for the people working there. But we have, in principle, some serious reservations about this Bill

and if I can just go over them in list form. The first one is a fundamental point that one of the attributes of the rule of law, as I understand it and as it is understood on this side of the House, is effectively equality under the law and equal treatment to all individuals, to all persons, to all companies, under one regime of law. Clearly, exceptions have to be made in certain circumstances but those exceptions should be as limited as possible. Where you have a situation of a company of a commercial nature, as GSL is now operating, then we think it is bad law, subject to more pragmatic arguments that sometimes tempers principles in a given a situation and we are going to have a major employer not subject to rules of law which other people in Gibraltar are. As a matter of principle, I think, the rule of law really should mean that one set of rules apply to as many people as possible. True, we are changing the law so technically GSL is not outside the law, of course, but we do not think it is a good law. The second point is a little more pragmatic. We are of the view that, in fact, the threat of an injunction often induces employers, companies, etc to take a little more care about the way they operate than would otherwise be the case. Certainly from my own practical experience I have found that simply threatening to issue proceedings and claim damages carries very little weight with a company intent on finishing a job quickly or intent on delivering goods or whatever. However, if you issue proceedings one has fourteen days to reply, twenty-one days for this and that and by the time it gets to court it is three years. The pressure of an injunction is very often what actually raises standards even, for example, in the building trade, if there was not a threat of an injunction against building sites I think safety would be lower and the nuisance caused to neighbours and the danger caused to neighbours would be lower. So there is a worry that by taking out the possibility of an injunction to stop a particular work, we are going to find a slippage in standards. I know the Minister will give all the assurances that he is obliged to give but I think as is humanly the case, that if that safeguard is not there then I feel that there is going to be a danger of a drop in standards at GSL. Thirdly, Sir, there is the conceptual point as well that the Government's position is that GSL is operating as a commercial entity with no special privileges and I think that we have to go one way or the other. Again, I am not sufficiently dogmatic to take an unpragmatic view of it but if there is a good case for GSL being exempted then for God's sake let us do so and let us forget about principles which only half a dozen people are going to worry about. But I think that it goes further than that in this case. If we are saying that we are not going to give information to the public, that in fact the Government is not answerable for GSL in its commercial side, then I do not see whether there is a good case, in fact, for Government positively legislating to give GSL these privileges. There is also the case, Sir, where you have joint venture companies operating from the yard and although

clearly the Bill only affects GSL, as a company, it is going to be difficult, I would have thought, for people who may be affected, to determine whether or not any particular dust or grit or whatever emanating from the area of the yard is dust or grit that comes from GSL or from some other company. We do not know whether these other companies will be the subject of an exemption in the future but using the Government's logic which we would be bound to accept if we are to be persuaded since GSL's survival and viability depends entirely on the joint venture companies that it has established. This is the Government's view. Then clearly what we should be arguing today is the extension of the exemption even to the GSL joint venture companies. As a matter of principle, I like concepts clearly and logically defined, either there is a reason for doing things or there is not and we defend it on the basis of the whole package or we do not but things that do not actually square, I think, again make bad law. The next point, Sir, is that we also feel that the law that is being introduced and which would stop people preventing GSL from doing work which is causing them a problem fails to recognise that the injunction is not an alternative to damages, I think the Minister said: "Well, people can still take us to court, they can get money as compensation and so therefore they have not got really anything to worry about because they can still be compensated in that way". My understanding is, and the Attorney-General will no doubt confirm this and that is that an injunction will only be granted when a court says "money is not a good remedy". So it is not as though it is an alternative to money, no court should ever say "instead of money I give you an injunction". It only says "because money is not good enough I give you the injunction". So we are really taking away a substantive right which cannot be compensated in another sense it is like a nuisance. Curiously enough there is no reference to noise in this Bill. I wonder whether a nuisance would be created through people working at three o'clock in the morning periodically and would therefore still allow an injunction to be brought. A nuisance is a type of case and, again, I would be the first to argue, Sir, if I am to be persuaded that an exemption is valid, that nuisance should be added because we have to know exactly what we are doing. But there are things which the law recognises money cannot compensate and I think that it has to be recognised that you have not got an alternative, in money when you use an injunction. It is when there is no other remedy that the court says "I stop it". That is very exceptional in the best of circumstances. This leads me, Mr Speaker, on to my final point which is why this law is really necessary at this stage. Mr Pilcher said that there had been an injunction against GSL. My understanding, Sir, is that there has only been a threat of an injunction. Threats of injunction are made every day in terms of anybody who has a problem would say "I threaten you with an injunction" but getting an injunction from the court is a more difficult thing. Lawyers would threaten with injunctions much more often if this were the case. But I

just wonder, Sir, if what we are talking about is two incidents where in Mr Pilcher's own words the problems were probably caused because of the attitude management took in not trying to be positive in resolving them and that, in fact, those problems were resolved when the new management structure was in place and whether or not we are creating an unnecessary exemption and an unnecessary controversy or debate by trying to use this now. Is there really a problem that justifies this exceptional move? I would have thought that if there were only two incidents that have been satisfactorily handled because of the new style of management and bearing in mind that the vast majority of cases damage caused to property can always be compensated in money, that you may be talking about something that really should not be an urgent priority in the Government's programme. Those are the points we wish to make at this stage. We are willing to be persuaded further but we just do not see that this is good law for the reasons that I have explained, Sir.

HON CHIEF MINISTER:

I think, Mr Speaker, the primary motive behind the law is concern that we should not be exposed to a situation and not be able to act to protect GSL. It is not that we have a specific problem at the moment that we are aware of, it is just that, quite frankly, the Government did not know that people could just get an injunction and close the business down until we were threatened with one and we asked whether it was possible and we were told it was possible. Then once the problem was resolved, essentially what the Government did was to say: "How do we prevent this happening again?" and this is the result. There is nothing more sinister to it than that, that is the basic thinking.

HON A J CANEPA:

I think, Mr Speaker, perhaps the Government have slightly overreacted to the need for this legislation. I would agree that if the yard were actually to be brought to a standstill by the result of an injunction being successful, we would have to think again. But that in the period that the yard has been operating there have been one or two instances which apparently are largely under control does not quite persuade us. It is an important part of the economy but so are other employers in the private sector who are just as important a part of the economy and we are not going to rush into protecting them in the same way because their workforce can be brought to a standstill. I wonder whether a way out might not be for the Government to delay the legislation, not going through with it and keeping it under wraps. Sometimes the House has passed legislation which has not been brought into force, I can recall an instance

where, in fact, legislation was never brought into force. When we legislated against Cinema clubs, the legislation went to the House and it was held in reserve. If we are going to have a repetition yes, if people are going to try to take advantage of Gibrepair willy-nilly at the drop of a hat and they are going to be successful in bringing the yard to a standstill then we would support the legislation but I detect that there may have been a slight overreaction. I can understand that the Government, particularly a new Government being told: "Look there is this injunction against what is regarded as a very sensitive part of the economy because of the history of GSL, in particular, feeling "Well, what can we do about it?" Nothing, the company is liable to an injunction and the only thing that you can do is to legislate to protect them. Anyone being in Government would react in that way and say: "We had better make sure that it does not happen". I think there is a great deal of strength in the arguments which my Hon colleague has brought to the House. We have understood a little bit better today, I think, than what we did immediately that the Bill was published what the desire behind the Hon Mr Pilcher is having regard to his presentation of the matter and our conclusion is that the timing of this is perhaps unnecessary and the Government should think carefully about the matter, certainly delay taking the Bill through all stages and consider whether they need it at all or if they need it, whether they should not keep it in reserve in case they are threatened in the future.

HON LT-COL E M BRITTO:

I would just like, Mr Speaker, to make a brief contribution to reiterate that my views coincide with those that have been expressed on this side of the House and to urge the Government to do precisely what the Leader of the Opposition has said and delay the implementation of possibly the Third Reading of the Bill until they have had time to consider whether, in fact, they have brought it in what is perhaps a premature reaction and on their own admission on the ignorance that an individual or a group of individuals could bring the company to a halt. But the point I wanted to stress in particular and which, I think, has possibly not been stressed so far, is the position of the courts and the difficulty that there is, as mentioned by the Hon and Learned Mr Montegriffo, the difficulty there is generally in obtaining an injunction and certainly an injunction of this nature in the courts and that it would need a very strong case for the court to grant an injunction that would close down the yard. I think, in a way, the Government is not underestimating that, certainly, by not doing justice to the duties, if you will excuse the pun, of the court and the way the court would act under the circumstances. I think they ought to take this into account and to certainly give a chance for things to develop and if a case should arise that such a law were to be necessary then maybe they should reconsider. But I do not think that what has happened so

far justifies a measure of exception like this. Because going on the principle of this the same thing could simply be said to apply to tourism, for example, being another pillar of the economy and that might at a later stage wish to pass similar legislation on tourism or something else in order to protect the economy.

MR SPEAKER:

If no other Hon Member wishes to speak I will call on the Mover to reply.

HON J E PILCHER:

Mr Speaker, I have heard what the Hon Members have said and I have taken particular note of the contribution of the Hon Mr Montegriffo. However, at the end of the day, there is always the risk element and I think this is the point that has been raised throughout our deliberations, if you like, of the Attorney-General and us and that at the end of the day, what the Hon Col Britto is saying is what we understood to be the case that there has to be a very strong case for the injunction to be allowed by the court. But, at the end of the day, although I have heard what the Hon Leader of the Opposition has said, once the incident has happened it is too late. It is not a question of having the law there and if an incident happens you then bring the law out because you cannot make the law retrospective.

HON A J CANEPA:

If the Hon Member will give way. Not in that particular case. You would not be able to apply it retrospectively in that particular case but then you could apply it, you could bring the law in and for the future you are guarded and it may have happened once, it would have happened once that the yard has been brought to a standstill, once but never again.

HON J E PILCHER:

I understand, Mr Speaker, the point that is being made by the Hon Member. I honestly feel that he does not understand the seriousness of the position that if you bring the yard to a halt for a few hours until we deliberate with the court and perhaps solve the matter, then I suppose we could put it down to experience and then come back to the House and say: "This is why we have done it". But if, as is indeed sometimes the case, once the yard has been closed down the matter might drag in the court, a closure of one or two or maybe even three days for GSL could be lethal because we have ships in the dock which have penalty clauses and if they do not come out on a specific date we have to pay

compensation. We also have a situation where a loss of confidence by the market on GSL after it has taken us a year to gain and build up that confidence, I think is a risk factor, Mr Speaker, that I as Chairman of GSL and as the Minister responsible for the company is too much of a risk for me to take, particularly, Mr Speaker, when in all fairness to the contribution of the Hon Mr Montegriffo, some of the points which he made are not, I think, pertinent. He was referring to the construction industry and safety and health, well these are not affected by this legislation. If we are doing something that is unsafe that is not affected by this legislation. If we are doing something that is causing danger to people's health, that is not affected by this legislation. So it is not that we are passing this legislation and noise, for example, is covered by the Public Health Ordinance and if somebody feels that we are not allowing them to sleep and wants to take out an injunction, well I do not think any court would uphold closing down a business because of that. Perhaps it could but the same would apply to the Generating Station and to the Incinerator. The problem that we have had is particularly related, Mr Speaker, to the feeling of people when they have their property damaged. We have got to think "What is the problem?" The problem is you could have a group of ten or twenty people whose property has been damaged and the company feels that we should not pay for some reason or other, a person could actually park his car outside GSL in the knowledge that if you leave it there for three months sooner or later somebody will spray it. So there could be situations where we would go to a court of law to explain why the remedy of damage should not be given to an individual. I honestly feel that to leave ourselves wide open to the risk, although that risk may be very, very remote. I honestly feel that the risk element of it is something which has made us bring this Bill to the House. Let me assure Members opposite that it is not something that we have done just by drafting it within five minutes, this has been discussed to and fro for the last three or four months ever since the incident happened and we have purposely waited for the incident to have been agreed upon so that the members of the public would not feel that we are bringing this to the House in the knowledge that this would then protect us against the situation that we had and which is the claim that I mentioned when I gave the history of this Bill. That has now been cleared and, as far as I am aware, I would certainly not dream of implementing this unless we had already arrived at an agreement with the individuals concerned. With regard to the other points raised by the Member opposite, I think as far as safety, health and all that is concerned well those are covered by other legislation and I assure the Hon Member opposite that as far as safety is concerned we have one of the most active safety departments anywhere in Gibraltar who are actively monitoring the safety of all our employees. As far as the joint ventures are concerned, Mr Speaker, the Hon Member opposite does not have to worry

because if the joint ventures get a job in their own right then it is not GSL that is liable. If Joinery and Building Services get a contract with the Government then that is not a GSL job, it is a JBS job. It is only those jobs that GSL is liable for that would be affected by this Ordinance.....

HON P C MONTEGRIFFO:

If the Hon Minister would give way. I accept that, there are only two points. One that it may be impossible for somebody affected by, say, spray if one of the joint venture companies is a Painting Company, then the spray whether the damage is caused by GSL in which case he cannot injunct or by the joint venture company in which case he can, that is point one. But the second point which is more important to me is that if it is important economically for GSL to have that exemption then if the joint venture companies are really what is going to put GSL on a proper viable footing then I think you should be arguing for the exemption across the board and that is the issue I would like debated, yes or no to everything but otherwise I am caught in an illogical proposition from the Government. Do you see the point?

HON J E PILCHER:

I think that the difference, as I think I have tried to explain, is that it is not the intention of Government to have a global effect of this law across the board, it is only for those elements where GSL is the main contractor and therefore it cannot be other than in shipbuilding because the other joint ventures work independently from GSL, ie its turnover does not go through the GSL books which is the main contractor. But the point that has been made has been taken into account and I think at this stage I would, I think, agree with my colleagues that we will not at this stage take the Committee Stage of this Bill through this meeting. Since we are meeting again shortly and since there is no incident in the pipeline, so to speak because this is not a Bill that we are bringing because there is any major incident, I think we will give a couple of the points that have been raised by Members opposite some thought and then we can come back to the House on the 28th, if Members agree, and at that stage we will amend anything that is necessary in the light of the comments which have been made. Mr Speaker, I feel that it is not a question of the attitude that the management takes because we have a situation, like we know across the board, in the realities of life that irrespective of the attitude which the management might be taking at any one stage, you could have somebody who is affected by something who feels, at the end of the day, that his problem - and we all know that - has to take priority above all the other problems in Gibraltar and I

feel the mechanism to obtain an injunction can be used, and the Attorney-General can correct me, by any individual and the risk element is such that unless I am convinced, and the Government is convinced, between now and the 28th April that there is no risk, then we will have no option but to proceed with this Bill and all I can say is that I hope that Hon Members opposite accept the reasons why we feel that the Bill should be proceeded with and can support us at this stage. I commend the Bill to the House, Mr Speaker.

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

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

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon P C Montegriffo  
The Hon Dr R G Valarino

The following Hon Member was absent from the Chamber:

The Hon B Traynor

The Bill was read a second time.

HON J E PILCHER:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting on the 28th April, 1989.

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 Gibraltar Heritage Trust Bill, 1989; the Traffic (Amendment) Bill, 1989, and the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1989.

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

#### THE GIBRALTAR HERITAGE TRUST BILL, 1989

Clauses 1 to 10 were agreed to and stood part of the Bill.

#### Clauses 11 to 20

HON ATTORNEY-GENERAL:

On page 34, Mr Chairman, between Clauses 15 and 16 you will see there is obviously a printing error which is headed "The Museum" and then Clauses 13, 14 and 15 are included. I move that the heading "The Museum" is deleted and everything below that up to where "The Museum" appears the second occasion, so that is to omit Clauses 13, 14 and 15.

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

Clauses 11 to 20 were agreed to and stood part of the Bill.

Clauses 21 to 52 were agreed to and stood part of the Bill.

#### Clause 53

HON ATTORNEY-GENERAL:

Mr Chairman, to amend Clause 53 immediately after the words "the Gibraltar Heritage Trust Ordinance" should be inserted the figures "1987".

Mr Speaker put the question which was resolved in the affirmative and Clause 53, as amended, was agreed to and stood part of the Bill.

Schedule 1

HON ATTORNEY-GENERAL:

Mr Chairman, I move to amend the heading of Schedule 1 which is entitled at the present time "Ancient Monuments". To delete that heading and substitute "Listed Buildings etc Category 'A'".

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

Schedule 2

HON ATTORNEY-GENERAL:

A similar amendment, Mr Chairman, to Schedule 2, to delete the words "Protected Buildings" and to substitute "Listed Buildings etc Category 'B'".

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

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

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

THE TRAFFIC (AMENDMENT) BILL, 1989

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

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) BILL, 1989

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Gibraltar Heritage Trust Bill, 1989, with amendments; the Traffic (Amendment) Bill, 1989, and the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1989, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

HON A J CANEPA:

Sir, perhaps I might indicate how we will be voting on the three Bills. The Traffic (Amendment) Bill, Mr Speaker, having regard to the manner in which the Mover of the Bill explained in exercising his right to reply that the Commissioner of Police - this particular Commissioner another one in years to come we shall wait and see - having regard to the manner in which the legislation was going to be applied, we feel that we can support the Bill. In respect of the Heritage Bill, Mr Speaker, we had reservations during the Second Reading having regard to the lack of information about the Gibraltar Tourist Agency, but having regard to the overall provisions of the Bill, even though it repeals the legislation that we brought in 1987, having regard to what the Bill sets out to do, in particular in widening the concept of Gibraltar's heritage and therefore affording greater protection, because of those reasons we feel that although we only abstained on the Second Reading we can support the Third Reading and, of course, we support the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1989.

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

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I have the honour to move that this House do now adjourn to Friday 28th April, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Friday 28th April, 1989, at 10.30 am.

The adjournment of the House to Friday the 28th April, 1989, was taken at 7.50 pm on Tuesday the 11th April, 1989.